

## NEW TEMPLATE FOR GROUP NET METERING AGREEMENTS FOR VERMONT MUNICIPAL AND SCHOOL DISTRICT SOLAR PROJECTS

The Template for Group Net Metering Agreements was drafted to help municipal and school district officials through the process of “going solar.” The template was a collaborative effort by the Vermont School Boards Association, the School Energy Management Program of the Vermont Superintendents Association, Vermont Public Service Department, Vermont Natural Resources Council, and several Vermont attorneys; it was coordinated by the Vermont League of Cities and Towns. The template provides potential contract provisions that can be modified to best suit municipal and school district goals and financial needs. The template, available as both a Word document or pdf file, is posted on the sidebar of [www.vlct.org/league-resources/search-vlct-resources/](http://www.vlct.org/league-resources/search-vlct-resources/). For more information please contact:

- Abby Friedman, VLCT Municipal Assistance Center Director (800-649-7915 or [afriedman@vlct.org](mailto:afriedman@vlct.org));
- Anne Margolis, Renewable Energy Development Manager, Vermont Public Service Department (802-828-3058 or [anne.margolis@state.vt.us](mailto:anne.margolis@state.vt.us));
- Norm Etkind, School Energy Management Program Director (802-229-1017 or [semp@vtvsa.org](mailto:semp@vtvsa.org));
- Johanna Miller, Energy Program Director, Vermont Natural Resources Council (802-223-2328 ext. 112 or [jmiller@vnr.org](mailto:jmiller@vnr.org)); and
- Vermont Energy & Climate Action Network ([www.vecan.net](http://www.vecan.net)).



[www.vlct.org/league-resources/search-vlct-resources/](http://www.vlct.org/league-resources/search-vlct-resources/)

## THE JUDICIAL BUREAU'S MUNICIPAL TICKET DATABASE

Except for certain parking violations, most contested municipal civil ordinance violations whose penalty is \$800 or less are heard in the Vermont Judicial Bureau. At the hearing, the municipal attorney, grand juror, or designee of the municipal legislative body may dismiss or amend the complaint, subject to approval of the hearing officer. If a default judgment is entered, the hearing officer assesses the penalty amount. After a contested case hearing, the hearing officer assesses a civil penalty in an amount not less than the waiver penalty and not more than the full penalty in the ordinance that was violated. 24 V.S.A. § 1974a.

Where do those fine revenues go? Several town officials asked VLCT how the Judicial Bureau handles municipal ticket revenues and how they can calculate the amount they may expect to receive. That information is available in an online database of the Vermont Judiciary, <https://www.vermontjudiciary.org/LC/Masterpages/towntrafficreports.aspx>.

The revenue reports are organized by month for the years 2012-2015. Each report includes all of the affected towns, so you can search for your town to see specific data, such as the full penalty amount, any subtracted fees, and the resulting allocation to each town.

*Chloe V. Collins  
Associate, Advocacy and Information*

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# VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

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# NORTHERN BORDER REGIONAL COMMISSION GRANTS

The Northern Border Regional Commission (NBRC) – which was created by the 2008 Farm Bill encompassing 36 counties in Maine, New Hampshire, New York, and Vermont – has announced a sixth round of funds to award for project funding to develop transportation infrastructure, basic public infrastructure, or telecommunications infrastructure. The commission may also invest in projects related to job skills training and employment related education; basic healthcare and other public services; promotion of resource conservation, tourism, recreation and open space preservation; and the development of renewable and alternative energy sources.

Projects from any of six counties (Caledonia, Essex, Franklin, Grand Isle, Lamoille, and Orleans) are eligible to receive grants. Essex and Orleans counties are defined as “distressed,” making those projects eligible for up to 80% funding. All others are eligible for up to 50% funding.

Links to project details and application forms are at the bottom of the Agency of Commerce and Community Development webpage, [http://accd.vermont.gov/business/relocate\\_expand/capital](http://accd.vermont.gov/business/relocate_expand/capital).

Submit applications per the instructions in the eligibility and clarification notes by **Friday, June 19**, to:

Ken Horseman  
Vermont Agency of Commerce and Community Development  
1 National Life Drive  
Deane Davis Building, 6<sup>th</sup> floor  
Montpelier, VT 05620-5001.

The NBRC federal grant program is *only* available to participating member states, local governments (city and county) and non-profit entities, for projects within the NBRC region. The NBRC federal grant program is *not* available to private/for-profit entities. Eligible entities may not be conduits for private-sector entities.

## DELTA DENTAL



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For more information, contact the VLCT Member Relations staff, or Kelley Avery at 1-800-649-7915, or Northeast Delta Dental at 1-800-329-2011.

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# ASK THE LEAGUE

## OPEN MEETING LAW PUBLIC COMMENT; QUORUM FAQs; REFUSING TO RECORD A SURVEY PLAT

### How much public comment must we allow under the Open Meeting Law?

*"Courage is what it takes to stand up and speak; courage is also what it takes to sit down and listen." – Winston Churchill*

Vermont's Open Meeting law states that "(a)ll meetings of a public body are declared to be open to the public at all times ..." Furthermore, at "open meetings the public shall be given a reasonable opportunity to express

its opinion on matters considered by the public body during the meeting ..." 1 V.S.A. §§ 313(a)(1), (h). These, as well as the other provisions of the Open Meeting law, apply to all municipal public bodies, when gathered as a quorum to discuss the business of the public body or for the purpose of taking action. 1 V.S.A. § 310(2). A "public body" is defined as "any board, council, or commission of the State or one or more of its political subdivisions ... or any committee of any of the foregoing boards, councils, or commissions ..." 1 V.S.A. § 310(3).

The law doesn't prescribe a standard amount of time to be set aside for public comment other than to say that "the public shall be given a reasonable opportunity to express its opinion ..." This "reasonable opportunity" afforded the public is not without its limits. Public comment may, though certainly need not be, limited to only those "matters considered by the public body." It is also "subject to reasonable rules established by the chairperson" and permissible only "as long as order is maintained." 1 V.S.A. § 313(h).

Though the public must be given a reasonable opportunity to express its opinion on matters considered by the public body, the principal purpose of any meeting is for the transaction of the business of the public body. In other words, these are meetings that are conducted *in* public, but are not meetings *of* the public. Meetings of a public body are "limited public forums" which means that they are spaces created for a specific purpose – the work of the public body – and while in this forum the public body does

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### For more information contact:

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## ASK THE LEAGUE

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not have to allow the public to engage in every type of speech imaginable. Rather, it can limit discussion to certain topics (e.g., those items on its agenda) so long as it does so in a manner that doesn't discriminate on the basis of any speaker's viewpoint. Public comment is typically allowed either after the discussion of each agenda item but before the public body takes action, reserved to the beginning or end of the meeting, or a combination of the two. A public body's rules of procedure should clearly state when and for how long public comment will be allowed.

The amount of time set aside for public comment is a function of the type of meeting the public body is conducting, the matters being considered, and the degree of public interest. Providing a "reasonable opportunity" for public comment does not mean allowing all public comment. While public comment can be limited to the business of that particular meeting, VLCT recommends that the public body also allow public comment on any other subject within the public body's purview under a catch-all heading such as "other business."

In any event, the law only requires that the public is given a "reasonable opportunity" to comment; it does not allow the public to hold the public body as a captive audience. What is "reasonable"? The law doesn't define it, but it must be long enough for the public to express its opinion and it will depend on the circumstances of your meeting. Sometimes nobody shows up, in which case you can just move along to the next agenda

item. Or perhaps just a few do, in which case three to five minutes should suffice. Other times, your meeting room may be packed, in which case it may be reasonable to set aside a total of 30 minutes for public comment, with two to three minutes allocated to those who raise their hands or who line up behind the microphone first. The law does not require that every person have an opportunity

to speak at a meeting. When it is impossible to take public comment from everyone and expect to get home at a reasonable hour, the time dedicated to public comment should be clearly communicated; anyone who did not have an opportunity to comment should be invited to submit written comments.

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## ASK THE LEAGUE

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Some topics elicit little if any public comment while other more controversial proposals naturally engender more. Public bodies should craft their rules of procedure to reflect the flexibility necessary to adjust the amount of time set aside for public comment. This can be done with a provision such as the following: “By [unanimous/two-thirds/majority] vote, the public body may increase the time for open public comment and may adjust the agenda items and times accordingly.” Otherwise, this can be done by order of the chair of the public body. Certainly if the underlying purpose of the meeting is to solicit public comment – as is the case when the planning commission or selectboard is holding its statutorily required public informational hearings to consider adopting, amending, or repealing the town plan or zoning regulations – then most of the meeting should be committed to this purpose.

The Vermont Legislature has set the same undefined “reasonableness” standard for time limits as it has for rules established by the chairperson. Despite this lack of direction, courts around the country have upheld the use of reasonable rules to stop a member

of the public who is disruptive, fails to keep to the subject matter at hand, whose speech has become repetitive or irrelevant, who repeatedly interrupts others, who lacks respect for rules of decorum, or who has attempted to “highjack” a meeting. There is little doubt that Vermont courts would do the same. Vermont law places a premium on public comment because of the vital contribution it makes in informing and sustaining our local democracy. This is balanced by the need for civility and recognition of the sacrifice of volunteers to keep our towns running. Your rules of procedure should reflect these competing values.

There is an exception to the part of the Open Meeting Law that allows public comment at public meetings. An opportunity for public comment may be, but does not have to be, provided during quasi-judicial hearings. A public body acts in a quasi-judicial capacity when it is adjudicating the legal rights of one or more persons. This takes place when a public body is acting “like a court” (e.g., tax appeals, applications for development review, vicious dog hearings, requests to reclassify roads, etc.). While these types of meetings are still open to the public and subject to the other requirements of the Open Meeting Law, they are not subject to public comment. “At an open meeting the public

shall be given a reasonable opportunity to express its opinion on matters considered by the public body during the meeting ... ***This subsection shall not apply to quasi-judicial proceedings.***” 1 V.S.A. § 312(h). [Emphasis added.] While acting in this capacity, a public body may certainly accept public comment, but it is under no legal obligation to do so.

VLCT’s Model Rules of Procedure for Municipal Boards, Committees and Commissions, which were drafted with all these considerations in mind, can be found on our website, <http://www.vlct.org/assets/Resource/Workshops/2015/13-VLCT-Model-Rules-of-Procedure-for-Municipal-Bodies.pdf>.

Garrett Baxter, Senior Staff Attorney  
VLCT Municipal Assistance Center

## QUORUM FAQs

### What is a “quorum” of the selectboard?

A quorum of the selectboard is a majority of all of the members, regardless of the number of vacancies. To determine the size of a quorum you must count the number of seats on the board, not the number of bodies sitting in those seats. A quorum of a three-person selectboard is two, *regardless* of the number of vacancies; a quorum of a five-person selectboard is three, regardless of the number of vacancies. This rule applies to all other municipal “public bodies” such as boards, committees, and commissions, *with the exception* of the board of civil authority and the board of abatement (addressed below).

### Why is quorum important?

A quorum is necessary to hold a meeting. Under Vermont’s Open Meeting Law, a “meeting” is defined as “a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.” 1 V.S.A. § 310(2). A quorum is also necessary to take action. Where legal authority is given to a “public body” (a board, committee, or commission), that authority may only be exercised by the quorum of that public body. This rule comes from 1 V.S.A. § 172 which states “[w]hen 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.” This language means that a majority of the total members of a selectboard must agree before the selectboard may take an action or make a decision.

The above rule applies to all municipal boards, committees, and commissions with the exception of the board of civil authority and

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## WHAT DO MORE AND MORE VERMONT MUNICIPALITIES HAVE IN COMMON?

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## ASK THE LEAGUE

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the board of abatement which are given different standards for taking action. (See below.)

### What about abstentions and recusals?

Abstentions do not count toward quorum; the joint authority statute requires there be affirmative votes from a majority of the total members. The Vermont Supreme Court has stated that the “concurrency” of the majority that is required by 1 V.S.A. § 172 is “more than silent acquiescence; it requires consent expressed in an overt way.” *In Re Appeal of Reynolds*, 170 Vt. 352 (2000).



### What is different about the Board of Civil Authority?

The Board of Civil Authority (BCA) is the group of municipal officers who are responsible for tax assessment appeals and local election issues. The BCA comprises the selectboard members, justices of the peace, and the town clerk. In certain instances, additional members may be appointed to the BCA to ensure balance between major political parties when dealing with election issues.



When the BCA is dealing with tax assessment appeals, state law gives authority to act based on the vote of the majority of members present at a meeting. Twenty-four V.S.A. § 801 states, “The act of a majority of the board present at the meeting shall be treated as the act of the board ...” In practice this means that if there are five members of a nine-person BCA present at a grievance hearing, that group may take action or make a decision even if only three of those present at the hearing are in agreement. In that example, the three members constitute “a majority of the board present” at the meeting. On the other hand, if at least three of the five who are present do not agree, the BCA cannot take any action, and the property assessment remains at the amount set by the listers.

There is yet another standard imposed when the BCA is dealing with election issues. In those instances, “those members of the board of civil authority present and voting shall constitute a quorum, provided that official action may not be taken without the concurrence of at least three members of the board.” 17 V.S.A. § 2103(5). This different standard of quorum likely exists so that election issues can be resolved immediately on

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## UPCOMING MUNICIPAL ASSISTANCE CENTER WORKSHOPS

### EFFECTIVE PROPERTY TAX APPEALS WORKSHOP

*Tuesday, May 5, Lake Morey Resort, Fairlee*

*Tuesday, May 12, Capitol Plaza Hotel and Conference Center, Montpelier*

With the property tax under increasing pressure – and the subject of more and more scrutiny – it is essential that the appeals process be properly administered. At this workshop you will learn what your town can do to conduct effective property tax assessment grievances and appeals.

### DELINQUENT TAX COLLECTORS WORKSHOP

*Wednesday, May 20, Three Stallion Inn, Randolph*

In this workshop, we will examine the role of the delinquent tax collector within town government and in relation to other town officials. We will highlight the legal and practical requirements of collecting delinquent property taxes in Vermont and examine the tax sale process in depth, including addressing such issues as when a town can bid at tax sale and what to do when a delinquent taxpayer files for bankruptcy. As always, ample time will be reserved for your questions.

### TOWN HEALTH OFFICERS WORKSHOP

*Wednesday, May 27, Best Western Windjammer Inn and Conference Center, South Burlington*

*Saturday, May 30, Capitol Plaza Hotel and Conference Center, Montpelier*

*(Co-sponsored with Vermont Department of Health)*

This workshop is designed to assist town health officers, selectboard members, and municipal 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, emergency preparedness and response roles for town health officers, and the basics of rental housing and landlord tenant laws in Vermont.

### MUNICIPAL EMPLOYMENT LAW AND HUMAN RESOURCES WORKSHOP

*Wednesday, June 3, Capitol Plaza Hotel and Conference Center, Montpelier*

Vital for municipal managers, selectboard members, and all who supervise employees, this workshop teaches the fundamentals of personnel administration, including key aspects that are unique to the municipal setting. It will focus on the major state and federal employment laws and cases, including emerging employment issues, which affect municipalities as employers.

*For registration, agendas, and other information, please visit [www.vlct.org/eventscalendar](http://www.vlct.org/eventscalendar), all 800-649-7915, or email [info@vlct.org](mailto:info@vlct.org).*



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## CENTRAL VERMONT MEMBERS HIT THE SLOPES

On March 20<sup>th</sup>, in what is becoming an annual event, several municipal folks from the state's midsection gather at Jackson Gore/Okemo Mountain Resort for a Well Day. Seen slopeside are (l-r) Terry Thayne, Lister, Ludlow, and guide for the day; Richard Svec, Town Manager, Cavendish; Frank Heald, Town Manager, Ludlow, and host for the day; Kathleen Ramsay, Town Manager, Middlebury; and Philip Swanson, Town Manager, Woodstock. They were joined at lunch by Denis McCarthy, former Town Manager of Winhall; Scott Murphy, Town Manager of Wilmington; Thomas Yennerell, Town Manager of Springfield; and Greg Tooker, former auditor of VLCT Loss Control accounts (on contract with the National League of Cities).

*Photo by Heidi Joyce.*



## FOR HIGHWAY DEPT. SUPERVISORS ON MAY 20 AND 21: NEW COMPREHENSIVE RISK MANAGEMENT WORKSHOP

A completely new event being held in May packs a wide range of important issues into one busy two-day workshop. Designed especially for PACIF member Highway Department supervisors and road foremen, this comprehensive multi-session workshop addresses risk-related problems and solutions in the areas of traffic control, VOSHA inspections and follow-up, workplace safety programs, workers' compensation, CDL drug and alcohol testing, supervisory challenges, and employment liability. Sessions are taught in turn by all of PACIF's Loss Control Consultants, who also explain the many useful resources that are available from PACIF and other organizations.

"We had a very positive response when we floated the idea for this on the Local Roads list serve," says Fred Satink, Supervisor of Loss Control. "People really like the idea of covering many important topics in a short time, and we're sure attendees can learn a lot from each other as they bring their own experiences and issues into discussions."

There is no fee to attend this workshop (although people who register and don't attend will be charged \$25). For more information, follow the link under Upcoming Trainings at PACIF's Safety and Health Promotion webpage: <http://www.vlct.org/rms/pacif/safety-and-health-promotion/>.

## IRS REPORTING AND "MEASURING" EMPLOYEES

Employers with more than 50 employees are subject to special requirements ("rules") of federal health reform law, and the VLCT Employment Resources and Benefits (VERB) Trust wants all Vermont municipalities that are affected by these rules to understand how to satisfy them. Although some of these rules are still being developed, a large set was released in February to explain (1) acceptable ways for employers to accurately count employees whose hours or months of employment are changeable, and (2) what information must be reported to the IRS and how it must be reported. In order to comply, each large employer must learn the rules, then plan and implement whatever systems are appropriate for their organization.

The VERB Trust is grateful that its partners at Hickok & Boardman HR Intelligence wrapped their heads around this subject and figured out how to explain it clearly to VLCT members. They present the explanations in a webinar titled "The Affordable Care Act (ACA) Measurement Periods and Reporting Requirements."

A recording of the webinar as it was first presented on February 19<sup>th</sup> by Brenda Sabin, Hickok & Boardman's Director of HR Compliance & Payroll Solutions, is posted on VLCT's Health Care Reform page (<http://www.vlct.org/rms/faqs/health-insurance-reform/>) below the "For Applicable Large Employers (ALEs)" heading. A printable PDF file of the webinar and supporting documents are also posted there.

Ms. Sabin will present a **refresher webinar** — including any updated information — live on **Wednesday, June 10, at 10 a.m.** In mid-May, Kelley Avery will email a registration link to all applicable large employer groups. We encourage administrators from large employers to pose their specific questions either before the webinar (via email to [Kavery@vlct.org](mailto:Kavery@vlct.org)) or during the webinar in the live questions box.

Anyone who has questions after viewing either webinar can contact Brenda Sabin at [bsabin@hbhriq.com](mailto:bsabin@hbhriq.com) or 802-488-8713.

## 2015 RMS CALENDAR

**Application Deadline for Round 1 of 2015 PACIF Equipment Grants.** Thursday, April 30. PACIF members who haven't yet submitted an application can apply for a grant in Round 2, which closes on August 31. Find details at [www.vlct.org/rms/pacif/pacif-equipment-grants/](http://www.vlct.org/rms/pacif/pacif-equipment-grants/).

**2014 UI Wage Report Filing Deadline.** Friday, May 1. Groups in the Unemployment Insurance (UI) Program of the VERB Trust will find details and the correct Excel form directly under the Resources heading on VLCT's Unemployment Insurance webpage. Questions or problems? Contact Kelley Avery ASAP at [kavery@vlct.org](mailto:kavery@vlct.org) or 800-649-7915 ext. 1965.

**33rd Annual Vermont Municipal Highway Association Expo.** 7:30 a.m. to 3:00 p.m., Wednesday, May 13, Barre Civic Center, Barre. This is the big day for road and highway crews from across the state to gather, see new equipment, collect free goodies from exhibitors, swap stories, have a BBQ lunch, and compete in the morning snow plow rodeo and afternoon backhoe competition. To register, email [debbie@agcv.org](mailto:debbie@agcv.org).

**Enrollment Deadline for Group Life and Disability and for Voluntary (Optional) Insurance.** Friday, May 15. Through Lincoln Financial Group, the VERB Trust provides members with group life and accidental death insurance as well as short-term and long-term disability plans. Employers that provide this group life benefit can also elect to sign up for the employee-paid Optional life. Employee-paid accident and critical illness coverage may also be elected. All forms must be completed and submitted no later than Friday, May 15<sup>th</sup> for an effective date of July 1st. For more information, email Larry Smith at [lsmith@vlct.org](mailto:lsmith@vlct.org) or Kelley Avery at [kavery@vlct.org](mailto:kavery@vlct.org) or call either one at 800-649-7915.

**New! Risk Management Workshop for Highway Supervisors.** 8:00 a.m. to 4:00 p.m., Wednesday to Thursday May 20-21, VLCT Offices, 89 Main Street, Montpelier. This two-day workshop will present PACIF member highway department and road crew supervisors with comprehensive information to reduce workplace risk. See related story on page 8. Light breakfast, full lunch, and training materials will be provided. Up to two people from each member may attend. Register with Jim Carrien at [jcarrien@vlct.org](mailto:jcarrien@vlct.org) or 800-649-7915, ext. 1946.

**Stevens Advanced Driver Training for Law Enforcement Personnel.** 8:30 a.m. to 4:00 p.m., Monday and Tuesday June 1 and 2, Deerfield Valley Regional Airport, 69 Airport Road, West Dover. In each one-day training, law enforcement professionals who operate a PACIF-covered vehicle receive instruction and hands-on practice in pushing the abilities of a typical sedan, thereby becoming far more aware of its steering and braking limitations. This eye-opening experience is available free of charge to sworn police officers of VLCT PACIF members. Look for details in an email announcement and at [www.vlct.org](http://www.vlct.org). Register with Jim Carrien at 1-800-649-7915, ext. 1946.

**Fifth Annual Vermont Safety Retreat.** Wednesday, June 3, 7:30 a.m. to 4:30 p.m., Camp Ohana, 341 Quinibeck Road, Post Mills. Sponsored by the National Safety Council of Northern New England. \$125 for NSC members or \$150 for yet-to-be members includes lunch and a Camp Ohana t-shirt. Save \$25 by registering before May 1. For more information and to register, go to <http://nscnne.org/conferences.html>. Questions? Contact Catherine Doty at [catherined@shcnne.org](mailto:catherined@shcnne.org) or 800-834-6472.

*Exclusively for PACIF Member Law Enforcement Personnel*

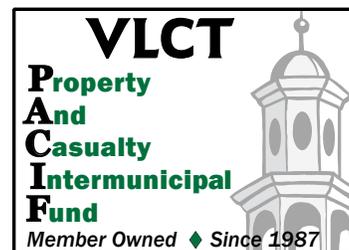
### Stevens Advanced Driver Training "Skid School"

Monday, June 1 and Tuesday, June 2

Deerfield Valley Regional Airport, West Dover VT

- Hands-on practice on a closed course
- Pushing the braking and handling abilities of a sedan
- Classroom explanations of safety principles, systems, and behaviors
- For PACIF member law enforcement officers who drive a PACIF-insured vehicle
- One-day class, free of charge (unless cancelling less than 48 hrs. before class)

Call Jim Carrien, 800-649-7915, ext. 1946, to reserve your place today!



# VERB

Unemployment Insurance Administration, Claims Management, Advocacy  
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Group Life, Accidental Death, Disability, Optional Life, Accident, Critical Illness



## ASK THE LEAGUE

(continued from page 7)

election days without response from the entire BCA.

### What is quorum of the Board of Abatement?

The quorum of the board of abatement (BOA) – which is made up of all of the members of board of civil authority (selectboard, justices of the peace, and town clerk) plus the listers and the town treasurer – is generally the majority of all of those members. However, a quorum may be less than a majority of the total members if (and only if) the town treasurer, a majority of the listers, and a majority of the selectboard members are present at a meeting. 24 V.S.A § 1533. In that instance, a quorum consists of the town treasurer, a majority of the listers, and a majority of the selectboard members, regardless of how many of the total members that adds up to.

Regardless of how the quorum is established, the BOA, like the BCA, is given authority to make decisions with the vote of less than a majority of the total membership. Twenty-four V.S.A § 1533 states that “[t]he act of a majority of a quorum at a meeting shall be treated as the act of the board [of abatement].” This means that as long as a quorum is present at the meeting, it will only take the vote of a majority of that quorum to take action or make a decision.

### What if our town has eliminated the position of elected lister? Does the hired assessor have a place on the BOA?

We think so. The statute that identifies the members of the board of abatement, 24 V.S.A. § 1533, has not been amended to address the situation of a town that has voted to eliminate the position of elected lister. Nevertheless, we think it is clear from the language of 17 V.S.A. § 2651c(b)(1) that a contracted assessor takes the place of the listers and therefore has a spot on the BOA. The statute states that a contracted assessor “shall have the same powers, discharge the same duties, proceed in the discharge thereof in the same manner, and be subject to the same liabilities as are prescribed for listers or the board of listers under the provisions of Title 32.” The contracted assessor holds only one seat on the BOA, regardless of whether the assessor is an individual or an assessing firm.

It is up to the selectboard to decide whether the assessor’s contract includes serving on the board of abatement. Even if the contract calls for such work, the assessor (like elected listers) does not sit on the board of abatement during abatement hearings that require testimony or advocacy by the assessor (or lister). This is because the assessor (or lister) may not act as both witness *and* judge in an abatement hearing.

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

### May a town clerk refuse to record a survey plat?

Sometimes. As a matter of law, clerks are required to record “deeds, instruments or evidences respecting real estate, writs of execution, and other writs,” as defined in 24 V.S.A. § 1154. Generally, the clerk’s job is to record and file records, not to determine the absolute validity of mortgages, deeds, survey plats, and other records to be filed. The nature of a

recording office is such that it cannot possibly inquire into the legal validity of all the documents that are presented for recording. As a rule, clerks should not (and typically do not have the time to) inquire into the legality of a document that is offered for recording.

There are two points of departure from this general rule of “non-inquiry” into the validity of a document: deeds that refer to surveys, and the surveys themselves. In these two instances, clerks have discretion over whether to record an instrument. If a deed refers to a survey plat that has not already been filed with the clerk’s office, the deed cannot be recorded unless the survey was prepared on or prior to July 1, 1988. Otherwise the survey must be attached to the deed or must be referenced if it has already been recorded. 27 V.S.A. § 341 (b).

Survey plats must meet certain legal requirements in order to be recorded. Survey plats are maps that are drawn to scale of one or more parcels of land, tracts, or subdivisions of land that show, at a minimum, boundaries, corners, markers, monuments, and easements. 27 V.S.A. § 1401.

Survey plats are commonly referred to as “mylars.” However, this has become somewhat of a misnomer now that the use of mylars is no longer required by law. Twenty-seven V.S.A. § 1403 lists specific requirements that a survey plat must include in order to be recorded. A plat must:

1. be on sheets 11" x 17" or 18" x 24" in size or 24" x 36" if the town or city has appropriate storage facilities as determined by the town or city clerk;
2. contain an inset locus map clearly indicating the location of the land depicted and a legend of symbols used;

(continued on next page)

## TRIVIA

Only Leesa Stewart of the C.V.S.W.M. District knew that Jay (i.e., Vermont, not Silverheels) is the only town in the state that was established by two separate charters (November 7, 1792, for 7,600 acres and December 28, 1792, for 15,360 acres). Nicely researched!

The first person in the U.S. to receive a Social Security payment was a Vermont-er. **Who was it, in what town did he (or, sure, she) live, and what was the amount?**

The moment you know the answer – but please, not a moment sooner – email it to [dgunn@vlct.org](mailto:dgunn@vlct.org). The answer will appear in the better-than-you-anticipated June issue.

### 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 loan funds available at interest rates as low as 1% for transportation-related projects that enhance economic opportunity and help create jobs. Municipalities, RDCs, and certain private sector companies may qualify for financing to:

- Construct or reconstruct roads, bridges, sidewalks and bike paths;
- Make safety improvements such as highway signing and pavement marking;
- Make operational improvements such as traffic control and signal systems; and
- Construct rail freight and intermodal facilities.

Also, in certain cases, electric vehicle charging stations and natural gas refueling stations for trucks and other vehicles available for public use are eligible for SIB financing.

**FOR MORE INFORMATION: [WWW.VEDA.ORG](http://WWW.VEDA.ORG) ♦ 802-828-5627**



## ASK THE LEAGUE

(continued from page 7)

3. have all lettering and data clearly legible;
4. be of a scale sufficient to allow all pertinent survey data to be shown, and each plat shall contain a graphic scale graduated in units of measure used in the body of the plat;
5. have at least a one-half inch margin, except at least a 1½" margin on the binder side;
6. contain a title area in the lower right-hand corner of the sheet stating the location of the land, scale expressed in engineering units, date of compilation, the name of the record owner as of that date, the land surveyor's certification as outlined in 26 V.S.A. § 2596, and a certification that the plat conforms with requirements of 27 V.S.A. § 1403, and be accompanied by the responsible land surveyor's seal, name and number, and signature; and
7. contain a graphical indication of the reference meridian used on the survey plat

and a statement describing the basis of bearings referenced on the survey plat.

When the plat sheet is produced by a reproduction process, the process must be identified and certified to by the producer in the margin of the plat sheet. Original plat sheets must be identified and certified to by the same process. Survey plats prepared and dated before July 1, 1992, are exempt from requirements 2-7 above, but must still comply with requirements in state law in effect when the plats were prepared and dated. Survey plats prepared and dated before any statutory regulation of land plats must comply with requirements 1 and 2 above. Plats prepared and dated before July 1, 1992, but revised after this date must meet all the requirements of sections 27 V.S.A. §§ 1401-1406.

Town clerks are directed by 27 V.S.A. § 1406 not to accept any survey plat for recording unless the plat is in compliance with the requirements listed in 27 V.S.A. § 1403 or is exempt from certain plat criteria pursuant to 27 V.S.A. § 1404.

Ultimately, if a survey plat is not in compliance with the requirements of the law, not only may a clerk refuse to record such a plat, he or she is statutorily prohibited from recording or filing it unless and until it is brought into compliance with 24 V.S.A. § 1403.

This is an update to an article by Maria Gomez originally published in the May 2004 *VLCT News*.

*Gwynn Zakou, Staff Attorney I  
Municipal Assistance Center*

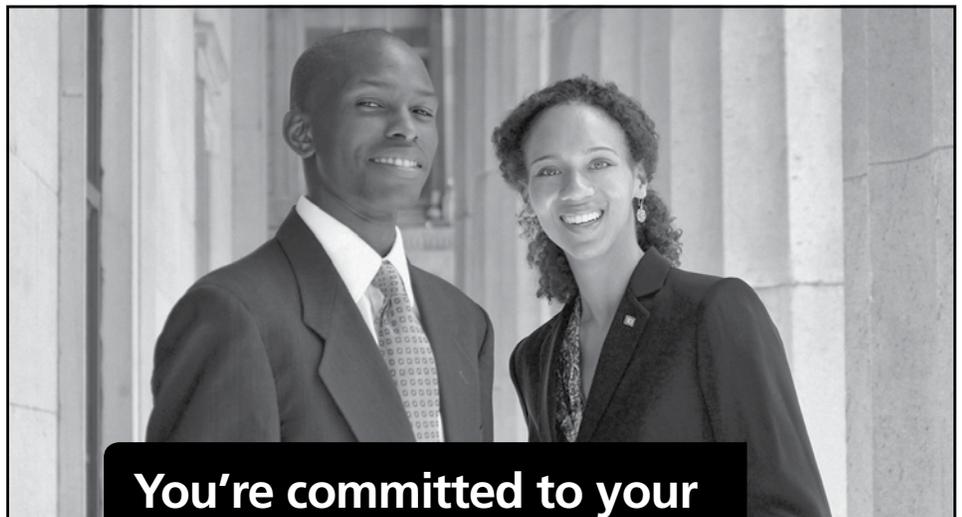


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# TOOTHsome TIDBITS FROM DELTA DENTAL

## OPEN ENROLLMENT ROLLS IN SOON

Open Enrollment for groups with fiscal year Northeast Delta Dental coverage is fast approaching! This affects the vast majority of the VERB Trust member participants. Each group will receive its dental renewal mailing and notice in early May. If your group has any changes, your renewal paperwork must be completed and returned to NEDD by mid-June to be in time for the July 1 effective date. If your group has no changes at all, just sit tight and let your plan auto-renew.

This year's renewal is expected to include good news about the 2015-2016 rates! Look for that and other details in the renewal mailing (both regular mail and email) from Kelley Avery at VLCT. If you have any questions, please contact Kelley or Larry Smith at 800-649-7915.

## HOW = HEALTH THROUGH ORAL WELLNESS

As of January 1, 2015, Northeast Delta Dental coverage includes the new Health through Oral Wellness (HOW) program at no additional charge. Better oral health leads to better overall health, and that can help you maintain a healthier, happier, and more productive workforce. HOW helps individuals identify their specific oral health needs and assists them in achieving and maintaining better oral wellness by providing additional preventive benefits (subject to the standard policy plan provisions).

Please visit [www.healththroughoralwellness.com](http://www.healththroughoralwellness.com) to watch the HOW video and learn more about this exciting new program. Every renewing group will receive a HOW welcome kit, which includes an employer's guide to familiarize you with the program and how it works. Employee (and dependent) participation in the program is 100% voluntary and absolutely free. The kit also includes a flash drive loaded with electronic versions of several of the employee-oriented pieces included in the kit. These electronic pieces are environmentally friendly and perfect for posting or emailing to your employees to introduce them to HOW and set them on the pathway to better oral health.

If you have any questions about HOW, call VLCT's Kelley Avery or Larry Smith at 800-649-7915.

## GREEN IN 2015 VIA WASTE REDUCTION

### *ID Cards*

As of January 1, 2015, Delta Dental now issues an initial set of plastic ID cards to new primary subscribers only. Subscribers who download and use Delta Dental's new Mobile App (see below) or log in to Delta's online Benefit Lookup site (go to [www.nedelta.com/Patients](http://www.nedelta.com/Patients) and click on the purple button) can print additional ID cards for themselves. Others are still welcome to call Delta Dental's Customer Service department at 1-800-832-5700 Monday through Friday from 8:00 a.m. to 4:45 p.m. When either registering for electronic access or calling, the subscriber will need to have his or her Subscriber Number and Group Number handy.

### *Mobile App*

E-savvy participants can now download Delta Dental's free Mobile App for Apple or Android smartphones and enjoy access to dentist search functions, claims and coverage, and ID cards. There's even a built-in toothbrushing timer! To download it, simply search "Delta Dental" in your smartphone's app store.

### *Explanation of Benefits (EOB) Forms*

Delta Dental now saves paper by issuing EOBs electronically via its Benefit Lookup site. There, participants can securely view or print EOBs from up to six years in the past. Participants who prefer to continue receiving paper copies of EOBs via standard mail may elect to do so by calling Delta Dental's Eligibility Department at 1-603-223-1230 or logging in to the Benefit Lookup site, going to ID Cards & Claim Resources, and unchecking the box under Electronic Explanation of Benefits.

# Will your seasonal employees REALLY be ready to roll?



**First, check with VLCT PACIF and MAC to confirm that your hiring practices are appropriate.**

**Then make sure your seasonal employees receive all the standard new-hire and safety training as well as specialty training for their work – landscaping, working near children or water, or whatever.**

**PACIF members' employees can use PACIF Online University courses to learn at any time, on any computer, at any pace.**

**For info, visit [www.vlct.org/rms/pacif/pacif-online-university/](http://www.vlct.org/rms/pacif/pacif-online-university/) or call Jim Carrien at 802-649-7915, ext. 1946.**



# CLASSIFIEDS

Please visit the VLCT website [www.vlct.org/marketplace/classifiedads/](http://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](mailto: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](http://www.vlct.org/advertising-information).

For answers to specific questions about print advertising, email [vlctnews@vlct.org](mailto:vlctnews@vlct.org).

Visit the VLCT website [www.vlct.org/marketplace/classifiedads/](http://www.vlct.org/marketplace/classifiedads/) to view more classified ads. You may also submit your ad via an email link on this page of the site.

## HELP WANTED

**Auditing Services.** The Town of Lowell, Vermont, is requesting proposals from qualified firms of certified public accountants to audit its financial statements for the fiscal year ending December 31, 2014, with the option of auditing its financial statements for each of the two subsequent fiscal years. Contact Amanda Carlson, Selectboard Clerk, at 802-744-6559 or [acarlson@lowelltown.org](mailto:acarlson@lowelltown.org) with any questions. Submit proposals in writing by **Friday, May 29, 2015**, to Town Clerk's Office, Town of Lowell, 2170 Vt. Route 100, Lowell, VT 05847. (3-26)

**Town Accountant.** The Town of Weathersfield, Vt., seeks qualified applicants for the position of Town Accountant to be responsible for maintaining the Town's general ledger, reconciling accounts receivable, payable, and payroll, and preparing the Town's financial documents. This is a permanent position working between 30-40 hours per week, Monday through Thursday, with excellent benefits, including health care and retirement. The hours worked are flexible, as are the average number of hours worked per week. Requirements: a Bachelor's degree in accounting, business administration, or an equally pertinent field; two years of experience at a professional level in accounting or financial auditing work;

and occasional attendance at night meetings, especially during the fall budget preparation time. Hourly salary, \$22.00 to \$24.50, DOQ/E. A complete job description and application for employment are available by email from the Town Manager. (You may answer questions on the employment application by saying "see resume.") To apply, email a letter of interest, resume, and employment application to Weathersfield Town Manager Jim Mullen at [townmanager@weathersfield.org](mailto:townmanager@weathersfield.org). Position open until filled. (3-31)

**Town Administrator.** Plainville, Mass. (pop. 8,200+), is seeking a creative, proactive, community leader, committed to excellence, to serve as its next Town Administrator. This community with its hometown feel and rich natural resources strikes the perfect balance between the charm of its pastoral setting and its proximity to the world class medical, educational, and cultural assets of Boston, Providence, and Worcester, which are all within an easy drive of the Town. Plainville is slated to be home to the state's first licensed slot parlor at Plainridge Racecourse later this year. Governed by a three-member select board, Plainville boasts a combination of political and financial security not found in many other towns. The Town has a combined

*(continued on next page)*



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## CLASSIFIEDS

(continued from previous page)

operating budget of \$30 million and 174 full-time employees. The incumbent is retiring after 23 years of service to the Town. The successful candidate must have a Bachelor's degree in a related field (Master's preferred) and at least five years of experience in public administration, preferably served in a senior management capacity, or an equivalent combination of education and proven management experience. Salary range up to \$130k, commensurate with qualifications and experience. For additional information related to the search or Town and candidate profiles, contact Alan Gould, Vice President, Municipal Resources Inc., at 603-279-0352, ext. 320. Additional information

is available at [www.mrigov.com/career.html](http://www.mrigov.com/career.html). To apply, submit resume, in confidence, **by Friday, May 1, 2015**, to [recruitment@mrigov.com](mailto:recruitment@mrigov.com) (electronic submission preferred), or send via U.S. mail to Plainfield MA Town Administrator Search, Municipal Resources, Inc., Attn: Gail Schillinger, 120 Daniel Webster Highway, Meredith, NH 03253. Equal opportunity employer. (3-31)

**Police Chief.** The Town of Weare, N.H., is seeking a community-oriented Police Chief to lead a department of 11 full-time officers with an operating budget of \$1.4 million. Weare (pop. approx. 9,000) is located in south-central New Hampshire within 20 miles of the cities of Manchester and Concord and 70 miles from Boston, Mass. The Town is governed by a five-member Board of Selectmen and

has an appointed Town Administrator. Requirements: college degree (master's degree preferred); ten years of progressive police experience, with five years of command experience; or an equivalent combination of education and experience. The successful candidate must relocate to the Town of Weare or to a permanent residence within 25 miles of Weare within six months of hiring. Excellent benefits. Additional information is posted at [www.mrigov.com/career.html](http://www.mrigov.com/career.html). To apply, email cover letter and resume as pdf files by May 4, 2015, to [recruitment@mrigov.com](mailto:recruitment@mrigov.com) with Weare PCR in the subject line. EOE. (4-03)

**Audit.** The Town of Shelburne, Vermont, is requesting proposals from qualified firms of certified public accountants to audit its financial statements for the fiscal year ending June 30, 2015, with the option of continuing the engagement for the two subsequent fiscal years. The complete RFP is posted at [www.vlct.org/assets/Marketplace/shelburne-audit-rfp.pdf](http://www.vlct.org/assets/Marketplace/shelburne-audit-rfp.pdf). Prior year audits are at [www.shelburnevt.org/190/Finance](http://www.shelburnevt.org/190/Finance). Please direct all questions to Peter Frankenburg, Finance Director (802-264-5034 or [pfrankenburg@shelburnevt.org](mailto:pfrankenburg@shelburnevt.org)), or Joe Colangelo, Town Manager (802-985-5111 or [jcolangelo@shelburnevt.org](mailto:jcolangelo@shelburnevt.org)). Please submit your proposal **by Wednesday, May, 6, 2015**, to Peter Frankenburg, Town of Shelburne, 5420 Shelburne Road, PO Box 88, Shelburne, VT 05482. (4-03)

**City Manager.** Newport City (pop. 4,530), located on the southern tip of Lake Memphremagog, seeks an energetic and collaborative City Manager. The City has 39 full-time employees and a \$7 million operating budget which includes the water and sewer utilities. Newport operates under a city charter, council-manager form of government with a five-member council. The Manager is responsible for the daily operations of the city, developing the annual budget, overseeing the public works, public safety, and recreation departments, along with financial and community relation matters. The ideal candidate will have strong finance, operations, labor and management skills; experience as a town or city manager; and the ability to work effectively and with transparency with elected officials, citizen groups, employees and the legislature. Five years of progressively responsible experience in municipal government

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## CLASSIFIEDS

(continued from previous page)

and public finance or equivalent is preferred. Experience as a city manager is a plus. The city council prefers the City Manager to take up residence in the city within one year of beginning employment. This is a unique opportunity for the career minded individual who thinks strategically, works collaboratively, listens attentively, and can make tough decisions. A detailed job description is posted at <http://newportvermont.org>. Hiring range: \$65,000 to \$75,000, based on qualifications, with an excellent benefits package. To apply in confidence, please email a cover letter, resume, and contact information for three professional references **by Monday, May 1**, to [plmonette@gmail.com](mailto:plmonette@gmail.com) with Newport City Manager in the subject line. You also may mail your documents to Newport City Manager Search, Mayor Paul L. Monette, 222 Main Street, Newport, VT 05855. Equal opportunity employer. (4-04)

**County Administrator.** The Carroll County Complex, located in Ossipee, New Hampshire, seeks qualified candidates for the position of County Administrator. This position will be responsible for and have general supervision of the property and business affairs of the county, and will have administrative oversight of all county departments except those with elected officials. Acting as agent for the Board of Commissioners, the Administrator will be responsible for the coordination of operations of various departments, ensuring compliance with all laws, statutes, rules, regulations, and policies which govern county activities, administration, and monies. The selected candidate will be responsible for preparing the annual budget, creating annual financial statements, monitoring monthly departmental expenditures, as well as for seeking revenue opportunities. He or she will also function as the official Public Information Officer when required or requested. This is not an entry level position. Requirements: a strong financial or accounting background; the ability to perform statistical analysis and linear regression functions is desirable; the ability to develop and implement a Capital Improvement Plan; a working understanding of public and private grant

(continued on next page)

## STAFF NEWS

New Senior Loss Control Consultant **Jeffery Theis** (rhymes with gneiss) worked as a loss control consultant for both the State of Vermont Risk Management Division and EBI Companies Royal & SunAlliance, where he specialized in workers' compensation loss prevention. He was Vice President of Risk Management for Sugarbush and Human Resource Manager for the State of Vermont, where he obtained his SPHR designation. Plus, he's been a wildland firefighter in California. A recent interview (sort of) unearthed even *more* relevant information:

**VLCT News:** You are the newest employment unit in the V.L.C.T. industrial complex, yes?

**Jeffery Theis:** I am to my knowledge the latest employment unit – *and* the newest model, having some far superior features.

**VN:** Then you won't mind if a "researcher" pops by sometime soon to, you know, kick the tires?

**JT:** Your threats regarding "kicking researchers" do not frighten me, do your worst.

**VN:** The many avid readers of the fabulous *VLCT News* would like to know more about you. Do you prefer to wear mis-matched socks, are you kin to the Arkansas holster-makers [theisholsters.com/](http://theisholsters.com/), is Damien Demento your cousin, or did you have an Uncle Charlie ([www.aqtesolv.com/theis.htm](http://www.aqtesolv.com/theis.htm))?

**JT:** I admire the depth of your research – some is right on (i.e., heir to a holsters fortune); other elements are malicious lies that will be dealt with separately and appropriately.

**VN:** Those elements (protactinium and aspartame spring to mind) were not intended to be malicious. Malodorous, yes, but not delicious.

**JT:** I have tried to prep the requested synopsis, but as I live wholly in the present moment, anything I write is immediately irrelevant before I can finish. Nonetheless, I will try to honor your request in some fashion.

**VN:** A hundred excellences, for we in Communications Central hold fashion and its many tributaries in unusually high esteem. Perhaps a good ol' VLCT-approved Nehru jacket would suit your needs?

**JT:** *Now* we are getting somewhere sir. I would appreciate the Nehru jacket in a XXXL – tho I admit nothing regarding Damien Demento.

You see? He fits right in! Ergo, *multi accoglie esuberanti*, Jeff.

David Gunn  
Editor, VLCT News



Jeffery Theis

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# UPCOMING EVENTS

Questions? Visit [www.vlct.org/eventscalendar](http://www.vlct.org/eventscalendar) to register and for the most updated information and events.

## EFFECTIVE PROPERTY TAX APPEALS WORKSHOP

**Tue., May 5**, Lake Morey Resort, Fairlee  
**Tue., May 12**, Capitol Plaza Hotel and Conference Center, Montpelier

## DELINQUENT TAX COLLECTORS WORKSHOP

**Wed., May 20**, Three Stallion Inn, Randolph

## TOWN HEALTH OFFICERS WORKSHOP

**Wed., May 27**, Best Western Windjammer, South Burlington  
**Sat., May 30**, Capitol Plaza Hotel and Conference Center, Montpelier

## HUMAN RESOURCES/EMPLOYMENT LAW WORKSHOP

**Wed., June 3**, Capitol Plaza Hotel and Conference Center, Montpelier

## SPRING PLANNING AND ZONING FORUM

**Wed., June 10**, Capitol Plaza Hotel and Conference Center, Montpelier

## GOVERNMENTAL ACCOUNTING AND AUDITING SYMPOSIUM

**Tue., June 16**, Capitol Plaza Hotel and Conference Center, Montpelier

## CLASSIFIEDS

*(continued from previous page)*

funding applications and coordination; at least a Bachelor's degree in Business, Public Administration, or other related field with a strong background in accounting, budgeting/finance, and related financial functions (preference will be given to a Master's degree in Business Administration, Accounting or Finance); at least 10 years of work experience with at least five years in government or public sector and five years of direct supervisory experience; extensive leadership, communication, and interpersonal skills. To apply, please complete and submit a Carroll County application (which you can download from [www.carrollcountynh.net](http://www.carrollcountynh.net)), resume, and letter of intent **by Friday, May 15, 2015**, to Wynette DeGroot, Director of Human Resources via email ([wdegroot@carrollcountynh.net](mailto:wdegroot@carrollcountynh.net)), fax (603-539-4287), or U.S. mail to Wynette DeGroot, Director of Human Resources, 95 Water Village Road, Ossipee, NH 03864. Equal Opportunity Employer. (4-04)

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