

VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

March 2014

PRE-SHIFT STRETCHING HAS TRAINERS ALL OVER!

PACIF's new WorkStrong program has several elements. Heidi Joyce, Senior Health Promotion Consultant, deployed the first of these by leading Train-the-Trainer classes at many member locations this winter. Class members learn a 10-minute pre-shift warm-up stretch routine so they can lead their co-workers through that routine to start their work day. The idea is catching on, as you can see in the following photos and quotations.

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“ I am amazed at the number of people in Police/Wastewater, etc. that are taking this very seriously and are being very diligent! Lovin' it! ”

—Diane Knight, Municipal Office Assistant, Ludlow

PREPARING FOR A SUCCESSFUL POST-TOWN MEETING

(This article updates a news story written by Senior Staff Attorney Garrett Baxter for the March 2013 VLCT News.)

The gavel has come down and the polls are closed, but the work necessary to ensure a truly successful town meeting is just beginning. This article will help you navigate the myriad post-meeting legal requirements that pervade Vermont's statutes.

Finalizing Minutes. Under state law, the town clerk must record “all action taken” at Town Meeting proceedings. The clerk's record constitutes the official record of all action taken at Town Meeting. The record should include all articles warned, all motions made, the names of those making motions and of those who spoke to motions and

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(Above) Heidi Joyce introduces Stowe employees to the shoulder-loosening part of the routine.

THE PLUSES OF SURPLUS

Looking for an aircraft assembly bond core flaperon? How about a sonar beacon, a bass drum, or a Learjet Bombardier C-21A? You can get any one of these surplus items – and thousands more that are *really* useful to local government – for the cost of transporting it to your town plus a modest service fee to the State of Vermont.

How? The mission of the Overseas Program of the National Association of State Agencies for Surplus Property (NASASP) is to return surplus U.S. government equipment from overseas locations to the U.S.

for use at the local government level. The organization currently returns property from Asia, Europe, the Middle East, the Bahamas, and Africa, and is working on acquiring property from Iraq and Afghanistan. The Overseas Program is made up of a consortium of State Agencies for Surplus Property (SASPs) whose screeners cover central and southern Europe, England, the Pacific Region, Central America, and the Caribbean. The screeners examine the equipment and summarize their

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89 Main Street, Suite 4
Montpelier, VT 05602-2948
Tel.: (802) 229-9111 • Fax: (802) 229-2211
Email: info@vlct.org
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Executive Director

Allyson Barrieau
Design/Layout

David Gunn
Editor/Copy Editor

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STAFF NEWS

Sarah Jarvis, the Municipal Assistance Center's new Staff Attorney II, grew up in a small Massachusetts town that you'd instantly recognize if I mentioned its name. Her daily walk to school took her by the



Sarah Jarvis

Klondike Tavern, inspiring her to make passing the bar a career goal. Sure enough, after graduating from Connecticut College, she earned a JD from the University of Colorado. Later, Sarah practiced privately at the law firm of Tarrant, Gillies, Merriman & Richardson, which led to a stint as Chief of Staff to the President of Goddard College. And that's where we found her. Sarah is a former member of

the Montpelier City Council and a current board member of Montpelier's Downtown Community Association. She lives in Montpelier with her two sons and loves to ski, mountain bike, and garden. She claims to not be related to the mathematician Tyler Jarvis, who is presently working on problems in algebraic geometry relating to moduli spaces of curves.



Jenny Prosser

Jenny Prosser joined the Municipal Assistance Center for her final semester at Vermont Law School. She is assisting as an

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LOW-INTEREST LOAN FUNDS AVAILABLE THROUGH THE VERMONT STATE INFRASTRUCTURE BANK (SIB) LOAN FUND

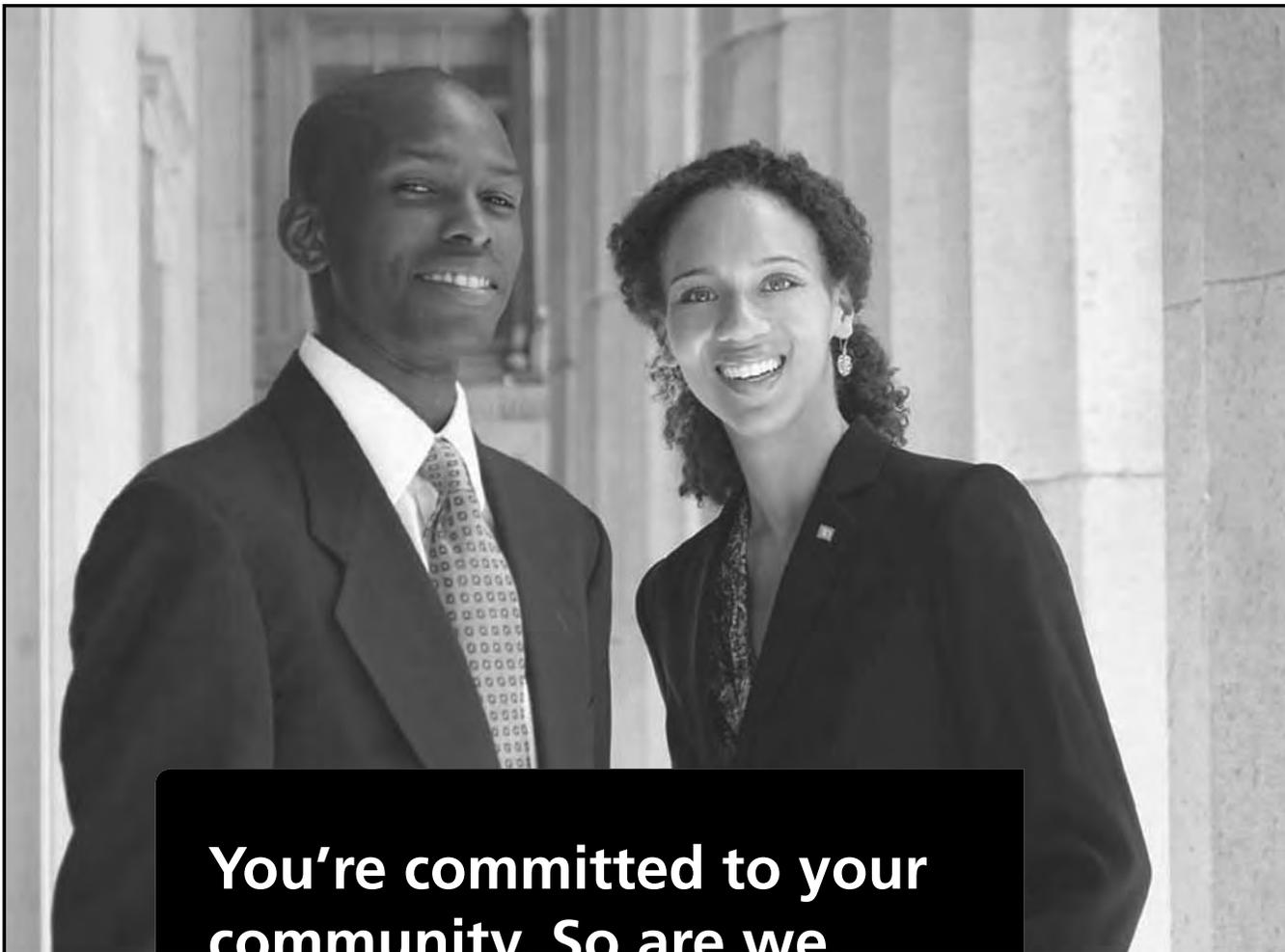


Jointly operated by VEDA and VTrans, the Vermont State Infrastructure Bank (SIB) has low-interest loan funds available for transportation-related projects that enhance economic opportunity and help create jobs. Municipalities, RDCs, and certain private sector companies may qualify for financing to:

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ASK THE LEAGUE

ELIMINATING DELINQUENT TAX COLLECTOR POSITIONS; ADDING NEW SELECTBOARD MEMBERS

Can our town eliminate the position of delinquent tax collector?

No. The town does not have the authority to eliminate this position. Every town in Vermont must have an official charged with collecting delinquent taxes. Fortunately,

there are a number of ways in which a town can accomplish this:

- 1. Elect a Delinquent Tax Collector.**
The most obvious method is to simply elect a delinquent tax collector. A town can vote to elect a delinquent tax

collector for a one-year or a three-year term. 17 V.S.A. § 2646(9). This is also the most common method for a person holding another municipal office (e.g., town treasurer) to also serve as the delinquent tax collector. This is

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ASK THE LEAGUE

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perfectly acceptable so long as the person elected as the delinquent tax collector does not hold an incompatible office. Under state law, a delinquent tax collector may not also be a member of the selectboard or school board, hold the position of locally elected auditor, or be the spouse of the town's locally elected auditor. 17 V.S.A. §§ 2646(9), 2647.

2. Combine the positions of Elected Tax Collector and Delinquent Tax Collector. The town may vote to elect a tax collector charged with collecting both current and delinquent taxes. If a tax collector position is created, the elected official will serve for a one-year term. 17 V.S.A. §§ 2646(8),(9).

3. Have the Town Manager serve as Collector of Current and Delinquent Taxes. If a town has adopted a town manager form of government, its residents may vote to have the manager collect both current and delinquent taxes. In this scenario, the town manager may charge and collect the same fees as a collector of taxes, which are then paid into the town treasury. 24 V.S.A. § 1236(10).

4. Have the First Constable serve as Collector of Current and

Delinquent Taxes. If the town fails to elect a tax collector at town meeting and does not provide any other method, the first constable automatically becomes the collector of current and delinquent taxes. 24 V.S.A. § 1529.

5. Vacancy appointment. If there is a vacancy in the office of delinquent tax collector the selectboard must post notice of the vacancy within 10 days of its creation and appoint to fill the vacancy until an election takes place. A vacancy is created

when the delinquent tax collector "resigns his or her office, or has been removed therefrom, or dies, or becomes insane or removes from town." 24 V.S.A. §§ 961, 963. If the town has voted to combine the offices of tax collector and delinquent tax collector, and the collector is unable to discharge his or her duties due to sickness or other reason, the selectboard may appoint a person as tax collector to collect and pay over such taxes. 32 V.S.A. § 4674. Additionally, if a town

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Register for upcoming MAC workshops online at www.vlct.org/eventscalendar!

UPCOMING MUNICIPAL ASSISTANCE CENTER WORKSHOPS

TOWN HEALTH OFFICERS WORKSHOP

Tuesday, March 11, Capitol Plaza Hotel and Conference Center, Montpelier
Thursday, March 13, Holiday Inn, Rutland

(Co-sponsored by the Vermont Department of Health)

This workshop is designed to assist town health officers, selectboard members, and town managers or administrators who deal with local public health hazards and rental housing code enforcement. Topics will include the duties of a town health officer, legal requirements and best practices for writing health orders and emergency health orders, and how to comply with the state Rental Housing Health Code.

SPRING SELECTBOARD INSTITUTE

Saturday, March 22, Capitol Plaza Hotel and Conference Center, Montpelier
Saturday, April 12, Holiday Inn, Rutland

The Spring Selectboard Institute provides Vermont selectboard members with the skills they need to manage the affairs of their town by focusing on the fundamentals of municipal governance and current issues facing selectboards. Topics may include understanding the municipal organization, essentials of municipal law, running effective meetings, managing the town budget, and how to reduce liability risks. A detailed agenda will be available in January.

TREASURERS WORKSHOP

Tuesday, March 25, Lake Morey Resort, Fairlee
Thursday, March 27, Middlebury Inn, Middlebury

(Sponsored by the VLCT Municipal Assistance Center)

This workshop provides basic guidance for treasurers to perform their jobs on a daily basis. It includes a review of the duties and responsibilities of the treasurer, a discussion of financial policies and internal controls for the finance office, an introduction to basic financial reporting for governments, and suggestions on ways to manage your daily operations, including processing revenues and expenditures, preparing payroll, and managing cash.

For registration, agendas, and other information, please visit www.vlct.org/eventscalendar, call 800-649-7915, or email info@vlct.org.



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LEGAL AND REGULATORY NOTES



SUPREME COURT ORDERS LOWELL TO RECONSIDER ANTI-WIND BALLOT MEASURE

The Vermont Supreme Court ruled in January that the town of Lowell must convene a special meeting to allow voters to reconsider an anti-wind article that was "passed over" at the 2012 town meeting. *Wesolow v. Lowell*, 2014 VT 3.

The situation started in 2012 when a group of voters filed a petition that expressed opposition to wind power development in Lowell. The petition stated:

Shall the voters of the Town of Lowell express their opposition to the G.M.P. [Green Mountain Power] and Velco Wind Project, given that this project has destroyed federally protected stream headwaters, destroyed the ridge line; will cause clinical depression and/or stress for many of those that live around it; will be an eyesore that curtails tourism, destroys the area we call "a national treasure"; threatens to turn the town into a

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ON-SITE WORKSHOPS LET THE VLCT MAC STAFF TRAVEL TO YOU!

Since 2005, VLCT Municipal Assistance Center staff have been conducting customized on-site workshops in municipal offices across the state.

Each workshop costs \$825, though VLCT PACIF members are eligible for a reduced rate of \$415 for many of the topics listed below (except for land use). PACIF members may also be eligible for a PACIF scholarship, which can cover the cost of the training. Please call PACIF Loss Control at 800-649-7915, or visit www.vlct.org/rms/pacif/pacif-scholarships/ for more information on the program. In addition, MAC can develop custom workshops upon request. To discuss or schedule a workshop, please contact Abigail Friedman or call 800-649-7915.

ON-SITE WORKSHOP PROGRAM OFFERINGS:

- Improving the Relationship Between Independent Officers and the Selectboard
- Roles and Responsibilities of Town Officers
- Conducting Effective Selectboard Meetings
- Conducting Effective Tax Appeal Grievances and Hearings
- A Field Guide to the Open Meeting Law and Executive Session
- How to Write a Good Hearing Decision
- The Role of the Manager and the Role of the Selectboard
- An Orientation to Local Government for New Selectboard Members
- How to Respond to a Public Records Request
- Developing and Managing the Town Budget
- Financial Management, Internal Controls, Fraud Risk Assessment
- Inter-local Agreements
- Municipal Charter Adoption and Amendment
- Many specific topics for local land use boards

PICK FROM THESE TOPICS OR DEVELOP YOUR OWN!



LEGAL AND REG.

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slum town by depressing real estate values, future investments and development; raises electric rates, noise levels, and other inherent stressors that divide families in a community; exports huge sums of money out of the USA; may not even solve the problem of Carbon emissions; allows G.M.P. and Velco to not pay the town as much as promised, if at all, if the project does not go as well as they expected; and in the long run will increase the tax burden on the people of the town it was supposed to benefit?

The Lowell Selectboard warned the question as presented as Article #8 of the 2012 Lowell Town Meeting Warning. When Article #8 came up in the course of the town meeting, and before any comment or debate about the article could take place, a motion was made to “pass over” the article. That motion passed on a voice vote, without any discussion.

A motion to pass over is a common town meeting practice in Vermont, even though it is not specifically mentioned by name in Robert’s Rules of Order. Less than a month after town meeting, a group of voters filed a petition for reconsideration of the article.

The law regarding reconsideration is as follows:

If a petition requesting reconsideration or rescission of a question considered or voted on at a previous annual or special meeting is filed with the clerk of the municipality

within 30 days following the date of that meeting, the legislative body shall provide for a vote by the municipality in accordance with the petition within 60 days of the submission at an annual or special meeting duly warned for that purpose. 17 V.S.A. § 2661(b) [Emphasis added.]

The selectboard refused to call a special meeting on the basis that the article had never been “considered” by the voters in the first place, and thus was not one that could be “reconsidered” under 17 V.S.A. § 2661.

The plaintiff sued the town of Lowell in Orleans Superior Court, which ruled in his favor and against the town. A subsequent appeal to the Vermont Supreme Court had the same result.

Neither court considered the content of the article nor did either consider whether

the voters had any authority over that content. In other words, the courts were not faced with the question of whether the voters had the ability to “reconsider” an advisory, non-binding article in the first place.¹ Rather, they focused on the intent of 17 V.S.A. § 2661 and the effect of the town meeting day vote to pass over the article. The Supreme Court stated that the “practical effect” of the vote to pass over the article

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¹Municipalities have discretion over whether to present an article to voters when that article “does not at all relate to municipal business or any matter falling within municipal authority.” *Clift v. City of South Burlington*, 2007 VT 3, ¶8.

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ASK THE LEAGUE

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with a combined delinquent and current tax collector position is without a tax collector, the selectboard may hire a qualified person, who may be a non-resident, to act as tax collector for the town. 32 V.S.A. § 4799.

6. Charter provision. Any town in Vermont has the authority to vote to adopt a charter that can change the general state law for that community, provided it is ratified by the legislature. A town may decide that the options provided under state statute for the election of delinquent tax collector don't suit the needs of the community and decide a different method is more appropriate. For example, some municipal charters provide that the selectboard may appoint the delinquent tax collector. A charter change provides towns great flexibility, however the process is complicated and can be quite time consuming. (See 17 V.S.A. § 2645.) VLCT's Municipal Assistance Center can help you draft the document. Please call Abby Friedman for more information at 1-800-649-7915.

*H. Gwynn Zakov, Staff Attorney I
VLCT Municipal Center*

How are new members added to the selectboard?

The voters must first approve a duly warned article at an annual or special town meeting to add any additional positions to the board. 17 V.S.A. § 2650(b). If the article is approved, the newly created vacancies must be filled either by appointment by the sitting selectboard or by election. 24 V.S.A. § 963.

Each town starts with at least three selectboard members, each of whom serves a three-year staggered term. 17 V.S.A. §§ 2646(4), 2649. A town may elect not more than two additional selectboard members if the voters so choose. 17 V.S.A. §§ 2649, 2650(b). Towns rarely add just one member, however, as doing so dramatically increases the likelihood of deadlocked (2-2) decisions.

If two additional members are added, they must serve for the same term of office, either one or two years. The warning for the addition of the two members must specify if their terms are to be for two years. If the warning is silent, then both members will only serve for one-year terms. If the terms for the new positions are to be for two years, then after their initial election, one member's term would be for one year and the other's would be for two years so that their terms are staggered. In other words, if two additional members are elected for a two-year term, then only one will actually serve out the entirety of the initial two-year term. The other member's term will expire after one year. Thereafter, however, each will be

elected to a full two-year term. The reason for staggering these two positions is to ensure that these offices will not become vacant at the same time. 17 V.S.A. § 2650. When a new member is elected, the warning should clearly indicate the length of the term so there will be no confusion as to which member has the one-year term and which has the two-year term.

How a town fills these positions is a function of the method it utilizes to dispose of public questions and the election of officers at annual and special town meetings. If a town votes from the floor, the article to fill the office can follow the article creating the additional positions. If the first article fails, then the second article for the election of additional selectboard members could be passed over. When a town votes its public questions by Australian ballot, however, the town won't know how the voters answered the first question (whether the size of the selectboard has increased) until after the meeting. The approval of this article therefore would result in two open seats.

In the past, we've opined that this scenario results in the creation of two vacancies which are to be filled by selectboard appointment. The problem with this opinion, however, is that this situation doesn't neatly fall within the statutory definition of a "vacancy." By law, a vacancy is created "(w)hen a town officer resigns his or her office, or has been removed therefrom, or dies, or becomes insane or removes from town." 24 V.S.A. § 961(a). None of those prerequisites to qualifying for a statutory vacancy has been triggered. One could attempt to fit this situation into 17 V.S.A. § 2682(d), which states that "(i)n the event no person files a petition for an office which is to be filled at the annual or special meeting of a municipality, and if no person is otherwise elected to fill the office, a majority of the legislative body of the municipality may appoint a voter of the municipality to fill the office until the next annual meeting." But that piece doesn't fit neatly into our puzzle either as the "office which is to be filled at the annual meeting" will not technically be "created" until after the meeting, not before it.

Because neither of these statutes – which would ordinarily transfer (at least temporarily) the electoral authority of the towns' voters to the appointment authority of the selectboard – has a clear and direct application to this situation, this authority still lies with the voters of that town. This means that the only way to fill these seats is to hold a special town

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NEED A WRITTEN LEGAL OPINION?

LOOKING FOR EXPERTISE DRAFTING A NEW ORDINANCE?

NEED HELP UPDATING THAT PERSONNEL POLICY?

VLCT's attorneys can provide your municipality with legal assistance at highly competitive rates. Please call **Abby Friedman** for more information at **1-800-649-7915**.

SAMPLE PROJECTS:

- Water & Sewer Ordinances
- Zoning Bylaws
- Municipal Charter Amendments
- Highway Ordinances





ASK THE LEAGUE

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meeting following the annual town meeting at which the seats were added.

This creates a bit of a practical problem. Until that special town meeting is held, the size of the selectboard has still increased, though the number of members occupying the seats of that board has not. In other words, although the thresholds for both quorum requirements and the number of members needed to take binding action have increased, the ability of a selectboard to meet them has decreased. For example, if a selectboard increases in size from three to five, the number of members needed to reach a quorum or take binding action has increased from two out of three to now three out of five members. "When joint authority is given to three or more, the concurrence of a majority of such number shall be sufficient and shall be required in its exercise." 1 V.S.A. § 172. Essentially therefore, the newly constituted selectboard will need perfect attendance in order to just hold a meeting and unanimous consent in order to do anything. Obviously, this may be difficult to accomplish until the new members are elected. Consequently, we would recommend warning a special town meeting to elect officers to the newly created seats as soon as possible following the annual meeting at which the new seats were added.

Regardless of the method employed to add the new selectboard seats (floor or Australian ballot voting), once these two new positions are created, they will remain in effect until such time as the town votes to eliminate them at an annual or special meeting. 17 V.S.A. § 2650(c).

*Garrett Baxter, Senior Staff Attorney
VLCT Municipal Center*

WHAT DOES IT TAKE TO WIN A GOVERNOR'S SAFETY AWARD?

The Governor's Award for Outstanding Workplace Safety is the highest honor given by the State of Vermont to recognize an employer's commitment to excellence in workplace safety and health. Employers of small, medium, and large companies as well as municipalities and agricultural businesses can nominate their organizations in an application process that is conducted January through March and sponsored by Governor Shumlin, the Vermont Department of

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Important Elements of an Effective Workplace Safety Program

with examples of how to implement them.

Commitment from Top Level Management

Provide adequate resources for staffing, training, and equipment.

Lead by example.

Honor suggestions from the Safety and Health Committee.

A Written Safety Policy

Safety and Health Committee and management develop policy jointly, and management signs it.

Policy is communicated clearly to all employees, and they sign when they have read it.

Review and update all safety-related policies regularly.

Hazard Identification

Seek and implement advice from third party consultants and experts such as Project Worksafe, Vermont Safety and Health Council, your PACIF Loss Control Consultant, and others.

Conduct periodic workplace hazard surveys (audits).

Invite suggestions from employees, e.g., through Safety and Health Committee.

Staff Training in Safety Knowledge and Skills

Commit to providing worthwhile, memorable trainings on a regular basis.

Meet or exceed VOSHA requirements.

Employee Involvement

Invite employees of all levels to be on the Safety and Health Committee.

Communicate Safety and Health Committee activities and decisions to employees at all levels.

Take employees' safety suggestions seriously.

Reward safety improvements.

Continuous Improvement

Hold Safety and Health Committee meetings no fewer than four times a year.

Seek out worksite hazards regularly.

Monitor and review the effectiveness of safety programs regularly.

MAC MUNICIPAL CONSULTANTS

MAC is pleased offer the services of our expert municipal consultants. To learn more or discuss a possible project, contact Abby Friedman at 800-649-7915, extension 1926, or afriedman@vlct.org.

MAC's consulting team consists of:

- **Bill Hall, Senior Financial Consultant**
- **Doug Hoyt, Municipal Law Enforcement Consultant**
- **Brendan Keleher, Municipal Management and Finance Consultant**



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ORDER HEALTH ADVOCATE À LA CARTE!

Health Advocate™ is a service that helps health insurance subscribers receive the full benefits of their coverage. Last year, hundreds of Vermont's municipal employees called the toll-free number and got assistance with confusing claims, help finding and making appointments with clinical specialists, explanations about their benefits, and more. Health Advocate is not an insurer or a medical provider, but its employees have experience in these fields and are skilled at resolving issues that can confound the rest of us. One call to Health Advocate can save hours of struggling with unfamiliar terminology or bureaucratic red tape – or both – and regain valuable coverage or services that could have been overlooked otherwise.

Employees of groups that bought their 2013 medical insurance through the Health Trust already have full access to Health Advocate for 2014. **Other VLCT members can now buy Health Advocate for their employees on an à la carte basis at the Health Trust's low group rate.** Why should an employer pay for this service? Because it saves employees from having to spend time and energy on the phone or emailing to address insurance and medical issues – time which usually has to be while they are at work, and energy which can keep their minds off of the job you need them to do. Health Advocate helps subscribers get on with their lives while highly qualified Personal Health Advocates are solving the problems.

This is a great opportunity! There's no limit to the number of issues that each subscriber can call about, and not just the subscriber, but his/her spouse, children, parents, and parents-in-law can all take advantage of this service. Health Advocate employees can answer questions about Medicare; explain test results, treatments, and prescriptions; get pre-approval for coverage of needed medical services; explain deductibles, out-of-pocket costs, HSAs, HRAs, and FSAs; untangle billing errors; and more. The Health Trust's à la carte group rate for 2014 is \$1.55 per insured employee per month – a pittance compared to the hours an employee can spend trying to be a self-advocate.

For more information, visit www.vlct.org/rms/health-trust/health-advocate/. To enroll your group, contact Kelley Avery at kavery@vlct.org or 800-649-7915.

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IT'S UI TRUST ANNUAL WAGE REPORT TIME

Members of the Unemployment Insurance (UI) Trust received an email from Kelley Avery in February with information about reporting their 2013 wages before the end of April. All UI members need to file their reports electronically this year using the handy Excel spreadsheet that's posted on our website. UI Trust administrators will use these 2013 wage reports in determining the 2015 rates.

Reporting your municipality's 2013 wages via the spreadsheet is more important than ever because the Trust has new internal software, and this year's Excel file has been adjusted to work optimally with it. Please be sure to use the file that is posted on our website now: it has 2013 in the filename.

If you are the UI Trust contact for your municipality, the file to download and complete is at www.vlct.org/rms/unemployment-insurance-trust/, and the deadline for returning your completed file is May 1, 2013. But don't wait to start! If you have any questions, please email Kelley at kavery@vlct.org or call 800-649-7915.

2014 RMS CALENDAR

Gov's Safety Award Application Deadline. Tuesday, April 1. For information, the list of award criteria, and the application form, email fsatink@vlct.org or call Fred Satink at 800-649-7915.

NSC Defensive Driving Course. 8:00 a.m. to 12:00 noon, Wednesday, March 19, AGC/VT Training Center, Montpelier. Presented by Associated General Contractors of Vermont. \$99 for AGC/VT members. For more information, visit www.agcvt.org, call 802-223-2374, or email info@agcvt.org. Register at www.agcvt.org.

Dig Safe – Damage Prevention Excavator Training. 7:00 a.m. to 11:00 a.m., Tuesday, April 1, Middlebury; Wednesday, April 2, South Burlington; and Thursday, April 3, St. Albans. Free breakfast seminars presented by the Vermont Managing Underground Safety Training (MUST) team. Prepare your crews for a safe and compliant excavation season. For details, go to www.must-ne.com/safety_training.php and click on the Vermont icon.

2014 Worksite Wellness Conference and Governor's Wellness Awards. 8:00 a.m. to 4:00 p.m. Thursday, March 27, Sheraton Hotel and Conference Center, Burlington. Day-long exhibits, awards presentation, keynote address by Andy Core, best practices sharing, a healthy lunch, two afternoon workshop sessions (each with four options), and a raffle. \$75 for award applicants or \$100 for others before March 1st; \$125 thereafter. For details and to register, visit <http://healthvermont.gov/family/fit/worksitewellness.aspx#conference/> and click on Annual Conference.

2014 Vermont Workplace Safety Conference and Governor's Safety Awards. 9:00 a.m. to 3:30 p.m., Friday, May 16, Double-Tree Hotel and Conference Center, Burlington. Awards will be presented at 9:00 a.m. (No-cost registration for only the awards portion of the day is available by emailing pcrawford@vtsbdc.org.) Conference topics include Total Worker Health, Return-To-Work Business Success Stories, How to Write a Functional Job Description, OSHA Updates, and Technology in Safety. Sponsored by the VSHC, the Vermont Small Business Development Center, Airgas, and Workability PLC. Full conference fee, including lunch: \$85. For an agenda and to register, visit www.vtsbdc.org/small-business-training-workshops/12th-annual-vermont-workplace-safety-conference-and-governors-awards/.

PRE-SHIFT STRETCHING

(continued from page 1)

(Below) A Milton employee leads a leg stretch.

“After a bit of resistance, the stretching is going quite well. I have to admit that I’ve noticed changes to myself since doing these – not so many cracks when moving my head, for instance. Thanks for initiating this.”

—Bob Stacey, Town Manager, Hartland



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PACIF JEOPARDY!

PACIF JEOPARDY! A & Q, PART 4: BEST PRACTICES FOR LOSS CONTROL AND CLAIM REPORTING

Welcome to the fourth installment of the five-part PACIF Jeopardy! game. This month's topics are designed to enhance VLCT members' knowledge of best practices concerning claim reporting and loss control.

As with the real Jeopardy! TV game show, this is an A&Q instead of a Q&A: the board shows the answers, and you supply the questions. The answers are to the right. When you think you know the questions, turn to page 19 to see if you're correct. There you'll also find additional information about the questions. Are you ready to "buzz in" with your responses?

(continued on page 19)

Points	Answer (on the Board)
10	This type of injury claim should always be filed online at VLCT's "Report a Claim" webpage.
20	Involving supervisors in this follow-up process improves hazard identification and correction.
30	These "almost" incidents should be promptly reported by employees and reviewed to help prevent claims.
40	This internal group can be effective in improving workplace safety and related policies.
50	PACIF cannot deny a WC claim if it has this temporal characteristic.

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PACIF MEMBERS APPRECIATE EMPLOYMENT LAW CONSULTATIONS

PACIF has long offered Employment Practices Liability (EPL) coverage for lawsuits from employees alleging discrimination, harassment, or wrongful termination. Although infrequent, these lawsuits are usually very costly to defend. Employers with little formal training in human resources can easily encounter a difficult situation that could develop into a lawsuit. However, early advice from an attorney who is experienced in EPL law can either defuse the situation or support the employer's defense in case of a suit. To that end, PACIF members who call and discuss an employment situation – whether it is already an *issue* or not – with a staff member in our

Municipal Assistance Center (MAC) might be referred to one of six Vermont attorneys who specialize in Employment Law. PACIF picks up the tab for the referred member's consultation with that attorney as part of PACIF's new EPL Assistance Program.

"This is our way of encouraging PACIF members to get actionable legal advice early on if our MAC staff decides a situation warrants it," explains Ken Canning, Director of VLCT's Risk Management Services Department. "And we want members to call us sooner rather than later. This program is based on the adage 'an ounce of prevention is worth a pound of cure'."

The EPL Assistance Program was launched in January. In just its first month, PACIF members who were referred to an Employment Law specialist have found their legal consultation to be worthwhile.

"I want to thank you for mentioning that Employment Practices Liability program to us; the assistance we received was most helpful."

*Charles Romeo, City Attorney,
Rutland City*

"It is really tough to understand the intricacies of the law on certain personnel matters. Talking with the Employment Law attorney was very helpful to me in formulating a way to handle our situation that is fair to both the employer and the employee. I was glad to be able to get some professional advice on our situation quickly and inexpensively. This is a good program."

*Bill Bryant, Town Administrator,
Bristol Town*

For more information about PACIF's EPL Assistance program, call Joe Damiata at 800-649-7915 or email jdamiata@vlct.org.

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Vision as of January 1, 2014

Town of Townshend
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Town of Warren

Dental as of January 1, 2014

Town of Winhall



PLUSES OF SURPLUS

(continued from page 1)

observations on broadcast screen sheets (see sidebar), which they email to eligible parties. If interested, that party then contacts Bill Beard, Vermont's Surplus Property Program Specialist, who attempts to secure the equipment. Each state has an equal chance to acquire an item. When one state obtains surplus property, that state moves to the bottom of a distribution list, then moves up sequentially as other states ahead of it acquire equipment. It's really not much of a wait, as you'll soon see.

Only government agencies and some non-profits doing the work of the state are eligible to receive federal surplus. Each entity must fill out an Application to Receive Federal Surplus, which is found on the Department of Buildings and General Services' website, <http://bgs.vermont.gov/>. Click on Government Business Services/Surplus Property/Federal Surplus Program/Forms and Publications to download the Surplus Federal Property Forms eligibility application.

<http://gsaccess.gov/> is the entry site for the Federal Excess Personal Property Utilization Program and the Federal Surplus Personal Property Donation Program, which are operated by the federal

General Services Administration (GSA). GSA maintains a system where all U.S. surplus items are available to eligible clients. Much of this equipment is located in the U.S.

To see what's available (there were 59,902 items on January 28th; a day later, the number had dropped to 23,535), click the LOGIN box. Typing **VTSASP** in the User ID box and **3394** in the password box directs you to a page that groups all available items into 40 categories. This is a **view-only** page; you have to register to be eligible to participate in the program. The eligible party must pay the shipping cost plus a service fee to the State of Vermont that is determined by the original price of the item. For example, equipment that costs \$5,000 or more new will set the purchaser back \$500; under \$5,000 and the cost is \$100.

And who's using the service? Bill Beard names three men who are on top of their game.

During the five years that Corinth Road Foreman Joe Blodgett has used the program, he's gotten for his town an excavator, a John Deere backhoe, a Caterpillar grader, shop tools, a chainsaw, a couple of trailers, and plenty more. The grader came from Fort Drum in New York. A dump truck in Burlington that he had his eye on went to another bidder in Massachusetts. Currently, he has his eye on a snow plow in Swanton. But the prices have always been right. The road grader – in good shape with a mere 400 hours of use plus new tires – cost \$1,700; the chainsaw, \$25. Joe said he's usually been successful in acquiring precisely the equipment he's sought, and to buy everything new would have cost upwards of \$400,000.

Jason Beaulac, Alburgh Village Superintendent, has used only the U.S. program but he's gotten, among other items, generators, sewer cleaning equipment, a truck for the fire department, and a rescue boat. A backhoe, which he's currently seeking, has been harder to acquire because of a pecking order. Jason says the feds get first dibs on available equipment, after which come state government and *then* the municipalities.

North Bennington Village Highway Superintendent Norm LeBlanc started acquiring surplus property five years ago. A former U.S. Navy Seabee (a member of its construction battalion), he was aware

Broadcast / Screen Sheet

Respond By: 04 Feb 2014

Shipment Type & #: Container #1 Screener: Randy
Country: Korea DRMO: Gimcheon Broadcast#: 19-14

!!LINE ITEMS ONE THROUGH THIRTEEN MUST BE FILLED IN!! IN THE CASE YOU CAN NOT FIND THIS INFORMATION LET ME KNOW. LINE ITEMS EIGHT THROUGH ELEVEN ARE A MUST FOR US CUSTOMS. ALL NEWER EQUIPMENT MUST HAVE AN ENGINE EPA CERTIFICATION LABEL ON THE ENGINE OR IN THE ENGINE COMPARTMENT. ALL VEHICLES MUST HAVE A DOT LABEL ON THE DOOR JAM OR INSIDE THE VEHICLE.

1. Property Description: Generator 100KW 2. NSN #: 6115011340165
3. TID #: W90KC640220002A 5. Quantity: 1 6. ACQ. Value: \$44,776.00 7. Demil/Cond. A/H7
8. Make/Model: Libby Welding/MEP007B 9. Year: 88? Rebuilt 2009 10. VIN or Serial #: RZ00663
11. Engine Make #: Engine Model: Engine Serial #:
- Certified Engine Family #: EPA LABEL NO ON ROAD VEHICLES DOT LABEL YES
12. Miles: 13. Hours: 37 HP/KW
14. Weight: Height: Width: Length:
15. Load Capacity: 100KW 16. Fuel Type: DIESEL 17. DRIVE TRAIN: N/A
18. #Wheels: 19. TIRES: N/A 20. PTO: YES NO
21. Shipping Class: CONTAINER (40') 22. Regular/Rush/Other: Regular
23. Describe property exactly how you see it:
 - a. Engine and major components: COMPLETE Starts: NO
Drives: NO Engine: Turns Batteries: Dead Fluids drained: NO
Engine Comments:
 - b. Drive Shaft: Attached: YES Damaged: NO Details:
 - c. Missing Parts:
 - d. Interior: Seats/Dash/Etc.:
 - e. Exterior: Rust/Dents:
24. Comments: Rebuilt 2009
25. Vehicle/Equipment: Assembled Quantity of Pieces:

(continued on next page)



PLUSES OF SURPLUS

(continued from previous page)

of the vast amount of materiel on military bases and quickly became one of the state's most savvy users. For instance, he picked up a Case tractor from a facility in Niagara Falls that had been coded F6, which meant it was unserviceable. He discovered, however, that the machine only needed a new belt. The village now uses the tractor for roadside mowing. Other acquisitions include two road graders, five impact rammers, a backhoe, trencher, snowblower, sweeper, a tree chipper, a fax machine and, most recently, 12 pallets of sandbags, earning him the title of Sandbag King. Because the equipment is occasionally only available in lots, some towns bundle items to reduce the transportation costs and fees. Norm once worked with Bennington Town and Shaftsbury to acquire nine generators.

And it doesn't take a lot of waiting around to get the surplus property. Norm says he's never had to wait more than three weeks to receive a piece of equipment. There can be, of course, trash among the treasures, such as the time he purchased a security system, and only found out later that the motherboard was missing. (He was allowed to return the system.)

The purchasing town has a year to put the equipment into operation. After the equipment has been used for 18 months, it may be re-sold.

Sometimes, the cost of transporting the surplus property can seem daunting. A 1992 LN8000 Ford firefighting truck with 2,739 miles and a condition code of A/F7 (needs work) will cost \$10,450 to ship from Japan to Tacoma, Washington. But because the U.S. Government paid \$148,000 for it new, the buyer's cost will only be about one-tenth of that.

So wouldn't a user of such a cost-effective program want to keep news of it under his hat to better benefit his own town? Nope, says Norm. The equipment was purchased with taxpayers' money. It should consequently be available for taxpayers' use.

So, *attention surplus shoppers!* A bariatric trapeze is now available from a facility in Phoenix, Arizona. But if the recent past of the Federal Excess Property Program is any indication, it won't be for long!

David Gunn, Editor
VLCT News

STAFF NEWS

(continued from page 2)

intern, although her official title is Legal Extern, which only seems to confuse people. Jenny grew up in Pennsylvania Dutch country and moved to Vermont in 2000 upon earning a B.A. from Oberlin College. Most recently, she worked in health care advocacy at Vermont Legal Aid's Office of Health Care Ombudsman, and she hopes to put her J.D. to similar use after taking the Vermont bar this July. Jenny lives in East Montpelier with her wife and a dainty, sweet-tempered German Shepherd. When she's not absorbing the ins and outs of municipal law, Jenny gardens, swims, and bakes elaborate desserts. A devotee of William L. Prosser's seminal law book "Prosser on Torts," she is therefore contemplating titling her first dessert cookbook "Prosser on Tortes."

In 2005, **Tanya Chambers** started working at VLCT as a Member Relations Representative. Two years later, she was promoted to Senior Member Relations Rep. Now that she's passed her Worker's Compensation Adjuster's exam, she has become VLCT's newest Worker's Compensation Claim Representative. What more can we say about Tanya? Well, during the summer, her garden overflows with basil, dill, and oregano. She's also a whiz at gin rummy. So it should come as no surprise that her name is an anagram of "My Canasta Herb."

We're fully staffed again (well, maybe), the renovations to VLCT's digs are proceeding apace, someone thought she saw a *robin* the other day – are things looking up, or what?

David Gunn, Editor
VLCT News

SAFETY AWARD

(continued from page 9)

Labor, the Vermont Safety and Health Council, and the Vermont Small Business Development Center. This year's winners will be announced at the 10th Annual Workplace Safety Conference on May 16th at the DoubleTree Hotel in South Burlington. These awards are truly merit-based, so applicants need to show not just adherence to standards but a long-term desire to excel.

Last year for the first time a Governor's Safety Award was won by a municipal entity: Chittenden Solid Waste District (CSWD). Highlights of their safety program were touched on in the May 2013 issue of the *VLCT News*. This year **we encourage other municipal entities that take safety seriously to apply for a Governor's Safety Award**. Even if you don't win, **the application process itself can help you identify ways to improve your safety program** and work toward a future award. In the sidebar on page 9 you can see some of the ways that CSWD implemented the five key elements of an effective workplace safety program.

The deadline to apply for an award this year is April 1st, but applicants should collect their information and submit it earlier, in case the award committee needs additional information or documentation. PACIF members that are interested in applying should first contact their loss control consultant for guidance and feedback on the merits of their safety program. For the list of award criteria and the application form, email fsatink@vlct.org or contact your loss control consultant. Submit completed applications to leslie.curtis@state.vt.us.

PACIF WORKSTRONG: THE NEXT STEP

Now that WorkStrong's Train-the-Trainer classes have gotten many PACIF member employees started with a 10-minute daily stretch, Heidi Joyce is deploying the next element of WorkStrong: one-to-one customized wellness consultations.

In daylong visits to PACIF members, Heidi spends 30 minutes with individual employees doing whatever each one wants: fitness testing, nutrition consultation, ergonomic evaluation, some simple yoga instruction, exercise consultation, or the most common choice – a combination of these. This way, an employee can get personal attention, learn practical information, and set attainable goals toward a healthier life.

These consultations are scheduled much the same way that health screenings used to be: Heidi arranges to be at the member's location on a particular day (or two), and a contact person at the municipality books the employee appointments. Heidi also has handouts to help employees learn about this opportunity. Contact her at hjoyce@vlct.org or 800-649-7915 to learn more or get in on this great deal right away!



POST-TOWN MEETING

(continued from page 1)

what was said, and the results of all votes. The level of detail in the minutes will be whatever is required by the town officers who approve the minutes under 24 V.S.A. § 1152. The clerk must request approval of the minutes within seven days from any combination of two officials from the groups designated by statute: moderator, selectpersons, and justices of the peace. This request must be given prompt consideration. 24 V.S.A. § 1152.

Reporting Election Results. State law mandates that the town clerk report the election of certain officials. Each has his or her own deadlines. These include filing a list of the names and addresses of every justice of the peace and selectperson elected along with notation of those newly elected with the Secretary of State. 17 V.S.A. §§ 2592(i), 2665. The clerk must also deliver a certificate signed by the clerk and one other election official to each candidate for justice of the peace elected. Additional duties include reporting the name of the town treasurer to the State Treasurer by July 1st; certifying the name and post office address of the first constable to the county clerk; and reporting the names, post office addresses, and lengths of term of office of each lister to the Director of the Division of Property Valuation and Review. 24 V.S.A. §§ 1166, 1168, 1169. The clerk must also file his or her own certificate of election with the county clerk within six days of the election. This certificate is signed by the moderator if elected from the floor or the chair of the board of

civil authority if elected by Australian ballot. 24 V.S.A. § 1151. Certificates of election can be found on the Elections Division page of the Secretary of State's Office website, http://vermont-elections.org/elections1/town_clerks_movie.html.

The clerk's post-Town Meeting responsibilities also include reporting certain actions taken by the voters at Town Meeting. Within five days of the meeting, the clerk must certify votes on all financial actions (raise taxes, borrow money, make any appropriation) to the town treasurer and selectboard chair. 24 V.S.A. § 1167. Within six days of Town Meeting, the clerk must report on the method for the collection of taxes to the Director of Property Valuation and Review together with any other related information that the director requires. 32 V.S.A. § 5167. If the townspeople voted to amend their town charter, the clerk must, under direction of the local legislative body, announce and post the results of the vote immediately after it is counted and within ten days certify facts of the origin and procedure followed for each amendment adopted, if any, to the Secretary of State and certify the result before any subsequent action on the amendment by the Vermont Legislature. 17 V.S.A. §§ 2645(b), 2663.

Towns that conduct elections by Australian ballot have different reporting requirements depending on how votes are tabulated. In towns that count by hand, the presiding officer must publicly announce the results when each summary sheet is completed. For those that use vote tabulating machines, the presiding officer may publicly announce the results from the tabulator tape and post them as "unofficial incomplete results" in the

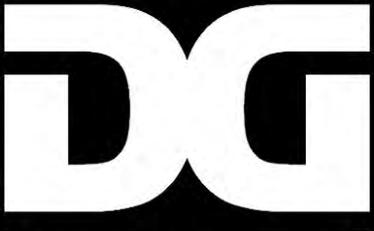
polling place. The clerk must deliver one certified copy of the election return to the Secretary of State, the Senatorial District Clerk, the County Clerk, and the Representative District Clerk within 48 hours of the close of the polls. 17 V.S.A. § 2588.

Bonding Requirements. Certain officers and employees must provide a bond conditioned on the faithful performance of their duties. These include constables, road commissioners, collectors of taxes, treasurers, clerks, assistant treasurers when appointed by the selectboard, and any other officer or employee of the town authorized to receive or disburse town funds. The purpose of the bonding requirement is to protect the municipality financially from the possible wrongdoing, misappropriation, or honest mistake committed by its officers or employees. Bond amounts are set by the selectboard, paid for by the town, and customarily done through the town's insurance carrier or a specialty surety company. (VLCT PACIF provides coverage to its member municipalities that meets the statutory requirement for bonding but is technically not a bond. Certain acts committed by elected and appointed officials and employees are covered by the PACIF program as stated in the coverage document. PACIF provides \$500,000 in coverage and will facilitate the procurement of additional coverage if the selectboard requires a higher amount.) If the officer fails to provide the required bond ten days after he or she is requested to do so, that office shall be deemed vacant. The clerk must record all bonds filed in a separate book kept for that purpose. 24 V.S.A. §§ 832, 833, 835.

Settling Accounts. If a new treasurer is elected, his or her predecessor must immediately pay over all funds belonging to the town and town school district and deliver all books and papers in his or her possession. 24 V.S.A. § 1578. Similarly, if a new collector of taxes is elected, his or her predecessor must give the treasurer all uncollected tax bills and all moneys collected thereon. These bills must be audited and reissued to the new collector, who must in turn provide a receipt for them. 32 V.S.A. § 4671.

Administering Oaths of Office. A handful of town officers must be sworn into office before carrying out any of their duties. Among them are the clerks and their assistants (24 V.S.A. §§ 831 and 1171); selectpersons, justices of the peace, constables, listers, grand jurors, and fence viewers (24

(continued on page 19)



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Please visit the VLCT website www.vlct.org/marketplace/classifiedads/ to view more classified ads.

VLCT NEWS Advertising Information

The *VLCT News* is published eleven times per year – the August and September issues are combined – and reaches readers no later than the first week of the month.

Two kinds of advertising are available in the *VLCT News*:

CLASSIFIEDS

(Posted online and also placed in the printed *VLCT News*)

The *VLCT News* publishes classifieds from municipal entities, public agencies, businesses, and individuals. This service is free for VLCT members (regular, contributing, and associate); the non-member rate is \$41 per ad.

While there is no deadline for posting classifieds online, the print advertisement deadline (below) applies to classifieds that run in the printed *VLCT News*.

Classifieds are generally limited to 200 words due to limited space in the newsletter, but they may be longer when posted online. The online version can also include hyperlinks to images or other websites.

For more information on placing classifieds, contact classifieds@vlct.org.

DISPLAY ADS

(Placed in the printed *VLCT News*)

The deadline for submitting display advertisements is the first Friday of the month prior to the issue date.

Download a calendar of print deadlines and find information on print ad requirements, sizes, and prices at www.vlct.org/advertising-information.

For answers to specific questions about print advertising, email vlctnews@vlct.org.

seeks a full-time (40 hours a week plus overtime) Equipment Operator/Maintenance Technician in the Public Works Department. Requirements: high school diploma or GED, CDL, driver's license with clean driving record. Excellent benefits. An employment application and complete job description are available at www.essexjunction.org/departments/employment/ or from the Village office (802-878-6944). To apply, submit application to Village of Essex Junction, 2 Lincoln Street, Essex Junction, VT 05452. Position open until filled. EOE. (1-22)

Director, Planning and Community

Development. Montpelier (pop. 7,900), the capital of Vermont, is accepting applications for the position of Director of Planning and Community Development. The Director, who reports directly to the Assistant City Manager, manages planning, zoning, building inspection, and community and economic development activities for the City as well as many special projects. He or she supervises 3.5 FTEs and Vista volunteers, a \$345,000 general fund budget, \$500,000 in community development funds, and several grant-funded projects. Work involves close cooperation and coordination with many citizen boards including the Planning Commission, Development Review Board, Design Review Committee,

Montpelier Historic Preservation Commission (CLG), Montpelier Alive (the City's downtown organization), Conservation Commission, Montpelier Energy Advisory Committee, the City Council and others. Attendance at many evening meetings is necessary. Requirements: an advanced degree in land use planning, community development, or a related field; at least five years of demonstrated experience in municipal planning and land use regulation; an understanding and familiarity with federal and state funding programs; a successful history in grant writing, administration and project implementation; a proven ability to manage multiple high priority projects with multiple funding sources; experience with and knowledge of Vermont land use regulations and planning processes; excellent written and verbal communication skills; and a strong work ethic, good public presentation/discussion skills, grace under pressure, and solid departmental management ability. The annual salary, currently \$68,327, is negotiable based on experience and qualifications. The City offers an excellent benefits package and a dynamic professional environment. To apply, submit a cover letter and resume **by Friday, February 28**, to Jessie Baker, Assistant City Manager, Montpelier City Hall, 39 Main Street, Montpelier,

(continued on next page)

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CLASSIFIEDS

(continued from previous page)

VT 05602-2950. Electronic submissions are appreciated and should be sent to jbaker@montpelier-vt.org. EOE. (1-31)

Highway Department Employee. The Town of Warren is now accepting applications for a full-time year-round employee of the Highway Department. The applicant should have experience with operating heavy equipment, including backhoe, grader, and dump truck. Construction experience is a plus. CDL endorsed valid Vermont driver's license required. Wage and benefits package (retirement and health benefits) commensurate with experience. For more information, call Cindi Jones, Town Administrator, at 802-496-2709 ext. 23. Employment applications are available at the Warren Municipal Building, 42 Cemetery Road, Monday-Friday from 9:00 a.m. to 4:30 p.m. To apply, email application with cover letter of interest to cjones@warrenvt.org, or mail to Cindi Jones, Warren Town Administrator, Town

of Warren, PO Box 337, Warren, VT 05674. (2-4)

Zoning Administrator/Health Officer. The Town of Milton, Vermont, seeks a qualified person to fill the position of Zoning Administrator/Health Officer. This can be a full- or part-time position. Duties: interpret, administer and direct the enforcement of Town zoning, litter, health and sanitation ordinances as well as applicable provisions of development codes; issue zoning permits; and coordinate zoning variance proceedings. Requirements: a thorough knowledge of Town development and zoning codes, health and sanitation codes, the functions and interrelationships of municipal and other governing units; the ability to interpret, explain, and enforce Town zoning and development ordinances; a Bachelor's degree with major courses in business or public administration, urban planning, or related fields; and three years of professional experience in code enforcement, urban planning, construction, or related fields. Salary, \$20.95 to \$22.74 per hour. You can get an application and full job description at the Town Manager's Office.

To apply, please send a completed Town of Milton application along with your resume and a letter of interest to Brenda Comstock, Human Resource Coordinator, Town Manager's Office, Town of Milton, 43 Bombardier Road, Milton VT 05468-3205. (2-11)

TRIVIA

Last month's query about a race between two hyper-intelligent grasshoppers at the 1999 Tunbridge World's Fair generated some intriguing responses, but only two correct ones: from Rob Faley and Bob Kelley of Sunderland and Derby, respectively. In a nutshell, the two grasshoppers, Ignatz and Bradley, each claimed to be the faster jumper. The larger Ignatz covered ten inches at every bound; Bradley could only jump six inches, but was able to jump more frequently. The race course totaled 24 feet, or 12 feet in each direction. They started simultaneously at a signal given by an arachnid now extinct. (More on that later.) And the winner? It was Bradley, by four seconds. Ignatz, by making ten-inch jumps, overshot the half-way mark by six inches and was 12 inches behind at the finish.

For extra credit, I asked what did in the arachnid, and here the rejoinders got interesting. One person postulated that either the arachnid couldn't survive in Tunbridge soil or, since it wasn't named, it couldn't be identified as a rare and endangered species and, therefore, protected. Another was convinced that the arachnid lived on the Caribbean Monk Seal, and when the seal went extinct, so did the arachnid. A third person hypothesized that the arachnid was *Halarachne Americana* (a nasal mite on the Caribbean Monk Seal; how's *that* for coincidence?!), whose fate was sealed when the fairgrounds were sprayed with insecticide. But the *real* answer? Sorry to say, I'm out of room. No, really! It'll have to wait for another day.

Speaking of another day, Vermont has long been blanketed with forest. **Where and when was the first documented clearing and why was the land cleared?** When you know the answer, email it to dgunn@vlct.org. The answer will appear in the appropriately a priori April issue.

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POST-TOWN MEETING

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V.S.A. § 831); village clerks, treasurers, and collectors of taxes (24 V.S.A. § 1306); assistant election officials (17 V.S.A. § 2454(a)); and members of the board of civil authority (32 V.S.A. § 4405). State law prescribes different oaths for different town officers. The town clerk may administer oaths of office whenever they are required and must keep a record of all oaths taken. The clerk's oath may be administered by a justice of the peace; notary public; supreme, superior, or assistant court judge; presiding officer, secretary or clerk of either chamber of the Vermont General Assembly; or by the Governor. A listing of the different oaths of office is posted on the Elections Division page of the Secretary of State's Office website, http://vermont-elections.org/elections1/town_clerks_movie.html.

Appointing Assistants. After his or her election, the town clerk must appoint at least one assistant. 24 V.S.A. § 1170. The treasurer may, but does not have to, appoint an assistant. 24 V.S.A. § 1573. If the treasurer fails

to appoint an assistant within ten days of a selectboard's request to do so, the selectboard may appoint one for him or her. The clerk's assistant must be sworn into office. 24 V.S.A. § 1171. A record of the assistant clerk's appointment must be certified by the clerk and a copy of the assistant's oath must be deposited with the county clerk. 24 V.S.A. § 1172. Appointments for both offices must be recorded in the town clerk's office.

Organizational Meetings. After its election, the selectboard must hold an organizational meeting at which it must elect a chair and, if it so votes, a clerk. Certificates of election for these positions must be recorded with the town clerk. The first organizational meeting of the selectboard is a good time to establish rules of procedure, choose its newspaper of record for public notices, and authorize a designated selectboard member to sign orders on behalf of the town. The selectboard must also appoint a legally qualified voter to serve as the tree warden and may, though it is no longer required to, appoint three fence viewers, a poundkeeper (residency not required), and one or more inspectors of lumber, shingles and wood, and weighers

of coal. These appointments, if made, must be recorded by the town clerk. This is also a good time for the selectboard to establish its regular meeting schedule. 24 V.S.A. § 871.

You can download VLCT's Model Selectboard Rules of Procedure from http://www.vlct.org/assets/Resource/Models/p_SB_Rules_Proc.pdf

*H. Gwynn Zakov, Staff Attorney I
VLCT Municipal Center*

LEGAL AND REG.

(continued from page 7)

“amounted to consideration of or a vote on the article for the purposes of the applicability of 17 V.S.A. § 2661. Accordingly, the petition for reconsideration pursuant to § 2661 was appropriate...” *Wesolow v. Lowell*, 2014 VT 3 at ¶11.

In making its decision in this case, the Court was trying to fulfill the intent behind 17 V.S.A. § 2661, which is “to enable the voters of a town, upon securing the necessary signatures, to secure a vote to reconsider a matter previously acted upon by the voters.” *Id.* As the Court understands them, the goals of the statute would be “frustrated by an interpretation that suggested that the right of voters to petition for reconsideration of a question turns on the parliamentary procedure by which the question was defeated in the first instance.” *Id.*

In upholding the lower court's ruling, the Supreme Court ordered the town of Lowell to convene a special meeting to allow for a discussion, debate, and/or vote on the article. However, the Court's decision does not affect the legal nature of the article – it remains an advisory, non-binding question. Thus, even a positive vote on Article #8 will not bind the town in any way and will not compel the town to take any action in regard to wind-power development.

What the Court seemed to be reaching for is a way to allow opportunities for public discussion, debate, and/or a vote. Ironically, however, its decision in this case may have the opposite practical effect. Selectboards faced with similar situations in the future will be inclined to keep such articles off of the town meeting warning altogether, so that they are not faced with a subsequent special town meeting for reconsideration of those articles.

The decision is archived at <http://info.libraries.vermont.gov/supct/current/op2013-291.html>

*Sarah Jarvis, Staff Attorney II
VLCT Municipal Assistance Center*

PACIF JEOPARDY! CONTINUED

(continued from page 12)

Points	Question	More Information
10	What is a “First Report of Injury” or workers’ compensation claim?	Filing your workers’ compensation claim online improves filing time and claim accuracy and helps keep claims operations efficient and effective. All members should be doing this!
20	What is incident or accident investigation/review?	Involving supervisors and managers in reviewing incidents keeps them informed about losses. Supervisors also understand the correct procedures, equipment, work habits, etc., and can implement correctional measures in real time.
30	What are near misses?	Every near miss that occurs is a chance to study the incident and identify ways to prevent a loss. Encouraging employees to report near misses is the first step in this process.
40	What is a Safety Committee?	Safety Committees are effective at involving employees in the safety process and changing workplace culture. Use them to review incidents, conduct surveys, and express their opinions on safety policy.
50	What are claims reported more than 21 days after the date of employer knowledge?	Workers’ Comp adjusters have 21 days to decide whether a claim is compensable. This clock starts ticking when the employer becomes aware of the incident. The injured worker mentioning the injury to his or her supervisor counts as employer notice.



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UPCOMING EVENTS

Questions? Visit www.vlct.org/eventscalendar to register and for the most updated information and events.

Town Health Officers Workshop

March 11, Capitol Plaza, Montpelier
March 13, Holiday Inn, Rutland

Spring Selectboard Institute

March 22, Capitol Plaza, Montpelier
April 12, Holiday Inn, Rutland

Treasurers Workshop

March 25, Lake Morey Resort, Fairlee
March 27, Middlebury Inn, Middlebury

Auditors Workshop

April 22, Middlebury Inn, Middlebury
April 24, Lake Morey Resort, Fairlee

Conducting Effective Tax Appeals

May 6, Lake Morey Resort
May 8, Middlebury Inn

Municipal Dog Control

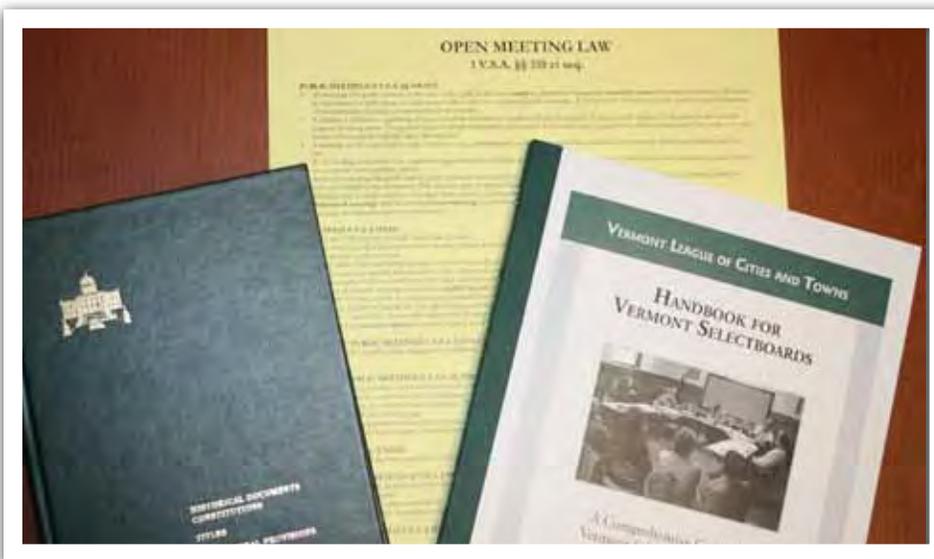
May 29, Capitol Plaza

Spring Planning and Zoning

June 4, Lake Morey Resort

Finance Symposium

June 19, Capitol Plaza



Check out all of the upcoming MAC workshops online at www.vlct.org/eventscalendar!