

# VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

June 2016

## 2015 GOLF PROCEEDS SUPPORT HOMELESS SHELTERS

Last year's VLCT Local Officials Golf Outing, after all the bills were paid, raised \$2,500 in donate-able funds. Those funds were divided between three charitable non-profit organizations that provide overnight housing to homeless Vermonters in different parts of our state:

**Samaritan House, Inc.** (<http://samaritanhouseinc.com/>) in St. Albans operates the only emergency shelter and transitional housing for people without other options in Franklin and Grand Isle counties. In 2013, 58 individuals and 71 families moved from Samaritan House's transitional housing program to permanent housing.

**Good Samaritan Haven** ([www.goodsamaritanhaven.org](http://www.goodsamaritanhaven.org)) in Barre, Central Vermont's only homeless shelter, provides shelter and services to more than 300 homeless people each year in Washington, Lamoille, and Orange counties. Their programs include emergency and transitional housing, essential goods and food services, street outreach, and peer support.

**Groundworks Collaborative** (<http://groundworksvt.org/>), formerly the Brattleboro Area Drop In Center and Morningside Shelter, operates three facilities and provides ongoing support to families and individuals facing a full continuum of housing and food insecurities in the greater Brattleboro area.

*(continued on page 11)*



## Vermont League of Cities & Towns **TOWNFAIR2016** October 5-6, Champlain Valley Expo

### TOWN FAIR 2016 PREVIEW

Town Fair is the premier networking and educational conference that brings together elected officials, municipal staff, and private sector businesses in Vermont. This is a great opportunity for you to join your counterparts across the state to learn about new trends and opportunities in local government. Town Fair 2016 will take place on Wednesday and Thursday, October 5 and 6, at the Champlain Valley Exposition in Essex, Vermont.

There will be a few changes to Town Fair this year and since we are now in the midst of preparations, we wanted to share those changes with you, our members.

Town Fair activities will begin on Wednesday afternoon with the VLCT Annual Meeting, when VLCT Board members and officers will be elected and municipal legislative policy for

**From the Executive Director**

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## TOWN FAIR

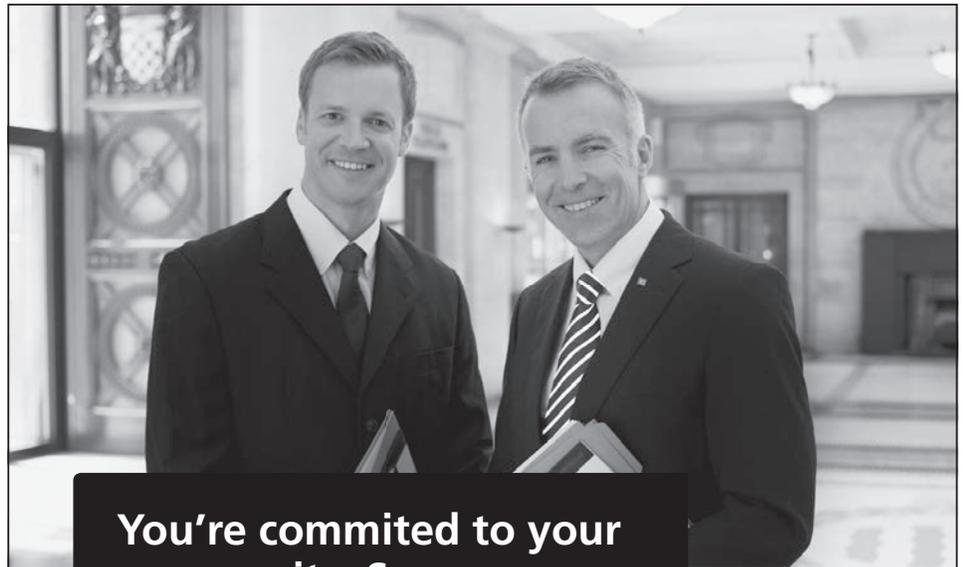
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the 2017 session will be adopted. I strongly encourage you to attend so that your voices are heard. Topical debate and discussion are vital to ensure that the legislative policy reflects the will of our members. Following the Annual Meeting, there will be an Exhibitor Reception and everyone who attends the Annual Meeting, as well as any local officials and VLCT staff, will have an opportunity to enjoy some extra time to interact with exhibitors and network with each other. There is no cost to attend the Annual Meeting and Exhibitor Reception.

Thursday will begin with a keynote speaker; the remainder of the day will consist of training sessions. Some of the session times are shorter than in the past in order to offer additional and more varied educational and training opportunities. Training will continue after lunch (the famous turkey dinner!) and we hope you'll be able to stay for the whole day. We're even offering snacks in the afternoon to keep you going! The Town Fair Survey results were quite clear that the majority of officials and employees attend the event to receive training, so we want to provide you with what you need and what offers you the best experience.

We look forward to seeing you in October!

*Maura Carroll  
Executive Director*



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# ASK THE LEAGUE

## WHAT HAS HAPPENED TO THE POSITION OF TOWN SERVICE OFFICER?

The town service officer was formerly an individual in the town charged with assisting individuals in need of emergency food, fuel, or shelter on behalf of the State Department for Children and Families (DCF). Thirty-three V.S.A. § 2102, which required selectboards to appoint a town service officer every year and to report that appointment to the State, has been repealed effective July 1 of this year. Act No. 71 of the 2015-2016 Legislative Session, *An Act relating to eliminating the role of town service officers in administering General Assistance benefits*. The bill was signed into law by the Governor on April 8, 2016. State benefits that were once conferred

by town service officers may now only be conferred by the Economic Services Division of DCF.

After Act 71 goes into effect, selectboards will have the discretionary authority to appoint a town service officer under 24 V.S.A. § 871(5). That statute declares that the selectboard "may thereupon appoint from among the legally qualified voters the following officers who shall serve until their successors are appointed and qualified, and shall certify such appointments to the town clerk who shall record the same ... one town service officer." That same statute declares that the selectboard may appoint fence viewers,

a poundkeeper, inspectors of lumber, shingles and wood, and weighers of coal. The use of the term "may" rather than "must" in 24 V.S.A. § 871 indicates that these appointments are all optional rather than mandatory.

When the repeal of 33 V.S.A. § 2102 goes into effect, a person who currently holds the position of town service officer will no longer have any authority from the State, other than that which is conferred by 14 V.S.A. § 2306. That statute provides a town service officer with the seldom-used authority to petition a probate court to appoint a trustee for the estate of an absent person.

The repeal of 33 V.S.A. § 2102 also means that an incumbent town service officer will not have any responsibility to assist individuals seeking aid from the State. It is therefore up to the selectboard to decide what, if any, responsibilities and duties to confer on their town service officer. A selectboard may request, for instance, that the incumbent town service officer continue to assist individuals to access emergency food, fuel, or shelter. In that case, the town service officer will answer

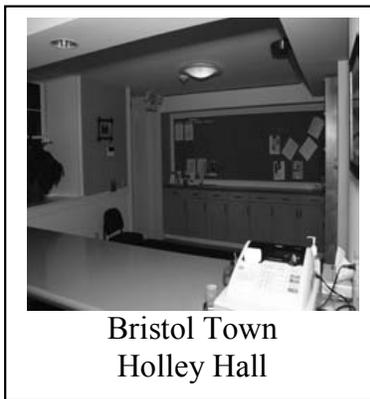
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## VERMONT MUNICIPALITIES MUST SOON “BAN THE BOX”

Next year, Vermont will require all employers in the state to “ban the box.” So-called because of the checkbox on many job application forms, a “ban the box” bill was signed into law by Governor Shumlin in early May. When it takes effect on July 1, 2017, the new law will prevent employers, including municipalities, from asking on an initial employment application whether an applicant has ever been convicted of a crime.

The purpose of the law is to preclude the common recruiting practice of automatically eliminating any applicant who has a criminal conviction record. Such individuals will thus be provided with a greater chance at success in finding work. Vermont employers may still ask about convictions during an interview or other later step of the hiring process. (See paragraph below regarding Equal Employment Opportunity Commission [EEOC] guidance on doing so.) Additionally, the new law will not prevent questions about criminal offenses on application forms for law enforcement positions or other roles where there is a state or federal obligation to disqualify individuals based on a conviction of one or more types of offenses.

Last year, Governor Shumlin signed an executive order that implemented a “ban the box” hiring policy for Vermont state employees (other than law enforcement, corrections, or other sensitive positions). That was Vermont’s first step in joining the nationwide “ban the box” campaign which has been gaining momentum among a number of states, cities, and private employers in recent years. President Obama has likewise ordered the Office of Personnel Management to take steps to delay inquiry into criminal conviction history until later in the application process for positions across federal agencies.

In order to avoid discrimination under Title VII of the Civil Rights Act of 1964, the EEOC advises that employers only ask about criminal history of applicants for positions where such history is relevant and that questions be limited to convictions that are job-related and based on business necessity. According to EEOC guidance, when evaluating information about criminal convictions, employers need to consider what are referred to as the “Green Factors,” identified by the court in the case of *Green v. Missouri Pacific Railroad Company* 549 F.2d 1158 (8th Cir. 1977). These are:

- the nature and gravity of the offense or conduct;
- the time that has passed since the offense, conduct and/or completion of the sentence; and
- the nature of the job held or sought.

The EEOC’s full guidance in this area is available online at [https://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).

Municipalities should review job application forms to ensure that any questions on prior criminal convictions are removed before the July 1, 2017, effective date (except on forms specific to law enforcement or other exempted positions). VLCT provides two model job application forms (for positions other than public safety or commercial motor vehicle operator positions) on the VLCT Municipal Assistance Center’s Human Resources Assistance Program web page at <http://www.vlct.org/municipal-assistance-center/human-resources-assistance-program/>. Additionally, VLCT-PACIF’s Drug and Alcohol Testing Manual provides a model employment application form for commercial motor vehicle operators (along with checklists and other important information). The manual may be accessed at <http://www.vlct.org/assets/RMS/PACIF/2014PACIF-CDL-DandATesting-Manual.pdf>.

### ASK THE LEAGUE

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directly to the selectboard (rather than DCF) and will not have access to any State benefits. On the other hand, a selectboard may also decide not to delegate any authority or responsibility to the incumbent town officer. In that instance, the position continues to exist in name only.

After July 1 of this year, if a selectboard chooses to make a new appointment to the position of town service officer, it is up to that selectboard to decide what duties the person will carry out, how that person will interact with other town officials, and whether there will be any compensation provided by town.

Act No. 71 is archived at <http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT071/ACT071%20As%20Enacted.pdf>.

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

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# LEGAL AND REGULATORY NOTES



## POLITICAL FREE SPEECH RETALIATION; A TOWN'S AUTHORITY TO CHANGE ITS CHARTER

### U.S. Supreme Court Rules in Favor of Police Officer in Political Free Speech Retaliation Claim

*"I have zero tolerance for betrayal, which they will soon indelibly learn."*  
—Frank Underwood, *House of Cards*

Fans of the Netflix's original series *House of Cards* take note: political retribution is not without its risks, even if it's mistaken. This was the warning delivered by six of the U.S. Supreme Court's eight Justices in the case of *Heffernan v. City of Paterson, New Jersey*, 578 U.S. \_\_\_ 2016, which held that,

*[w]hen an employer demotes an employee out of a desire to prevent the employee from engaging in political activity that the First Amendment protects, the employee is entitled to challenge that unlawful action ... even if ... the employer*

*makes a factual mistake about the employee's behavior.*

This case introduces us to Jeffrey Heffernan, a police officer in Paterson, New Jersey. Officer Heffernan's boss, Chief of Police James Wittig, was appointed by the mayor of Paterson, Jose Torres. Mayor Torres was running for reelection against Lawrence Spagnola, a good friend of Officer Heffernan. At the request of his bedridden mother, Officer Heffernan, who was off-duty at the time, went to Spagnola's campaign offices to pick up a campaign sign to replace the one that had been stolen from her yard. Word got back to Officer Heffernan's office that he was there, sign in hand, talking to campaign workers. The next day, Officer Heffernan was demoted under the mistaken belief that he was overtly involved in Spagnola's mayoral campaign, when in fact all he was trying to do was help his mother.

Officer Heffernan responded by bringing a civil rights lawsuit against the City of Paterson in federal court. Federal law allows people to sue the government when it violates their constitutional rights. "Every person who, under color of any statute, ordinance, regulations, custom, or usage, of any State ... subjects or causes to be subjected, any citizen of the United States ... to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law..." 42 U.S.C. § 1983. Officer Heffernan alleged in his lawsuit that the City retaliated against him for exercising his First Amendment rights of political speech. Both the District and Third Circuit Court of Appeals disagreed, ruling against Officer Heffernan on the grounds that, though the City thought that he had engaged in constitutionally protected conduct, Officer Heffernan hadn't actually done so. As Officer Heffernan himself claimed, he wasn't speaking in support of the Spagnola campaign. He was just doing an errand for his mother.

On appeal, the question for the U.S. Supreme Court became whether a claim could be brought against a government employer for taking an adverse employment action against an employee under a mistaken belief that the employee was exercising a constitutionally-protected right. Justice Thomas, who wrote the dissenting opinion, didn't think so. Neither did Justice Alito, who joined his dissent. They argued that federal law doesn't provide a right to sue the government when one's constitutional rights haven't actually been violated. For them, the violation is a necessary prerequisite to the cause of action remedying it. When employees bring a free-speech retaliation

### 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

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## LEGAL AND REG.

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claim, “public employees like Officer Heffernan must allege that their employer interfered with their right to speak as a citizen on a matter of public concern ... [i]f the employee did ... speak as a citizen on a matter of public concern, then the Court looks to ‘whether the relevant government entity had an adequate justification for treating the employee differently from any other member of the general public.’” However, the dissenters noted, if the employee didn’t speak on a matter of public concern, then he hasn’t exercised his First Amendment right of free speech and he consequently has no cause of action based upon his employer’s response to it. Officer Heffernan’s demotion may be considered “callous,” wrote Justice Thomas, but it wasn’t unconstitutional.

Justice Breyer, who wrote the majority opinion, and the remaining Justices saw things differently. Finding no answer to the question before them in the wording of the law itself, Justice Breyer turned to Court precedent (prior Court decisions) for guidance, where he settled upon *Waters v. Churchill*, 511 U.S. 661 (1994). In that case, an employer fired an employee on the mistaken belief that the employee had engaged in workplace gossip (not constitutionally protected speech) when in fact the employee had spoken on a matter of public concern (constitutionally protected speech). The Court in that case ruled in favor of the employer because its motive was pure and its mistake reasonable. If motive was the determinative factor in that case, Justice Breyer reasoned, the same should hold true in the Heffernan case. “After all, in the law, what is sauce for the goose is normally sauce for the gander.” The Court found that the City’s motive behind demoting Officer Heffernan was to prevent him from engaging in the campaign, an activity protected by the First Amendment, and therefore Officer Heffernan had a right to sue the City under federal law.

In supporting its decision, the Court also pointed to the anticipated real world consequences of the case by emphasizing that an employer’s mistaken assumption about an employee engaging in protected speech doesn’t protect the employee from the risk of retaliation in the workplace. On the other hand, extending to Officer

Heffernan and others the right to sue based upon their employers’ improper motive will encourage rather than discourage employees from engaging in protected activities.

It is important to point out what was not decided by this case. The Court only found and ruled upon the City’s “improper motive.” This case was just about the right to bring a free speech retaliation lawsuit against a government employer. It did not address the question of whether its retaliatory actions were unconstitutional. That decision would require determining whether it had acted pursuant to a “different and neutral policy prohibiting police officers from overt involvement in any political campaign.” The Court remanded the case to the lower courts to resolve that issue. For a more complete treatment of the how courts will review the constitutionality of free speech retaliation claims, see: <http://www.vlct.org/assets/Resource/LRN/2013/LRN-free-speech.pdf>.

The *Heffernan* case is archived at [www.supremecourt.gov/opinions/15pdf/14-1280\\_k5fl.pdf](http://www.supremecourt.gov/opinions/15pdf/14-1280_k5fl.pdf).

*Garrett Baxter, Senior Staff Attorney  
VLCT Municipal Assistance Center*

## Town’s Authority to Comment on Proposed Charter Change Upheld

The Vermont Supreme Court recently upheld the authority of the selectboard of the Town of Brattleboro to comment on voter-initiated charter amendments by distributing an information sheet about those amendments. *Kurt Daims & Craig Newbert v. Town of Brattleboro*, 2016 VT 55.

Prior to the Town of Brattleboro’s March 2015 annual town meeting, plaintiffs Kurt Daims and Craig Newbert submitted voter-backed petitions to amend the town charter. Among the proposed changes, the petitions sought to give voters the right to seek a referendum on articles (1) authorizing the town to spend more than \$2 million, (2) have the town officials be elected in November rather than March, (3) require employers within the town to provide two hours’ paid leave for employees to vote at town meetings, and (4) have the town grand juror enforce the minimum wage and function as a district attorney for the town.

After receiving the petitions, the selectboard “met and resolved to endorse an ‘information

*(continued on page 12)*

## JUNE MUNICIPAL ASSISTANCE CENTER WORKSHOPS

### Human Resources and Employment Law Workshop

June 2, 2016, *Capitol Plaza, Montpelier*

Sessions will cover state and federal legislative updates as well as numerous best practices to support your legal compliance and administrative responsibilities as municipal employers.

### 21st Century Policing in Vermont

June 8, 2016, *Capitol Plaza, Montpelier*

The International Association of Chiefs of Police will host a team of experts to explain how the Six Pillars of the President’s Task Force on 21st Century Policing can be applied in Vermont.

### Spring Planning and Zoning Forum

June 15, 2016, *Lake Morey, Fairlee*

This workshop provides a dynamic mix of legal information, practical solutions, and policy information as well as the opportunity to discuss pressing issues in municipal planning and zoning with knowledgeable officials from across the state.

**REGISTER NOW!**

[www.vlct.org/eventscalendar](http://www.vlct.org/eventscalendar)



## TRUST MATTERS

*Noteworthy and timely information from VLCT's non-profit risk-sharing trusts.*

**Editor's Note:** "Trust Matters" is a new designation for the noteworthy and timely pieces of information relating to VLCT's non-profit risk-sharing trusts that have populated center pages of the VLCT News for nearly 20 years. Thus, the items previously known as "Loss Prevention Notes," "Risk Management Notes," "CUTS (Communications Under Ten Sentences)," and "News To Use," all relating to the operation of VLCT's member-owned risk-sharing trusts, are, in effect, ancestors of the monthly column now labeled "Trust Matters."

### 2016 RMS CALENDAR

**Extended Deadline for ALEs and Smaller Self-Insured Employers to File IRS Forms 1094B or 1094C.** May 31, 2016, if filing by mail; June 30, 2016, if filing by email. This is the second step in complying with the health insurance reporting requirements of the federal Affordable Care Act (ACA).

**21st Century Policing in Vermont Seminar.** Friday, June 10, Capitol Plaza Hotel and Conference Center, Montpelier. Co-sponsored by VLCT PACIF, the Vermont Criminal Justice Training Council, and the Vermont Association of Chiefs of Police. The keynote speaker will be David Kennedy, Professor of Criminal Justice and Director of the National Network for Safe Communities, John Jay College of Criminal Justice, New York, N.Y. Jim Baker of the International Association of Chiefs of Police (IACP) will lead a multi-format seminar with important information for Vermont's municipal governing board members, managers and administrators, police chiefs, constables, and other law enforcement personnel. Before June 3: \$40 per person for VLCT and PACIF members or \$105 per person for non-members who are law enforcement professionals\*; add \$10 per person for registrations received after June 3. Fee includes light breakfast and lunch. To see the agenda and register online, visit [www.vlct.org/eventscalendar](http://www.vlct.org/eventscalendar) and click on the workshop title. (\*Non-members must pay in advance with checks payable to VLCT; 89 Main Street, Suite 4; Montpelier VT 05602.) Questions? Contact VLCT at 800-649-7915 or [info@vlct.org](mailto:info@vlct.org).

**OSHA 511 Occupational Safety and Health Standards for General Industry.** 8:00 a.m. to 4:30 p.m. Monday, July 11 through Thursday, July 14, Windjammer Hotel and Conference Center, 1076 Williston Road, South Burlington. Presented by the OSHA Training Institute Education Center (OTIEC), Keene, N.H. This 30-hour training is an excellent general industry standards survey course for up-to-date information on OSHA policies, procedures and standards, as well as general industry safety and health principles. 2.6 CEUs for completion. Fee of \$865 per person can be reduced by \$150 for Vermont Safety & Health Council (VSHC) members who email Bruce Gray at [landrock@verizon.net](mailto:landrock@verizon.net) for the discount voucher and by an additional \$500 for PACIF members who obtain a PACIF scholarship (current guidelines and application at [www.vlct.org/rms/pacif/pacif-scholarships/](http://www.vlct.org/rms/pacif/pacif-scholarships/)). For more information and to register, go to [www.oshaedne.com](http://www.oshaedne.com), use the left-hand "Safety & Health Trainings" tab to access Courses by State, and under Vermont find 511 OSHA.

### GROUP DENTAL RATES AND RENEWALS

VERB Trust members received the excellent news in late April that rates for the Trust's Group Dental benefit for both fiscal year (FY), July 1 to June 30, and calendar year (CY), January 1 to December 31 plans will remain unchanged for the next coverage year. Thanks to our long-term relationship with Northeast Delta Dental, VLCT members continue to have low-cost access to the highest quality benefits.

Soon after the VERB Trust's Board of Directors met and approved the proposed FY 2016-2017 and CY 2017 rates, VLCT's *Health Benefit Programs Administrator*, Kelley Avery, sent – by both email and postal mail – a memo to VERB members with all the information and forms needed by current and future Dental program groups for Open Enrollment and the renewal process. The memo and attachments are also posted on VLCT's Dental webpage ([www.vlct.org/rms/verb/dental-insurance/](http://www.vlct.org/rms/verb/dental-insurance/)).

Most current groups have FY coverage with Open Enrollment during May and an effective date of July 1, 2016 (and groups with CY coverage will hold their Open Enrollment during November 2016 for coverage effective on January 1, 2017). If your group currently has FY coverage with us and has no changes to make, relax: everything will be rolled forward for you. However, **if you have any group-level or employee-level changes, please immediately follow the renewal instructions in Kelley Avery's March 29, 2016 letter.**

Groups currently set up for FY coverage may switch to CY coverage, and any VLCT

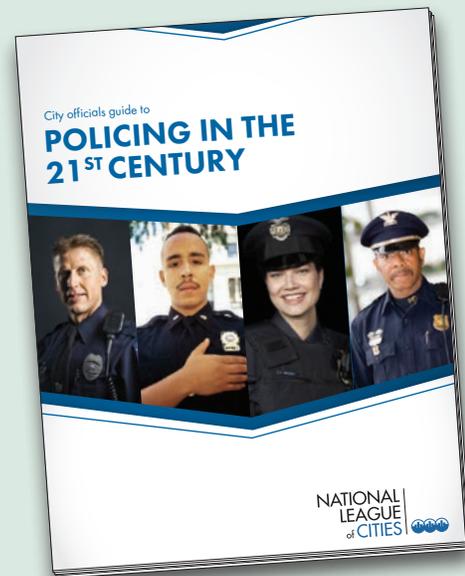
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# PACIF

Workers' Compensation, Property, Auto, Crime  
General, Law Enforcement, Public Officials, and Employment Practices Liability  
Loss Control Consultation, Safety Programs and Training, WorkStrong

## 21<sup>ST</sup> CENTURY POLICING – PILLARS 5 AND 6

*Editor's Note: This, the last article in a series of four explaining The Final Report of the President's Task Force on 21st Century Policing, is part of VLCT PACIF's efforts to encourage its member police departments to embrace and implement the principles put forth in the Report. This installment is a reprint of explanations of the main topic areas designated as Pillars 5 and 6 from City Officials Guide to Policing in the 21st Century, a recent publication of the National League of Cities (NLC) written specifically to help city officials understand how they can most effectively support their police departments in implementing the best practices and recommendations listed in the Report. While the NLC guide addresses cities, many of its messages have value for smaller-scale Vermont communities. The PDF of this 20-page guide is on the NLC website at <http://www.nlc.org/fnd-city-solutions/city-solutions-and-applied-research/governance/city-officials-guide-to-community-policing>, and the PDF of the complete 116-page Report is on the U.S. Department of Justice's Community Oriented Policing Services (COPS) website at [www.cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).*



### **Pillar Five: Training and Education**

Pillar Five focuses on the training and education needs of law enforcement.

City leaders need to understand, support, and encourage law enforcement officers to receive training on community policing principles. Training programs in community policing should explore the dramatic shifts in society, technology, criminal trends, economics, and the very definition of “community” relative to law enforcement. Law enforcement officers need to understand problem-solving tools, practice de-escalation methods, discover examples of successful police and community partnerships, and be educated about directly linking to numerous community-policing resources.

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**“Municipal police chiefs, officials, and administrators who are interested in the future of local policing are encouraged to attend VLCT’s full-day seminar on 21st Century Policing in Vermont on Friday, June 10, in Montpelier.”**

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### **The Six Pillars of 21<sup>st</sup> Century Policing**

#### **Pillar 1**

Building Trust and Legitimacy

#### **Pillar 2**

Policy and Oversight

#### **Pillar 3**

Technology and Social Media

#### **Pillar 4**

Community Policing and Crime Reduction

#### **Pillar 5**

Training and Education

#### **Pillar 6**

Officer Wellness and Safety

City leaders need to ensure their law enforcement officers are effectively trained to:

- de-escalate incidents before they become violent
- assist individuals who are in crisis or living with mental disabilities
- appropriately interact with people facing drug addiction
- avoid personal and implicit bias and prejudice
- understand and respect racial and cultural differences
- promote the principles of policing in a democratic society
- effectively implement procedural justice procedures
- develop effective communications, social interaction, and tactical skills
- build strong and trusting relationships with the community they serve

*(continued on next page)*



## 21<sup>ST</sup> CENTURY POLICING

(continued from previous page)

### Pillar Six: Officer Wellness and Safety

Pillar Six emphasizes the support and proper implementation of officer wellness and safety as a multi-partner effort. Every day, law enforcement officers face dangerous situations that can adversely affect their mental state and future actions, which in turn could affect how they respond to the next incident.

City leaders need to work with their law enforcement executives to ensure police officers are at their best both on and off the job. Law enforcement agencies should be encouraged to embrace injury reduction and mitigation practices, develop nutrition recommendations for law enforcement officers, ensure traffic safety (including the wearing of seatbelts and the proper use of cell phones while driving), develop skills for situational awareness, provide ongoing physical training

and endurance programs, and, most importantly, support mental health treatment for officers and their families.

Excerpted from  
*City Officials Guide to Policing in the 21st Century*  
by Yucel Ors and Nicole DuPuis

*Municipal police chiefs, officials, and administrators who are interested in the future of local policing are encouraged to attend VLCT's full-day seminar on 21st Century Policing in Vermont on Friday, June 10, in Montpelier. David Kennedy, Professor at the John Jay College of Criminal Justice and Director of the National Network for Safe Communities, will give the keynote speech, "The Art of Building Trust and Legitimacy in Communities." The challenges of and opportunities for implementing the principles of 21st Century Policing in Vermont will be addressed in three additional sessions with a variety of professionals assembled by Jim Baker of the International Association of Chiefs of Police. For more information, see the calendar entry on page 8.*

## TRUST MATTERS

(continued from page 8)

member can initiate this coverage. To do either of these, or to obtain information about non-group dental insurance, please call Larry Smith or Kelley Avery at 1-800-649-7915. If you have any dental claim or customer service issues, call Northeast Delta Dental directly at 1-800-832-5700.

We encourage you to consider all of the employee benefits that are available through the VERB Trust. We understand your needs and value your membership!

## NEW HEARING DISCOUNTS WITH VISION COVERAGE

EyeMed Vision Care®, the VERB Trust's partner for vision coverage, now offers discounts on hearing services. All employees enrolled in an EyeMed Vision Care vision wellness plan are automatically eligible. EyeMed has partnered with Amplifon, the world's largest distributor of hearing aids and services, to bring these discounts to its participants.

This hearing discount program has:

- 40% off hearing exams at participating providers
- Discounts on hearing aids, including the latest technology on the market
- Low price guarantee: if subscribers find the same product at a lower price, Amplifon will beat it by 5%
- A 60-day hearing aid trial period with no fees
- One year of free follow-up care with unlimited appointments
- Free batteries for two years with initial purchase
- A three-year warranty and loss and damage coverage

Vermont currently has five providers in this hearing discount program. EyeMed subscribers need only call Amplifon at 1-844-526-5432 to find the nearest participating provider and start taking advantage of this great deal.

For more information about this or EyeMed vision coverage in general, please refer to the Vision Coverage page on VLCT's website at <http://www.vlct.org/rms/verb/vision-coverage>, or contact Larry Smith ([lsmith@vlct.org](mailto:lsmith@vlct.org)) or Kelley Avery ([kavery@vlct.org](mailto:kavery@vlct.org)) at VLCT at 800-649-7915 for more information.

Every day, 156 million phishing emails are sent. 16 million of them get through security filters, 8 million are opened, and 800,000 are clicked.

Cyber crime is real – even in Vermont.

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We encourage PACIF member officials and employees to log on to PACIF Online University and train themselves at any time, on any computer, at their own pace.

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



## GOLF PROCEEDS

(continued from page 1)

### Heads Up for 2016!

All local officials and their enthusiastic golfing friends should set aside **Wednesday, August 24, 2016**, to tee off with us at the Green Mountain National Golf Course in Killington. As usual, this will be a four-person scramble with a 9 a.m. shotgun start and 18 holes followed by a prize-laden lunch. Golfers who are new to this event should contact Pam Fecteau ([pfecteau@vlct.org](mailto:pfecteau@vlct.org)) to be added to the mailing list, and all appropriate sponsors may contact her to express their interest in supporting this very lush green event.

### Please Support Our Advertisers

If your municipality is planning a purchase of products or services offered by our advertisers, please consider contacting them. Don't forget to say you saw their ad in the *VLCT News*.

*Thank you.*



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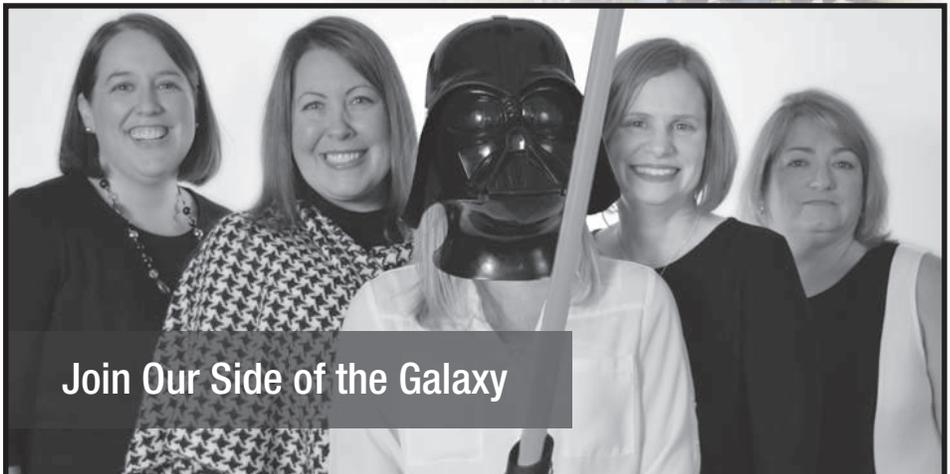
## STAFF NEWS

**Kelly Kindestin** recently celebrated her 20th anniversary here, having begun her VLCT career as an Inside Casualty Claims Representative in May of 1996. She was promoted to Senior Claims Representative in 2000, to Assistant Claim Supervisor in 2005, and to Property and Casualty Claims Manager in 2008, the position she holds today. Kelly manages a team of five representatives and administrative claims staff, all of whom would gladly give up their cherished parking space for her if she asked them to.

VLCT had 15 employees – both onsite and throughout the state – participate in the 10th Annual National Walk at Work Day on April 27. Well done, stalwart walkers!



*Above, top: Kelly Kindestin in 2007 (and she hasn't aged a whit since then!). Above, bottom: 60 percent of VLCT's 10th Annual National Walk at Work Day walkers.*



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## LEGAL AND REG.

(continued from page 7)

sheet’ regarding the petitions and distribute the information to media outlets in the area.” The information sheet was emailed to town meeting representatives, the media, selectboard members, town staff, and others who requested it. The information sheet expressed the selectboard’s opinion on the petitions stating, in part, that “setting separate rules for voter review of budget items over \$2 million is confusing and arbitrary,” moving elections from March to November would leave the town out of step with the rest of Vermont, and giving powers to the town grand juror is unnecessary and would only cause confusion as enforcement is handled through other town officials. In short, the information sheet made arguments against approving the petitioned charter changes. Ultimately, the town voted against the proposed petitions.

The plaintiffs sued the town in superior court, alleging, among other things, that the selectboard violated Chapter I, Article 8 of the Vermont Constitution, which states that elections be free and without corruption. The plaintiffs sought to nullify the vote and order a new election, and to prevent the selectboard from issuing any further

statements opposing the petitioned articles. The town filed a motion for summary judgment arguing that the selectboard’s actions were consistent with the state law concerning charter amendments. The superior court found in favor of the town.

On appeal to the Vermont Supreme Court and now represented by counsel, the plaintiffs’ argument boiled down to one point: that distributing the information sheet was unauthorized under the statutory framework for municipal charter changes, found in 17 V.S.A. § 2645. Daims and Newbert claimed that once a voter-backed petition is submitted to the selectboard, it is “authorized to do only what it is required to do under statute: provide notice, hold hearings, add articles to the warning, order an election, and refrain from altering the petition in any way.”

The basis for this argument – that the selectboard lacked authority – came from the well-known principle, Dillon’s Rule, which states municipalities “owe their origin to, and derive their powers and rights wholly from, the legislature.” Vermont is a Dillon’s Rule state and as such its municipalities only have authority to do what State law explicitly authorizes. In other words, as the court explained: “[i]n essence, plaintiffs argue that any action taken by the selectboard beyond that set forth in the

statute with respect to a voter-initiated petition to amend the charter – including taking a position on the petition – is beyond the selectboard’s authority.”

The Vermont Supreme Court disagreed and affirmed the superior court’s decision. The court explained that Dillon’s Rule, when fleshed out further, also “stands for the broad proposition that municipalities’ powers ‘include both those powers granted in express words by statute and those powers necessarily or fairly implied in the powers expressly granted.’” The court said that “while there is no explicit authority under the statute to allow municipal bodies to comment on voter-initiated petitions, such authority, within limitations, is fairly and reasonably implied under the statute and the town charter.” In other words, the statute presumes an active role in charter amendments by the selectboard because 17 V.S.A. § 2645(a)(1) allows proposed charter amendments to be proposed by not only voters, but also by the local legislative body.

The court further validated the selectboard’s actions by stating that the selectboard could in good faith comment on the petitions because they concerned government functions and operations. Citing several federal cases, the court agreed “that municipalities may present views for or against proposed legislation or referendum of the people of questions which in their judgment would adversely affect the interests of their residents.”

Finally, the court said that even assuming the selectboard had gone beyond its authority by distributing the information sheet, its conduct did not rise to the level that would mandate a reelection. The court explained that reelections are ordered only as extraordinary remedies and in the event of “extreme circumstances.” In this case, the circumstances were far from extreme. Namely, the information sheet was not handed out with the ballot or at the polling place and secondly, the plaintiffs offered no evidence that showed that the sheet actually caused any voters to change their minds. Therefore, there was an absence of culpable intent (for example, that the selectboard had acted willfully to deceive voters) and no reelection was necessary.

You can read the decision in its entirety at <https://www.vermontjudiciary.org/LC/Supreme%20Court%20Published%20Decisions/op15-317.pdf>.

*Carl Andeer, Staff Attorney I  
VLCT Municipal Assistance Center*

## On-Site BCA Training – Effective Property Tax Appeals

Staff attorneys from the Municipal Assistance Center will travel to your town office to conduct training for all members of the Board of Civil Authority – selectboard members, town clerks, justices of the peace – as well as listers and hired/appointed appraisers. It will cover:

- the objectives and parameters of the tax appeal process;
- the procedures and timelines that must be followed; and
- tools for managing the entire process appropriately and effectively.

The cost for PACIF members is \$415.

**Schedule your training for April, May, or June now!**

**Contact Abby Friedman at [afriedman@vlct.org](mailto:afriedman@vlct.org)  
or 800-649-7915, ext. 1926**



# 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

**Lineman.** The Village of Johnson Water & Light Department seeks a 1st/2nd Class

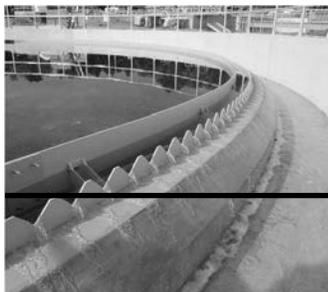
Lineman to work principally for the electric department. This individual also assists the water, sewer and general departments as needed. He or she reports to the Public Works Foreman and works under the general supervision of the Village Manager. Requirements: Must be able to successfully, maintain, install, and service, systems and equipment related to all departments, be safety minded and demonstrate a high level of skill, independent judgment and responsibility; high school diploma; Class B CDL license, Vt. Lineman/Journeyman Certificate or equivalent (as determined by the Board of Trustees); must be able to work weekends and on call; must reside within a travel distance of 30 minutes from the Village of Johnson. A job description is posted at [www.townofjohnson.com](http://www.townofjohnson.com). Starting salary to \$32/hour DOE/Q plus a generous benefits package. Details to be negotiated with the Village Board of Trustees. Contact Rosemary Audibert at 802-635-2611 or email resume and a letter of interest to [raudibert@townofjohnson.com](mailto:raudibert@townofjohnson.com) or mail to Village of Johnson, PO Box 603, Johnson, VT 05656. Position open until filled. (04-29)

**Town Administrator.** The Town of Whately, Mass., is accepting applications for the position of Town Administrator. The Town Administrator is appointed by the

Selectboard to perform professional, administrative, and supervisory work. Requirements: experience with project management; excellent oral and written communication skills; strong interpersonal skills and the ability to speak publicly and represent the Selectboard; Bachelor's degree preferred with at least five years of professional experience in local government. The job description may be downloaded at <http://www.whately.org/>. The position is for 40 hours per week; salary range, \$60,000-\$65,000. Please email cover letter and resume to [whatelysecretary@comcast.net](mailto:whatelysecretary@comcast.net) or send to Whately Town Administrator Search Committee, Town of Whately, 4 Sandy Lane, South Deerfield, MA 01373. Review of resumes begins May 27, 2016. Position open until filled. (05-03)

**Finance Director.** The Town of Milton seeks an engaging, collaborative, and skilled municipal finance steward to join its senior management team as its Finance Director. Reporting to the Town Manager, this full-time position is responsible for the oversight, forecasting, and tracking of the Town's financial health. The Director supervises three full-time employees in the Department and is expected to provide regular updates, fiscal analysis,

*(continued on next page)*



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## CLASSIFIEDS

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and public policy recommendations to the Town Manager and five-member Selectboard. The Finance Department of the Town also provides the Milton School

## TRIVIA

If I thought that the answer to the April trivia question was of the low-hanging fruit variety, then May's solution was already on the ground with a large "*Hey, here I am!*" arrow in five-foot-high electric letters pointing to it.

Nineteen personages – namely Carol Daigle, Steve Hier, Nancy Bushika, Martha Taylor-Varney, Louise Luring, Stacey Therrien, Jan Perkins and Eric Osgood, Darcy Dudley, Julie Rohleder, Heidi Racht, Michael McCarthy, Herb Durfee, Ann Myers, R.J. Burke, Sandy Pinsonault, Heather Kent, Brendan Whittaker (an anagram of which is "Bent Knit Hardware"), and Rosemary Morse of Williston, Weathersfield, Stamford, South Hero, Saxtons River, Newport, Johnson, Jeffersonville, Hyde Park, Huntington, Georgia, Fair Haven, Essex, East Haven, Dorset, Clarendon, Brunswick, and Berlin, respectively, *somehow* figured out that Vice-president T. Roosevelt was in Isle La Motte – specifically at the home of Lieutenant Governor N. Fisk – when he learned that his boss, President W. McKinley, had been shot. Well, um, *researched*, everyone!

Consolidating school districts was a hot button issue in the legislature again this year because some people believe the current number of districts, 364, is too high. But that's *peanuts* compared to one year when Vermont boasted 2,680 of them.

**What year was that?** Wait, I'm not finished. Sometime later, the General Assembly abolished all of the individual districts and set up one town school district in each town, trimming the number by nearly 2,000. **In what year did that occur?**

Dispatch your best guess(es) to [dgunn@vlct.org](mailto:dgunn@vlct.org). The answer(s) will appear in the jackpot July issue.

District with accounting services for payroll and accounts payable. The job description ([http://miltonvt.org/images/Finance\\_Director\\_2016.pdf](http://miltonvt.org/images/Finance_Director_2016.pdf)) gives a detailed breakdown of tasks and expectations. Located in Northwest Vermont on the shores of Lake Champlain, Milton is home to just over 10,000 residents. Milton has a \$7.5 million operating budget, capital reserve fund, enterprise fund for water and wastewater, and special revenue funds for recreation, public safety, and public works. The town has two tax increment financing (TIF) districts, two industrial parks, and is a growing and vibrant community rich in tradition and civic pride. The Milton School District has a \$27 million operating budget. The Finance Director works closely with the School Business Manager on a variety of fiscal matters. Milton seeks a Director with a passion for municipal accounting and fiscal analysis with a proven track record of managing complex financial systems and accounts in a fund-based accounting setting. The Director should be a watchdog for key controls and process and be a systems-based thinker who ensures that high standards of fiduciary responsibility are always being met. The successful candidate will serve as a collaborative and empowering supervisor for a busy department with an eye for building capacity for future operational growth. Salary range is \$72,000-\$92,000, commensurate with experience. The Town of Milton offers an excellent benefits package. To apply, send your resume, cover letter, and a Town of Milton job application (download at [http://miltonvt.org/images/pdf/files/employ/Employment\\_App.pdf](http://miltonvt.org/images/pdf/files/employ/Employment_App.pdf)) by **Wednesday, June 8**, to Erik Wells, Director of Administration, at [ewells@town.milton.vt.us](mailto:ewells@town.milton.vt.us) or mail to Erik Wells, Director of Administration, Town of Milton, 43 Bombardier Road, Milton, VT 05468. EEO. (05-03)

**Zoning Administrator.** The Town of Underhill seeks a Zoning Administrator (ZA). The position is part time (16 hours per week) and has no benefits. The ZA has all of the duties and responsibilities required by 24 V.S.A. Chapter 117 and is the primary staff person to administer and enforce zoning ordinances and issue permits. He or she is appointed by the Selectboard, after nomination by the Planning Commission, to a three-year term. Requirements: Bachelor's degree in

public administration or related field is preferred but candidates will be considered on overall experience, qualifications, education, and training; at least two years of successful experience in land use, zoning, public administration or related fields is preferred; some field work is required; occasional attendance at evening meetings may be required. The successful candidate will have strong interpersonal and communication skills and be able to work both independently and cooperatively. A complete job description is posted at <http://www.underhillvt.gov/>. For more information, contact RaMona Sheppard, HR Manager, at 802-899-4434, ext 102. Please email cover letter, resume, and references to [rsheppard@underhillvt.gov](mailto:rsheppard@underhillvt.gov), or mail to RaMona Sheppard, HR Manager, Town of Underhill, PO, Box 120, Underhill, VT 05489. (05-05)

**Paramedic/Asst. Fire Chief.** The Town of Woodstock is seeking applications from interested candidates for the full-time position of Paramedic/Asst. Fire Chief. Duties include managing an ambulance service staffed with call paid volunteers that operates 24/7/365. Fire department duties include responding to daytime fire calls, if available, and managerial duties as assigned by the Chief. Qualifications: valid Vermont Paramedic or National Registry Paramedic license; prior supervisory experience as Officer or Ambulance Crew Chief; Vermont Firefighter Level 1 certification or ability to obtain it within one year of hire. Salary range, \$58,000 to \$60,000, depending on qualifications. An application form is posted at [www.townofwoodstock.org](http://www.townofwoodstock.org) under Job Opening, or call 802-457-3456 to request one by mail. Submit completed application, resume, and letter of interest by Wednesday, June 1, 2016, to Philip Swanson, Municipal Manager, Town of Woodstock, PO Box 488, Woodstock, VT 05091. (05-06)

**Highway General Foreman.** The Town of Hartford seeks a qualified candidate for the position of Highway General Foreman. Duties include assisting the Highway Superintendent with daily supervisory and administrative tasks of the Highway Department; serving as a Highway Site Foreman; and performing the duties of an equipment operator on a limited

(continued on next page)



## CLASSIFIEDS

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basis, with a focus on complex and highly skilled equipment operations in all seasons. Minimum qualifications: basic education (high school) and at least two years of college desirable, plus eight to 10 years of relevant technical and supervisory experience, or a combination of education and experience from which comparable knowledge and skills are acquired; broad base of knowledge and skills related to highway maintenance and construction operations; a combination of skills and experience demonstrating the above requirements may be considered; must possess or be able to obtain a CDL License. A job description and employment application are available at the Hartford Department of Public Works or at [www.hartford-vt.org](http://www.hartford-vt.org). Submit a cover letter and resume or application to [aricker@hartford-vt.org](mailto:aricker@hartford-vt.org) or mail to Town of Hartford, Attn: Allyn Ricker, 173 Airport Road, White River Junction, VT 05001. Equal Opportunity Employer. (05-10)

**Road Crew Member.** The Town of Pownal seeks a full-time Road Crew Member. Requirements: valid CDL Class B (minimum) with air brakes endorsement; must be willing to work long hours during winter, be capable of heavy lifting and be in good physical condition; must be a self starter and be able to work alone at times with little supervision; must be able to maintain logs, have mechanical ability, and operate construction equipment and road maintenance/construction equipment' must pass physical exam and drug test. Salary commensurate with experience with excellent benefits package. To apply, send a confidential letter of interest detailing experience and qualifications plus three references to Pownal Board of Selectmen, Road Crew Position, PO Box 411, Pownal, VT, 02561-0411, or email [pownallcs@comcast.net](mailto:pownallcs@comcast.net) with Road Crew Position in the subject line. Position open until filled. EOE. (05-11)

**Tanker Fire Truck.** The Town of Franklin has for sale a 1994 Ford F800 Tanker Fire Truck. The vehicle, sold as is, has an 8.3 liter Ford/Cummins engine; 8,700 miles/1,064 hours; six-speed manual transmission; air brakes; 1,500-gallon (approx.) painted tank, single axle; 12-inch square dump rear, six-inch round dump, left and right; large under tank compartments, left and right; 11R 22.5 tires at 90%. If you have any questions or want to inspect the vehicle, call Marshall Ploof at 802-285-2145. Submit your sealed bid in an envelope marked "Fire Truck" **by 3 p.m. on Friday, July 1, 2016**, to Town of Franklin, PO Box 82, Franklin, VT 05457. (05-10)

**Plow Truck.** The Town of Corinth Highway Department has a 2010 Ford F550 Super Duty Plow Truck for sale. The vehicle has 63,000 miles on it and includes plow and sanding equipment. For more information or to make an appointment to inspect the truck, call Joe Blodgett, Corinth Road Foreman, at 802-439-6272 from 6:30 a.m. to 4:30 p.m. Monday through Thursday. Hand deliver bid in a sealed envelope clearly labeled "Highway Truck Bid" **by noon on Monday, July 11, 2016**, to 1387 Cookeville Road in Corinth, or mail it to Corinth Town Office, PO Box 461, Corinth, VT 0539. The bids will be publicly opened at 7 p.m. at the July 11 selectboard meeting. The Town of Corinth reserves the right to reject any and all bids. (05-10)

## FOR SALE

**Ambulance.** The Town of Williamstown has for sale a 2007 Ford E350 Road Rescue "Ultra Medic" ambulance. Manufactured by Specialty Vehicles, the ambulance has 58,800 miles on it. Asking \$6,000 or best offer. For more information or to schedule an appointment to inspect the vehicle, please contact the Williamstown Town Manager at 802-433-6671. (05-02)



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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.

### HR/EMPLOYMENT LAW WORKSHOP

Thursday, June 2

Capitol Plaza Hotel and  
Conference Center, Montpelier

### GOVERNMENTAL ACCOUNTING AND AUDITING

Wednesday, June 8

Capitol Plaza Hotel and  
Conference Center, Montpelier

### 21ST CENTURY POLICING

Friday, June 10

Capitol Plaza Hotel and  
Conference Center, Montpelier

### SPRING PLANNING AND ZONING FORUM

Wednesday, June 15

Lake Morey Resort, Fairlee

**GOLF!**  
with VLCT  
Wed., Aug. 24  
Killington

- Info in email & newsletter
- or ask Pam F. at League:  
800-649-7915  
[pfcteau@vlct.org](mailto:pfcteau@vlct.org)

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