

VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

August/September 2016

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

A)

NEW! TOWN FAIR 2016 IS A TWO-DAY EVENT, INCLUDING: A WEDNESDAY EVENING RECEPTION, MORE EXHIBIT OPTIONS, AND A NEWLY DESIGNED EXHIBIT AREA!

SPOTLIGHT ON TOWN FAIR TRAININGS

This year, Town Fair features more training opportunities than ever. A total of 19 different sessions will take place on Thursday, October 6. For a full listing with descriptions, visit our website, www.vlct.org, or refer to the attendee packet that we mailed to you.

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Register for Town Fair Online: www.vlct.org/eventscalendar

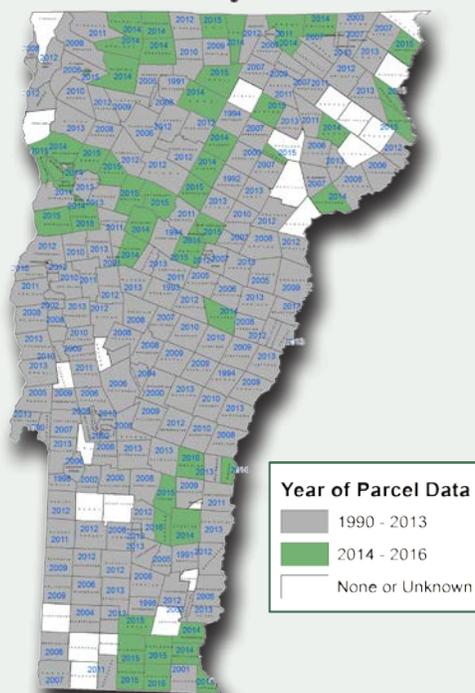
VISUALIZING LAND OWNERSHIP IN VERMONT

The Statewide Property Parcel Mapping Program, a project funded by the Vermont Agency of Transportation, creates or updates parcel data – that is, mapping data that depict ownership boundaries on tax maps, plus associated attributes like SPAN (Spatial Data Analysis Network) – to meet the state data standard over three years. It also establishes an ongoing program to support annual updates of that data. The Vermont Center for Geographic Information (VCGI) helps to staff and coordinate the program.

The state will choose mapping contractors to do the initial creation/update. Criteria for choosing the contractors will include a town's preferences and the ability of contractors to create mapping data that meet the state standard. A request for proposals will be published later this year for

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**VT Parcel Mapping Data Status
July 2016**



Above right: Parcel data for most towns is three or more years old.

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REMEMBERING SUE JANSSEN

Steven Jeffrey, former Executive Director of the Vermont League of Cities and Towns, offers this remembrance of Sue Janssen, Benson selectperson and member of the VLCT Board of Directors, who died on July 22, 2016.

Vermont local government lost one of its feistiest defenders with the passing of Sue Janssen, Benson selectboard member and member of the Vermont League of Cities and Towns Board of Directors. Sue matched her words with her many actions serving her community. Despite having been transplanted from parts south, she epitomized what makes Vermont so strong and different from the rest. Her credo of living life to its fullest was finding as many hours in the day that she could in service to others.

Sue's platform in her role on the VLCT Board was ensuring that all Vermont's small local governments' concerns were heard and needs provided for when decisions were being made at the regional or state level.

She did so not for personal gain or even for the gain of her own town. She did so because she fiercely believed that all of Vermont and all Vermonters are best served by the philosophy expressed in the words attributed to Thomas Jefferson, "[t]he government closest to the people serves the people best."

Serving in local government and its statewide association was only another means to the ends Sue sought to help her community. There was not a nonprofit or volunteer effort that served Benson and its neighboring communities in which Sue did not have a hand. She will be sorely missed by her communities of Benson and Vermont local government.



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ASK THE LEAGUE

CHANGE IN LOCAL NEWSPAPER'S SCHEDULE

Our local newspaper is changing its publication schedule so that it will no longer be printed daily. What changes should we make?

The fact that the newspaper is changing its publication schedule should not present much of a problem for municipalities,

although it may require a bit of advance planning by those responsible for publishing municipal notices.

Although there are a number of statutes that require publication of municipal notices in a newspaper "circulating" in the area, there is no general requirement that municipal notices be published in a newspaper that

is printed daily. Nor is there any requirement that the municipality's "newspaper of record" is one that is printed daily.

The general law regarding notice by publication, found in 1 V.S.A. § 174, states that "[w]henever a notice of any kind is required to be given by publication in a newspaper prior to a certain date for a certain number of weeks successively, it may be given by an insertion prior to such date once a week, for the number of successive weeks required, either in a daily, semiweekly, or weekly newspaper. If such publication is in a daily or semiweekly newspaper, such notice shall be inserted on the same day of each successive week." That statute makes it clear that municipalities may rely on "newspapers" that are printed on less than a daily basis.

For instance, notice for a land use hearing by a DRB or ZBA must be published "in a newspaper of general circulation in the municipality affected" not less than 15 days prior to the date of such hearing. 24 V.S.A. § 4464. Note that there is no requirement in that statute to post such notice "daily." In fact, there is no place in statute that imposes an obligation to publish a municipal notice "daily." Most statutory publishing requirements (like this one in 24 V.S.A. § 4464) merely impose a deadline by which a notice must be published.

The legislature has never addressed the issue of whether the "newspapers" referred to in statute include online news platforms. As such, we assume that online news platforms do not meet statutory requirements of "publication" by "newspaper." We recommend therefore, that a municipality should arrange for notices to appear in a newspaper on a day in which that newspaper is printed on paper and circulated in the area, rather than a

(continued on next page)

DON'T RELY ON OUTDATED INFORMATION ABOUT THE OPEN MEETING LAW!

NEWLY REVISED RESOURCES ARE AVAILABLE FROM MAC.

The Municipal Assistance Center (MAC) has updated its Open Meeting Law resources to reflect the most recent changes made during the 2016 legislative session. To learn more about the current version of the law and to obtain tools that will help municipal public bodies comply with it, please refer to the VLCT Vermont Open Meeting Law webpage, <http://www.vlct.org/vermont-local-government/vermont-open-meeting-law/>, which has links to the following documents:

- Changes to the Open Meeting Law (a July 2016 *VLCT News* article)
- Quick Guide to the Open Meeting Law
- Frequently Asked Questions about the Open Meeting Law
- Model Rules of Procedure for municipal boards, committees, and commissions
- Model Complaint and Response to a Complaint of a Violation of the Open Meeting Law forms

Members should take this opportunity to recycle paper copies and discard electronic versions of MAC documents and *VLCT News* articles on the subject of the Open Meeting Law that are dated earlier than May 2016. Those documents are outdated and will be removed from the VLCT website.

For additional Open Meeting Law assistance, MAC attorneys are available to respond to inquiries from VLCT members and conduct training at your town office for all public bodies.

Please call 800-649-7915 or email info@vlct.org to schedule a training or ask a question.



ASK THE LEAGUE

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day on which that newspaper only appears online.

The above advice applies not only to notices of DRB/ZBA hearings, but also to notices regarding ordinance adoption pursuant to 24 V.S.A. § 1972; hearings on the town plan or zoning bylaws pursuant to 24 V.S.A. § 4444; hearings to lay out, reclassify, or discontinue a road pursuant to 19 V.S.A. § 709; notices of the proposed sale of municipal property pursuant to 24 V.S.A. § 1061; notice regarding nominations of justices of the peace pursuant to 17 V.S.A. § 2413; and publishing of the town meeting warning pursuant to 17 V.S.A. § 2641. Please note, however, that some municipal charters have different requirements for posting or publishing notices and in those instances the municipal charters should be followed.

When it comes to notices for tax sales, the applicable statute requires advance advertising of the sale “three weeks successively in a newspaper circulating in the vicinity, the last publication to be at least 10 days before such sale.” 32 V.S.A. § 5252(2). As stated above, 1 V.S.A. § 174 allows that such notice “may be given by an insertion prior to such date once a week, for the number of successive weeks required, either in a daily, semiweekly, or weekly newspaper.” Our recommendation is to arrange for the notice of a tax sale to appear for three successive weeks on the same day of each week; that “day” being one which the newspaper is printed on paper and circulated in the area (rather than merely appearing online). The timing must be such that the last of these three notices is printed at least 10 days before the tax sale takes place.

Lastly, please note that Vermont’s Open Meeting Law (1 V.S.A. §§ 310, 312) only requires that notices for special meetings of a municipal public body are given to the media; the Law does not require that these notices are actually published or broadcast. As such, the publication or broadcast schedule of the newspaper or media outlet does not affect a municipality’s obligations under the Open Meeting Law.

If you have questions about the logistics and legalities of a statutorily-required municipal notice, please contact the Municipal Assistance Center at info@vlct.org or (800) 649-7915.

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

LAKE CHAMPLAIN PHOSPHORUS TMDL IMPLEMENTATION PLANS

On June 17, the Environmental Protection Agency (EPA) issued the long-awaited phosphorous Total Maximum Daily Loads (TMDLs) for the 12 Vermont segments of Lake Champlain. Long-term trends since 1990 indicate that phosphorus pollution entering the lake has continued to increase in some lake segments. EPA’s document sets targets for meeting water quality standards in each of the 12 lake segments and subdivides the targets among the major source sectors that contribute phosphorus to the lake. Those sectors include runoff from developed lands and roadways, agricultural lands, forest lands, erosion from unstable river and stream corridors, and discharges from wastewater treatment facilities.

The Lake Champlain TMDL establishes an accountability framework to help ensure the successful implementation of the water quality restoration plan. This guidance consists of four elements:

- the Phase 1 Implementation Plan;
- the five-year Tactical Basin Plans (also referred to as Phase 2 Implementation Plans) that the Vermont Department of Environmental Conservation (DEC) develops for each of the major watersheds in the state;
- EPA’s report card process; and
- EPA’s warning that it will take appropriate federal action if Vermont fails to meet the key targets in the Phase 1 report card or the implementation schedules outlined in the Tactical Basin Plans.

EPA is scheduled to issue the first interim report card assessing Vermont’s success in meeting the 2016 accountability framework milestones during the first quarter of 2017; release of the final report card assessing the 2017 milestones is scheduled for the first quarter of 2018. EPA will also issue an interim report card on the progress for each

(continued on page 24)

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 now!

**Contact Abby Friedman at afriedman@vlct.org
or 800-649-7915, ext. 1926**



LEGAL AND REGULATORY NOTES



U.S. SUPREME COURT: RULES IN FAVOR OF FREE SPEECH RETALIATION CLAIM, LIMITS WARRANTLESS BLOOD TESTS

U.S. Supreme Court rules in favor of police officer in political free speech retaliation claim.

**"I never make exceptions. An exception disproves the rule."
Sherlock Holmes, *The Sign of Four*, Chapter 2, "The Statement of the Case"**

We've all seen the scenario play out in our favorite TV police drama: a person commits a crime, gets arrested, and is "let off" on some

technicality despite the fact that we all – the judge, the prosecutor, the defense attorney, and the jury – know that the person is guilty. One of those "technicalities" is the so-called "exclusionary rule," which requires courts to exclude unlawfully obtained evidence from consideration in a criminal trial. This type of ill-gotten evidence is more commonly known as the "fruit of the poisonous tree." The exclusionary rule exists to protect the rights that American citizens are granted by the Fourth Amendment of the U.S. Constitution "to be secure in [our] persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend IV. The exclusionary rule was created to "deter unconstitutional police conduct. By barring the use of illegally obtained evidence, courts reduced the temptation for police officers to skirt the Fourth Amendment's requirements." It was this rule that was at the heart of the U.S. Supreme

Court's ruling in the recent case of *Utah v. Strieff*, 579 U.S. __ (2016).

The scene for the drama presented in the *Strieff* case was an alleged drug house in South Salt Lake City. Having received a tip, narcotics detective Douglas Fackrell conducted surveillance of the house where the number and frequency of its visitors had raised his suspicions. Wanting to "find out what was going on [in] the house" and "what [defendant Edward Strieff] was doing there," Officer Fackrell watched Strieff exit the house and walk to a nearby convenience store where the officer detained him. What happened next is the reason that this case went all the way up to our nation's highest court. Admittedly lacking even a reasonable suspicion that Strieff had committed any crime, Fackrell stopped Strieff and asked for his identification. After running

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LEGAL AND REG.

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his information, Fackrell learned that Strieff had an outstanding arrest warrant; not for any drug related offense but for a traffic violation. On the basis of the warrant and without Strieff's consent, Fackrell searched Strieff's person and found methamphetamines and drug paraphernalia, giving Fackrell a reason to arrest Strieff for possession.

At trial, Strieff moved to suppress the evidence, arguing that it was the "poisonous fruit" hanging from the "tree" of an unlawful investigatory stop. The trial court denied Strieff's motion and the Utah Court of Appeals affirmed that decision. The Utah Supreme Court, however, overruled both lower courts and ordered that the evidence be suppressed because only "a voluntary act of a defendant's free will (as in a confession or consent to search)" sufficiently breaks the connection between the illegal search and the evidence it yields. The case was then appealed to the U.S. Supreme Court.

In a 5 to 3 decision, the U.S. Supreme Court found in Officer Fackrell's favor and reversed the Utah Supreme Court's decision. Writing for the majority (and this is where the quote at the beginning of this article comes into play), Justice Thomas pointed to the application of one of the three exceptions to the exclusionary rule: the so-called "attenuation" doctrine. As Justice Kagan explained in her dissent, the attenuation doctrine "marks the point" at which the discovery of evidence 'become[s] so attenuated' from the police misconduct that the deterrent benefit of exclusion drops below its

cost." In other words, this doctrine evaluates just how close the link is between the unlawful conduct and the discovery of the evidence resulting from it.

Both sides of the court agreed to the three factors to be weighed and their potential consequences: "First, the closer the 'temporal proximity' between the unlawful act and the discovery of the evidence, the greater the deterrent value of suppression. Second, the more 'purpose[ful]' or 'flagran[t]' the police illegality, the clearer the necessity, and better the chance, of preventing similar misbehavior. And third, the presence (or absence) of 'intervening circumstances' makes a difference." As a threshold matter, both sides of the court agreed that Officer Fackrell's actions were unconstitutional. What they disagreed on was whether his unlawful conduct warranted throwing out the evidence that resulted from it.

The majority acknowledged that the first of the above three factors (temporal proximity) did not weigh in Officer Fackrell's favor because he discovered the illegal drugs only minutes after his illegal stop. On the other hand, the second and third factors *did* weigh in the officer's favor. The exclusionary rule, the majority held, exists to deter evidence only when police misconduct is "purposeful or flagrant." In its opinion, Officer Fackrell's conduct was "at most negligent" and the product of "good-faith mistakes." That left the third factor – the presence or absence of intervening circumstances – to break the tie. On that point, Justice Thomas held that the discovery of an outstanding warrant unconnected with the illegal stop compelled Officer Fackrell to act because a "warrant is a judicial mandate to an officer to conduct a

search or make an arrest, and the officer has a sworn duty to carry out its provisions."

For many, the court's decision will undoubtedly be a welcome end to this episode. The person who committed the crime will do the time. Justice is served. For others, including the dissenting justices, this decision allows police officers "to stop you for whatever reason he wants – so long as he can point to a pretextual justification after the fact" and that allowance threatens to "corrode all our civil liberties and threaten all our lives."

The *Strieff* case is archived at https://www.supremecourt.gov/opinions/15pdf/14-1373_83i7.pdf

Garrett Baxter, Senior Staff Attorney
VLCT Municipal Assistance Center

United States Supreme Court upholds warrantless breath tests but limits warrantless blood tests.

In July, the United States Supreme Court ruled on a group of three consolidated drunk driving cases. The *Birchfield v. North Dakota* decision held that law enforcement is permitted to conduct warrantless blood alcohol content (BAC) tests, if administered as *breath tests*, on suspected drunk drivers, and to criminalize the refusal to submit to such a test. In contrast, the court ruled that the Fourth Amendment prohibits law enforcement from requiring suspected drunk drivers to submit to a *blood test* under similar circumstances without first obtaining a warrant. The effect of the latter ruling is that states' "implied consent" laws, which make it a crime to refuse a blood test for suspected drunk driving, are now invalid.

This trio of cases revolve around implementation of "implied consent" laws. Federal and state governments, the court explained, have taken steps to prevent drunk drivers by passing "implied consent" laws. Originally, these implied consent laws only resulted in the suspension of a person's driver's license as a consequence of refusing to submit to a BAC test. In more recent times, implied consent laws were changed to command more severe criminal penalties.

Each individual involved in the *Birchfield* cases had been arrested for drunk driving. Two of those individuals were informed that it was a crime to refuse to submit to a BAC test. They nonetheless refused and were criminally prosecuted. In one case, the individual refused to submit to a breath test; in

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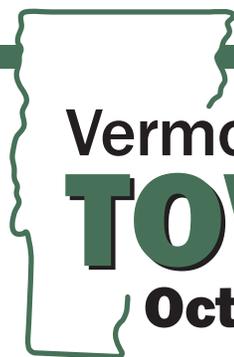
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Vermont League of Cities & Towns **TOWNFAIR2016** October 5-6, Champlain Valley Expo

TOWN FAIR: FREQUENTLY ASKED QUESTIONS

Register for Town Fair Online: www.vlct.org/eventscalendar

What is Town Fair?

Town Fair is a constructive and enjoyable gathering of Vermont local officials, employees, and volunteers, joined by VLCT staff and board members, vendors with a municipal connection, and guests.

Why should I attend?

To learn from a wide variety of workshops, network with your peers, attend local government organizations' annual and special meetings, and help set VLCT's legislative priorities for the upcoming year. In

addition, there will be a trade show filled with the exhibits of dozens of vendors whose products and services help municipalities run more smoothly.

When is Town Fair?

Town Fair begins with the VLCT Annual Meeting on Wednesday, October 5, and continues with training sessions on Thursday, October 6.

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TOWN FAIR 2016 BY THE NUMBERS

- **Nineteen** training sessions on topics that range from the latest on PFOA contamination to funding state-wide water quality improvement and from creating effective job descriptions to best practices for notary public. This year, there truly is something for everyone. Check out "Spotlight on Town Fair Trainings" on the next page or visit www.vlct.org to view a full listing and descriptions of the trainings.
- **Four** annual meetings – VLCT, PACIF, VERB, and the Police Chiefs – will take place.
- **One** step challenge, in which you grab a pedometer when you check in on Thursday or bring your own. Report your number of steps at the end of the day to be entered into a raffle drawing.
- **Sixty-five** exhibitors showcasing an array of products that target the workings of municipal government and offering great give-aways and raffle prizes.
- **One** traditional turkey dinner that will include VLCT's annual awards presentations.



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TOWN FAIR TRAININGS

(continued from page 1)

Highlights include two sessions on social media: after hearing from VLCT staff attorneys at **Open Meeting Law and Social Media**, you can then attend **Power Your Public Communications with Social Media** to learn how to manage social media and foster better communication with citizens. These sessions are part of the new afternoon short training sets which also include **Lobbying 101**, **Public Records Policy**, **The Importance of the Grand List**, and more.

Attendees will have the opportunity to hear from Charlie Nardozi, creator of GardeningwithCharlie.com and frequent contributor to Vermont Public Radio and WCAX, about workplace gardens during **The Employee Garden Program: Employee Wellness and Green Thumbs at Work**.

TOWN FAIR 2016 GLOSSARY

The following **Town Fair Glossary** will help familiarize you to the events:

Annual Meetings, PACIF and VERB. The VLCT Property and Casualty Intermunicipal Fund (PACIF) and the VLCT Employment Resource and Benefits (VERB) Trust hold a combined annual meeting to hear reports from the past year and elect board members and officers.

Annual Meeting, VLCT. Voting delegates (one from each member city and town) discuss and approve the VLCT Municipal Policy, VLCT's legislative platform for the upcoming session. Delegates also elect officers and new members to the VLCT Board of Directors.

Awards Luncheon. An annual favorite at Town Fair is the traditional turkey dinner with all the fixings. The luncheon also includes recognition of the recipients of the annual VLCT awards.

Conversation Café. An informal gathering place. Plan a little downtime with your friends and enjoy coffee, tea, juice, and a selection of morning snacks. Sponsored by People's United Bank.

Evening Reception in the Exhibit Hall. A new event this year is the evening reception. It begins immediately following the VLCT Annual Meeting and will give exhibitors and attendees time to talk and enjoy refreshments before the hustle and bustle of Thursday.

Raffle. VLCT gives away \$100 Visa gift cards to lucky raffle winners. Many exhibitors raffle off valuable gifts of their own as well.

Trade Show. Companies and organizations dedicated to serving Vermont municipalities will be exhibiting their products and services at the "Fair" part of Town Fair. The trade show gives municipal officials the opportunity to visit with vendors and examine their offerings. Bring your questions and be ready to learn how their products can help your municipality better achieve its goals. It's not to be missed!

Workshops. Local government officials, volunteers, and employees can select from a wide variety of educational workshops offered by VLCT staff and outside experts. See the "Spotlight on Town Fair Trainings" article for session specifics. This year features more training than ever!



Representatives of the Vermont Assessors and Listers Association and the Vermont Municipal Clerks' and Treasurers' Association will talk about the day-to-day cooperation that is necessary between the various municipal departments to accomplish typical Town Hall duties during **The Inter-office Work Relationship - Friend or Foe?** Later in the day, VMCTA members may find they want to attend **Notary Public Best Practices and Possible Changes in 2017** while VALA members can attend **What Does the Market Say?**, which focuses on the relevance of property sales in maintaining the grand list.

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TOWN FAIR FAQs

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What time does Town Fair begin?

Join us Wednesday at 2:00 p.m. for the VLCT Annual Meeting or 4:00-7:00 p.m. for the Reception in the Exhibitor Hall; both events are free to attend. The traditional Thursday program begins at 8:00 a.m. with registration and a delicious continental breakfast at the Conversation Café, generously sponsored by People's United Bank. Be sure to give yourself time to visit trade show exhibits before the welcome and keynote address, which begins at 8:45 a.m.

When is the VLCT Annual Meeting and who can attend?

The meeting begins at 2:00 p.m. on Wednesday, October 5. Anyone may attend, but you must be the Voting Delegate (one is permitted from each member city or town) to vote.

How do I register?

Register for Wednesday, Thursday, or both days by visiting our website, www.vlct.org/eventscalendar, where you will also find additional information and descriptions of the training sessions.



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

TOWN FAIR EXHIBITORS

As of press time (August 2), the following exhibitors are signed up to show their products and services at Town Fair.

Aldrich + Elliott, PC
www.aeengineers.com

CAI Technologies
www.cai-tech.com

Empower Retirement
www.vermont457.com

All States Materials Group
www.asmg.com

Casella Waste Systems
www.casella.com

Health Advocate
www.healthadvocate.com

Associated General Contractors of Vermont (Project Roadsafe)
www.agcvt.org

Citizens Bank, NA
www.citizensbank.com

Hickok & Boardman HR Intelligence
www.hbhriq.com

Auctions International, Inc.
www.auctionsinternational.com

DuBois & King, Inc.
www.dubois-king.com

Higgins Corporation
www.higgins3.com

BlueCross BlueShield of Vermont
www.bcbsvt.org

Duke's Root Control, Inc.
www.dukes.com

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TOWN FAIR EXHIBITORS

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www.icmarc.org

Invest EAP

www.investeap.org

Innovative Surface Solutions

www.innovativecompany.com

Lincoln Financial Group

www.lfg.com

Mascoma Savings Bank

www.mascomabank.co

McIntire Business Products

www.mbp-inc.com

Medical Business Services, LLC

www.mbsvt.com

Merchants Bank

www.mbv.com

Miles Supply

www.milessupply.com

MVP Health Care

www.discovermvp.com

Northeast Delta Dental

www.northeastdeltadental.com

Northstar Fireworks

www.northstarfireworks.com

Pennichuck Water Service Corp.

www.pennichuck.com

People's United Bank

www.peoples.com

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www.reprov.com

Small Business Administration

www.sba.gov/vt

Stantec Consulting Services, Inc.

www.stantec.com

Stone Environmental Inc.

www.stone-env.com

Syntech Systems – Fuelmaster

www.myfuelmaster.com

TD Bank

www.tdbank.com

U.S. Bridge

www.usbridge.com

UltiPlay Parks and Playgrounds, Inc.

www.ultiplayus.com

TOWN FAIR TRAININGS

(continued from page 9)

Representatives from the Central Vermont Public Safety Authority will discuss **Models of Inter-Municipal Collaboration for Public Safety** while speakers from VOSHA will present the **VOSHA Inspection Process Overview**. These are just a few of the many great training sessions being held at Town Fair 2016. Workshop topics are listed above right. Visit our website for additional details, descriptions of each topic, and to register.

- Managing Conflicts of Interest
- Maneuvering Medicare
- VOSHA Inspection Process Overview
- The Inter-office Work Relationship – Friend or Foe?
- Advancing Wellbeing in 21st Century Policing
- Long-term Financing of Statewide Water Quality Improvements
- Notary Public Best Practices and Possible Changes in 2017
- What Does the Market Say?
- Models of Inter-Municipal Collaboration for Public Safety
- PFOA Contamination Status Report
- How to Create Effective Job Descriptions, Parts 1 and 2
- Open Meeting Law and Social Media
- The Importance of the Grand List
- Lobbying 101
- Dealing with Difficult Conversations
- The Employee Garden Program: Employee Wellness and Green Thumbs at Work
- Power Your Public Communications with Social Media
- Public Records Policy



Vermont Agency of Transportation

www.vtrans.vermont.gov

Vermont Center for Geographic Information

www.vcgi.vermont.gov

Vermont Correctional Industries

www.vowp.com

Vermont Economic Development Authority (VEDA)

www.veda.org

Vermont Employer Support of the Guard and Reserve

www.esgr.mil/vermont

Vermont Municipal Bond Bank

www.vmbb.org

Vermont Municipal Retirement/Unclaimed Property

www.vermonttreasurer.gov

Vermont State Data Center

www.uvm.edu/crs/VTSDC



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STORMY AWARD

The Town of Shelburne received the 2015 New England Stormwater Collaborative “Stormy” Award for its precedent-setting inter-municipal stormwater collaboration with the City of South Burlington. On July 1, 2016, the two municipalities launched a contractual relationship that allows South Burlington to complete certain stormwater tasks for Shelburne such as street sweeping, storm drain cleaning, stormwater system inspection and inventory using GIS, stormwater plan review for local private sector development projects, and management of State stormwater permits. Shelburne included \$50,000 in its FY17 budget for this contract and it is anticipated that the relationship will grow over time. Said Shelburne Town Manager Joe Colangelo, “this partnership is fully supported by the Shelburne Selectboard and entire community. We recognize that South Burlington is a leader in the area of municipal stormwater management and it’s of great convenience for us they happen to be our neighbor to the north and, like us, see the benefits of inter-municipal co-operation.” The New England Stormwater Collaborative consists of New England Water Environment Association, New England Water Works Association, and the New England Chapter, American Public Works Association.



Photo: (L-R) Chris Robinson, Shelburne Water Quality Superintendent, and Tom Dipietro, South Burlington Deputy Director of Public Works, accept the Stormy award at the annual New England Stormwater Collaborative Conference on June 6, 2016, in Mystic, Conn.

ANTI-PHISHING TIPS FOR ALL COMPUTER USERS

Phishing emails are designed to look like real email messages so they can fool you into clicking a link, opening an attachment, or sending information that you shouldn’t send. **Don’t let yourself be fooled!** Even if your work computer filters out most junk email, don’t assume that whatever lands in your Inbox is safe to open.

- **Don’t click on a link, open an attachment, or reply to any questionable email message.**
- Before you open any email message, look closely at the sender and the subject and think whether it could be a hoax, especially if it has an attachment.
- Suspect a hoax or scam if ...
 1. the message is from a sender you know but don’t have reason to email with right now,
 2. the message is from you,
 3. the subject is empty or vague (such as “Check this out”) or misspelled,
 4. the subject implies a recent business activity (an order, tracking number, or scan), says you’ve won something, or urges you to act quickly, or
 5. anything doesn’t seem quite right.
- In Microsoft Outlook, the Junk Mail folder disables and un.masks internet links (URLs), so you can put a suspicious email into your Junk folder and open it there to read the message and inspect the actual URLs to determine if it is legitimate. For instance, something that claims to be from a certain company but has a URL that doesn’t include the company’s name is probably a ploy, hoax, scam, or risk.
- The most convincing scams look like they are coming from someone you know. In a recent ploy, an email was sent using the email address of a top-level manager telling employees to reply immediately and provide certain financial information. Any actual reply would send that sensitive information to the scammer.
- Don’t let yourself be rushed into a bad decision: take a few minutes to check with the apparent sender, or even a co-worker, to figure out whether an email is legitimate.

Your brain is your best defense. Hackers and crooks are coming up with new scams every day, so no list published today can protect you against tomorrow’s threats. Always keep your eyes and ears open for the latest hoaxes and scams.



*Come see us at the VLCT Town Fair on October 6, 2016
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TRUST MATTERS

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

REGIONAL REASONABLE SUSPICION TRAININGS

Employee drug and alcohol testing cannot be performed without an objective reason to do so. The Federal Motor Carrier Safety Administration requires every employer with commercial motor vehicle (CMV) operators to have one or more supervisors or managers receive Reasonable Suspicion training. This training teaches supervisors how to determine whether there is good reason to suspect that a CMV operator is under the influence of drugs or alcohol or both. It also outlines the process to follow after reasonable suspicion has been established.

For most municipalities, Reasonable Suspicion training is attended by public works directors, road foremen, and other highway supervisors. However, wherever a supervisor is also a CMV operator – which is often the case – another person with managerial responsibility (e.g., a select-person or municipal manager) also must attend the training.

PACIF will present three Reasonable Suspicion trainings this fall, free of charge to its members, on successive Thursdays at different locations around Vermont: September 15 in Weathersfield, September 22 in Lyndonville, and September 29 in Shelburne. All meet from 9:00 a.m. to 11:30 a.m. Everyone who completes this training will meet the FMCSA training requirement and receive a certificate of participation. For more information or to register, look for an email announcement from Jim Carrien or contact Jim at 800-649-7915 or jcarrien@vlct.org.

THE VALUE OF PACIF MEMBERSHIP

As we look forward to autumn and the upcoming renewal season, we thought it would be a good time to point out some features of the PACIF program – aside from competitive rates. PACIF is not an insurance commodity, and commercial insurance companies cannot easily compare their coverage to everything that PACIF provides to its members. PACIF is a comprehensive risk management program custom-tailored to meet the needs of Vermont municipal entities. This dedicated intermunicipal fund is governed by a board of directors comprising local officials who have municipalities' best interests in mind when developing program features such as coverage and limits, loss control, training programs, workshops and seminars, other value added services, and, yes, pricing. The goal of PACIF is to provide its member-owners with the best long-term value risk management program at a fair and equitable cost. Members include 230 of Vermont's 237 towns, eight of nine cities, three of five unincorporated towns, 30 of 35 villages, and dozens of special purpose districts. The total of 340 members is 95 percent of eligible municipal entities, meaning you are in good company!

Here is a sample of PACIF's features:

Contribution Credits. As part of a member-owned non-profit, you share in the success of the organization. Every year at the discretion of the board of directors, a portion of PACIF's net position is returned to members in the form of a credit applied to the next year's renewal contribution. To date, approximately \$17 million has been returned to members since the inception of the fund.

Federally mandated drug and alcohol testing for CDL drivers. PACIF helps towns comply with Federal Motor Carrier Safety Administration requirements by managing a drug and alcohol random testing consortium for your employees who are CDL drivers. Consortium membership, the random testing itself, the requisite DER and Reasonable Suspicion trainings, and even pre-employment drug testing for CDL drivers are all free of charge for PACIF members. This alone is worth \$250 a year for a town with just one CDL driver.

Employers: have health insurance concerns? For custom consultation and support, sign up for VERB's Health Insurance Advisory Services and get

- Full explanations of the various health plans and funding options
- Financial modeling of potential plan and funding approaches
- Support at meetings of governing boards, managers, and employees
- Assistance with pre-enrollment, enrollment, and post-enrollment activities
- Education on required forms and paperwork
- Guidance on regulatory compliance — and more!

For details, contact Larry Smith: lsmith@vlct.org



(continued on page 16)

PACIF

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

ONE VERMONTER, FOUR MUNICIPALITIES, ONE BIG FAN OF VLCT PACIF

Jackie Higgins's array of Vermont municipal roles started in Chelsea, where she was raised and entered the world of work. Soon after high school, she got a job at the bank in town, and there she indulged her knack for numbers by earning her degree in Accounting and becoming Head Teller. But perhaps the bank wasn't engaging her mind enough, because at age 24, she ran for the Chelsea Selectboard and won to become the town's first female selectboard member.

This taste of local government seems to have intrigued her: pretty soon Jackie switched her day job to Administrative Assistant for the Town of Tunbridge with the result that, for the next two years, she had a hand in these two neighboring towns' governments concurrently, working both sides of the governing relationship as well as the border. Her third term on the Chelsea Selectboard was as Chair, and not long after that term ended she and her family moved to Tunbridge. Jackie's employment since then includes a total of seven years with Tunbridge, the following eight years as Administrative Assistant to the Selectboard of Royalton, and the latest five years with Williamstown as Town Manager, Emergency Management Coordinator, and Collector of Delinquent Taxes. (You know how it is with all these hats, of course.) She also remains Tunbridge's Collector of Delinquent Taxes, is temporarily filling in as its Administrative Assistant, is bookkeeper and grant writer



(continued on page 18)

2016 RMS CALENDAR

2016 Local Officials Golf Outing. Wednesday, August 24, Green Mountain National Golf Course, Barrows-Towne Road, Killington. This is a four-person scramble through 18 holes with shared cart, morning snack, lunch, awards, and prizes. Check-in opens at 8:15 a.m., shotgun start at 9:00 a.m. sharp. Players should register by Thursday, August 4. **Only \$50 each for municipal players; all others, \$65 each.** Details and registration form are posted on the VLCT homepage, www.vlct.org.

Deadline to Apply for a PACIF Equipment Grant in Round 2 of 2016. Wednesday, August 31, 2016. Any PACIF member that did not receive a grant earlier in 2016 and has no outstanding Loss Control recommendations is eligible to apply for some of the remaining 2016 funds. Completed applications and all supporting documents must be received by Jim Carrien no later than August 31. Guidelines and application form are posted at <http://www.vlct.org/rms/pacif/pacif-equipment-grants/>.

Regional Reasonable Suspicion Trainings. 9:00 a.m. to 11:30 a.m. on Thursdays at locations listed below. See Trust Matters on page 14 for more information. Lunch is not included.

- September 15, Martin Memorial Hall, 5259 Route 5, Ascutney (in the Town of Weathersfield)
- September 22, Lyndon Public Safety Facility, 316 Main Street, Lyndonville
- September 29, Shelburne Town Offices, 5420 Shelburne Road, Shelburne

PACIF and VERB Trust Annual Meetings. Thursday, October 6, from 11:00 a.m. to 12:00 noon, Stevens Room in the Blue Ribbon Pavilion, Champlain Valley Exposition, Essex Junction. All PACIF and VERB members are welcome to attend this feature of VLCT Town Fair.

Seminars Relating to Risk Management at VLCT Town Fair. Thursday, October 6, Champlain Valley Exposition, Essex Junction. Topics such as OSHA compliance, job description best practices, and important aspects of 21st Century Policing will be presented in morning and afternoon sessions. Check www.vlct.org for the full schedule and updates.

Deadline for PACIF Members to submit completed Annual Renewal Applications. Friday, October 7. Update all schedules and return your completed application to Vicky Abare by scanning and emailing it to vabare@vlct.org; or mailing it to VLCT Attn: Vicky Abare, 89 Main Street, Suite 4, Montpelier, VT 05602; or dropping it off at the VLCT Risk Management Services table at Town Fair. If you have any questions for a PACIF Underwriter, contact Vicky Abare (vabare@vlct.org or 800-649-7915, ext. 1941) or Pam Fecteau (pfecteau@vlct.org or 800-649-7915, ext. 1934).

Deadline for PACIF Member Fire Departments to identify their Assigned Risk Contact(s). Tuesday, October 11. Members that received an email from Susan Benoit requesting updated Assigned Risk contact information should return their completed form in one of three ways: scan and email it to sbenoit@vlct.org; or mail it to Susan Benoit, VLCT, 89 Main Street, Suite 4, Montpelier, VT 05602; or fax it to Suzie's attention at 802-229-2211.

VERB

Unemployment Insurance Administration, Claims Management, Advocacy
Dental, Vision, Health Insurance Consultation, Large Group Health Insurance
Group Life, Accidental Death, Disability, Optional Life



PACIF MEMBERSHIP

(continued from page 14)

EPL Referral program. This has proven to be a very successful feature. PACIF members that qualify are authorized to consult with the best employment law attorneys in the state at no additional cost to help resolve employment related matters early or even before they become an issue.

PACIF is part of the new VLCT-wide **Human Resources Assistance Program** which helps members with updating employee handbooks, creating accurate job descriptions, implementing sound hiring and firing practices, and staying up to date with the ever-changing environment of human resource management.

Law enforcement liability, a growing concern for members with police departments and/or constables has been a special focus of PACIF in recent years. As part of actively helping members understand and manage this exposure, PACIF:

- recently hosted a day-long seminar on the Final Report of the President's Task

“The goal of PACIF is to provide its member-owners with the best long-term value risk management program at a fair and equitable cost.”

Force on 21st Century Policing and how it can be applied in Vermont;

- works closely with the Vermont Police Academy and has a seat on the Vermont Criminal Justice Training Council;
- supports Vermont's Leadership in Police Organizations (LPO) training program;
- commissioned the Public Agency Training Council of the Legal Liability Risk Management Institute to draft new model policies that address the critical tasks police engage in that pose the greatest liability risk and provide ongoing assistance to PACIF and police chiefs directly as needed; and
- significantly extended the Law Enforcement curriculum of PACIF Online University.

Guidance for documenting independent contractors to distinguish them from municipal employees. In light of the Vermont Department of Labor's concern that all workers

should receive appropriate compensation for work-related injuries and illnesses, PACIF recently issued a model contract for use with small contractors, a checklist to help members collect all necessary documentation from their independent contractors, and an updated PACIF non-employee work agreement.

These are just some of the value-added features of the PACIF program that go beyond the simple price of an insurance contract. Renewing your PACIF membership will ensure that your municipality won't miss out on these important aspects of a total risk management program which helps to keep rates low and your employees, assets, and communities safe. PACIF staff are dedicated to the VLCT mission of serving and strengthening Vermont local governments and are here to help you serve your municipality. Please do not hesitate call us if we can help you in any way.

— Ken Canning, CPCU, AU
Director, Risk Management Services

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Schedule appointments

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We will research conditions and treatment options, and facilitate second opinions.

Get your questions answered

We help you become informed about test results, treatments and medications.

Assist in the transfer of medical records

We'll also handle the details of transferring X-rays and lab results.

Help with eldercare

We can help address senior issues including finding eldercare services, adult day care and more.

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JACKIE HIGGINS

(continued from page 15)

for the Tunbridge Volunteer Fire Department, and was for many years the bookkeeper for First Branch Ambulance (of Chelsea and Tunbridge).

During her time with the four municipalities, Jackie has learned she can rely on VLCT for many things. What feature of VLCT does she value most? “The working relationship with the towns: VLCT staff members are always there when you need them. If they don’t have the answer for you, they’ll get it for you.” All four municipalities were in the Health Trust before Vermont Health Connect took effect (and the VERB Trust was formed), in the Unemployment Insurance Trust (now a VERB program), and in PACIF (see below for some Williamstown details).

Two noteworthy PACIF claims stand out in Jackie’s career. The first was at Tunbridge: the loss of the Mill Bridge – one of the town’s five historical covered bridges – after an ice jam first pushed it off its abutments on March 4, 1999, and crushed it beyond repair. The selectboard had the replacement bridge built, on land and according to the original design, then held a big community celebration on the Fourth of July in 2000 when it was put in place (on higher abutments) exactly the same way the 1883 bridge had been installed: by pulling it across the river with oxen. PACIF paid the value of the bridge that was stated on the property schedule (minus the deductible), and the State of Vermont paid a large portion of the remaining cost. A narrative from 1999-2000, along with photographs by Jackie, is posted at <http://www.vermontbridges.com/tunbridg.htm>, and a “photo tour” of the new bridge is at http://www.tug44.org/covered_bridges/mill-covered-bridge/.

Jackie’s second big PACIF experience took place while she was working for Royalton: a pre-dawn electrical fire totally destroyed the Town Garage along with seven vehicles and all the other equipment in it. The first check from PACIF was an advance so the town could pay whatever interim expenses came up while the big ticket items were being assessed and replaced. When all was said and done, the property and vehicle payments to Royalton added up to more than \$605,000. The Royalton garage fire stands as one of PACIF’s single biggest events, yet the fund has reinsurance policies which covered almost 75 percent of that cost, preventing other PACIF members from being adversely affected.

“[W]hen I got here and found out that Williamstown was not with the League for insurance, I fixed that really fast. The

[commercial] insurance agent was coming in and saying ‘well, they’re not a real insurance company,’ but he didn’t realize who he was talking to at that point. I set him straight real fast – before he went out the door.” Clearly, Jackie had learned that although technically not insurance, PACIF coverage is comprehensive and has many advantages. Since reinstating Williamstown’s membership in PACIF, Jackie has helped the town make good use of PACIF’s particular resources. “A few years ago we’d just built our new public safety building, and PACIF staff members were invaluable as far as making sure we had the proper coverage on it. Joe Damiata, Fred Satink, and Pam Fecteau worked with us on that. ... Fred also came down and did a flagger training for the fire department and all the ambulance crew. I called up and asked for it after one of our firefighters got hit by a truck. (The driver grew impatient and did it intentionally.) Our man wasn’t hurt, but I wanted our emergency crews to be properly trained, since they have to deal with many miles of interstate in addition to the local roads. My road crew normally gets their flagger training from Vermont Local Roads, but Fred came down to train our fire and ambulance crew. ... I even took it: I’m a certified flagger because I wanted to know about it first-hand.” The town also sought and received a 2015 PACIF Equipment Grant to help pay for signs and other items to direct traffic around roadway emergency scenes.

“The other thing that was huge was having PACIF loss control consultants come down to inspect our buildings. We got an inspection by OSHA six months after, and we got a clean bill of health. ... I had been in panic mode – who isn’t, when VOSHA shows up unexpectedly and wants to do an inspection

of your garage? But it was great, and I thank Fred for that. OSHA checked this building [the Town Offices] too, and I’d just had the shredder truck here to remove 122 boxes of stuff from the attic. Fred and Jim [Carrien] had both been through the building periodically, and they had pointed out those boxes as a problem.”

If she chose to receive flagger training, does Jackie do other things to learn what employees and volunteers have to learn? “I try to be active and involved in the different departments. I got my Vermont Local Roads ‘Road Scholar’ certificate in ’97, and I’m working on the Masters level right now. I took a CPR class with some of the ambulance crew – with my son and my cousin’s son, as part of their Senior project – and we all got certified at the same time. ... I can also run the grader. I was eight months pregnant when I took the grader class.”

About 80 percent of Jackie’s day-to-day job now involves accounting, what with putting the budget together for the selectboard and handling the billing for the water and sewer department and as the Collector of Delinquent Taxes. While she likes working with numbers, she also enjoys tackling the new challenges that crop up every day. But apparently all that doesn’t keep her busy enough, because, starting last January, she drives up to the VLCT offices almost every month to attend the PACIF Board of Directors’ meetings. As the Alternate member of this board, Jackie is now learning what’s involved in governing an organization that has helped strengthen every municipality she has been involved with.

— Ione L. Minot

Marketing Specialist, Risk Management Services

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.





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GOVERNMENT BANKING



LEGAL AND REG.

(continued from page 7)

the other, the defendant refused a blood test. The third individual submitted to a blood test after being told it was a crime to refuse the test.

All three individuals argued that the state actions against them were unconstitutional violations of their rights under the Fourth Amendment of the U.S. Constitution. Specifically, they argued that the Fourth Amendment prohibits criminalization of a person's refusal to submit to a BAC test, whether it be a blood or a breath test.

The Fourth Amendment to the U.S. Constitution protects U.S. citizens from unreasonable search and seizure by the government. However, the court has noted in previous cases that there are exceptions to the rights provided by the Fourth Amendment, including the "search-incident-to-arrest" exception. This exception generally allows law enforcement to categorically search individuals subject to a lawful arrest as well as the "area within the control of the arrestee" without first obtaining a warrant.

The test that the court uses to determine whether a search is "incident-to-arrest," and therefore exempt from the general requirement for a warrant, is the following:

"We generally determine whether to exempt a given type of search from the warrant requirement 'by assessing, on the one hand, the degree to which it intrudes upon an individual's privacy, and on the other, the degree to which it is needed for the promotion of legitimate governmental interests.'"

In other words, the court implements a balancing test by weighing an individual's privacy rights against the state's interest in preventing drunk driving.

Applying the above test to the cases at hand, the court first considered the impact of breath and blood tests on individual privacy interests. The court held that breath tests do not "implicate significant privacy concerns" because those tests are just a slight inconvenience (i.e., they merely require the individual to exhale) and the degree of physical intrusion is negligible (i.e., they do not require piercing of the skin). Furthermore, the information obtained from a breath test is minimal. In comparison to obtaining a DNA sample through a cheek swab – a type of warrantless search the court previously upheld as valid, even though it may give law enforcement authorities a "wealth" of additional and highly personal information – a breath test is "capable of only revealing one bit of information": the BAC of the individual.

Blood tests, however, are "a different matter," the court stated. The tests involve piercing the skin to remove a "part of the subject's body." While breathing and exhaling air is a natural condition of humans, bleeding continuously is neither natural nor desirable. Additionally, a blood test "places in the hands of law enforcement authorities a sample that can be preserved and from which it is possible to extract information beyond a simple BAC reading."

The legitimate governmental interests in obtaining BAC readings for persons arrested for drunk driving, the court said, is of "paramount" interest because it keeps public highways safe. The court declared the sheer number of casualties resulting from car accidents, including the "carnage" and "slaughter" caused specifically by drunk drivers, as "staggering." Conclusively, the court found that the implied consent laws serve a "very important function."

The court discussed many other related issues: the purpose of warrants, the need for Fourth Amendment exceptions (one of which is to prevent the destruction of evidence), and the burden on law enforcement to require a warrant for every single suspected drunk driving arrest. Ultimately, though, the court made its ruling by comparing the effect of the BAC tests on individual privacy rights against the asserted governmental interests of abating drunk driving. Based on this analysis, the court held that warrantless breath tests for suspected drunk drivers are constitutional under the Fourth Amendment because their effect on individual privacy rights is relatively insignificant compared to the government's interest in public highway safety. However, the same cannot be said of blood tests, where the effect on individual privacy interests is so

great that such a test necessitates a warrant. With regard to the implied consent laws, the court held that, while it generally approves of implied-consent laws which impose civil and evidentiary penalties, "motorists cannot be deemed to have consented to submit to a blood test on pain of committing a criminal offense." It is noteworthy to mention that the court specifically did not address which side of the analysis urine BAC tests fall under.

Vermont, like every other state in the nation, has an implied consent law. Vermont law imposes civil penalties if a person refuses to submit to a BAC test (whether blood or breath). The penalty is that a person's "privilege to operate" a motor vehicle is suspended for 90 days and the refusal may be offered into evidence against the person at trial. This provision is probably still valid under *Birchfield* because it imposes a civil rather than criminal penalty for refusal. On the other hand, the *Birchfield* decision may invalidate the Vermont law that states that if a person refuses to submit to a BAC test, and that person has also previously been convicted of drunk driving, that person may be charged with criminal refusal.

The entire U.S. Supreme Court decision is archived at https://www.supremecourt.gov/opinions/15pdf/14-1468_8n59.pdf.

Carl Andeer, Staff Attorney I
VLCT Municipal Assistance Center

TRIVIA

Ha! *No one* knew that Edward Sharpless, who changed his name to Ed Reynard – a.k.a. The Great Reynard – was the "miracle man" who, in the early 20th century, clairvoyantly discovered a missing Rutland child. His press agent, by the way, was Harry Reichenbach, whose clients would later include Rudolph Valentino and Wallace Reid – and who VLCT's own David Sichel can claim as a relative.

Here's another question that Google is ill equipped to solve: The letters that comprise the common expression "A craven robot had traded ten tons of growling, corroded pear shirts" can be descrambled to spell eight Vermont towns. **What are they?** If you can't name them all, **how many can you find?**

When you have figured out the answer, email it to dgunn@vlct.org. It'll appear, by hook or by crook, in the overtly octagonal October issue.

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STAFF NEWS

Jessica Hill, Director of Human Resources and Administration, recently earned her Society of Human Resources Management, Certified Professional (SHRM-CP) designation. This comes four years and one day after her transition to Human Resources, four years (and one day) that have included various human resources training opportunities building up to the SHRM-CP preparation class that began in February of this year. Whoa, that's big stuff, you know! Congratulations, Jessi!



After working for more than 11 years in Risk Management Services, first as a Member/Senior Member Relations Representative and then as a Workers' Compensation Representative, **Tanya Chambers** is leaving VLCT. She isn't going far, though, as she'll be working for the City of Montpelier, where she'll now be on the *receiving* end of VLCT member benefits. Until VLCT fills this position, other Workers' Compensation Representatives will take over Tanya's case load. But please call our office if you have any questions.

Hey, Tanya! *Buena suerte!*



VLCT ADVOCACY INTERN

This summer, VLCT's Public Policy and Advocacy Department completed a few projects that had long been on its to-do list, thanks to diligent help from a part-time intern. Hailey Gilmore, who is wrapping up a Master of Environmental Law and Policy degree at the Vermont Law School, created a spreadsheet of legislatively-approved charter provisions that have been adopted in municipal governance charters throughout Vermont. Advocacy and Municipal Assistance Center staff will use this data to create a model governance charter that towns may adopt. The information will also form the basis of enabling legislation to provide authority to Vermont municipalities that has already been accorded to some of them in adopted charters.

Hailey also researched different states throughout the country and the kinds of authority they provide to cities, towns, and counties in the zoning regulation of agricultural practices, agritourism, and "agripreneurial" activities. Clarifying the authority of municipalities to regulate agriculture-related businesses was an issue that came up during the 2016 legislative session and will presumably be taken up again in 2017. And, with Advocacy's Gwynn Zakov, Hailey created an Effective Advocacy Guide for local officials. The guide will be unveiled at the Town Fair 2016 "Lobbying 101" workshop.

Extracurricularly, Hailey coaches downhill ski racing at the Green Mountain Valley School in Waitsfield and volunteers at a therapeutic horse riding and driving stable in Connecticut – both venues where she can put her extensive riding and alpine skiing skills to use. In her spare time (ha), Hailey works on a farm in South Royalton.

What's next for her? A long-lasting, meaningful career in environmental? Or perhaps riding the range astride her faithful steed, Sunny, while keeping asparagus growers safe from angiosperm rustlers? (It's a long story.) Whatever, we wish her the best. Bedankt voor drie banen goed gedaan, Hailey!

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VERMONT'S NEW PAID SICK LEAVE LAW

Many municipalities already provide generous leave allowances to their employees. Even so, they need to pay attention to Act 69, Vermont's recently-passed legislation which requires a minimum amount of paid sick leave for many employees. Not surprisingly, the devil is in the details, and some details will affect all VLCT members.

The law applies to all employers but excludes the following categories of workers:

- part-timers who average fewer than 18 hours per week;
- temporary or seasonal employees who work 20 or fewer weeks per year;
- employees who are under 18 years old; and
- bona fide independent contractors.

Members should note that the law provides a floor, not a ceiling. This means that employers may choose to be more generous than the law's provisions. It does not matter what the leave time is called (sick leave, paid

time off, combined time off, annual leave, etc.) as long as it meets the new statutory requirements. In general, beginning January 1, 2017, Vermont employers must allow employees (other than those listed above) to earn at least one hour of paid sick leave for

every 52 hours worked.

Small employers, defined as having *five or fewer* employees who work 30 or more hours per week, are given an extra year to comply, as denoted in Act 69's timeline (below):

(continued on page 24)

January 1, 2017	<ul style="list-style-type: none"> • "Large" employers (those with six or more employees who work 30 or more hours per week) must begin to allow their eligible employees to accrue paid leave. • Employers may require employees to wait up to one year before using such leave. • Employers may limit the amount of accrued leave to as few as 24 hours per year.
January 1, 2018	<ul style="list-style-type: none"> • "Small" employers (those with five or fewer employees who work 30 or more hours per week) must begin to provide the minimum accruals. • Larger employers that have imposed a waiting period must allow employees to use their accrued leave time. • Employers may limit the amount of accrued leave to as few as 24 hours per year.
January 1, 2019	<ul style="list-style-type: none"> • Small employers that have imposed waiting periods must allow employees to use their accrued leave time. • Employers may limit the amount of accrued leave to as few as 40 hours per year.

STATEWIDE PARCEL MAP

(continued from page 1)

contractors interested in working with multiple towns. VCGI expects about a third of the state will be mapped each year for three years. No towns have yet been prioritized.

Why statewide property parcel mapping? Parcel data support many kinds of mapping and analysis, such as fair and accurate taxation and reappraisal, informed community planning and economic development, and targeted natural resource conservation. Current parcel data vary from town to town in terms of content, age, and availability, which makes it difficult to do mapping and analysis in some towns or across multiple towns. An ongoing program will work with each town to determine the best way to ensure annual data updates meet the state data standard – from simply collecting updated parcel data from the town's mapping contractor to actually editing and updating the parcel data for the town.

You can learn about this project and provide input at several upcoming venues:

- Parcel Data Update focus group, August 24, Davis Building, National Life Complex, Montpelier (http://vcgi.vermont.gov/events/parcel_standard_20160824)
- Vermont Assessors and Listers Association Annual Meeting, September 19, Lake Morey Resort, Fairlee (<http://www.valavt.org/>)
- VLCT Town Fair, October 6, Champlain Valley Fairgrounds, Essex Junction (www.vlct.org/events-news-blogs/town-fair/)
- Meetings and brown bag lunch events at regional planning commissions (TBD).

More information about the project as it becomes available will be posted on the VCGI website, <http://vcgi.vermont.gov/parcels>. For more immediate information, contact the author at 802-882-3002 or leslie.pelch@vermont.gov.

Leslie Pelch

VCGI Property Parcel Mapping Program Manager

Welcome New PACIF Members!

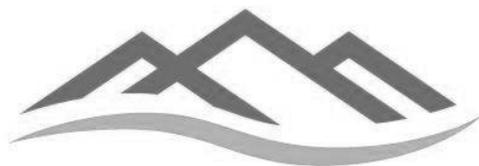
Town of Duxbury

**Tri-Town Commission
(for the Lake Fairlee Dam)**

21ST CENTURY POLICING IN VERMONT: SEMINAR VIDEOS NOW AVAILABLE

Videos of the seminar that took place in Montpelier on June 10th are available through links posted at www.vlct.org/liability.

For a limited time, a link to that page will be on our homepage, www.vlct.org.



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SICK LEAVE

(continued from page 22)

The law spells out five reasons for which employees must be allowed to use the paid leave. *All members will need to expand current leave policies and practices to include at least these reasons.* Accrued leave may be used when the employee:

1. is ill or injured;
2. obtains professional diagnostic, preventive, routine, or therapeutic health care;
3. cares for a sick or injured family member, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment, or accompanying the employee's parent, grandparent, spouse, or parent-in-law to an appointment related to his or her long-term care;
4. is arranging for social or legal services or obtaining medical care or counseling for the employee or a family member who is a victim of domestic violence, sexual assault, or stalking or is relocating because of any of these; or
5. cares for a family member because the school or business where that individual is normally located is closed for public health or safety reasons.

Under the law, an employee's family member is a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. This usage does not precisely match that of the Vermont Parental and Family Leave Act (VPFLA), which additionally includes a civil union partner, stepchild, and ward of the employee. For administrative ease and consistency in how employees are treated, it may be helpful for municipalities subject to the VPFLA to include all aforementioned categories in defining the term "family" across subsections of their personnel policy.

Keep in mind that the law dictates minimum benefit levels and municipalities may be more generous than these provisions.

Waiting period. Employers may require a one-year waiting period before employees use their accrued leave. The accrual process, however, must begin upon the law's effective date for existing employees and upon the hire date for newly hired employees.

Accrual limits. During the first two years – i.e., from January 1, 2017 through December 31, 2018 – accrued leave may be capped at 24 hours in a 12-month period. Beginning

LAKE CHAMPLAIN

(continued from page 5)

Tactical Basin Plan every two-and-a-half years, with a final report card on the progress and degree of implementation of the priority actions set forth in each Tactical Basin Plan every five years.

Between now and EPA's first interim report card, the state will submit to EPA an interim report on the accountability framework to ensure commitments are on target. The state will also submit an updated spending plan for TMDL implementation based on available federal and state funds.

If EPA finds Vermont has not made satisfactory progress, it could require additional phosphorus reductions from sources with National Pollution Discharge Elimination System (NPDES) permits, such as from municipal wastewater treatment plants. EPA could also increase the number of sources regulated under the NPDES permit program, for example, by expanding the number of municipalities required to obtain municipal separate storm sewer system (MS4) permits.

The Vermont Department of Environmental Conservation (DEC) will post a draft of the updated Lake Champlain TMDL Phase 1 Implementation Plan on its website in early August; a 30-day public comment period will follow. DEC expects to issue the final Phase 1 Implementation Plan in September.

Public information meetings on the updated plan will be held on August 29 in Burlington and St. Albans and on August 30 in Rutland. Details for the Rutland meeting have yet to be determined, but the venues for the August 29 meetings are as follows:

- 1-3 p.m., DoubleTree Hotel, 1117 Williston Road, South Burlington
- 6-8 p.m., St. Albans Historical Society, Bliss Room, 9 Church Street, St Albans City

For more information, please contact Milly Archer, Water Resources Coordinator, at marcher@vlct.org.

in 2019, accrued leave may be capped at 40 hours in a 12-month period.

Carryover. An employer is permitted to choose to provide the full amount of required leave at the beginning of the year and not carry forward unused accruals into the following year; or, an employer may choose to pay out unused accruals at the end of the year. Otherwise, an employee's accruals must carry forward into the next year, up to the accrual limits specified by the law or by the employer, whichever is greater.

At termination. When an employee separates from service, the municipality is *not* required to pay him or her for any accrued, unused leave.

Notice requirements. Municipalities will be required to post conspicuously in the workplace a notice about employees' rights under this law. The Vermont Department of Labor (VDOL) will create the poster and VLCT will let members know when it is available. Additionally, employers must provide new hires with a copy of the notice. The notice can be provided separately or as part of the municipality's personnel policy.

In summary, by the effective dates noted previously, members will need to update their

leave policies and practices to ensure:

- all employees who work 18 or more hours per week, are age 18 or older, and who work more than 20 weeks per year accrue paid leave;
- paid leave accrues at a rate of at least one hour of paid leave for every 52 hours worked; and
- earned paid leave may be used for the five reasons set forth in the statute.

The full text of Act 69 is posted on the Vermont Legislature website, <http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT069/ACT069%20As%20Enacted.pdf>. Additionally, VDOL, which is responsible for overseeing the law's implementation, is in the process of creating administrative rules. Once written, these rules will be posted on their website for comment. VLCT will keep members apprised as more information becomes available. For more details about this law, please see the Municipal Assistance Center's Human Resources Assistance Program web page, www.vlct.org/municipal-assistance-center/human-resources-assistance-program/.

Jill Muhr
VLCT Human Resources Consultant



CLASSIFIEDS

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

VLCT NEWS Advertising Information

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

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

CLASSIFIEDS

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

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

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

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

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

DISPLAY ADS

(Placed in the printed *VLCT News*)

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

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

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

Visit the VLCT website 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

Workers' Compensation Claims Representative. Are you interested in joining a mission-driven organization and team

of dedicated colleagues? The Vermont League of Cities and Towns seeks a claims professional to serve our municipal membership within our self-insured property, casualty, and workers' compensation pool. We will consider adjusters of various levels of workers' compensation experience and will interview entry through senior levels. This key position provides expertise to members for claims underwritten by the VLCT Property and Casualty Intermunicipal Fund (PACIF) trust. Knowledge of claim principles and law, especially workers' compensation, is essential; familiarity with risk pooling and/or local government is helpful. This position has a high degree of discretionary claim handling authority and reports to the Manager, Workers' Compensation. Duties include investigation and management, processing state forms, working closely with medical providers, legal counsel, and the Vermont Department of Labor, mediating

and negotiating settlements, and helping to write a variety of special reports. Requirements: bachelor's degree (or equivalent experience); excellent communication and problem-solving skills and the ability to analyze information; current Vermont workers' compensation adjuster license preferred, a current Vermont Property and Casualty license is a plus; AIC designation preferred, additional designations are helpful; valid Vermont driver's license; some in-state travel and some evening hours, including attendance at selectboard meetings. Hiring salary range is commensurate with experience. VLCT offers a quality workplace in downtown Montpelier and an excellent total compensation package. Job descriptions are posted at www.vlct.org/marketplace/classifiedads/workers-compensation-claims-representative/. Please email cover letter, resume, the names and phone numbers of three

(continued on next page)



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professional references to jobsearch@vlct.org with WC Claims as subject. Review begins immediately. Applications accepted until position filled. EOE. (07-08)

Planning and Permitting Administrator.

The City of St. Albans is accepting applications for a Planning and Permitting Administrator. This is an exciting time for St. Albans. The City is engaged in numerous initiatives to preserve what we love about our community and develop what we can to further the quality of life in our neighborhoods and the economic vibrancy of our historic downtown. The

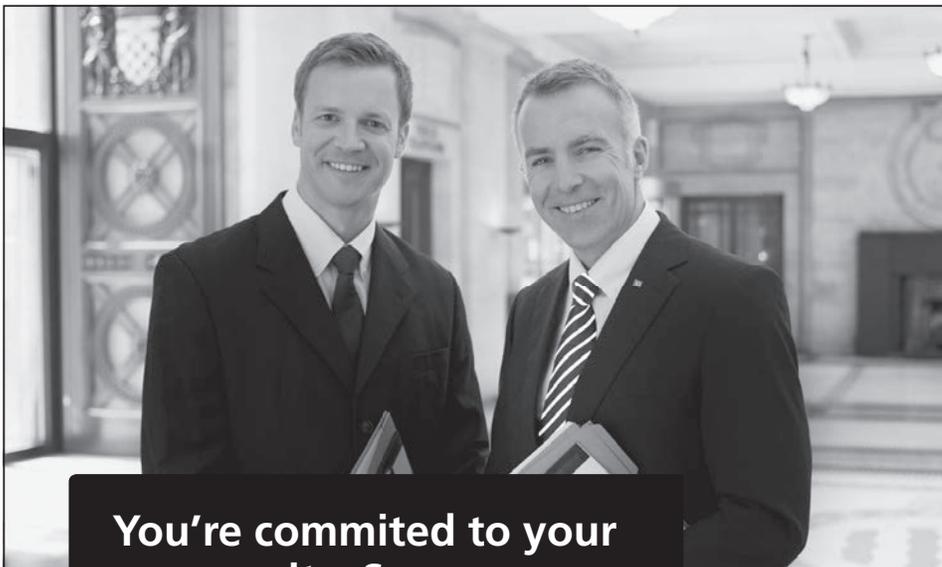
Planning and Permitting Administrator plays an important role in these activities. This position is responsible for administering and enforcing the City's Development Regulations and assisting with the City's planning and development program. A full job description is posted at www.StAlbansVT.com/Jobs. The hiring salary range is expected to be between \$40,000 and \$50,000, commensurate with experience and qualifications; excellent benefits package. To apply, please email a cover letter and resume to Chip Sawyer, Director of Planning & Development, at c.sawyer@stalbansvt.com. Resume review begins Tuesday, August 9, 2016. EOE. (07-12)

Development Review Coordinator. The Town of Hinesburg seeks a qualified

person to fill the position of Development Review Coordinator in our Planning and Zoning Department. This is a full-time (40 hours/week) professional position. The Coordinator, working with the Director of Planning and Zoning, is the principal staff person for the Development Review Board. Requirements include a bachelor's degree plus prior experience with land use planning and/or development review. Salary commensurate with experience; excellent benefits. A detailed job description and general employment application are available on the Town website, <http://www.hinesburg.org/employment.html>. Hinesburg (pop. 4,400) is a vibrant community located in northwest Vermont, 12 miles south of Burlington. There is so much going on here! Planning is more enriching when you have something to plan and challenges to tackle. Working in Hinesburg, you get to see it all – from the conservation of farms and forest land (over 1,000 acres in the last 10 years) to redevelopment of industrial properties (e.g., the 15-acre Cheese Plant) to new development in village expansion areas. Our restored/historic Town Office features award-winning community volunteers, an experienced and dedicated staff, and an excellent work environment. Please submit a resume, cover letter, and three references along with the general employment application to Alex Weinhagen, Director of Planning & Zoning, Town of Hinesburg, 10632 Route 116, Hinesburg, VT 05461, or send via email to aweinhagen@hinesburg.org. Equal opportunity employer. (07-12)

Building and Grounds Maintenance

Worker. The Public Works Department of the Town of Williston seeks a Building and Grounds Maintenance Worker. Responsibilities for this year-round and permanent part-time (20-25 hours per week) position include building and grounds maintenance, custodial work, sidewalk plowing, and other duties as assigned. Requirements: must be available 24/7 from November 1 to March 30; experience in building maintenance to include mechanical systems and building infrastructure; valid Vermont driver's license. Hourly pay range, \$13.79-\$19.82. You can pick up an employment application at the Public Works office at 7878 Williston Road in Williston or get



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CLASSIFIEDS

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one by calling 878-1239. EOE. Position open until filled. (07-19)

Highway Maintainer. The Town of Hinesburg is seeking an individual to fill a highway maintainer position with the Highway Department. A Class B CDL (commercial driver's license) with tanker and trailer endorsements is preferred. For more information, contact the Town Administrator's office at lashua@hinesburg.org or 482-2281, ext. 221. An employment application is posted at www.hinesburg.org under Employment. Equal opportunity employer. (07-26)

Town Manager. The Town of Norwich, Vt., seeks an engaging, collaborative, and experienced Town Manager. Norwich (pop. 3,414) is a charming New England community located across the Connecticut River from Dartmouth College and is

close to both Interstates 89 and 91. The Town has a strong tradition of community involvement and access to the arts, cultural, and recreational amenities of the Upper Valley. The Town Manager reports to Norwich's five-member selectboard and is responsible for the Town's daily operations. The manager directly supervises approximately 38 full-time, part-time, and seasonal employees, administers a budget of \$4.7 million, and oversees all financial, public works, public safety, personnel, economic development, recreation, and community relations matters for the Town. A detailed job description is posted on the Town's website, <http://norwich.vt.us/wp-content/uploads/2012/06/TM01-Town-Manager.pdf>. Salary range is \$84,000 to \$88,000, commensurate with experience and education, and includes an excellent benefits package. Bachelor's degree in a relevant field required; Master's in public administration or business management or equivalent experience in municipal management desired. Three to five years

of experience in governmental operations at a supervisory level preferred. To apply, please email a cover letter, resume, and contact information with three references **by Friday, September 2, 2016**, to municipal.recruitment@vlct.org with "Norwich Town Manager Search" as the subject line. Alternatively, you may send the application materials to VLCT, Municipal Assistance Center, 89 Main Street, Montpelier, VT 05602-2948. (07-22)

REQUESTS FOR PROPOSALS

Regional Dispatch Implementation Study.

The Chittenden County Regional Planning Commission seeks a consultant to draft a path forward for merger or consolidation of emergency services dispatching for certain Chittenden County municipalities. The selected consultant will investigate and analyze all relevant issues related to possible consolidation or merger. The final report will be a clear, cogent analysis of all relevant issues, and will include discussion of opportunities and constraints to possible merger or consolidation. It will also include a clear fiscal analysis of potential short- and long-term capital costs or savings, and short- and long-term operational costs or savings, in order to fully inform the municipalities for purposes of community discussion and decision-making. Proposals must be received by 4:00 p.m. on Wednesday, August 24, 2016. Only digital submissions will be accepted via email to lkrohn@ccrpevt.org. You can download the complete RFP at www.vlct.org/marketplace/classifiedads/regional-dispatch-implementation-study/. (07-27)

DRINKING WATER ASSET MANAGEMENT: MAKING YOUR UTILITY MORE SUSTAINABLE

When we turn on a tap in our home or business, we expect safe water to flow from the pipe. And, for most Vermonters, it does, thanks to our municipal drinking water utilities – utilities that are vital to the health, safety, and economics, of our communities.

But we should not take safe water for granted. The people managing municipal drinking water utilities face many challenges as they provide their customers with safe and affordable water. These challenges include responding to emergencies; managing, repairing, and replacing aging and inadequate infrastructure; retaining the knowledge of staff about to retire; achieving financial viability; and complying with new and more stringent regulatory requirements.

An Asset Management Program can help meet these challenges, and to help municipalities develop such a program, the state's Drinking Water Capacity Program will host Asset Management Workshops. During these workshops, participants will learn how to reduce risks; use limited resources more effectively; justify system needs; decide when it is best to maintain, repair, rehabilitate, and replace assets; and improve communication with customers and decision makers. The concepts covered in the workshops can be used to manage other infrastructure too, including stormwater, wastewater, and transportation assets.

Two asset management workshop series will be offered – one in Montpelier and the other in either Rutland or Springfield (depending on interest). Each series consists of four, full-day workshops starting August 31st and ending in November. Heather Himmelberger, a nationally renowned asset management expert and member of the American Water Works Association's Asset Management Committee, will lead the workshops.

The Drinking Water Capacity Program will also host a Small Water Utility Management Workshop for Elected Officials on October 3 and a Rates and Finance Workshop on October 4 in Montpelier led by Glenn Barnes, a Senior Project Director at the University of North Carolina's Environmental Finance Center.

For more information or to register for the workshops, please contact Jim Siriano (802-585-4889 or jim.siriano@vermont.gov) or visit <http://dec.vermont.gov/water/drinking-water/capacity-dev/new-initiatives#AM-Training>.



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UPCOMING EVENTS

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



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

TOWN HEALTH OFFICERS WORKSHOP

Saturday, September 10
Lake Morey Resort, Fairlee

Tuesday, September 13
Hilton, Burlington



GOLF with VLCT
Wed., Aug. 24
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- or ask Pam F. at League:
800-649-7915
pfecteau@vlct.org

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