

# VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

December 2015

## AGGIE ELWELL CELEBRATES 30 YEARS OF SERVICE TO VLCT

Aggie Elwell began her VLCT career on November 22, 1985. During her tenure at the League, Aggie has worked in various capacities, beginning as a part-time bookkeeper. We can't say her positions were all in the finance department because in the early days VLCT didn't have departments – we were just too small!

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*Above left: Aggie Elwell, front row, second from left, with staff in the early days of VLCT. Middle: Aggie, front row, third from right, with a growing staff at the 12½ Main Street location in 1999. Right: In 2011, Aggie receives the National League of Cities' John G. Stutz award for 25 years of service to VLCT.*

### REVISED MODEL CLASS 4 HIGHWAY AND TRAIL POLICY AVAILABLE

The Municipal Assistance Center recommends that every town communicate to its residents how it deals with its class 4 highways and trails. This is most effectively achieved by adopting a class 4 highway and trail policy. MAC just updated our Model Class 4 Highway and Trail Policy, and it is now posted on the VLCT website, [www.vlct.org](http://www.vlct.org).

Town highways and trails are under the general supervision and control of the selectboard of the town in which they are located. The selectboard has the authority to regulate or restrict the use of highways and trails. 19 V.S.A. §§ 303, 304.

Class 4 highways are highways that are not class 1, 2, or 3 town highways. 19 V.S.A. § 302(a)(4). A town trail is a public right-of-way that was either a former town highway that has been reclassified by the town as a trail, or a new right-of-way laid out as a trail to provide access to abutting properties or for recreational use. 19 V.S.A. § 301(8).

Class 1, 2, and 3 highways must be kept "in good and sufficient repair during all seasons of the year." 19 V.S.A. § 310(a). On the other hand, a town is not required to regularly maintain its class 4 highways and may therefore exercise discretion

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## REVISED MODEL POLICY

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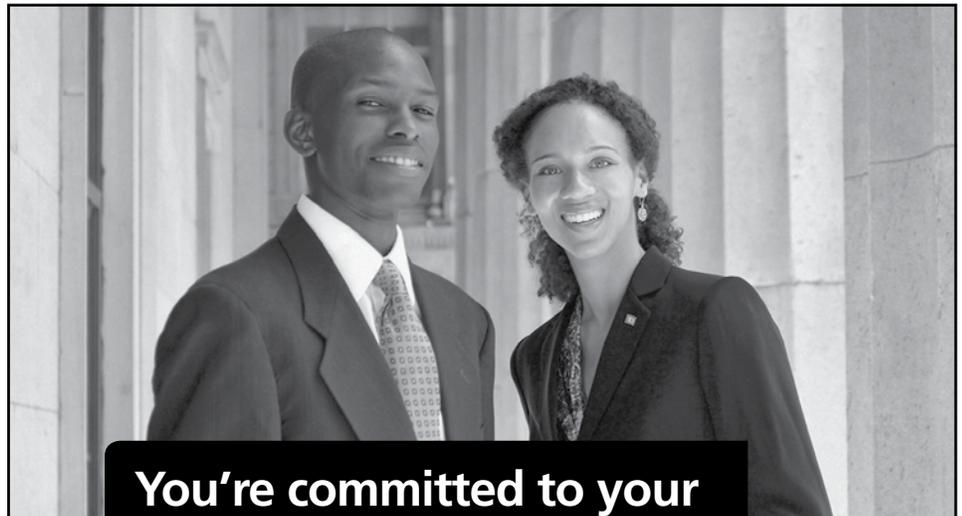
in doing so. *Town of Calais v. County Road Com'rs*, 173 Vt. 620 (2002). The law allows that class 4 highways "may be maintained to the extent required by the necessity of the town, the public good and the convenience of the inhabitants of the town." 19 V.S.A. § 310(b). A town has no legal duty to maintain town trails. 19 V.S.A. § 310(c).

The VLCT Model Class 4 Highway and Trail Policy provides a template for towns that wish to set standards for the use and maintenance of class 4 town highways and trails. The cover memo to the Model, which is also posted online, provides detailed guidance about setting weight limits on town highways, issuing seasonal closures during mud season, and prohibiting motorized traffic on town trails.

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

### The revised Model Class 4 Highway and Trail Policy is available at:

[www.vlct.org/assets/Resource/Models/Model-Class-4-Highway-and-Trail-Policy-2015.pdf](http://www.vlct.org/assets/Resource/Models/Model-Class-4-Highway-and-Trail-Policy-2015.pdf)



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# WATERBURY WASTEWATER TREATMENT FACILITY GOES ONLINE

On a chilly and blustery November 12<sup>th</sup>, the Village of Waterbury cut the ribbon on its new wastewater treatment facility. This state-of-the-art facility is the first in Vermont to use magnetite to enhance settling rates and increase phosphorus removal performance of wastewater treatment facilities. Five such facilities have been built in Massachusetts.

When all is said and done, it is the cities, towns, and villages of Vermont that do the boots-on-the-ground work of removing pollutants from the wastewater stream. Local officials get it done not only when – with many partners – the facility is initially financed, designed and built, but also on an ongoing basis as municipal employees operate these very complex systems.

Waterbury's facility went online as a result of ten years of persistence, innovation, and financial commitment in the face of constant uncertainty about what phosphorus discharge limits would be required by the Vermont Agency of Natural Resources and how this project would meet standards currently being established in both Vermont's water quality standards and the Lake Champlain total maximum daily loads. Congratulations, Waterbury!

*Karen Horn, Director  
Public Policy and Advocacy*



*Top right: Waterbury Village Manager Bill Shepeluk presides over the ribbon-cutting ceremony. Left: Attendees tour the facility. Right: A big pipe carries effluent from the right side of the picture to the left.*

## AGGIE ELWELL

*(continued from page 1)*

Aggie has been VLCT's primary technical authority on payroll and taxes and has served as its most experienced accountant. She has ensured that staff paychecks have been accurate and delivered on time all these years, simultaneously keeping the auditors happy! She's also a valued resource to VLCT staff and members on federal rules and regulations and many other important payroll- and finance-related topics. Her dedication to this organization and its members along with her wealth of knowledge has helped make VLCT the strong membership association that it is today.

Please join the VLCT staff and board of directors in congratulating her on her 30 years of service! Cheers to her for many more.



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# ASK THE LEAGUE

## WHAT ARE THE NOTICE AND AGENDA REQUIREMENTS FOR A SPECIAL MEETING OF A PUBLIC BODY?

### 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/](http://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!

*(This is an update of an article by Stephanie Smith, Senior Associate, for the July 2007 VLCT News.)*

Vermont's Open Meeting Law provides that "[a]ll meetings of a public body are declared to be open to the public at all times" unless a specific exemption applies. 1 V.S.A. § 312(a)(1). The intent of the law is to create transparency in government by requiring advance public notice and an opportunity for public participation in governmental decisions. The Open Meeting Law seeks to accomplish this goal by requiring that meetings are open to the public, public comment is allowed, and minutes are taken. The law also requires that meetings are noticed and agendas are posted. This article addresses these last two requirements as they relate to so-called "special meetings" of public bodies. Special meetings earn their name not because of the type of business they address, but because they take place at any time, date, or location outside of the regular meeting schedule of a public body.

**Notice Requirements.** Notice requirements for special meetings are found in 1 V.S.A. § 312(c)(2). The time, place, and purpose of a special meeting must be "publicly announced" at least 24 hours before the meeting. "Publicly announced," as defined in 1 V.S.A. § 310(4), means that the notice is given to an editor, publisher, or news director of a newspaper or radio station serving the area of the state in which the public body has jurisdiction, and to any person who has requested to be notified of special meetings. Such a request must be in writing to the public body and will apply for the entire calendar year in which it is made. If the request is made in December, it will also apply to the following calendar year.

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## ASK THE LEAGUE

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In addition to the above, the notice must be placed in or near the clerk's office and in at least two other designated public places in the municipality at least 24 hours prior to the meeting. Finally, each member of the public body must be given notice, either orally or in writing, at least 24 hours before the meeting, unless the member has waived notice for special meetings.

**Agenda Requirements.** The Open Meeting Law requires an agenda for all meetings. The posting requirements for an agenda for a special meeting are found in 1 V.S.A. § 312(d). At least 24 hours prior to the meeting, the agenda must be posted:

- on a website, if one exists, that the public body maintains or designates as the official website of the public body; and
- in or near the municipal office and in at least two other designated places in the municipality.

In addition, the special meeting agenda must be made available to anyone prior to the meeting upon specific request.

Although the Open Meeting Law does not have specific requirements for the contents of a special meeting agenda, the law does require an announcement of the "time, place and purpose" of a special meeting. Therefore, the agenda should be drafted in such a way that it allows members of the public to be reasonably informed of each item that will be considered by the public body at the special meeting.

Note that the notice and agenda for a special meeting may be combined into one document. Since many of the posting requirements for special meeting notices and agendas overlap (both must be posted in or near the clerk's offices and two other designated places), and since the agenda details the "purpose" of the special meeting, it may be easier to combine the two into a single document.

A combined special meeting notice and agenda must:

- describe the time, place, and purpose of the special meeting;
- provide information about each item that the public body will be considering; and
- be available prior to the meeting upon specific request.

At least 24 hours prior to the special meeting, the combined notice and agenda must be:

- posted in or near the clerk's office and in at least two other designated public places in the municipality;
- given to an editor, publisher, or news director of a newspaper or radio station serving the area of the state in which the public body has jurisdiction (although there is no requirement that the notice is actually published or broadcast);
- posted on the public body's website, if one exists;
- given, in writing or orally, to each member of the public body (unless a member waives notice); and
- given to any person who has requested to be notified of special meetings.

For more information, resources and training opportunities about the Open Meeting Law, please see the "Vt. Open Meeting

Law" tab under League Resources on VLCT's website.

Carl Andeer

Research and Information Associate  
VLCT Municipal Assistance Center

### **How is a municipal ordinance enforced?**

Once adopted according to statutory process, an ordinance has the force and effect of a local law. A municipality must designate each of its ordinances (except parking) as either a civil or a criminal offense. 24 V.S.A. §§ 1974, 1974a. Parking ordinances are unique in that they are designated by law as civil offenses but they must be subject to a locally-established administrative appeal process before they may be enforced in Superior Court. 4 V.S.A. § 437(11).

The violation of a criminal ordinance is a misdemeanor and is prosecuted in the Criminal Division of Superior Court. 24 V.S.A. §

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## UPCOMING MUNICIPAL ASSISTANCE CENTER WORKSHOPS

### TOWN MEETING TUNE-UP

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

A parliamentarian's paradise, this annual workshop is designed for moderators and selectboard members, both seasoned and new. It focuses on the statutory requirements for town meeting, *Robert's Rules of Order*, recent pertinent court cases, and best practices for making it through Town Meeting unscathed.

### SPRING SELECTBOARD INSTITUTE

**Saturday, March 12, Capitol Plaza Hotel and Conference Center, Montpelier**

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.

### SPRING AUDITORS WORKSHOP

**March date to be confirmed, Capitol Plaza Hotel and Conference Center, Montpelier**

This workshop is designed for locally elected auditors, as well as treasurers, selectboard members, municipal managers and administrators, and finance directors who want to improve internal controls and the quality of financial reporting.

### DELINQUENT TAX COLLECTORS WORKSHOP

**Wednesday, April 6, Lake Morey Resort, Fairlee**

This workshop will cover best practices and procedures for the efficient collection of delinquent municipal property taxes. The sessions will provide a dynamic mix of legal advice, practical solutions, and opportunities to ask questions and share experiences. The workshop is designed for all officials involved in the local tax collection process. Collectors of delinquent taxes, treasurers, town managers, town administrators, constables, selectboard members, listers, and others are all encouraged to attend.

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



Brief updates on Vermont's changing legal and regulatory environments

# LEGAL AND REGULATORY NOTES



## TOWN PLAN DEEMED INSUFFICIENT FOR THE PUBLIC SERVICE BOARD PROCESS

In August, the Caledonia Superior Court ruled that the Town of Newark's municipal plan was not sufficiently detailed with regard to the siting of power generating plants and transmission facilities regulated under 30 V.S.A. § 248 within the town. That statute requires that developers obtain a "certificate of public good" from the Public Service Board (PSB) before beginning site preparation or construction of electric transmission facilities, electric generation facilities, and certain gas pipelines within the state. Before a certificate of public good is issued, the PSB must take into consideration the provisions of the municipal plan of the municipality where the development

will be located. Specifically, the PSB must find that an in-state facility "will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality." 30 V.S.A. § 248(b)(1).

In *Hawk Rock Holdings, LLC v. The Town of Newark, Vermont* (Docket No. 267-10-12 Cacv), four amendments to the Newark Town Plan were at issue. The amendments had been adopted in reaction

to a potential wind development project in Newark that was subject to the PSB process. The court ultimately ruled that the amended 2012 Newark Town Plan was defective because it failed to comply with provisions of the Municipal and Regional Planning and Development Act (Title 24, Chapter 117 of the Vermont Statutes Annotated).

Hawk Rock Holdings, LLC, a landowner in Newark, claimed the town plan was defective because it failed to address how it complied with any of the state's general planning goals or what factors were considered in determining that any detrimental impact of hosting a wind energy project outweighed the benefits. They argued that the town plan's amendments had altered

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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



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## LEGAL AND REG.

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the designation of land, thereby triggering the application of 24 V.S.A. § 4384(c) (1)-(4), and the town failed to comply with heightened reporting obligations required by statute. The landowner further asserted that the 2012 town plan did not contain a land use map, as required in 24 V.S.A. § 4382(a)(2), and that it violated the statutory prohibition on municipal regulation of public power generating plants, transmission facilities, and renewable energy devices under Title 24, Chapter 117. The court was persuaded by some, but not all, of the landowner's arguments.

The court determined that, although the 2012 town plan map had not been updated to address the plan's new amendments, the map was still sufficient under 24 V.S.A. § 4382(a)(2) because the plan contained a general description of the lands within the town, referenced present and prospective land uses, and clearly articulated the specific plans and goals for the areas in town designated as being of "special value." The landowner also failed to persuade the court that the 2012 town plan violated the provisions of law that prohibit municipal regulation of public power generating power plants, transmission facilities, and renewable energy devices regulated under 30 V.S.A. § 248. The court concluded that plan's provisions addressing such development had no clear regulatory effect under Title 24, Chapter 117.

On the other hand, the court agreed with the landowner that the town had "neither strictly nor substantially complied" with statutory requirements for amending a plan because the report that accompanied the plan was "simply inadequate." Statute requires that such a report address "the efficient use of energy and the development of renewable energy resources." 24 V.S.A. §§ 4384(c), 4202. The Newark Town Plan specifically stated that industrial wind turbines "are inconsistent with the town's vision and goals" but it did not otherwise address energy issues. The court was displeased that the report consisted of "less than ten sentences, two of which conclusorily state that the revised town plan is 'consistent with the goals' established under 24 V.S.A. § 4302, as well as with the town plans of surrounding towns and the Regional Plan."

The Town of Newark tried to argue that it had sufficiently addressed statutory goals regarding energy by convening more than 20 public meetings, reviewing various studies and manuals, consulting with experts, and discussing the consequences of the proposed amendments. The court found that "none of these efforts, or the results thereof,

apart from reference to public meetings," were reflected in the report or other documents submitted by the parties. Thus, the court concluded the town's submission was not so much a "report" as "bare allegations." The court concluded the report was

*(continued on page 15)*

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- Water resources assistance
- Additional services as needed

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- On-site land use training

### MUNICIPAL INQUIRY SERVICE

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### ONLINE RESOURCES

- Available at [www.vlct.org](http://www.vlct.org)

### PUBLICATIONS

- Handbooks
- Technical papers
- Newsletter articles
- Posters
- Survey reports



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**Contact MAC today at 800-649-7915 or [info@vlct.org](mailto:info@vlct.org).**

**Visit the Municipal Assistance Center page at [www.vlct.org](http://www.vlct.org) for more information.**

## VFDs IN PACIF: COMPILE YOUR 2015 ROSTER-AND-PAY-AUDIT FILE THIS MONTH!

Whereas workers' compensation (WC) audits for regular municipal employees take place in the spring, the **WC audits for volunteer fire departments are conducted at the start of every year.** PACIF members with volunteer fire departments need to provide their 2015 roster and payroll information right around New Year's Day (a day earlier for departments with all non-paid firefighters, or a few days after for departments with anyone who receives any pay). Members that provide us with accurate rosters and pay information on time will receive accurate invoices and statements. Late or inaccurate filers will receive invoices that are based on estimates, and they might be surprised when they get a corrective invoice.

“...the new file contains hidden formulas that have changed since last year (including the state's latest minimum payroll amounts), so it is very important that you **do not reuse an old file.**”

During the first week of December, the person at your municipality who is designated as our primary contact for Assigned Risk (firefighter) roster and pay information will receive an email from Susan Benoit. The email includes instructions and guidance for filling in and submitting the new 2015 Excel file.

**The 2015 Excel file does not start with any data from the previous year,** because it's just too easy for outdated information to slip through without being verified. Also, the new file contains hidden formulas that have changed since last year (including the state's latest minimum payroll amounts), so it is very important that you **do not reuse an old file.** The person who knows the department's 2015 roster and pay information will need to (1) completely fill in the new 2015 Excel file with the all the right names, roles, and financial information; (2) read the gray shaded section at the end of the list and check the right box; (3) “sign” at the end; and (4) return the completed Excel file with the required pay documentation to Susan by the appropriate due date.

The due date for returning your Assigned Risk roster/pay file depends on whether any of your fire personnel are paid:

- **Thursday, December 31, 2015,** for all-volunteer departments – meaning that no one receives any pay for any fire department activities; or
- **Monday, January 4, 2016,** for departments that have any personnel who receive pay, regardless of whether it is per-call, per-training, a stipend, or wages.

Please direct any questions about all this to Susan Benoit at [sbenoit@vlct.org](mailto:sbenoit@vlct.org) or 1-800-649-7915. After reviewing your roster, she will contact you if we require any additional information.

### 2015-2016 RMS CALENDAR

**Diversity, Discrimination and Harassment.** Wednesday, December 2, 8:30 a.m. to 4:00 p.m., room 114B, **VTrans Training Center, 1716 U.S. Route 302, Berlin.** This one-day workshop explains how personality styles affect attitudes toward diversity, harassment, and discrimination. The focus is on building managerial and supervisory skills to support continuous behavioral improvements to the overall workplace. Instructor: Greg Hessel of ReGeneration Resources. Free and open to municipal personnel. For more information and to register, call 802-828-3768.

**Deadlines for PACIF Members with Volunteer Fire Departments to submit 2015 Roster and Payroll Information** as required for fire personnel's annual Workers' Comp audit.

- **Thursday, December 31, 2015,** for all-volunteer departments (that is, no one receives any pay for any fire department activities).
- **Monday, January 4, 2016,** for departments that have any personnel who receive pay, regardless of whether it is per-call, per-training, a stipend, or wages.

**Diversity, Discrimination and Harassment.** Wednesday, January 6, 8:30 a.m. to 4:00 p.m., room 114B, **VTrans Training Center, 1716 U.S. Route 302, Berlin.** See December 2 listing for details.

**Natural Shorelands Erosion Control Certification.** Friday, January 22, 2016, 8:00 a.m. to 4:00 p.m., AGC/VT Office, 1 Graves Street, Montpelier. Presented by Associated General Contractors of Vermont. Vermont's more than 1,400 miles of lakeshores have some of the greatest residential density and development pressure in the state. This voluntary certification course teaches landscaping practices that control stormwater runoff and safeguard wildlife habitat. Certified participants will be listed on the Agency of Natural Resources' website and given priority for certain ANR grant-funded shoreland projects. Topics will include shoreland best management practices, native plants, permitting, green infrastructure, bioengineering, landscaping materials and suppliers, and road maintenance rules. Twenty-five dollar fee includes lunch. For more information and to register, contact Amy Picotte at [Amy.Picotte@vermont.gov](mailto:Amy.Picotte@vermont.gov) or 802-490-6128.

## MEDICARE MAY AFFECT REPORTING OF 2015 ACA INFO TO THE IRS

When we last wrote about the IRS rules for employers to report their 2015 Affordable Care Act (ACA) information (May 2015 VLCT News), we said that only Applicable Large Employers (ALEs), with 50 or more employees, would have anything to do in this matter. However, we recently learned a new twist: certain small employers might need to report some information. Although we can't provide detailed IRS-related guidance, we do want give members a heads-up of the possible need to prepare for a January 31<sup>st</sup> deadline.

First, it will help to understand that in order to meet the ACA requirement for employers to offer health insurance to their full-time employees and for Americans to be financially penalized if they do not have health insurance, the IRS needs to have reliable information about who has been offered insurance and who is insured. To learn who is insured, the IRS requires all insurers to report exactly whom they insure. For anyone who is insured with a typical health insurance plan – which in Vermont in 2015 includes all employers with up to 50 employees because they must use the State's HealthCare Exchange – the carrier (insurance company) reports the required information to the IRS. Employers that self-insure their employees must do the relevant IRS reporting themselves.

The new twist involves whether the IRS will consider employer payments toward Medicare premiums to be a form of

self-insurance. If the IRS does, employers with up to 50 employees might have to file two extra IRS forms: a 1095 Statement to the affected employees (or retirees) in January and a 1094 Transmittal to the IRS in February or March. There are two different flavors of these forms: the "B series" (1095-B and 1094-B) and the "C-series" (1095-C and 1094-C).

Because the regulations regarding this reporting are complex, and to ensure that members comply fully with federal ACA and IRS regulations, VLCT staff will not be able to help members complete these forms. Instead, we recommend that members confer with a tax expert before completing these required forms. And please don't put it off – the filing deadlines are approaching quickly!

For resources on the topic of ACA reporting for Applicable Large Employers, please visit VLCT's Health Reform webpage, [www.vlct.org/rms/faqs/health-insurance-reform/](http://www.vlct.org/rms/faqs/health-insurance-reform/),

or the IRS website, <https://www.irs.gov/Affordable-Care-Act/Affordable-Care-Act-Tax-Provisions-Questions-and-Answers>.

### Important Deadlines

**January 31, 2016**

Employee Statements, 1095-B or 1095-C, must be delivered to employees.

**February 28, 2016**

Mailed Transmittal Forms, 1094-B or 1094-C, are due to the IRS. The mailing must include copies of all Employee Statements.

**March 31, 2016**

Electronically filed Transmittals, 1094-B and 1094-C, are due to the IRS. (Employers with more than 250 employees must file electronically.)

### IRS Forms for Reporting 2015 ACA Information

**Employee Statements**  
deliver to employees by  3/16

**Transmittals to the IRS**  
mail by 2/28/16  28/16 or email by 3/31/16

**B**  
Series

<b>Form 1095-B</b>		<b>Health Coverage</b>	
Department of the Treasury Internal Revenue Service			
Information about Form 1095-B and its separate instructions is at <a href="http://www.irs.gov/form1095b">www.irs.gov/form1095b</a> .			
<b>Part I Responsible Individual</b>			
1 Name of responsible individual		2 Social security number (SSN)	
4 Street address (including apartment no.)		5 City or town	
		6 State or province	
8 Enter letter identifying Origin of the Policy (see instructions for codes): . . . . .		9 Small Business Health Options Program	

<b>Form 1094-B</b>		<b>Transmittal of Health Coverage Information Returns</b>	
Department of the Treasury Internal Revenue Service			
Information about Form 1094-B and its separate instructions is at <a href="http://www.irs.gov/form1094b">www.irs.gov/form1094b</a> .			
1 Filer's name		2 Employer identification number (EIN)	
3 Name of person to contact		4 Contact telephone number	
5 Street address (including room or suite no.)		6 City or town	

**C**  
Series

<b>Form 1095-C</b>		<b>Employer-Provided Health Insurance Offer and Coverage</b>	
Department of the Treasury Internal Revenue Service			
Information about Form 1095-C and its separate instructions is at <a href="http://www.irs.gov/form1095c">www.irs.gov/form1095c</a> .			
<b>Part I Employee</b>			
1 Name of employee		2 Social security number (SSN)	
3 Street address (including apartment no.)		7 Name of employer	
4 City or town		9 Street address (including room or suite no.)	
5 State or province		11 City or town	
6 Country and ZIP or foreign postal code		12 State or province	
<b>Part II Employee Offer and Coverage</b>		<b>Plan Start Month (Enter 2-digit number)</b>	

<b>Form 1094-C</b>		<b>Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns</b>	
Department of the Treasury Internal Revenue Service			
Information about Form 1094-C and its separate instructions is at <a href="http://www.irs.gov/form1094c">www.irs.gov/form1094c</a> .			
<b>Part I Applicable Large Employer Member (ALE Member)</b>			
1 Name of ALE Member (Employer)		2 Employer identification number	
3 Street address (including room or suite no.)			
4 City or town		5 State or province	
		6 Country and ZIP or foreign postal code	

# VERB

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# IMPORTANT UPDATE TO PACIF WORKERS' COMP

Due to clarification from the Vermont Department of Labor (VDOL) Workers' Compensation & Safety Division, PACIF is changing how we tally members' workers' compensation (WC) contributions for work performed by contracted workers. As PACIF members were informed in their annual renewal letter in November, PACIF is no longer accepting non-employee work agreements as a way to exclude contractors' charges from the municipality's annual WC audit.

The director of Workers' Compensation & Safety at VDOL has recently reiterated the department's stance on the employer-employee relationship and focused on one key criterion: that the work performed must be distinct and separate from the work of the municipality. That is, if there is an employee on staff who is capable of performing such work, then a contractor performing the work will be considered eligible for workers' compensation coverage from the municipality. This could be challenging for municipalities, as they require all kinds of work, including maintenance of town highways and buildings, plowing, mowing, janitorial work, recreation instruction, and refereeing. These are just a few examples of the types of work that municipalities commonly contract for and which VDOL may consider municipal work, effectively making the people who perform them eligible for WC

coverage regardless of any contract to the contrary.

Therefore, from now on, for every contractor hired by a PACIF member, either the member will have proof that the contractor has its own WC coverage or the PACIF WC auditor will include the amount billed by the contractor (on an IRS Form 1099) in the member's WC contribution calculation.

We recommend that members require each contractor to provide a Certificate of Insurance from their WC insurance agent showing that the workers are covered for the year being audited, prior to work commencing and regardless of the length or size of the job or type of work performed. Realistically, we know that many sole proprietors and partner-owners of unincorporated businesses might not carry WC coverage, yet VDOL's position is that if a worker is injured and VDOL considers the municipality to be the statutory employer of the injured worker, VDOL will, through PACIF, order the employer to accept and pay the claim, and PACIF needs to collect contributions for this exposure.

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We understand this transition may be difficult and we want to help you through it. For more information on this new policy and how to comply with it, please contact anyone on PACIF's Underwriting or Loss Control team.

If you have questions about how the VDOL classifies workers for the purposes of workers' compensation insurance, please contact VDOL directly at 802-828-2286 or [Labor.WCComp@vermont.gov](mailto:Labor.WCComp@vermont.gov).

*Ken Canning, Director  
VLCT Risk Management Services*

## VLCT News Online

We encourage all subscribers, especially single-use readers, to consider switching from paper copies to online viewing of the *VLCT News*. The benefits are many: a smaller carbon footprint, lower printing and postage costs, less paper used, full-color rendering of color photographs, and immediate access to web links.

If you are ready to switch to accessing the *VLCT News* completely online, please email us so we can remove you from our postal mailing list and make sure that your correct email address is on our *News* email list.

To view the current *VLCT News* or the archives, please go to [www.vlct.org/newsletter](http://www.vlct.org/newsletter).

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

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## ASK THE LEAGUE

(continued from page 5)

1974. A criminal ordinance can provide for a fine of up to \$500 or imprisonment for up to one year. Criminal ordinances are best suited to municipalities with law enforcement officers and a municipal attorney to prosecute violations.

The vast majority of municipal ordinances in Vermont are civil rather than criminal violations. Civil ordinances are prosecuted in the Vermont Judicial Bureau (formerly known as “traffic court”) or in Superior Court. 24 V.S.A. § 1974a. Using the Judicial Bureau process is generally less expensive and less time-consuming than either the criminal or civil court process and does not require the assistance of an attorney.

A civil ordinance may impose a maximum penalty of \$800, and may also designate a “waiver fee,” which is a fee that is paid if a person admits or does not contest a ticket, thereby waiving the right to a hearing. 24 V.S.A. § 1974a. When setting the penalty and waiver amounts, the legislative body should set amounts that will be sufficient to deter violation of the ordinance. Subsequent violations of the same ordinance warrant an increased penalty and waiver fee. Fines are punitive in nature and, therefore, the amount of the penalty does not have to correspond to the costs incurred by the municipality in enforcing the ordinance. Penalties that are too low will not significantly discourage future offenses.

A civil ordinance enforceable by the Judicial Bureau must identify a person or persons who are authorized to issue tickets for violation of that ordinance. V.R.C.P. 80.6. These are so-called “issuing officers.” This designation does not confer any law enforcement authority other than the ability to issue tickets; it does not confer the authority to stop or search a person, nor does it confer the authority to seize property (including animals).

The selectboard should also decide whether the person who issues tickets will also have the authority to represent the municipality in hearings before the Judicial Bureau. If the person representing the municipality is not the person who issued the ticket, he or she will likely need to call the issuing officer as a witness at the hearing.

Pre-printed “Vermont Municipal Violation Complaints” are available in booklets from the Vermont Judicial Bureau, P.O. Box 607, White River Junction, VT 05001 or 802-295-8869. When the issuing officer wishes to enforce a local ordinance, he or

she will fill out a ticket, provide two copies to the alleged violator, and retain two copies, one of which is sent to the Judicial Bureau. V.R.C.P. 80.6. A ticket can be served in person or by mail. The law does not require it, but we recommend certified mail, return receipt requested.

A violator can respond to a ticket/complaint in one of four ways:

- **Admit** and pay the waiver fee.
- **Not contest** the charge and pay the waiver fee.
- **Deny** the offense and request a hearing.
- **Fail to respond** within the requisite 20 days, resulting in a default judgment. In such case, the violator is ordered to pay the full amount of the fine (rather than the waiver fee).

If the violator pays the waiver fee, the money collected by the Judicial Bureau is sent to the municipality, minus an administrative fee which is retained by the Bureau for administrative expenses.

If the violator asks for a hearing, it will be held by a hearing officer assigned by the Judicial Bureau. Unlike in criminal court, there is no prosecutor assigned to Judicial Bureau cases. Instead, the officer appearing for the municipality presents evidence and questions witnesses, if there are any. The burden of proof is on the municipality and the violation must be proven by “clear and convincing evidence.” If either the defendant or the municipality is unhappy with the outcome of the hearing at the bureau, an appeal may be taken to Superior Court. V.R.C.P. 80.6(i).

A hearing officer may dismiss a ticket if it is illegible or is not completely filled out.

V.R.C.P. 80.6(c)(5). A ticket may also be dismissed if the municipality fails to prove that the ordinance was duly adopted. For this reason, we recommend providing the hearing officer with a certified copy of the ordinance as well as the minutes from the selectboard meeting when it was adopted.

If a fine is imposed, the defendant has 30 days in which to pay. If the defendant fails to pay the fine, the Judicial Bureau sends a non-payment report to the municipality. All civil remedies for collection of a judgment are then available, including attaching wages or property, filing and foreclosure of a judgment lien, initiating a small claims court action, or filing a civil contempt action. 24 V.S.A. § 1981. The Judicial Bureau may also refer a case to a collection agency.

If requested by the municipality, the Judicial Bureau has the authority to order that a violation cease. 24 V.S.A. §1974a(c). However, the Judicial Bureau cannot otherwise grant injunctive relief; it cannot issue a court order commanding or preventing an action. If the municipality seeks injunctive relief, it needs to work with an attorney to bring an enforcement action directly in Superior Court.

The above is only an overview of the ordinance enforcement process. The staff of the Municipal Assistance Center can answer specific questions about drafting and enforcing ordinances. In addition, the staff attorneys are available to provide technical review and revision of existing municipal ordinances. Please email us at [info@vlct.org](mailto:info@vlct.org) or call us at 800-649-7915 for more information.

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

### 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:

- 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;
- Construct rail freight and intermodal facilities, and public transit facilities; and
- In certain cases, electric vehicle charging stations and natural gas refueling stations that are available for public use.



[www.veda.org](http://www.veda.org)  
802-828-JOBS



## STAFF NEWS

**Carl Andeer** recently joined VLCT as the Municipal Assistance Center’s Municipal Research and Information Associate. Carl grew up in Detroit (i.e., Mich., and not Ill., Ore., Tex., or Ala.). After attending Michigan State University and graduating with a Bachelor’s degree in Political Science, he switched gears and moved to Vermont. (What is it about gears and Vermont? Besides the curious fact that both words feature the letters “e” and “r”, that is.) He obtained his Juris Doctor and Master of Environmental Law and Policy in 2012 from Vermont Law School. Since then, Carl has worked at a nonprofit environmental law firm in Anchorage, Alaska, a small firm in White River Junction, and most recently in the Rutland City Attorney’s Office, which piqued his interest in municipal law.

Carl loves hockey. He will play hockey anywhere and at anytime at the drop of a hat trick. He also enjoys skiing and hiking and is presently learning to play the guitar. The jury is still out as to whether this will be another career move. (Google “ski guitar” for an exhilarating way to combine these interests.)



*Carl Andeer*

**Gwynn Zakov** – who, since January 2014, had been the only Municipal Assistance Center attorney to own and ride a 16-hands-high horse that fancies glazed donuts – has moved four score and seven paces down the hall to join the Public Policy and Advocacy Department as its newly created Municipal Policy Advocate. Gwynn’s past employment exploits include a turn as Second Assistant Clerk of the Vermont House of Representatives, so she’s no stranger to the Vermont legislative process and State House machinations. (Gwynn’s departure from MACWorld temporarily leaves a lawyerly staff position open, a situation we expect to both remedy and report on ere long.)

Félicitations et bienvenue to Gwynn and Carl!

*David Gunn, Editor  
VLCT News*



← *Siri, the horse with the sweet tooth.*



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School District**

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# 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

**Water/Wastewater Operator.** The Town of Hinesburg is accepting applications for the position of Water/Wastewater Operator. Minimum requirements: High school diploma or equivalent; two years of applicable experience in all phases of water/wastewater system operation and maintenance; minimum of Vermont GD 1 Domestic WW operator Certification; significant knowledge of Vermont regulatory and reporting requirements to ensure compliance with all conditions of water and wastewater permits; an ability to deal with the public in a positive manner; and a sense of humor. The Town of Hinesburg offers a competitive salary (\$20.19 to \$21.47/hour, DOQ) and a generous benefits package, including a \$5,000/year health insurance buyout if you have

sufficient coverage from elsewhere. A detailed job description and an employment application are posted at <http://www.hinesburg.org/> under Employment or from Erik Bailey, Water Works Superintendent, 10632 Route 116, Hinesburg, VT 05461. For more information, contact Erik Bailey at 802-482-6097 or [ebailey@hinesburg.org](mailto:ebailey@hinesburg.org). Position open until filled. (11-04)

**Administrative Assistant to the Selectboard.** The Town of Pomfret is seeking a part-time Administrative Assistant to the Selectboard. The successful applicant will have the skills necessary to help improve the Town's administrative, fiscal, and organizational efficiency while assisting the Selectboard and other Town officials in carrying out their

*(continued on next page)*

## Have you visited EAP's new website?



**Check it out! It's mobile and tablet friendly.**

**Employees, officials and their household members can access information and resources at:**

**[www.investeap.org](http://www.investeap.org)**

Create a Login. Your Organization Password is: **vlct**

**Or call us 24/7/365  
at 1-800-287-2173**





## CLASSIFIEDS

(continued from previous page)

respective duties. The full job description is posted at <http://pomfretvt.us/> under Bulletin Board. To apply, email a cover letter, resume, and three references to [Michael.Reese@PomfretVT.US](mailto:Michael.Reese@PomfretVT.US), or send to Michael Reese, Pomfret Selectboard, 5218 Pomfret Road, North Pomfret, VT 05053. Applications accepted until position is filled. The Town of Pomfret is an Equal Opportunity Employer. (10-30)

**Planning Coordinator.** The Town of Georgia is seeking a part-time (16-24 hrs/wk) Planning Coordinator to administer the Town's subdivision and site plan regulations, assist the public with permit applications, and help the Planning Commission with development review and regulatory updates. Requirements: strong organizational and communication skills; attendance at semi-monthly evening meetings; a valid driver's license; and reliable transportation. Familiarity with GIS mapping software and knowledge of local government and land use planning a plus. For more information and a job description, visit the Town website, <http://townof-georgia.com>, or contact Michael McCarthy at 802-524-3524. To apply, email a cover letter, resume, and references by noon on December 18, 2015, to [georgiatown@comcast.net](mailto:georgiatown@comcast.net), or submit in writing to Town of Georgia Planning Department, 47 Town Common Road North, St. Albans, VT 05478. Equal Opportunity Employer. Minorities are encouraged to apply. (11-16)

**Heavy Equipment Operator.** The Town of Richmond Highway Department is seeking an energetic and well-organized person for the full-time (40 hour per week) permanent position of Heavy Equipment Operator. Applicants must enjoy working outdoors in all types of weather conditions and show an attention to detail and ability to complete job duties in a timely manner. The applicant must possess a minimum Class B CDL. Dump truck operation and snow plowing experience preferred. Seasonal overtime required. A full job description is posted at [www.richmondvt.gov](http://www.richmondvt.gov). Click on "Documents" and then "Job Listings." Salary dependent upon qualifications

and experience. Retirement and health benefits available. Direct any questions to Pete Gosselin, Richmond Road Foreman, at 802-434-2631. Please send cover letter, resume, and three current references to Equipment Operator, c/o Town of Richmond Manager, PO Box 285, Richmond, VT 05477. First review begins on December 4. Position open until filled. (11-17)

**Library Director.** The South Hero Community Library Board of Trustees seeks an enthusiastic, self-directed, collaborative, and organized individual for the position of Library Director. The South Hero Community Library serves the community of South Hero, a small town on the southern end of the Lake Champlain Islands, and is located within the Folsom Education Center. The Library Director is responsible for all aspects of library administration, including providing strong customer service to a variety of library patrons; building a collection that reflects a diversity of reading interests and abilities; identifying and coordinating events and activities for preschoolers through adults;

participating in the statewide interlibrary loan resource sharing program; recruiting and retaining library volunteers; managing the budget and collecting data; troubleshooting technology; collaborating and providing outreach to individuals and organizations in and around the South Hero Community; and keeping current on library trends and issues. This is a 30-35 hour per week position, including evening and weekend hours. A Bachelor's degree is required and a Master's degree in Library Science is preferred. A Vermont Library Certification or the intent to pursue this designation and library experience are essential. The ideal candidate will be flexible, able to multi-task, enjoy engaging with the public, be energized by new challenges and love to read. For more information, please call Ken Kowalewitz, Library Board Chair, at 802-343-9323. The hourly wage is commensurate with education and experience. Please email a cover letter and resume to [sohero@vals.state.vt.us](mailto:sohero@vals.state.vt.us). Position open until filled. (11-17)

(continued on next page)



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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.

[www.nedelta.com](http://www.nedelta.com)



## CLASSIFIEDS

(continued from previous page)

**Wastewater Operator.** The North Branch Fire District #1, a wastewater treatment facility in West Dover, Vermont, is seeking a person to perform skilled and semi-skilled work in the operation of the District's wastewater facility. Work includes laboratory analysis, collection system maintenance and repairs, equipment maintenance, grounds care, performing daily pump runs, and the daily monitoring of influent and effluent conditions; collecting water quality samples as applicable; operating and maintaining plant equipment including pump control systems, alarm signals, chemical feed systems, and belt filter press; making adjustments in plant operations as needed due to seasonal changes, quality changes, maintenance schedules, or special programs or circumstances; and performing other duties as assigned. The Wastewater Operator works under supervision of the Chief Operator. Grade II Wastewater certification a must. Weekend work is necessary. Benefits include health insurance, life insurance, short- and long-term disability insurance, vacation days, personnel days, holidays, and participation in the Vermont Municipal Employee Retirement System. The position may be either full-time or part-time. Pay compensatory with work experience. For an employment application and more information, contact Linda Holland, Administrative Manager, North Branch Fire District #1, at 802-464-7560 x 110 or [nbfd1@myfairpoint.net](mailto:nbfd1@myfairpoint.net). (11-16)

## REQUEST FOR PROPOSALS

**Audit Services.** The Town of Norwich, Vermont, is requesting proposals from qualified firms of certified public accountants to audit its financial statements for the fiscal year ending June 30, 2016, with the option of auditing its financial statements for each of the two subsequent fiscal years. **The deadline to submit a proposal is 4:30 p.m. on Friday, December 4, 2015.** Direct your request for a copy of the full RFP and any questions to Roberta Robinson, Finance Officer ([rrobinson@norwich.vt.us](mailto:rrobinson@norwich.vt.us) or 802-649-1419 x 105), Town of Norwich, PO Box 376, Norwich, VT 05055. (10-27)

## LEGAL AND REG.

(continued from page 7)

devoid of any analysis regarding “the efficient use of energy and the development of renewable energy resources.” Because the plan specifically objected to industrial wind turbines, the court found even greater reason to include an analysis of the situation. “Given that issues such as wind turbine siting are often both political and emotional in nature, it is particularly important to see the principled evaluation of the Planning Commission laid out.”

The court was also persuaded by the landowner's argument that the town was obliged to address specific factors regarding the alteration of land designation. According to 24 V.S.A. § 4384(c), if proposed amendments to a town plan alter the designation of any land, the report should consider the impact on the surrounding area with regard to land use, traffic, the long-term cost or benefit to a town on the municipal tax base, and the need for public facilities and the availability and amount of vacant land. 24 V.S.A. § 4384(c)(1)-(5). The town argued that there was no need to address those considerations since the

amendments did not alter the designation of land in town. The court disagreed and ruled the town plan amendments did alter the designation of land because it specifically named Hawk Rock (the land where the wind project was proposed to be located) as an area of “special value.” Further, the plan set forth a specific policy that industrial-scale land development of the ridge-line, including Hawk Rock, was “inappropriate and inconsistent” with the town's vision and goals, should be “strictly avoided,” and would be “opposed” by the town. The court found that this language was not aspirational but had mandatory thrust. The court therefore concluded that the language imposed development restrictions such that any application for permits under Act 250 would not meet the requirement of conformance with a town plan pursuant to 10 V.S.A. § 6086(a)(10). Thus the report should have addressed the factors listed in 24 V.S.A. § 4384(c)(1)-(5). Failing to do so, it was legally deficient.

The court emphasized that its ruling “is not intended to suggest that the concept opposing industrial wind power development within the 2012 Town Plan is erroneous. Rather, the law requires a more explicit examination and articulation of the facts under which town planning declares such projects to be *persona non grata* within a town. In other words, the planning process requires more of the town than merely the declaration, ‘not in my backyard.’”

Although this case came from the Caledonia Superior Court and is not technically binding in Vermont's other counties, towns should still see this ruling as a warning. Each of the requirements and criteria in Title 24, Chapter 117, that are applicable to drafting and amending town plans must be explicitly addressed in a town plan and/or the accompanying report. If distinct areas or features of land are specifically mentioned in a plan – as Hawk Rock was in the Newark Town Plan – that may constitute an alteration of the designation of a land area such that the additional factors noted in 24 V.S.A. § 4384(c)(1)-(5) must all be clearly addressed in the town plan.

The *Hawk Rock* decision can be found at <https://savethesenecas.files.wordpress.com/2012/11/newark-motion-to-dismiss-11-15-12.pdf>

Gwynn Zakov, Staff Attorney I  
VLCT Municipal Assistance Center

## TRIVIA

No one knew that Louis Philippe Joseph, a.k.a., the Duke of Orleans, was guillotined on November 6, 1793 – amidst France's Reign of Terror – one year and one day after Orleans County was named for him.

Try this one: The Abnaki Indians called one Vermont waterway a “bad or useless river,” perhaps because its numerous rapids made it hard to navigate in a canoe and the sport of river tubing was still years away from development. **What is its more familiar Americanized name?**

Email your answer to [dgunn@vlct.org](mailto:dgunn@vlct.org). Then compare it to mine, which you'll find amongst the pages of the *Jesum-Crow-it's-cold-outside!* January issue.



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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.*

## TOWN MEETING TUNE-UP

*February 3, Capitol Plaza Hotel and  
Conference Center, Montpelier*

## LOCAL GOVERNMENT DAY

*February 10, 2016, Capitol Plaza  
Hotel and Conference Center, Montpelier*

Check out all of the upcoming MAC workshops  
online at [www.vlct.org/eventscalendar](http://www.vlct.org/eventscalendar).

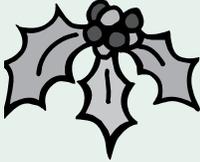
For additional spring  
workshops, see page four.

**Save the Date  
for Next Year**



Vermont League of Cities & Towns  
**TOWNFAIR2016**  
October 6, Champlain Valley Expo

**Happy Holidays from all of us at VLCT**



The VLCT office will be closed on the following days:

Christmas Eve	Thursday, Dec. 24
Christmas Day	Friday, Dec. 25
New Year's Day 2016	Friday, Jan. 1

Otherwise, we are open from 8 a.m. till 4:30 p.m., Monday through Friday.