

VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS



SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

February 2007

WE DID IT! HEALTH TRUST CIGNA PLANS ARE IN PLACE

VLCT wishes to thank all of its Health Trust members for their patience and understanding during our 2006 to 2007 health coverage conversion from Blue Cross Blue Shield to CIGNA HealthCare. Eighty-seven percent of Health Trust member groups converted to CIGNA. In doing so, they brought 73 percent of the Trust's almost 8,000 covered municipal employees with them. Of course, a 100 percent retention rate would have been ideal, but the Health Trust Board of Directors and VLCT staff are very pleased with how close the Trust came to that ideal.

Eight of the 17 Health Trust members with more than 50 employees decided to leave the Trust. They were the City and Town of Barre, Bennington, the Chittenden County Transit Authority, Rutland City, St. Johnsbury, Stowe, and the Vermont State Housing Authority. In total, 38 out of the Trust's 297 members did not renew for 2007. (Please see the Executive Director's Column on Page Two for

a more detailed summary of the Trust's 2007 renewal, and a brief look ahead at 2008.)

LOOKING AHEAD – BILLING, PLAN BOOKLETS, OPEN ENROLLMENT

Now that the CIGNA plans are in place, VLCT Member Relations staff and CIGNA implementation staff are working diligently to follow up on any remaining conversion issues. If your group needs assistance with corrections or changes for any of your employees, please be sure to contact the VLCT Member Relations staff (800/649-7915) for assistance. Also, any new employee enrollments, employee terminations, dependent additions or

deletions or other changes should continue to flow directly through the Member Relations Department as well, at least for the short term, until a future point in time when these transactions will be turned over to CIGNA.



(Continued on Page Eight)

VLCT BOARD OF DIRECTORS PROFILE ROLAND "TED" SIMMONS, SELECTPERSON, TOWN OF ORWELL

Auditors have been camped out in municipal offices around the state for the last month or so, studying accounts and preparing annual town reports for scrutiny by town meeting voters.

It is a task that Ted Simmons remembers well, as his first local government position was auditor for the Town of Orwell. Looking back on the six years that he served in that office, from 1987 to 1993, Simmons said that they prompted him to continue to serve his town in other ways. "When you sit down and start auditing the books of a town, you realize what an impact it has on the community," he said.

Toward the end of his auditor stint, Simmons became Orwell's representative on the Addison County Solid Waste District (AC-SWD) board. Vermont's solid waste boards currently preach a mantra of "reduce, reuse, and recycle," however, when Simmons joined his district board, it was during the State's search for new landfill sites. In fact, he took the seat of a member who had to re-

(Continued on Page Thirteen)

TWO MORE MUNICIPALITIES ADOPT LOCAL OPTION TAXES

Town meetings in Brattleboro and South Burlington recently voted to adopt local option taxes. In November, South Burlington voters approved an amendment to their City Charter that authorizes the City Council to "impose a tax on those transactions in the City involving sales, meals and alcoholic beverages, and rooms which are subject to taxation by the State of Vermont." The Brattleboro Representative Town Meeting in December voted to take advantage of one of the provisions of Act 60 that authorized 76 cities and towns, including Brattleboro, to impose a one percent rooms and meals tax.

Brattleboro's representative town meeting is a body authorized by the Town's Charter, elected by the voters and responsible for many of the functions of an open town

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The *VLCT News* is published eleven times per year (the August and September issues are combined) 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.

HEALTH INSURANCE UPROAR OVER ... FOR NOW

The dust is finally beginning to settle from one of the most challenging periods in VLCT history. It began inauspiciously enough in mid-October, when representatives from Blue Cross Blue Shield of Vermont – a company that has provided

directly with Blue Cross and received, overall, a comparable renewal rate. In between, it was a whirlwind of negotiation, information distribution, confrontation and implementation. For now, selectboards, town managers and municipal administrative staff members are at a point where they wish never again to see another plan comparison sheet or enrollment form!

Despite the pain and discomfort, the effort was well worth it from the perspective of municipalities, employees, property taxpayers and, possibly, health insurance purchasers throughout the state. If we had simply taken Blue Cross's last offer of a 27 percent renewal increase, towns would have seen health insurance rates climb by \$10 million. Where would they have found the funds to pay for this increase? By reducing town services and programs, asking employees to pay more in the form of higher portions of the premium or higher deductibles and co-payments, and by asking for more

From the Executive Director

health insurance to nearly 8,000 Vermonters through the VLCT Health Trust for over 20 years – informed Health Trust officials that the rates necessary to renew our current program for 2007 would have to climb 36 percent. It ended (mostly) on January 1, 2007, when about 87 percent of Health Trust member entities and 73 percent of enrolled employees made the switch to CIGNA for an average premium increase of 12 percent. The remainder, now former Health Trust members, did business di-

(Continued on Page Twelve)



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LEGAL AND REGULATORY NOTES



ENVIRONMENTAL COURT AND ZONING PENALTIES; AUSTRALIAN BALLOT BUDGET ARTICLE

ENFORCEMENT ACTION MUST PRECEDE ENVIRONMENTAL COURT PENALTIES OR INJUNCTIVE RELIEF

As evidenced by the lively discussions led by Judges Durkin and Wright at the VLCT Planning and Zoning Forum last November,

ing regulations. The second referenced violation was for filling in an area that is considered a floodway, in violation of the town's flood plain ordinance. Mr. Smith filed an appeal of the NOV with the Wallingford zoning board of adjustment (ZBA). The ZBA held a hearing on the appeal but Mr. Smith

vironmental Court. In the ZBA appeal, the Town filed a motion seeking injunctive relief in the form of an order requiring (1) immediate cessation of all business activities related to Mr. Smith's construction business; (2) immediate removal of any and all vehicles, equipment, machinery and property

This case serves as a reminder to towns (and their attorneys) that if they want to obtain injunctive relief or penalties from the Environmental Court to enforce their zoning bylaws, they must first take the next step in enforcement proceedings and bring an "action" against the perceived violator to invoke the Court's original jurisdiction...

enforcement is a hot topic in Vermont zoning. In a December opinion, the Environmental Court addressed enforcement and reminded Vermont municipalities that the Court only has the authority to issue injunctive relief and award monetary penalties in the context of an original enforcement action. It cannot do so when acting in its appellate capacity. *Smith NOV Appeal*, 117-05-06 Vtec (December 18, 2006).

Appellant Dennis Smith applied for site plan approval to move a construction business to his property in Wallingford. The Town's planning commission held a hearing, determined that the application was incomplete, and notified Mr. Smith that he would need to submit a more thorough application. On February 7, 2006, Mr. Smith submitted a second application, again seeking site plan approval to move the construction business. The planning commission held a hearing on the second application and issued a written decision, finding that the application was again incomplete. As a consequence of this determination, the planning commission denied Mr. Smith's second application.

On March 29, 2006, the zoning administrator issued a notice of violation (NOV) to Mr. Smith, citing two alleged violations. The first referenced violation was for changing the use of his property to a contractor's yard without first obtaining a change of use permit, as required by the Wallingford zon-

ing regulations. The second referenced violation was for filling in an area that is considered a floodway, in violation of the town's flood plain ordinance. Mr. Smith filed an appeal of the NOV with the Wallingford zoning board of adjustment (ZBA). The ZBA held a hearing on the appeal but Mr. Smith

failed to appear. The ZBA then issued a written decision "to vacate . . . and dismiss" his appeal. Mr. Smith appealed both the planning commission decision denying site plan approval and the ZBA decision dismissing and vacating his appeal of the NOV to the En-

vironmental Court. In the ZBA appeal, the Town filed a motion seeking injunctive relief in the form of an order requiring (1) immediate cessation of all business activities related to Mr. Smith's construction business; (2) immediate removal of any and all vehicles, equipment, machinery and property

(Continued on next page)



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LEGAL/REG. NOTES -

(Continued from previous page)

The Environmental Court denied all three requests, noting that the only issues preserved in the Court's review in either of the pending appeals were whether the site plan application should have been approved and whether the NOV should have been issued. In its motion, the Town was requesting injunctive relief under V.R.E.C.P. 3 and 24 V.S.A. § 4452. However, such relief is beyond the jurisdictional authority conferred upon the Court by the pending appeals. Because the Town had not yet commenced "an action" against Mr. Smith pursuant to 24 V.S.A. § 4452 and V.R.E.C.P. 3, the Court had no jurisdiction to order the relief the Town sought. The question of whether the Town was entitled to injunctive relief or monetary damages was not the subject of either pending appeal and, therefore, outside the scope of the jurisdiction the Court had in the pending appeals.

This case serves as a reminder to towns (and their attorneys) that if they want to obtain injunctive relief or penalties from the Environmental Court to enforce their zoning bylaws, they must first take the next step in enforcement proceedings and bring an "action" against the perceived violator to invoke the Court's original jurisdiction under V.R.E.C.P. 5 and 24 V.S.A. § 4452. This is true even if the perceived violator has appealed the zoning administrator's notice of violation to the town's ZBA or development review board. Simply requesting injunctive relief or monetary penalties from the Court in the context of an appeal will not be sufficient to get the injunction or monetary award necessary to make enforcement activities stick.

- Jim Barlow, Attorney, VLCT Municipal Assistance Center

"DECOMPOSED" AUSTRALIAN BALLOT BUDGET VOTING RULED ILLEGAL

Lamoille County Superior Court Judge Dennis Pearson has ruled that it is illegal for Stowe to vote on a "decomposed" budget by Australian ballot, that is, a municipal budget that has been broken into categories such as general government, public safety, recreation, and highway. *Mooney v. Town of Stowe*, 110-5-06 Lecv (December 22, 2006).

On November 7, 2005, the Town of Stowe held a special town meeting to con-

sider an article that would require adoption of the town budget by Australian ballot. At the meeting, the voters amended the article to read as follows:

Shall the Town of Stowe adopt its budget by Australian ballot wherein the budget is decomposed into at least the following categories: General Government, Public Safety, Recreation and Public Lands, and Highway and Infrastructure? Each category shall be voted on separately and contain amounts for proposed operational, capital and debt service expenditures.

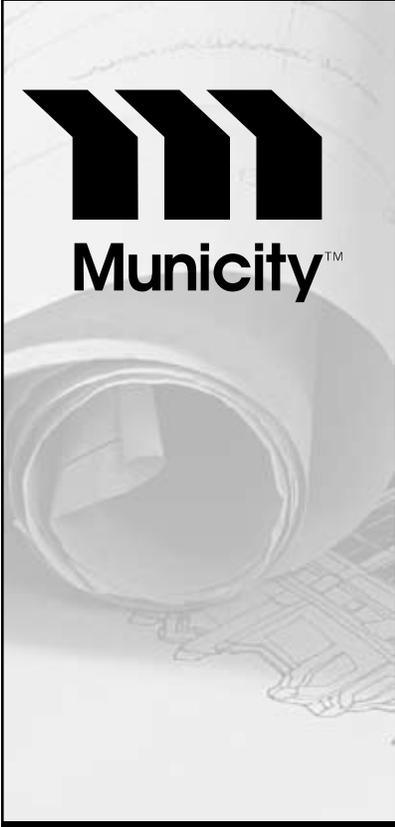
Though the amended article passed, the Stowe selectboard disregarded the vote and did not warn the budget for the 2006 annual meeting in the manner specified by the approved article. Thereafter, citizens of Stowe brought suit in the Lamoille Superior Court.

The focus of the Court's decision was the language of the Australian ballot statute, particularly that portion that addresses budgets, 17 V.S.A. § 2680(c). That statute provides:

(c) Budgets. A vote whether to use the Australian ballot system to establish the budget shall be in substantially the following form:

"Shall (name of municipality) adopt its budget by Australian ballot?"
If a budget voted on by Australian ballot is rejected, the legislative body shall prepare a revised budget. The legislative body shall establish a date for the vote on the revised budget, and shall take appropriate steps to warn a public informational meeting on the budget and the vote. The date of the public informational meeting shall be at least five days following the public notice. The date of the vote shall be at least seven days following the public notice. The vote on the revised budget shall be by Australian ballot and shall take place in the same locations that the first vote was taken. The budget shall be established if a majority of all votes cast are in favor. If the revised budget is rejected, the legislative body shall repeat the procedure in this subsection until a budget is adopted. Once a municipality votes to establish its budget by the Australian ballot system, the vote on the budget shall be taken by Australian ballot until the municipality votes to discontinue use of the system.

(Continued on Page Seven)



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ASK THE LEAGUE

RETURNING PREBATES; ENTERING PRIVATE PROPERTY; LATE TAX INSTALLMENT PAYMENTS

It has come to our selectboard's attention that 2007 will bring a change in the way the State returns money to property taxpayers through its Homestead Property Tax Income Sensitivity Program. Are voters required to address this issue at the March 2007 town meeting?

No. The statute in question, 32 V.S.A. § 6066a(f)(1), states, "By a majority of those voting at an annual or special meeting called for that purpose, the voters of a municipality may elect to apply the amount allocated under this chapter to current-year property taxes to the taxpayers' property tax installments in order or pro rata." The inclusion of the word "may" in the phrase, "may elect to apply the amount allocated under this chapter to current-year property taxes to the taxpayers' property tax installments in order or pro rata," indicates that municipalities are not obligated to hold such a vote. Without the vote, the legislative body would decide how the amounts would be allocated.

What do "in order" and "pro rata" mean?

The Vermont Department of Taxes has provided the following example to answer this question: "Mr. A's property tax bill is \$4,000, he receives \$2,400 property tax adjustment, and the town has four \$1,000 in-

stallment payments. The town may elect to apply the property tax adjustment to pay in full the first and second installments with the remaining \$400 applied to the third installment (in order), or the town could elect to apply the property tax adjustment pro rata by crediting \$600 to each installment (pro rata)."

Do you have a sample warning article for this vote?

The following article could be used:

Shall amounts allocated to current year property taxes under the State of Vermont's Homestead Property Tax Income Sensitivity Program be applied to the taxpayers' property tax installments in order or pro rata, in accordance with 32 V.S.A. § 6066a(f)(1):

To minimize the voter confusion that this question is likely to generate, we recommend that the town report include a brief explanation of the property tax income sensitivity program and the examples of "in order" and "pro rata" provided above.

- Jim Barlow, Attorney, VLCT Municipal Assistance Center

Our zoning administrator has opined that, if property is not posted, the public can enter it. This could be one hundred

acres of forest property or a quarter-acre residential lot. He says the same goes for the health officer. Is he correct?

Under the common law, every person's land is deemed to be enclosed and every unauthorized, and therefore unlawful, entry into private property of another is a trespass for which the trespasser may be civilly liable. Of course, this rule is not absolute because there are certain areas of private property such as a driveway or front walkway, which typically carry some implied notion that members of the public can enter without prior permission of the owner.

Vermont also has a criminal trespass statute, 13 V.S.A. § 3705. This statute makes it a crime to enter land if notice against trespass has been given by actual communication from the landowner by a law enforcement officer acting on the landowner's behalf. Notice against trespass can also be accomplished by signs or placards designed and situated to give reasonable notice (i.e., "posting"). This means that one could potentially be held liable in civil court for trespass on unposted land, but not be guilty of violating the state's criminal trespass statute.

The bottom line is that local officials must remember that they are government actors and a whole range of constitutional protections can come into play when the local officials enter property without permission. Though exceptions do exist, as a rule of thumb, local officials should limit their unauthorized entry into private property to the "public" areas of that property such as the driveway, front walkway, and perhaps an unenclosed front porch and should not be entering structures, houses, or other areas of private property without the prior permission of the property owner. If local officials have been put on notice that their entry into public areas of private property is not authorized, they should not enter these areas without the prior permission of the property owner or a court order.

- Jim Barlow, Staff Attorney, VLCT Municipal Assistance Center

(Continued on next page)

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ASK THE LEAGUE -

(Continued from previous page)

Should the collector of current taxes or the collector of delinquent taxes send out “friendly reminders” of late tax installment payments and accrual of interest between installment payments?

A municipality has no obligation to notify or issue taxpayers friendly reminders that a payment is late and accruing interest. If a municipality has a policy of sending out friendly reminders, then it is the responsibility of the collector of current taxes/treasurer, or whomever current tax collection is delegated to – not the collector of delinquent taxes. This is because the taxes are not yet considered delinquent.

When a town votes to collect taxes in installments, taxes don't become “delinquent” until after the last installment is due and the treasurer issues a warrant. A town may vote to charge interest on overdue installments under 32 V.S.A. § 4873, but the collector of delinquent taxes has no statutory obligation to take any action until a warrant is issued.

It should be noted that the collector of current taxes may not force taxpayers to pay their taxes, but simply accepts voluntary payments and then turns those payments over to the town. If a town has voted to charge interest on overdue installments, a best practice is to notify taxpayers in the original tax bill that late installments will accrue interest.

- Stephanie Smith, Senior Associate, VLCT
Municipal Assistance Center

LEGAL/REG. NOTES -

(Continued from Page Five)

The Court held that the amended article deviated substantially from the statutory form and was therefore contrary to the requirements of the statute. The Court went on to justify its decision by stating:

The Court explained that while the voters' authority to amend budget line items is one of the “beauties of the traditional Vermont Town meeting,” Australian ballot voting cannot afford such flexibility.

Decomposed budgeting shifts budgeting authority away from the Selectboard and toward individual voters who may wish to veto a specific item without voting for, or against the complete budget. Without decomposed budgeting, the Selectboard can package popular and unpopular spending items together, such that a vote on a constituent part can only be accomplished by a vote on the whole. Voters in such a system take the good with the bad, vote an overall budget up or down, and exercise influence over individual budget items indirectly, by voting on Selectboard members. The intent of § 2680 is to allow secret paper balloting with regard to municipal budgets in those circumstances where voters have properly adopted it, but not to allow voters to arbitrarily change discrete components of the budget process to suit the hot topic(s) of a particular budget year.

The Court explained that while the voters' authority to amend budget line items is

one of the “beauties of the traditional Vermont Town meeting,” Australian ballot voting cannot afford such flexibility. The approved article was contrary to the statute and therefore illegal.

While the decision in this case was a victory for the Stowe selectboard, the Court's narrow interpretation of 17 V.S.A. § 2680(c) is troubling for municipalities and

voters that wish to utilize decomposed Australian ballot budget voting. While not widely used, proponents of decomposed budgeting argue that the method can preserve some of the flexibility of a traditional floor meeting while also allowing the convenience of Australian ballot voting. They also argue that allowing voters to act on specific budget categories can allow selectboards to more accurately measure public support for specific expenditures and minimize the risk of disapproval of the entire budget because of one unpopular budget item.

- Jim Barlow, Staff Attorney, VLCT
Municipal Law Center

(Editor's Note: As a superior court case, this decision applies only to Stowe and other municipalities within Lamoille County. VLCT will be watching this case carefully and will follow its progress in the VLCT News if it is appealed to the Vermont Supreme Court.)



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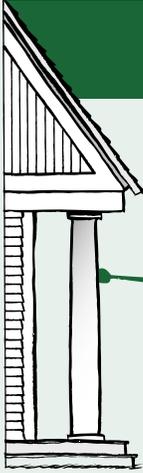
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CUTS

(COMMUNICATIONS UNDER TEN SENTENCES)

CIGNA PLANS -

(Continued from Page One)

Initial CIGNA bills were issued in late January, and include premiums for the months of January and February. This initial bill is due by March 1. The second bill will be issued by mid-February for the March premium and will be due by April 1. Subsequent bills will follow accordingly: issued mid-month and due by the end of the following month.

Please check your initial billing carefully and be sure to report any problems to Member Relations so that we may promptly follow up with CIGNA or put you in touch with the appropriate CIGNA staff member for resolution.

Please note, coverage booklets on plan specifics and plan details should be arriving this month. VLCT staff and CIGNA are working to finalize these coverage documents and hope to have them available to you and your employees as soon as possible.

Due to the provider changeover, this year's January 1 **Open Enrollment** has been pushed back to March 1 through April 1. Please submit any enrollment plan changes for groups or employees to Member Relations by mid-February in order to process these changes for your employees and groups. Employees may also add dependents at this time or join coverage if they have not already done so. Groups may also elect to add the domestic partner rider at this time or change probationary periods. Please contact Member Relations staff for assistance, required forms or to schedule an appointment for a representative to meet with your group to discuss coverage options, requirements and needs. Enrollment forms are also available for download on the VLCT Web site's CIGNA transition page at www.vlct.org/insuranceriskservices/2007cignatransition/.

WORKERS' COMP AUDIT SEASON APPROACHING

Attention PACIF members! Now that the new year has arrived, the 2006 WC Audit season is upon us. You will soon be receiving letters from the Member Relations Department with information on completing these audits. Please start preparing the necessary materials that Member Relations staff will need when they visit your office. These items include 2006 quarterly 941s, W2s, payroll records, 1099s, certificates of insurance or hold harmless waivers for subcontractors, and 2006 budgets and annual reports. After your letters arrive, Member Relations staff will follow up by phone to contact you for an appointment. Feel free to call the Member Relations staff with any questions at 800/649-7915.

COBRA OUTSOURCING

The vendor chosen by the VLCT Health Trust to provide COBRA administration services to its members – COBRA Outsourcing – will soon be contacting Health Trust members directly to explain how it can set your group up for these services. Participation in this program is not mandatory, but *is* highly recommended (and is provided at no additional cost to Health Trust members). COBRA administration is a critical and often misunderstood or misinterpreted aspect of the health care process. We highly encourage all of our Health Trust members to take advantage of this value-added program in order to provide the best possible service and compliant practices to your COBRA eligible subscribers. If you have questions, please contact Member Relations at 800/649-7915. For more information about COBRA Outsourcing, you may also visit them on the Web at cobraoutsourcing.com.

VLCT HEALTH TRUST BOARD NOMINATIONS

VLCT is accepting nominations for two vacant seats on the VLCT Health Trust Board of Directors. The vacancies are the result of changes in the Health Trust's membership as of January 1, 2007, the date on which CIGNA became the Trust's new insurer. Thirty-eight out of the Trust's 297 members (12.8%) chose not to make the switch to CIGNA, leaving two vacancies on the Board. Director duties include overall policy, fiduciary and management direction of the Trust.

To print out a copy of the nomination form, please visit the VLCT Web site's About VLCT/Boards page. There, you will find links to the Health Trust bylaws, which explain eligibility, and a copy of the form. **Nomination forms are due at the VLCT office no later than February 9, 2007.** The Board of Directors hopes to consider nominees and fill the positions at its February 15 meeting.

WELCOME

The **Town of Moretown** recently joined the VLCT Health Trust, bringing membership up to 260.



CONFINED SPACES ARE DANGEROUS PLACES

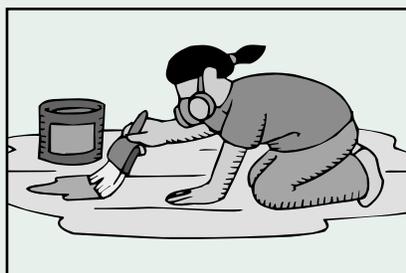
Make no mistake about it: Working in a confined space could put your life at risk unless you're properly prepared, as this true story proves.

A worker entered the confined space of a wastewater holding tank to repair a drain line. The space was four feet in diameter and eight feet deep. Sulfuric acid was used to unclog the floor drain leading to the holding tank. The worker suddenly collapsed and fell face down into six inches of water at the bottom of the space. A second worker attempted a rescue and was also overcome and collapsed. The first worker was pronounced dead at the scene. The second worker died two weeks later. Cause of death was attributed to asphyxiation by methane gas. Sulfuric acid vapors may have also contributed to the deaths.

Don't take any chances. When you enter any confined space, make sure you:

- Understand the hazards, including information on exposure, signs and symptoms, and consequences of exposure.
- Are properly equipped with personal protective equipment (PPE) to protect against the specific hazards.
- Maintain communication at all times with the outside attendants.

- Alert the attendant when a hazard is recognized.
- Exit the space as soon as possible when ordered by an authorized person, when recognizing signs of danger, or when an alarm sounds.



For more information about the safety and wellness resources available from the VLCT Safety and Health Promotion Program, please contact Shawna McNamara at smcnamara@vlct.org, or call 800/649-7915. You may also visit the Program's on-line Wellness Library at <http://www.vlct.org/insuranceriskservices/wellnesslibrary/>. You may request materials from the Library on-line; they will be delivered to you with a postage paid return envelope enclosed for your convenience.

NEW BROWNFIELDS HANDBOOK

The Vermont Small Business Development Center recently issued a new handbook on redeveloping brownfields.

The handbook is a guide for communities, developers, and property owners that seek to identify, investigate, clean up and redevelop brownfields. It defines brownfields as "properties for which expansion, redevelopment or reuse may be complicated due to the presence, or potential presence, of hazardous substances, pollutants or contaminants."

The handbook was developed in partnership with the Vermont Agency of Commerce and Community Development and the Vermont Agency of Natural Resources, with funding from the U.S. Environmental Protection Agency. It is available from the Small Business Development Center's Web site at www.vtsbdc.org/regulatory.cfm (in resource list at bottom of page).

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CATAMOUNT HEALTH PLAN EMPLOYER PREMIUM CONTRIBUTIONS

The new Catamount Health Plan record-keeping and assessment requirements have been finalized and will begin with the quarter that starts April 1, 2007. If you have at least eight FTE (full-time equivalent) employees, you are subject to the reporting requirement. Further, you will pay a Catamount assessment if:

- You do not provide employee health insurance;
- You offer employee health insurance but have more than eight FTEs who are not covered (and who have no other health coverage elsewhere).

As noted in the October 2006 *VLCT News*, VLCT expressed to the Vermont Department of Labor (DOL) concerns about costs and administrative burdens for members. Most of these issues have been addressed within the regulations. The DOL collects the premium tax for the Catamount Plan in conjunction with your Vermont Employer's Quarterly Wage & Contribution Report (C-101) filing. Employees who must be included for Catamount purposes are generally the same as those reportable on the C-101. This means that volunteers (including volunteer firefighters) and elected or appointed officials are not to be included in the Catamount calculations. VLCT also voiced its concern about the difficulty of including seasonal employees in these calculations. The issue is being studied by the Legislature; however, without specific legislative changes, seasonal employees will be reportable.

The initial Catamount reporting occurs with the second quarter C-101 due by July 31, 2007. The requirements apply to all employers with more than eight FTE

employees until June 30, 2008. On July 1, 2008 the requirements apply to employers with more than six FTEs and on July 1, 2009 to those with more than four FTEs.

An important part of the regulation is the requirement that you must verify, at the time of initial refusal and annually thereafter, whether an employee who is eligible for employer-offered health insurance, but has not enrolled, has coverage from another source. There is a sample "Declaration of Health Care Coverage" form for such employees on the DOL Web site. It is required that you maintain these forms or equivalent documentation for at least four years and these individuals are not counted in the assessment calculation.

Some key information on calculating your assessment:

- A worksheet with instructions will accompany your C-101. It is currently available on the DOL Web site.
- An FTE is equal to 520 hours of work during a calendar quarter. A single individual is not counted as more than one FTE, regardless of overtime worked. A full-time, salaried employee is also considered to be one FTE.
- If an employee was covered during just part of the calendar quarter, the employee is considered to have coverage for that entire quarter.
- Employers who offer health insurance must provide the number of hours worked for employees who were offered but did not accept coverage *and* have no other health coverage, as well as the number of hours of employees who are not eligible for such coverage. The total of those two figures is divided by 520 and rounded downward to determine the number of FTEs without coverage.

- The first eight "uncovered" FTEs are subtracted and the remaining number of "uncovered" FTE's is multiplied by \$91.25. The result is your quarterly Catamount Health Care Assessment Contribution.

Any assessment you may have to pay will help subsidize the new Catamount Health Care Plan. It does not necessarily mean that your uninsured employees are automatically eligible for the plan. The DOL is responsible for collecting the assessment only; other agencies will deal with overseeing the plan (which will be offered by insurance companies) and assessing eligibility for individuals.

For additional information, go to the Department of Labor Web site at <http://labor.Vermont.gov>.

- Jill Muhr, Manager, VLCT Human Resources

HEALTH CARE REPORTING TRAININGS OFFERED

The DOL is offering four trainings on the Catamount Health reporting/payment requirements in late January and early February. They are:

January 30, Rutland, 9-11 a.m., Asa Bloomer Bldg., 88 Merchants Row, 2nd Floor, Rm. 266.

February 2, St. Johnsbury, 9-11 a.m., NE Vermont Reg. Hospital, 1315 Hospital Dr, 2nd Floor Conf. Room.

February 6, Springfield, 9-11 a.m., State Office Bldg., 100 Mineral St., Main Floor Conf. Room.

February 8, VIT sites, 7-8:45 a.m., Montpelier, Bennington, Brattleboro, Newport, and St. Albans sites.

More information about the trainings is available at <http://labor.Vermont.gov>.

MCNEIL, LEDDY & SHEAHAN

Brian P. Monaghan, Esq. has become associated with the law firm of McNeil, Leddy & Sheahan. Prior to joining McNeil, Leddy & Sheahan, Brian served as staff attorney at the Vermont League of Cities and Towns Municipal Assistance Center since 2002, where he counseled Vermont municipalities in land use law, employment law, municipal liability, real property taxation, administrative law, and municipal finance. Brian will continue in this area of work with the firm. Brian is also available for training in Effective Land Use Meetings & Hearings through the Municipal Education Grant program at the Vermont Department of Housing & Community Affairs.



Brian P. Monaghan, Esq.

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LOCAL OPTION TAXES -

(Continued from Page One)

meeting, including adopting a town budget. The Act 60 authority it drew on is included in 24 V.S.A. § 138, which states, in part:

- (b) ..., the voters of a municipality may, ..., assess any or all of the following:
- (1) a one percent sales tax;
 - (2) a one percent meals and alcoholic beverages tax;
 - (3) a one percent rooms tax.
- (c) Any tax imposed under the authority of this section shall be collected and administered by the department of taxes, in accordance with state law governing such state tax or taxes; provided however, that a sales tax imposed under this section shall be collected on each sale that is sub-

ject to the Vermont sales tax using a destination basis for taxation. Seventy percent of the costs of administration and collection shall be borne by the municipality, and 30 percent shall be borne by the state to be paid from the pilot special fund.

- (d) Of the taxes collected under this section, 70 percent of the taxes shall be paid on a quarterly basis to the municipality in which they were collected, after reduction for the costs of administration and collection under subsection (c) of this section. Revenues received by a municipality may be expended for municipal services only, and not for education expenditures. Any remaining revenue shall be deposited into the PILOT special fund established by 32 V.S.A. § 3709.

Brattleboro chose not to impose the one percent sales tax, at least at this time. It was the intent of the town finance commit-

tee and most town meeting representatives interviewed that the proceeds of the local rooms and meals tax should be used to offset property taxes. The Brattleboro tax will go into effect on April 1.

South Burlington is not one of the 76 municipalities granted the authority to use alternative taxes under 24 V.S.A. § 138. They, like the City of Burlington before them, have approached the local option tax authority through charter amendment. That requires separate approval by the Legislature. Burlington voters and the Legislature approved similar language last year. The South Burlington voters made clear their intent on the use of such tax revenues. The Charter amendment states that "any sales tax revenues collected by the City shall be used to reduce the property tax collected on the City grand list and shall not be used to increase total City revenues. Any rooms/meals/alcoholic beverages tax revenues collected by the City may, at the sole discretion of the City Council, be used in [either] of the following ways: (1) deposited in a reserve fund established by the City Council to fund the purchase of land and/or construction/reconstruction of City buildings and infrastructure; or (2) used to reduce the property tax collected on the City grand list without increasing total City revenues."

Brattleboro and South Burlington will soon join Burlington, Manchester, Williston, Stowe and Stratton in benefiting from local option taxes. Manchester currently has just a sales tax on the books, though voters will be considering expanding the tax to rooms and meals at town meeting. Williston and Stratton have been collecting from both options, while Stowe is currently just using the rooms and meals option. The five municipalities listed above share 30% of the revenue collected from these taxes through the state payment in lieu of taxes (PILOT) program that reimburses towns hosting state buildings. Those five towns currently generate \$2.5 million for PILOT payments. This figure is a very high percentage (over 70 percent) of the total PILOT payments that host municipalities receive. Additionally, Burlington and Rutland impose a rooms and meals tax under previously existing charter authority.

Look to the Legislature to allow more municipalities to consider this alternative to the municipal property tax, as school costs continue to put pressure on that portion of the local tax bill.

- Steven Jeffrey, VLCT Executive Director

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INSURANCE UPROAR -

(Continued from Page Two)

tax dollars from taxpayers. Additionally, the Trust would have lost many of the benefits of being a self-insured pool, as new financial arrangements sought by Blue Cross would have prevented it from recouping savings realized from aggressive cost-containment measures such as the recently completed Leader program. (See "Inaugural Leader

Program Returns Funds to Members" in the December 2006 *VLCT News*.)

This year, we were able to avoid these scenarios. When the renewal was all over, towns saw their premiums go up by \$5 million. The VLCT Health Trust's efforts saved towns, taxpayers and employees \$5 million, whether they stayed with the Health Trust or cut their own deal with Blue Cross or another carrier. Interestingly, after the Health Trust rejected Blue Cross's rate in-

crease, the State Banking, Insurance, Securities and Health Care Administration (BISCHA) rejected its annual claims trend filing and then rejected its administrative costs filings (these form the basis of what Blue Cross can charge for premiums). BISCHA is still holding hearings challenging Blue Cross's administrative costs, including the compensation of some of the corporation's executives. BISCHA also responded to at least four complaints the Health Trust was forced to file against Blue Cross in late 2006. Hopefully, the experiences we worked through will result in a better health insurance market in Vermont.

In the midst of this effort, we wrote to you reminding you of the "power of pooling." By banding together and sharing resources, Vermont's small cities and towns can achieve the same type of savings and market clout that large employers and businesses can achieve. This will only work so long as we are all in this together. It has to be "all for one and one for all." Not even "all but one" will do. Towns will diminish the power of pooling our collective buying power if one low-ball price gets them to begin switching insurance carriers by themselves. We believe that enough of you stayed together so that the Health Trust will remain a strong force in the market in the coming year.

There are more challenges ahead, during the coming year and as long as municipal governments have no choice but to be the health care financier for their employees. The VLCT Health Trust will continue to iron out the immediate conversion problems as they crop up (see related article on Page One), whether it be getting the right CIGNA enrollment cards to the right people or straightening out reimbursement rates for diabetes treatments.

During the coming year, the Health Trust will continue to assist member municipalities to fully implement their conversion to CIGNA, get a handle on the rising cost of providing their employees with health care services and find new ways to make the 2008 renewal less costly and less painful.

In the long term, this issue is bigger than all of us, and even our combined efforts through the Health Trust can seem like swimming upstream. This experience is just more evidence that the health care financing system in this country is terribly broken and needs drastic overhauling.

- Steve Jeffrey, VLCT Executive Director

(Editor's Note: Steve Jeffrey recently completed a year of service on the National League of Cities' Task Force on Health Care Reform.)

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TED SIMMONS -

(Continued from Page One)

sign when the State began looking at his land as a possible site.

"I found that I could work with people of differing views," he said of his ACSWD service. That skill was particularly helpful as the board considered whether the potential landfill site in Orwell was worth pursuing. He then took a brief break from local government service until he was elected to the selectboard in 1999.

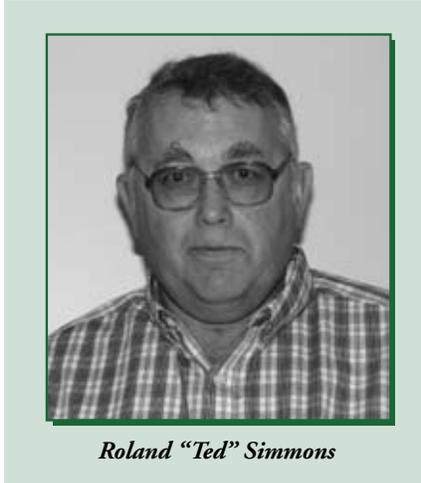
Simmons was not a newcomer to public service when he took his first local government position. A farmer for most of his life, he chaired the University of New Hampshire's Sullivan County Extension Council before moving to Vermont in 1972. Simmons has also served on the board of several farm organizations. In the late 1970s, he joined Orwell's first response squad, eventually becoming its president, its district representative, and chair of its medical district board, which was based at Middlebury's Porter Hospital.

With this breadth of experience, and, perhaps more importantly, an ability to bring those on the opposite sides of an argument together toward compromise, Simmons began his selectboard service almost eight years ago. It was a three-member board when he joined; it is now a five-member board. "Without a full-time manager or assistant, there is a lot of work to do," Simmons said. "Five has worked well by allowing us to spread out the workload. It also has allowed us to become a more diverse board that represents a broader range of citizens." The Town doesn't have any problems filling five seats – last year, two of the seats were contested. One incumbent was replaced and the other was returned to the board.

People are often drawn into local government service in one of two ways: in opposition to a proposal or practice, or in support of making what's good even better. In his tenure, Simmons and his fellow board members have worked to make Orwell's local government stronger. "Our board has tried to develop good relationships with our listeners, auditors, clerk, and treasurer, so that everyone is on the same page," he said. In recent years, he added, "Everybody seems to be [more] comfortable in their roles."

Simmons also finds it particularly rewarding to be able to "help my neighbors when they need it," and to reach out to citizens for their input on important town decisions. His board recently sought citizen opinion on paving more of Orwell's roads. "They told us no, that they liked the rural character of

our town," Simmons said, adding, "We may have to go back to them, as gravel roads are getting harder to maintain." To fight the rising expenses, Simmons has worked with his board and the boards of neighboring towns to share resources whenever possible. The Town has agreements with its neighbors to cover each other in the event of a breakdown of important highway equipment. Orwell has also set up reciprocal plowing agreements, and purchases some supplies and equipment with other towns.



Roland "Ted" Simmons

Keeping local government affordable is one of the big issues Simmons sees on the horizon for Orwell, and for municipalities across the state. Another is maintaining, and even augmenting, local officials' ability to address local issues. While he understands the state laws and regulations that often supersede local control, he is not necessarily in agreement with them, and finds them hard to explain to citizens who expect the Town to be able to do something it can't do under state law.

He'll be tracking these issues carefully as a member of the VLCT Board of Directors. As for an agenda as a new Board member, he doesn't have one. "I like how VLCT operates now, and will continue [to support] it," he said. He did allow that, given the choice, "I lean toward small town rather than big town solutions."

This does not mean Simmons is stuck on small town solutions from the past. He was born and educated in Connecticut (he graduated from the University of Connecticut in 1963) and has farmed in New Hampshire and Vermont for over four decades. He has lived on his 500-acre Orwell farm since 1972 and has seen many changes in the community. He fully recognizes that his town, like many others in Vermont, is in transition. While most of its land is still farmed, Orwell's population is becoming more diverse as retirees and commuters to Middle-

bury and Rutland move in. Telecommuting is on the increase, and agricultural enterprises are also becoming more diverse. Dairy is still the dominant agricultural enterprise, but Simmons noted that horses, sheep, llamas, and organic grains and milk are joining traditional dairy, and that they help keep the region's agricultural infrastructure intact.

With a long and varied public service career behind him, Simmons is looking forward to working with VLCT on statewide issues. The feeling is mutual, as VLCT welcomes its newest member of the Board.

- Katherine Roe, VLCT Communications Coordinator

CLASSIFIEDS -

(Continued from Page Fifteen)

ble through a Municipal Planning Grant from the Vermont Department of Housing and Community Affairs. (12-19)

NEW LISTSERV FOR CONSERVATION COMMISSIONERS

The Association of Vermont Conservation Commissions (AVCC) has created an Internet-based forum for information gathering and sharing.

The new group listserv marks a transition in AVCC's approach to sustaining community-based conservation. At its inception, AVCC's primary goal was to promote the formation of conservation commissions. Now that almost half of the state has active commissions or related committees, AVCC can focus on ensuring their sustainability.

Conservation commissions have accomplished much since they first sprang up in the late 1970s. Those seasoned commissioners and committee members have a lot to share with newly created or recently revived groups. AVCC board members see this as an exciting opportunity to encourage communication and collaboration among conservation commissions and other related community groups.

AVCC invites those interested to join the group listserv, which was launched on January 1, 2007. By logging on and subscribing to the listserv, you have access to e-mail correspondence archived on the site, a calendar for posting events and a place where both AVCC and group subscribers can post files. To join AVCC's listserv, register at: <http://groups.yahoo.com/groups/avccvt>.



STAFF NEWS AND NOTES

VLCT recently welcomed two new staff members to its ranks. **Stephanie Smith** is a new Senior Associate in the Municipal Assistance Center and **Luke MacDonald** is the League's new Technology Support Specialist.



Stephanie Smith

Stephanie came to VLCT from the City of Montpelier, where she held the positions of planner and zoning administrator over the last four years. Prior to that, she was staff planner for the City of South Burlington. Stephanie has a BA in Environmental Studies from Boston University and a Masters of Landscape Architecture from the University of Georgia. Many of you have probably already "met" Stephanie via the telephone, as she went right to work answering member inquiries at the Municipal Assistance Center. With her background in land use planning and zoning, she hit the ground running!

Stephanie lives in Calais with her husband and daughter. In her free time, she enjoys cooking, snowboarding and knitting.

Luke is a 2006 graduate of Champlain College, with a BS in Professional Studies (concentration in computer networking) and an Associate's degree in Graphic Design. As part of his studies, Luke completed an internship with the Chittenden South Supervisory Union in Shelburne, where he assisted the system administrator with network support, installation, and troubleshooting. Luke took the place of **Brian Foley**, who left the League late last year to take a position with Middlebury College. Fortunately for VLCT staff, Luke inherited Brian's calm presence in the face of staff technology disasters and other missteps!

Luke lives in Burlington and is an avid tennis player.



Luke MacDonald

CALENDAR -

(Continued from Page Sixteen)

Certified Pool/Spa Operators Course. Tuesday and Wednesday, March 20-21, 2007, Hotel Coolidge, White River Junction. Hosted by the Vermont Recreation and Parks Association, this course is for supervisory and operations personnel working in public or semi-public recreational pools or water park facilities. For more information, contact VRPA at 802/878-2077 or vrpa@Comcast.net.

Selectboard Institute. Saturday, March 31, 2007, Montpelier Elks' Club. Sponsored by the VLCT Municipal Assistance Center. The second of two selectboard trainings, the Selectboard Institute is offered just after Town Meeting and is targeted towards newer members (though all are welcome). The event will focus on the fundamentals such as understanding the municipal organization, running effective meetings and managing the town budget.

Municipal Energy Saving Strategies. Thursday, April 12, 2007, Montpelier Elks' Club. Sponsored by the VLCT Municipal Assistance Center. With energy prices soaring, municipal governments are looking at creative opportunities to reduce both costs and consumption. This workshop will discuss why reducing energy costs is an emerging municipal issue and how innovative measures such as performance contracting and alternative fuels could be implemented in your municipality.

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Please visit the VLCT Web site to view more classified ads: <http://www.vlct.org/marketplace/classifiedads/>. You may also submit your ad via an e-mail link on this page of the site.

HELP WANTED

Zoning Administrator. Ferrisburgh, Vt. seeks a part-time (20 hours/week) Zoning Administrator. The job is as established in 24 V.S.A. § 4448. Duties include meeting with applicants, reviewing all permit applications for completeness, forwarding applications to either the Zoning Board or Planning Commission, acting as clerk of the Planning Commission, site inspections, and enforcement. Applicants should have a minimum of three years of zoning-related experience. Candidates may combine this position with zoning work in other towns. Salary commensurate with experience. For a more detailed job description, call the Town Clerks' Office (802/877-3429) or Ted Ingraham, chair of the Planning Commission (802/877-0043). **We want to fill the position as**

soon as a suitable applicant has been interviewed by the Planning Commission and nominated by the Planning Commission for appointment by the Selectboard. Send cover letter and resume to: Ted Ingraham, Chair, Planning Commission, P.O. Box 148, North Ferrisburgh, VT 05473. (1-12)

Manager. Barre, Vt. (www.ci.barre.vt.us) is seeking applications for the position of City Manager. Central Vermont's largest municipality, Barre (pop. 9,000) is home to the Barre Opera House, Vermont History Center, and the Vermont Granite Museum. Barre is a full service municipality with an active and historic downtown, a vibrant local business community and a wide array of housing opportunities. The Manager reports to a six-member city council and one mayor. The current operating budget is \$11 million, with 90 full-time employees. Primary responsibilities include developing and managing the City budget, personnel/labor relations, and operational oversight of all City departments. A full job description is available at www.vlct.org under Market-

place. Excellent interpersonal skills, significant experience in municipal management, and a bachelor's degree in appropriate discipline required. Hiring range \$60,000-\$75,000, DOQ. Please send cover letter and resume in confidence to: Barre City Manager Search, VLCT, 89 Main Street, Montpelier, VT 05602. **Resume review begins February 19, 2007.** EOE. (1-18)

REQUEST FOR PROPOSALS

Economic Development Plan. Berlin, Vt. is requesting proposals from qualified consultants to develop a Berlin Economic Development Plan. To obtain requirements to submit an RFP, contact the Town Administrator's Office at 802/223-4405, or e-mail rtanguay@berlinvt.org. Mark proposals "Economic Development Plan" and mail or deliver them **by Monday, February 5, 2007** to the Berlin Economic Development Advisory Council, c/o Town Administrator's Office, Municipal Office Building, 108 Shed Road, Berlin, VT 05602. The Selectboard reserves the right to accept or reject any and all proposals. The project is made possi-

(Continued on Page Thirteen)

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TRIVIA

Well, we warned you last month that January's trivia question was from Mike's Very Obscure Trivia file. Sure enough, no one responded, not even with a wrong answer! The correct answer was: Professor K.B.R. Flint of Norwich University developed the survey "Poor Relief in Vermont" in 1916, prompting the Vermont Legislature to prohibit placing children in poor farms.

Let's try again! This one is appropriate for those of us who are baking our way through Vermont's winter.

This 29 year-old gentleman invented the first cast iron cooking oven for a local tavern. Who was he, where was he from, and in what year was the oven invented?

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.



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Calendar

For more information about the following workshops or events, please contact Jessica Hill, VLCT Manager, Administrative Services, tel., 800/649-7915; e-mail, jhill@vlct.org. Or visit <http://www.vlct.org/eventscalendar/> and select a workshop for more information or to register on-line. (The on-line registration option is available for VLCT workshops and events only.)

Wellness Coordinator Workshops. Thursday, January 25, 2007, Cortina Inn, Mendon; Thursday, February 1, 2007, Capitol Plaza Hotel; Thursday, February 8, 2007, Comfort Inn, St. Johnsbury; Thursday, February 15, 2007, Wilmington Town Office; or Thursday, February 22, 2007, Hampton Inn, Colchester. Sponsored by VLCT Insurance and Risk Management Services, this workshop will be offered in five locations around the state for the convenience of municipal wellness coordinators. We will discuss CIGNA programs, the Leader (VLCT's health promotion incentive program), explain the

2007 pedometer program, and hear from our EAP representatives.

Municipal Personnel Primer. Thursday, February 8, 2007, Comfort Inn, St. Johnsbury, Thursday, February 15, 2007, Wilmington Town Office or Wednesday, February 21, 2007, Royalton Senior Center. Sponsored by the VLCT Municipal Assistance Center. This evening presentation will focus on critical municipal personnel procedures relating to hiring, firing and managing municipal employees.

Local Government Day in the Legislature. Wednesday, February 14, 2007. Capitol Plaza Hotel, Montpelier and the Vermont State House. Sponsored by VLCT and the Vermont Municipal Clerks' and Treasurers' Association. A special day at the Vermont State House for local officials to hear about the status of pending legislation from VLCT and VMCTA representatives, attend legislative hearings and speak with their representatives about the Vermont Legislature.

Beyond Disposal and Recycling – Forum on Preventing Waste. Thursday, February 15, 2007, Vermont College/Union Institute, Montpelier. Sponsored by the Vermont Department of Environmental Conservation to kick off its state-wide planning process in the area of waste prevention. For more information, contact Carolyn Grodinsky, Waste Prevention Coordinator, DEC, at Carolyn.Grodinsky@state.vt.us or 802/241-3477. You may also find out more and register at <http://www.anr.state.vt.us/dec>.

Town Meeting Tune-up. Tuesday, February 27, 2007, Montpelier Elks' Club. Sponsored by the VLCT Municipal Assistance Center. A parliamentarian's paradise, this annual workshop is designed for moderators and selectboard members, both seasoned and new. It will focus on the statutory requirements for town meeting, Robert's Rules of Order and best practices for making it through the meeting unscathed.

(Continued on Page Fourteen)