

VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

October 2016

I LOVE A PARADE, PART DEUX

The July *VLCT News* presented a few images from our new “I Love a Parade” feature with the promise of more to come throughout Parade Season. In this issue, we offer a smattering of pictures from the 40th annual Northfield Labor Day Parade, whose theme was “The Spirit of ’76.” You’ll find more images on our Vermont Parade web page, <http://www.vlct.org/events-news-blogs/vermont-parades/>.

(More pictures on next page)



Look for Town Fair 2016 pictures and write-ups in the November Newsletter!

IMPORTANT STEPS TO HIRING WELL



The best way to prevent employment-related problems is to hire well in the first place. While finding the right person can take some planning and patience, it’s always worth the time and effort. In addition to the obvious benefit of gaining a well-qualified individual to do the work, a strong hiring process can boost employee morale and productivity.

The best place to start is to truly know what you need in a candidate. Take some time to consider the qualifications that have made others successful in this role and be sure to review and update the job description. An accurate job description supports several steps within an effective recruitment process. (See the January, 2016 *VLCT News* article “Ten Reasons for Job Descriptions”.)

As you start your search, don’t forget to consider the point of view of those you wish to attract. The recruitment process is a two-way street and potential candidates will evaluate your municipality just as much as you evaluate them. Following are some

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89 Main Street, Suite 4
Montpelier, VT 05602-2948
Tel.: (802) 229-9111 • Fax: (802) 229-2211
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Maura Carroll
Executive Director

Allyson Barrieau
Design/Layout

David Gunn
Editor/Copy Editor

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PARADE, PART DEUX

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Photos by David Gunn

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;
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ASK THE LEAGUE

EMPLOYEE INTERVIEWS IN EXECUTIVE SESSION; CAN SOCIAL MEDIA USE VIOLATE OPEN MEETING LAW?

Can a selectboard conduct employee interviews in executive session?

The institutions that we've built up over the years to protect our individual privacy rights from the government don't apply to the private sector. The Fourth Amendment doesn't apply to corporations. The Freedom of Information Act doesn't apply to Silicon Valley. And you can't impeach Google if it breaks its 'Don't be evil' campaign pledge.

Senator Al Franken (D-Minn.)

If you're one of those people who thinks the problem with the public sector (i.e., the government) could be solved if it just functioned more like the private sector, then you've probably experienced trying to hire a municipal employee.

To answer the stated question, yes, selectboards (as they are the only municipal public bodies that may hire employees) have the authority to conduct interviews of prospective employees in executive session pursuant

to 1 V.S.A. § 313(a)(3). This process, however, is not nearly as simple as one may assume. This provision of law – which by the way has much broader application than just conducting employee interviews – permits any public body to hold an executive session from which the public is excluded to consider “the appointment or employment or evaluation of a public officer or employee, provided that the public body shall make a final decision to hire or appoint a public officer or employee in an open meeting and shall explain the reasons for its final decision during the open meeting.” The inclusion of the words “hire” and “employee” makes it clear that the statute allows the use of executive session for interviews with and discussions about applicants for jobs with the municipality.

For background purposes, executive session is an exception to Vermont's Open Meeting Law's requirement that “(a)ll meetings of a public body are declared to be open to the public at all times ...” 1 V.S.A. § 312(a). The Open Meeting Law applies whenever a quorum of the total membership of a public body is gathered to discuss the business of the public body or for the purpose of taking action. The term “public body” includes all municipal boards, councils, commissions, committees, and subcommittees and therefore applies when any of them are “meeting.” In short, executive session is a closed portion of an otherwise open meeting of a public body.

Entering executive session requires a motion and a vote. 1 V.S.A. § 313(a). The motion to go into executive session must indicate the nature of the business to be discussed and should, as a best practice, recite the specific statutory basis permitting use of executive session for that purpose. We

(continued on next page)

UPCOMING MUNICIPAL ASSISTANCE CENTER WORKSHOPS

Fall Planning and Zoning Forum

Wednesday, November 2, Capitol Plaza Hotel and Conference Center, Montpelier

Presented by the Vermont League of Cities and Towns and the Northern New England Chapter of the American Planning Association. 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. This workshop is for all local officials involved in the planning and development review process. Zoning administrators, planning commissioners, DRB/ZBA members, town administrators and managers, municipal planners, and regional planning commission staff are encouraged to attend. **AICP credits will be requested for this workshop.**

Complying with Vermont's Public Records Act

Wednesday, December 7, Lake Morey Resort, Fairlee

This workshop is designed for Vermont municipal officials who are responsible for managing public records and responding to public records requests. Speakers will review the law's numerous exemptions and explain how the most common and confusing ones should be applied. Electronic records' management and security will also be addressed. Selectboard members, town clerks, managers and administrators, and other custodians of municipal public records are encouraged to attend.

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



ASK THE LEAGUE

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strongly recommend the latter because public bodies can only enter executive session for one of the express reasons articulated in law. For purposes of transparency in your decision making, it would ordinarily make sense for your motion to provide as much detail as possible regarding the reason for entering executive session. On the other hand, it doesn't make sense to provide so much detail that you undermine the very reason for entering executive session in the first place. In this instance the reason is to protect the privacy of the candidates for the open position. For this reason, it would legally suffice for a selectboard member to state, "I move that we enter executive session to consider an applicant for the position of [insert municipal position] pursuant to Title 1, Section 313(a)(3) of the Vermont Statutes."

Attendance in executive session is limited to the members of the public body and, in its discretion, its "staff, clerical assistants and legal counsel, and persons who are subjects of the discussion or whose information is needed." 1 V.S.A. § 313(b). The law does not require that the motion for executive session specifically identify any of the candidates for employment. Hence, we advise stating for the meeting minutes that "a candidate" for the position under consideration is invited into executive session with the selectboard (rather than stating that "Mr. Smith" is invited into executive session) after the motion is approved.

The law requires that the motion to enter executive session must be made during the open portion of a meeting and must obtain the approval of a majority of the members of the public body present. The result of the vote on this motion must also be recorded in the minutes of the meeting at which it was entertained. While in executive session, "no other matter may be considered." 1 V.S.A. § 313(a).

Public bodies are not obligated to use executive session for any reason, even when not doing so could potentially put the public body or the municipality at a substantial disadvantage. Whether applicant interviews should be conducted in executive session is a multi-factored analysis and will likely depend upon the expectations of the community served, the preference of the majority of selectboard members, and whether conducting such interviews in public will deter

any potential candidates from pursuing the open position. And while the overuse of executive session can contribute to, or exacerbate, public perception of governmental secrecy and distrust, there will likely be occasions where candidates for municipal employment may be at risk for losing their current employment if their candidacy with the municipality is made public. It is at these times that a selectboard must weigh the advantages of protecting a candidate's current employment status – and the possibility of gaining their services for the benefit of the community – against the risk of potentially deepening the divide between government and those it governs. Even when not confronted with such a political atmosphere, it is wise for the selectboard chair to state publicly, and for the meeting minutes, that the reason underlying the motion to enter executive session is that one or more of the applicants may suffer negative consequences if their present employer learns that they are interviewing for another job.

The legislative allowance for entering executive session for this reason is unique in that a public body's adherence to the statutory requirements for properly entering into executive session does not end its legal obligations. Once the discussion regarding "the appointment or employment or evaluation of a public officer or employee" ends, a public body is still required to make its final decision whether to hire a candidate for

municipal office in open session and to furthermore "explain the reasons for its final decision during the open meeting." We recommend when reciting the reason(s) for making a hire, the selectboard should only reference those reasons supporting the chosen candidate, not the shortcomings of the rest of the applicant pool.

And finally, because the law requires you to make your ultimate decision of whether to hire a candidate in public session, this necessarily precludes you from knowing with 100 percent confidence if your preferred candidate will actually accept your offer in open session before you make it. There are two ways to address this from a practical standpoint. You could simply make a motion in open session to offer a position to "candidate A" (rather than identifying the candidate by name) and then announce that candidate's decision and his or her identity at the next public meeting. Alternatively, you could make a conditional offer to the preferred candidate in executive session if you clearly communicate that the selectboard cannot make (and therefore won't be legally bound to) a final, formal decision until it reconvenes in public session. The advantage of the latter approach is that you will at least have some measure of confidence as to whether your offer will be accepted before making it in public. After all, a job offer that is made in public and later rejected will not instill

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NEED A WRITTEN LEGAL OPINION?

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SAMPLE PROJECTS:

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



LEGAL AND REGULATORY NOTES



THE BINDING EFFECT OF A WRITTEN DRB DECISION

In April of this year, the Vermont Environmental Court held that the Hinesburg Development Review Board (DRB) was bound to follow the conclusions of its own sketch plan decision when engaged in a second round of sketch plan review for the same project. *BlackRock Construction LLC*, 31-4-15 Vtec (2016).

In 2014, developer BlackRock Construction sought to subdivide a parcel of land to create a large mixed-use development in the town of Hinesburg. The Hinesburg zoning regulations require that a major subdivision must go through a three-step review process with the town's DRB: sketch plan review, preliminary plat review, and final plat review. The regulations also require that the DRB hold separate hearings and issue separate decisions at each of these three steps.

In August of 2014, the Hinesburg DRB issued a decision denying sketch plan approval for BlackRock's project. One of the

DRB's stated conclusions was that "the project will have substantial impacts on the Town's water supply and wastewater treatment capacities." However, the decision also stated that "[t]hese are not grounds to deny the proposed sketch plan, but do warrant further review at later stages of any subdivision review (i.e., preliminary and final plat review) before compliance with these planning standards can be determined."

In February of 2015, BlackRock submitted a second and modified application to the DRB for sketch plan approval. The DRB denied the second sketch plan for several reasons including the town's lack of wastewater capacity for the entire development. BlackRock subsequently appealed that decision to the Environmental Division of the Vermont Superior Court. That court ruled that because of its decision on the first sketch plan application, the DRB was precluded from denying the project for lack of wastewater

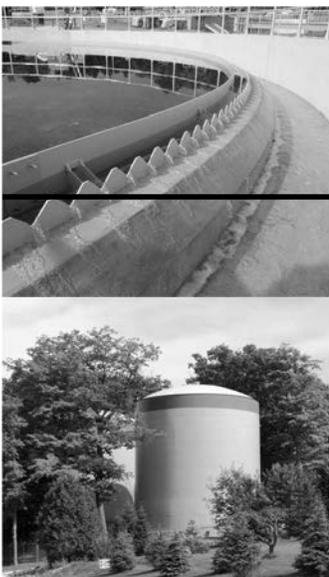
capacity at any later sketch plan proceedings.

Because of the way the case was presented on appeal, the court did not decide whether insufficient wastewater capacity is proper grounds for sketch plan denial. Therefore, it is unresolved whether the Hinesburg DRB could have denied BlackRock's initial subdivision sketch plan on this basis. In this situation it did not do so, and in fact the court actually stated in its decision that wastewater capacity "was not grounds to deny" the sketch plan. All the court found was that the DRB was bound to its prior decision regarding the wastewater capacity issue when reviewing the subsequent sketch plans for that project.

Citing its own decision in the 2006 case of *In Re Simpson Dev. Corp.*, No. 54-3-05 Vtec, the court's stated rationale for this decision was that "a preliminary determination that goes unappealed, provides finality for certain legal determinations properly made at that stage of the subdivision review proceeding," adding that "if it was proper for the DRB to make certain legal determinations about the Project's compliance with applicable subdivision regulations in its sketch plan review, then those determinations are entitled to finality if they are not appealed. Accordingly, because the DRB's conclusions in its August 27, 2014 Decision were not appealed, they are final and binding even if they are in error. As a result, BlackRock and the Town are bound by that decision."

The court also pointed to the purpose of sketch plan review – as stated in the Hinesburg regulations – which is to allow an applicant to discuss a project with the DRB "conceptually, before the applicant invests substantial effort and resources in design and planning for the project." The court

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ASK THE LEAGUE

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public confidence in the administration and management of the municipal workforce.

Given the length of this answer, you might think that this is the full explanation of your legal obligations in hiring public sector employees. Unfortunately, that is not the case. For instance, in trying to find the most qualified candidate, you will have undoubtedly interviewed more than one qualified candidate. This due diligence that you have exercised in pursuit of the best interests of your municipality will naturally give rise to the question of “who didn’t you hire?” This question may then turn into a public records request for the resumes of all those candidates you did not hire. For the answer to the question of whether you must release that information, please see <http://www.vlct.org/assets/Resource/LRN/2011/LRN%20public%20records%20request,%20jb.pdf>.

In the end, the public sector *could* operate more like the private sector ... if the public wasn’t a consideration.

Note: For guidance as to how to enter executive session for other reasons, please see VLCT’s “FAQs: Open Meeting Law,” which is available at <http://www.vlct.org/assets/MAC/Open%20Meeting%20Law/Open%20Meeting%20Law%20FAQs.pdf>.

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

Can municipal public bodies use social media and programs such as Google Docs without violating the Open Meeting Law?

Yes, but only for limited purposes. Vermont’s Open Meeting Law permits municipal public bodies to communicate electronically outside the context of a duly warned open meeting for the purpose of scheduling a meeting, creating an agenda, and distributing information to be discussed at a meeting. While other electronic communications – through platforms such as Google Docs, Facebook, Front Porch Forum, or texting are not explicitly addressed in the Open Meeting Law, they are likely prohibited if the communications are between a quorum (majority) of the members of the public body and the subject of discussion is a matter that is

within the authority of that public body.

Vermont law does not explicitly state that the use of social media or software such as Google Docs violates the Open Meeting Law. Nor, on the other hand, does it carve out an explicit exception for these uses. However, the law is clear that participation at a meeting by electronic means is the legal equivalent to physical participation. As such, members of a public body must assume that electronic communication will be treated the same as in-person communication; therefore, electronic communication between a quorum of members will only be legal if it occurs in the context of a duly warned open meeting.

Note: The Open Meeting Law does allow members of a public body to attend and participate in a meeting electronically or by other means without being physically present, so long as certain requirements are met. For more information about how to meet electronically and how to comply with the Open Meeting Law, see “VLCT FAQs: Open Meeting Law” at <http://www.vlct.org/assets/MAC/Open%20Meeting%20Law/Open%20Meeting%20Law%20FAQs.pdf>.

What is a meeting? Vermont’s Open Meeting Law governs “meetings of a public body.” Among other requirements, the law provides that all “meetings” of a public body are declared open to the public at all times unless otherwise specifically provided. A “meeting” is defined as “a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.” 1 V.S.A. § 310(2). However, the term meeting does not include “written correspondence or an electronic communication, including e-mail, telephone, or teleconferencing, between members of a public body for the purpose of scheduling a meeting, organizing an agenda, or distributing materials to discuss at a meeting, provided that such a written correspondence or such an electronic communication that results in written or recorded information shall be available for inspection and copying under the Public Records Act ...” That language makes it clear that using electronic communication for purposes of scheduling a meeting, organizing an agenda, and distributing materials that are going to be discussed at a meeting is not considered a meeting under the law. Understanding that these three actions are explicitly not considered meetings under the law therefore means that other forms of electronic communication between a quorum of

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IMPORTANT STEPS

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key steps that can help you create a hiring process that is smooth and successful. *Important note: If your municipality has a personnel policy or collective bargaining agreement that includes hiring steps and requirements, be sure to follow those carefully.*

While this article reviews important aspects of the hiring process, space does not permit more detailed information about human resources best practices, compliance with state and federal employment laws, or the requirements of the Open Meeting Law and Public Records Act. Through our Human Resources Assistance Program, we're writing documents and developing tools to help municipal officials with the steps recommended below. Visit the HR Assistance program webpage for job description templates and other information.

Plan ahead to ensure consistency. Treat applicants in a consistent and non-discriminatory manner by following the same steps for all. When planning your search process, it helps to know or decide in advance specific tasks and who will be responsible for carrying them out. Examples include:

- What is the pay range?
- Who will write job postings and advertisements?
- Which application materials will be requested and will there be any testing or skill demonstration required, particularly of finalists?
- Who will receive and track the applications?
- Who will communicate with applicants at various stages of the search process?
- How will applicants be ranked and selected for interviews?
- What is the best interview structure, including number of rounds?
- Who will craft interview questions to be posed of all candidates?
- Who will make the actual hiring



decision, and will others be involved to provide input?

- Who will conduct the background and/or reference checks?

- How can all search materials be kept secure and confidential?

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Visit the Municipal Assistance Center page at www.vlct.org for more information.**



IMPORTANT STEPS

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Don't panic if you don't know the answer to these questions or how to address them. We're here to help, so contact the Municipal Assistance Center at info@vlct.org or 800-649-7915.

Attract a pool of well-qualified candidates. This step begins with an up-to-date job description which accurately identifies job responsibilities and qualifications. Create a compelling and targeted job advertisement by being clear about the position and touting what makes your municipality an attractive place to work. For more details on job advertisement and posting ideas, see the April 2016 *VLCT News* article, "What to Include in an Employment Ad". Let current employees know about the opening and post it on the municipal website in addition to well-suited online and print venues.

Communicate with all applicants. Candidates appreciate knowing their application materials were received. Email is a quick way to send an acknowledgement and thank you to every applicant. Municipalities often let applicants know the general steps and timing of the search process and apprise them once an individual has been hired. Communications with unsuccessful applicants are best kept simple and polite. In the case of unsuccessful interviewees, a personal phone call or more tailored rejection letter is most appropriate.

Screen and interview. It can be helpful to use a spreadsheet or other electronic tool to compare applicant information with the job qualifications. Use the job description as the basis from which to craft lawful, job-related questions. Naturally, the interview plays a critical role in discerning who is well-qualified and apt to succeed within your municipal environment. Additionally, interviews provide an important opportunity to convey to candidates why they should want to work for you. In order to glean enough information to make a wise selection decision, consider a second round of interviews, or even a third, if needed.

If a quorum of a legislative body or a

duly appointed subcommittee will conduct the interviews, be sure to comply with Vermont's Open Meeting Law. Individuals generally expect their job application will be kept confidential, especially if they are currently employed. Plan a confidential process so you don't breach that trust. (See "Can a Selectboard Conduct Employee Interviews in Executive Session?" on page four.)

Select and verify. Once you decide whom to hire, always check at least three professional references before extending an offer. Don't rely on reference letters. Phone calls with individuals who have worked directly with the candidate afford the opportunity to frame your questions and ask for more details. Again, all questions should be job-related to avoid unlawful discrimination.

Make the offer of employment contingent upon the candidate providing relevant transcripts, licenses, or other necessary credentials. For positions that require a Commercial Drivers License (CDL), be sure to follow federal pre-employment drug and alcohol testing requirements. (Further information is available in the VLCT-PACIF Drug and Alcohol Testing Manual.)

For certain positions, it may make sense to hire a firm to conduct a more in-depth background check before making an offer. When doing so, it is important to follow legal notice and sign-off requirements.

Be patient. It is ideal to have a backup plan, if possible, with a well-qualified second or third choice, in the event your first choice candidate does not accept your offer. However, when there are significant doubts about those in your candidate pool, it is better to wait and not hire anyone. It is important not to hire out of a sense of desperation. Consider bringing on temporary help while you pause and evaluate your search process to see if there are any improvements to be made. When a first recruitment attempt fizzles, a second effort usually brings success.

This is the first in a series of VLCT News articles on effective hiring practices. Future articles will provide more detail on topics such as interviewing techniques.

Jill Muhr

VLCT Human Resources Consultant

TRIVIA

No one knew that descrambling the letters that comprise the common expression "A craven robot had traded ten tons of growling, corroded pear shirts" yields the towns of Addison, Barton, Chester, Hartford, Landgrove, Proctor, Reading, and Stowe. (Should I have added that each letter could only be used once, after which it was to be deducted from the total?) To my secondary request to name as many as you could find, Marianne Blake of Windsor named Windsor, Hartland, Reading, Norton, Island Pond, Stowe St. Albans, Berlin, Charlotte, Corinth, and Betsy Sponable of Tunbridge named Stowe, Rochester, Randolph, Sharon, Colchester, Chelsea, Bethel, Barre, Berlin, Cabot, St. Albans, and Norwich. Okay, I'll be more precise in future queries ... starting now: The Reverend Thomas Goodwillie once wrote in *Hemenway's Gazetteer* that the town of Burke, Vt., was named by Dr. Jonathan Arnold for his son, Burke Arnold, after the elder Arnold (as distinguished from Eddie Arnold) had acquired the charters for several Northeast Kingdom towns.

It's a nice story but it isn't true. Why not?

When you know the answer, email it to dgunn@vlct.org. The answer will appear in November's "Disappearing Daylight Saving Time" issue.

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TRUST MATTERS

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

PACIF MEMBERS MUST CHANGE THE WC CLASS CODE FOR TWO ROLES

The nature and severity of several recent workers' compensation (WC) claims have made it necessary for PACIF to reclassify two job titles. Because not all librarians are safely tucked away behind a desk any more, and because property maintenance staff of municipal park departments have more in common with public works employees than with recreation instructors, PACIF members preparing their 2017 Renewal Application need to re-allocate the payroll associated with librarians and park maintenance staff in their WC Estimated Payroll Worksheet. Specifically, the payroll for all librarians needs to be moved out of the class code 8810 (Administration) row and into class code 9102 (Recreation), and the payroll for all Parks and Recreation maintenance staff needs to be moved out of the class code 9102 row and into class code 5506 (Highway/Public Works). This change is effective for coverage starting on January 1, 2017. It will not affect your 2016 contribution.

Making this change *before* you submit your 2017 Renewal Application will help us determine your 2017 contribution more accurately from the start – and help avoid additional billing adjustments after your payroll audit in the Spring of 2018. If you have any questions or concerns about this, please call 800-649-7915 to speak with a member of our Underwriting team.

2016 RMS CALENDAR

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. Although the new two-day format of VLCT Town Fair has shifted the VLCT Annual Meeting to a day earlier than usual (it will start at 2:00 p.m. on Wednesday), the trusts' annual meetings will still take place on Thursday morning. All PACIF and VERB members are welcome to attend.

Deadline for PACIF Members to submit completed Annual Renewal Applications. Friday, October 7. It is important to carefully review and update all schedules to be sure your coverage meets your requirements. 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 will please 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.

Vermont Safety and Health Council Annual EXPO. Thursday, October 6, Stowe-flake Mountain Resort and Spa, 1746 Mountain Road, Stowe. For information and to register, visit www.vshc.org.

Deadline for submitting applications for a 2016 Governor's Worksite Wellness Award. Monday, October 31. The application form is at www.surveymonkey.com/r/2016WorksiteWellnessAward. Award winners will be announced at the 2017 Worksite Wellness Conference on March 23, 2017, in South Burlington.



EYEMED'S NEW ACCOUNT MANAGER

Julia Morris, the VERB Trust's long-time account manager for EyeMed Vision Care® vision wellness plans, has been promoted and is embarking on other endeavors. Groups that participate in VERB's vision coverage now have a new EyeMed contact person: Michael Santangelo, whose contact information is:

Michael Santangelo

Account Manager, Small and Mid-Market Business
4000 Luxottica Place, Mason, OH 45040
Email: MSantang@eyemed.com
Phone: 513-765-4363; Toll Free: 1-877-241-6989;
Fax: 513-492-4363

Benefit managers at groups that participate in EyeMed through the VERB Trust can contact Michael directly. Of course, VLCT's Kelley Avery (kavery@vlct.org) and Larry Smith (lsmith@vlct.org) are also available to explain or look into any EyeMed related issues. Call 800-649-7915 for either Kelley or Larry.

DISTINGUISH SUBS AND SOLES FROM EMPLOYEES

This is a friendly reminder to PACIF members to make sure you collect and retain the documentation that we now require for every

(continued on page 12)

PACIF

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

VERB'S HIAS PROGRAM IS HERE TO GUIDE YOU

Are you prepared for the upcoming 2017 health insurance renewal? Do you have a strategy for how to prepare? The VERB Trust's **Health Insurance Advisory Services (HIAS)** program is here to help you understand the new rates – and plan revisions – and also to help you learn how the latest changes may affect your municipal budget and your employees' out-of-pocket expenses. The only way to receive detailed information and customized support from VERB is by participating in the Health Insurance Advisory Services program. This is an annual subscription service open to all VLCT members.

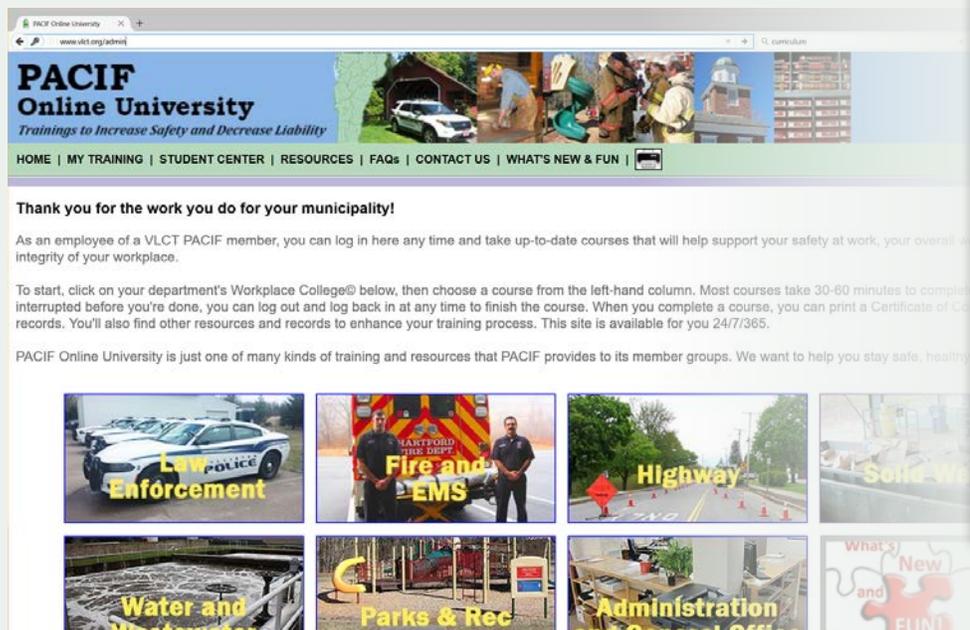
The VLCT Employment Resource and Benefits (VERB) Trust has more than 30 years of experience in health insurance and benefits administration and is the premiere consultant on municipal benefits in the state of Vermont. VERB's HIAS program supports its participants by carefully evaluating their current benefit options and making recommendations to save taxpayers' money while optimizing employee benefits. This program exists to make

(continued on page 19)

PLEASE VIEW THE NEW ONLINE U!

The improved PACIF Online University website was up and running on August 1st. Many improvements, both visible and functional, will enrich the experience of employees as well as site administrators. Visible enhancements include more photographs of actual PACIF member locations and a total of seven Workplace Colleges – which are more closely aligned with municipal departments than the previous five curricula were. Functionally, new features take the training process to a deeper level. For example, in addition to assigning particular courses to employees and tracking their progress, site administrators can also now post employer resources – such as personnel policies, safety briefs, and benefits forms, as well as outside resources, such as website and video links – all in this one convenient platform.

For more information, including how-to guides for both employees and administrators, please visit www.vlct.org/rms/pacif/pacif-online-university/. To discuss how your municipality can make the best possible use of this free tool, contact Jim Carrien at jcarrien@vlct.org or 800-649-7915.



SERVICES FROM HICKOK & BOARDMAN

H&B offers these additional services at a discount to groups that are in VERB's HIAS program:

- **Compliance Dashboard:** A customized web-based tool that assists in tracking and critical compliance issues regarding health insurance and employer-provided insurance coverages.
- **The Client Resource Center:** This web-based tool provides access to a vast Human Resources library and volumes of information and documentation on HR administration and regulatory compliance.
- **HR Compliance Hotline:** Access to H&B's HR Compliance and Payroll specialist for questions and assistance.
- **WrapDoc 360:** A customized service which provides federally mandated plan documents that "wrap" all of an employer's benefits together to ensure compliance with current regulatory requirements (only for groups with more than 20 employees).
- **Benepix:** Software customized for your group that allows your employees to enroll in your coverage, integrates with certain payroll programs, and also provides data feeds to carriers (only for groups with more than 20 employees).

Note: VLCT members without a HIAS agreement can also obtain these services from H&B, but at full cost.

VERB

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



SUBS, SOLES, OR EMPLOYEES

(continued from page 10)

contractor and sole proprietor used by your municipality in 2016 – because doing so will in most cases allow us *not* to consider these individuals as your employees when we conduct your 2016 Workers' Compensation audit next Spring. Our goal is to help you practice good risk management and also provide clarity on the workers' compensation payroll audit process.

On June 1, 2016, Joe Damiata sent an email explaining our new documentation requirements with four PDF files attached. For your convenience, we have posted a version of the letter with the PDFs – and the three forms also in Word format – on our Workers' Compensation webpage, www.vlct.org/rms/pacif/workers-compensation/, under the heading Resources for Use with Independent Contractors and Sole Proprietors. If you have any questions after reviewing the information, please call 1-800-649-7915 and speak with an Underwriter.

PACIF Members:

Be sure to complete your 2017 Renewal Application, including

- updating all the listings you received in the packet and
- re-classifying all Librarians and Parks Maintenance employees in your Workers' Comp Estimated Payroll Worksheet (as explained in the packet's cover letter and on page 10 here).

Return your entire packet to Vicky Abare by **Friday, October 7, 2016**.

If you have any questions, call 800-649-7915 immediately to talk with an Underwriter.

HEALTH INSURANCE RENEWAL PREVIEW

On August 9, the Green Mountain Care Board (GMCB) announced that it will not grant the full premium increases for the 2017 plans on the state's health insurance Exchange (VHC) that were requested by the health insurance carriers. Whereas Blue Cross and Blue Shield of Vermont (BCBSVT) asked for an 8.6 percent average increase, GMCB approved only a 7.3 percent average increase. Similarly, GMCB approved a 3.7 percent average increase for MVP Health Care, which had requested an 8.8 percent average increase. Each "average" is calculated from all plans offered by the carrier; actual premiums will vary from plan to plan. Groups and individuals can also expect changes in co-pays, deductibles, and out-of-pocket expenses, which will also vary by plan. As of early September, neither carrier has released specific information on their individual 2017 Exchange plans. Groups in the Exchange should receive renewal information and instructions from their carrier by the end of October.

Groups that enroll in the VERB Trust's Health Insurance Advisory Services (HIAS) program (see related article on page 11) will have the benefit of VLCT staff working closely with them to educate and provide guidance for administrators and selectboard members who have to make pre-renewal decisions, and also to meet with employees during the renewal process. These members will be kept up to date on carrier information and other related news as it becomes available. Groups not enrolled in the HIAS Program will need to contact the BCBSVT Exchange Specialists (800-255-4550) or MVP (800-825-5687) for specific information regarding 2017 changes to their group's plan(s). Of course, Larry Smith (lsmith@vlct.org) and Kelley Avery (kavery@vlct.org) at VLCT, 800-649-7915, are happy to answer any VLCT member's general questions.

ACA COMPLIANCE RE: EMPLOYEE OPT-OUT OR CASH-IN-LIEU-OF PAYMENTS

Last July, the IRS issued new proposed regulations under the Affordable Care Act (ACA) which will affect some employers with more than 50 employees (Applicable Large Employers, or ALEs). The new regulation states that any "opt-out" or "cash-in-lieu-of" payments to an employee in exchange for waiving coverage under the employer-sponsored health insurance may be required to be reported on the employer's IRS form 1095C and may also affect whether the employer's coverage is considered "affordable" by federal requirements – which could in turn subject the employer to federal penalties.

Adopted from the IRS Notice 2015-87, the proposed rules treat what are considered "**unconditional opt-out payments**" – payments granted when the employee is *not* required to provide proof of alternative group coverage – **as a salary reduction for the purpose of determining an employer's health insurance plan affordability**. On the other hand, "conditional opt-outs" – where employers require employees to sign a waiver and provide suitable proof of outside group coverage for the employee and all tax household dependents – are not included in the affordability calculations.

These rules were enacted to make opt-out payments exclusive to those employees

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ACA COMPLIANCE

(continued from previous page)

who can provide proof of alternative group coverage outside the employer (such as through a spouse's employer) and to disallow use of any opt-out payments as funding toward the individual market plans. The proposed regulations will go into effect and will apply to all opt-out arrangements in place on or after December 31, 2016 (unless the arrangement was in place after December 16, 2015, in which case the IRS reporting for the 2016 plan year may be affected). These new regulations have not yet been finalized.

For more information, please refer to the IRS webpage, www.irs.gov/affordable-care-act/affordable-care-act-tax-provisions, or the webpage regarding the proposed regulations at www.federalregister.gov/articles/2016/07/08/2016-15940/premium-tax-credit-nprm-vi. Feel free to contact Kelley Avery or Larry Smith at VLCT at 800-649-7915 for general information. As always, however, we recommend that you refer to a tax attorney or your auditor for any IRS regulatory or tax filing details.

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For more information
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lsmith@vlct.org or 802-229-9111

Municipal Winners of 2015 Worksite Wellness Awards

Excellence in Workplace Wellness

City of Burlington
Chittenden Solid Waste District (CSWD)
Town of Colchester
City of Rutland
Vermont League of Cities and Towns

Rising Stars in Worksite Wellness

Town of Killington

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LEGAL AND REG.

(continued from page 6)

emphasized that land use regulation should provide predictability and fairness to applicants. Although the DRB's initial sketch plan decision had identified several problems with the proposed project, it specifically stated that wastewater capacity was not an issue at the sketch plan stage. As such, BlackRock should have been able to rely on the DRB's statement and assume that wastewater capacity would only be addressed at a later stage of review. The court wrote that "after time, effort, and capital has been expended addressing issues BlackRock was told were relevant," the DRB could not "derail the Project at this preliminary stage with an issue BlackRock had no notice of and, what is more, was specifically told need not be addressed at the sketch plan stage."

In legal terms, the court decided that the DRB's sketch plan decision became "precedent" since it was not challenged or appealed. Precedent is a legal term for a principle or rule established in a previous case that is either binding on or persuasive for a decision-making authority when deciding subsequent cases with similar issues or facts. Traditionally, legal systems place great value on deciding

cases according to consistent rules so that similar facts will yield similar and predictable outcomes. Although the court in *BlackRock* did not decide that the DRB's sketch plan decision was binding precedent for all of the DRB's future decisions, it did decide that such decision was binding precedent for a future sketch plan decision on that same project.

The decision in this case was not tantamount to approval of the proposed project, but merely allows the applicant to proceed to the next stage of the town's subdivision review process (preliminary plat review). Moreover, the court did not state that wastewater issues could never be the basis for denial of this (or any other) project. Instead, it acknowledged that "any wastewater capacity issue will need to be addressed at later stages of the permitting process."

The practical effect of the *BlackRock*

decision is limited but it still provides an important lesson for DRBs (and other local land use boards) regarding the effect of their own written decisions. A DRB must be aware that the statements they include in a written decision about a project will constrain the way they are able to treat subsequent applications for that same project. If, as in the *BlackRock* case, a DRB states that a certain issue is not a basis upon which to deny a stage of review, it may not later deny a second round of that same stage of review based on that same identified issue.

The case is archived at <https://www.vermontjudiciary.org/GTC/Environmental/ENVCRTOpinions2010-Present/BlackRock%20Construction,%20LLC%20SD%202031-4-15%20Vtec%20MSJ.pdf>.

*Sarah Jarvis, Staff Attorney II
Municipal Assistance Center*



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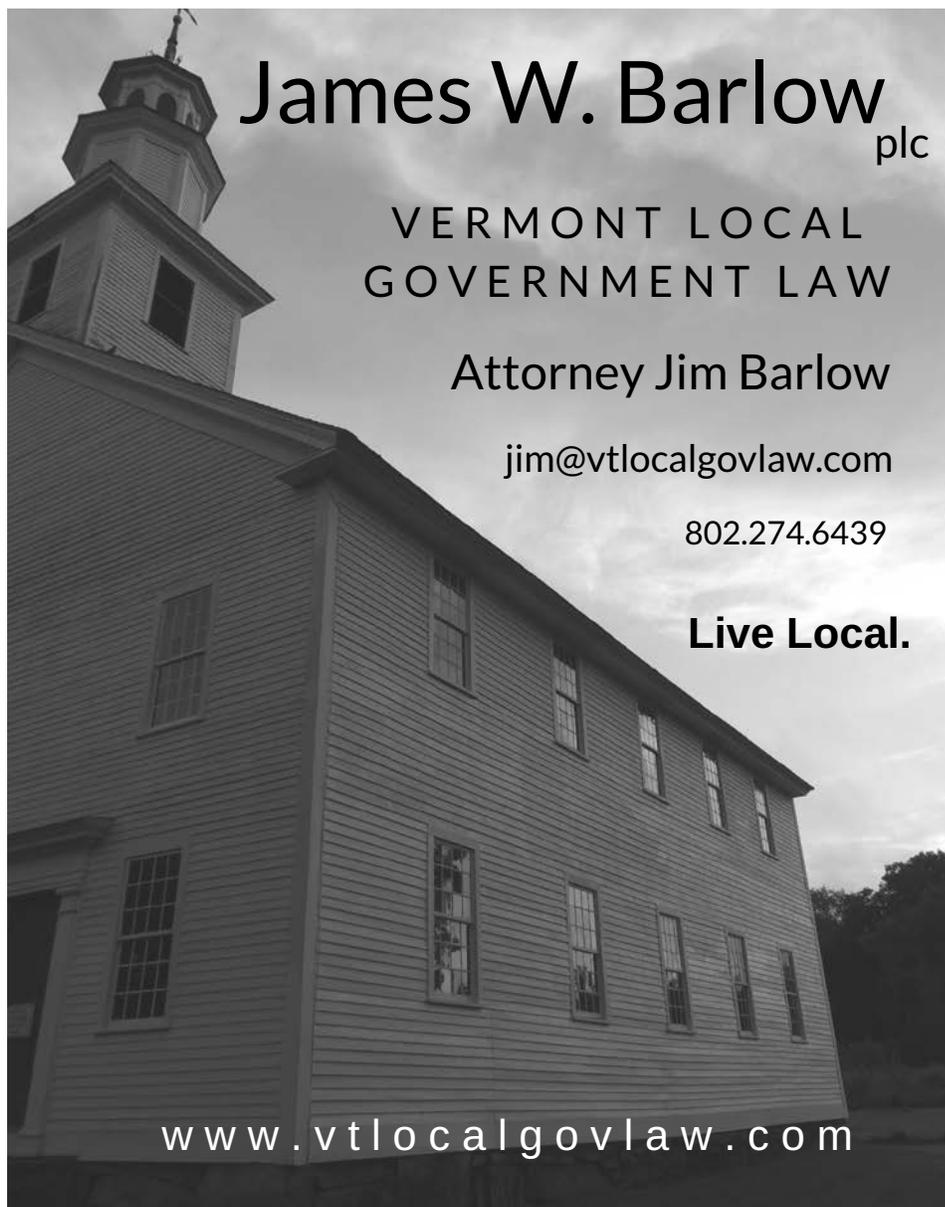
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FEDS RAISE MANY EMPLOYMENT LAW VIOLATION PENALTIES

In November of 2015, a law was passed that got very little attention from employer groups across the country. The Federal Civil Penalties Inflation Adjustment Act Improvements Act (<https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf>) directs federal agencies to adjust their civil monetary penalties for inflation **each year**. The big three federal agencies that implement employment-related laws are the Department of Labor (DOL), the Internal Revenue Service (IRS), and the Equal Employment Opportunity Commission (EEOC). All three recently released an updated penalty list for **violations that you might not even realize you are committing**.

The EEOC raised the penalty for violating **notice posting rules** under the Americans with Disabilities Act (ADA), the Genetic Information Non-Discrimination Act (GINA), and Title VII of the Civil Rights Act. The maximum penalty for not posting

notifications has increased from \$210 per violation to \$525 per violation. What constitutes “per violation”? That depends on what is being audited, but most times it is the number of days or number of employees affected during the time an employer was not in compliance.

The DOL increased numerous violation penalties, all of which are listed in a chart available at www.dol.gov/sites/default/files/2016-inflation-penalty-chart.pdf. A few highlights are:

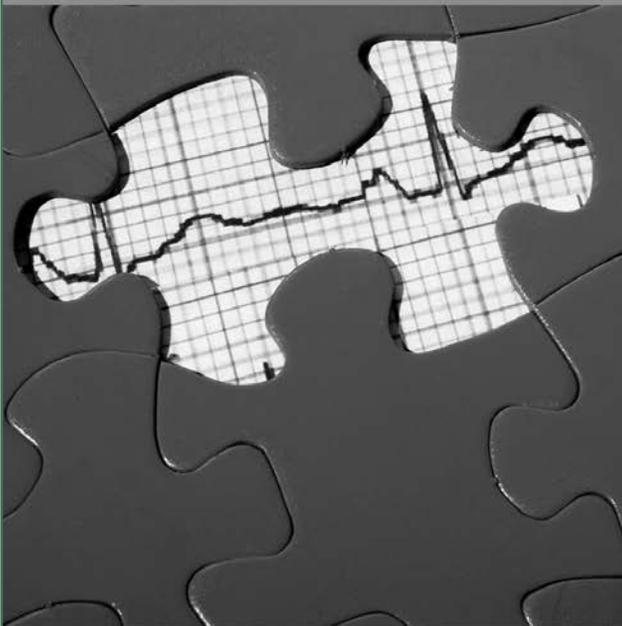
- For flaunting the minimum wage and overtime rules of the Fair Labor Standards Act (FLSA), the willful violation penalty has been increased from \$1,100 to \$1,894 per violation.
- For not posting the applicable information about the Family and Medical Leave Act (FMLA), the penalty went from \$110 to \$163 per violation. There is a new FMLA poster (www.dol.gov/whd/regs/compliance/posters/fmla.htm) that is not mandatory yet, but may be in the near future.

[dol.gov/whd/regs/compliance/posters/fmla.htm](http://www.dol.gov/whd/regs/compliance/posters/fmla.htm)) that is not mandatory yet, but may be in the near future.

- Not to be outdone, the Occupational Safety and Health Administration also increased their maximum penalties for **serious violations** from \$7,000 to \$12,471 each and for **willful violations** from \$70,000 to \$124,709 each. *(In Vermont, all occupational safety and health enforcement within municipalities is done by the Vermont Occupational Safety and Health Administration (VOSHA). As a state program, VOSHA must adopt regulations and rules of enforcement that are “at least as effective” as the federal requirements within six months of the federal effective date (August 2, 2016, in this case). VOSHA has not yet acted on these penalty changes, but is expected to adopt new maximums*

(continued on page 19)

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ASK THE LEAGUE

(continued from page 7)

members are. If the legislature had intended to make exceptions to the law and allow for a quorum of members to communicate using Google Docs and Facebook, it would have stated so.

Document Sharing Platforms (Google Docs). Less clear under the Open Meeting Law is whether it permits a few members of a public body to work, comment, share ideas, and make statements or corrections on a shared document, whether simultaneously in real-time or through a series of one-to-one communications over a period of time. Though it is a question of first impression that has yet to be addressed by a Vermont court, the law likely prohibits public bodies from doing this type of collaborative work outside the confines of an open meeting. This is because such action may violate the intent behind the Open Meeting Law, which is to assure that substantive conversations and decisions by municipal public bodies are made in public. By using a method of on-line communication such as Google Docs, to which the public has limited access, a public body is accomplishing what otherwise may only be accomplished in the context of an open meeting. If members, totaling a quorum, are indicating their approval or disapproval, or making comments and suggestions via Google Docs, whether simultaneously or serially as individual members, the use of the software therefore may be a violation of the Open

Meeting Law.

To avoid a potential violation of the law, the Municipal Assistance Center recommends that members work independently to compose, comment, and edit documents. And while those drafts, comments, and edits may be disseminated (sent by one-way communication) to the other members, all discussions or decisions about those documents should take place during the course of a duly warned open meeting. Alternatively, a public body can designate a point person or several members to work collaboratively on a document using Google Docs outside of its meetings – just as long as the total number of members stays under the quorum threshold (i.e., less than the majority of the total membership of the public body).

There is one exception where the use of Google Docs would be appropriate: in the context of deliberative session, as allowed by the Open Meeting Law. A deliberative session is where a public body weighs, examines, or discusses the reasons for or against an act or decision based on the evidence received at a public hearing held in conjunction with a quasi-judicial proceeding. The law states that “[n]othing in [the open meeting law] ... shall be construed as extending ... to the deliberations of any public body in connection with a quasi-judicial proceeding ...” 1 V.S.A. § 312(e). Since deliberative sessions fall outside the context of the Open Meeting Law, they may be conducted by Google Docs or other electronic communication without violating the law.

Emails. In a related matter, public bodies using email for administrative purposes

should be circumspect with respect to whom and how they reply to group emails. Generally, members should avoid clicking “reply all,” as that may create a group discussion that constitutes a meeting under the law. Communication among a quorum of members regarding the public body’s business is defined as a meeting and elicits the requirements of the Open Meeting Law: public notice, agenda, open to the public, public comment, and meeting minutes.

Social Media. Similarly, members must also be cautious of using social media platforms such as Facebook or Front Porch Forum. While these platforms may be useful tools in connecting with the public and providing transparency, a violation of the law may occur if a quorum of members has a dialogue concerning the public body’s business on those platforms. The use of Front Porch Forum is even more of a liability because the Open Meeting Law requires that all members of the public have the “right to be present, to be heard, and to participate.” *State of Vermont Emergency Bd.*, 136 Vt. 506, 508 (1978). Unlike Facebook, where most anyone can join and participate, Front Porch Forum restricts access to local residents only.

Even though using social media and document-sharing platforms is not formally addressed in the Open Meeting Law, local officials need to be aware that the Vermont Supreme Court interprets the law liberally in support of the overriding policy goal of open access to public meetings. And while the use of social media and digital document sharing platforms is not prohibited by the law, their use requires awareness and caution on the part of public bodies to avoid possible violations.

*Carl Andeer, Staff Attorney I
Municipal Assistance Center*

Missing our personal approach to health insurance?

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See the HIAS Program article in this newsletter for a list of our current services.

For more information, contact
Larry Smith, lsmith@vlct.org



VLCT NEWS ONLINE

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

To view the current *VLCT News* or the archives, please go to www.vlct.org/newsletter.



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

Town Administrator. Montague, Mass. (pop. 8,437), located in the scenic Connecticut River Valley, seeks a proactive

and collaborative manager with significant municipal experience to serve as its third Town Administrator since 1980. The incumbent is retiring after 31 years of service with the Town. Montague is home to "River Culture," an exciting arts and culture program centered in historic Turners Falls which has been described by the Boston Globe as "historic, but not traditional; (where) fossils and a funky arts scene share the spotlight ..." with a strong industrial base and a continuing agricultural component. The town has a representative town meeting; the Town Administrator is appointed by a three-member Board of Selectmen. Montague has an annual operating budget of approximately \$20 million and approximately 75 employees. Fire, water, and school districts are separate entities. Qualifications: The successful candidate should possess a Master's degree in a field related to municipal management and at least ten years of

progressive experience as a municipal manager or administrator, or equivalent education and experience. He or she will be experienced in municipal finance, personnel administration, labor relations, community development, and intergovernmental relations; be a community leader with strong interpersonal and communications skills; and possess a firm belief in collaboration and a team-oriented municipal organization. Salary, \$86,000 to \$95,000, commensurate with qualifications. Additional information is at www.montague-ma.gov, under quick links for job openings. Direct further inquiries to Frank Abbondanzio, Town Administrator, at townadmin@montague-ma.gov or 413-863-3200 ext. 110. To apply, submit a letter of interest and resume by Monday, October 3, 2016, by email (preferred) to adminsearch@montague-ma.gov, or to

(continued on next page)



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www.vmbb.org



CLASSIFIEDS

(continued from previous page)

Town Administrator Search, 1 Avenue A, Turners Falls, MA 10376. Montague is an EEO/AA employer. (08-18)

Zoning Administrator. The Town of Sunderland has an immediate opening for a part-time Zoning Administrator. Currently, the ZA works eight hours per month, however someone new to the role may initially require additional hours to learn the job. The current pay rate is \$30 per hour, plus any mileage at the federally approved rate. The town will also pay the costs of ZA-related education, seminars, and meetings within the state of Vermont.

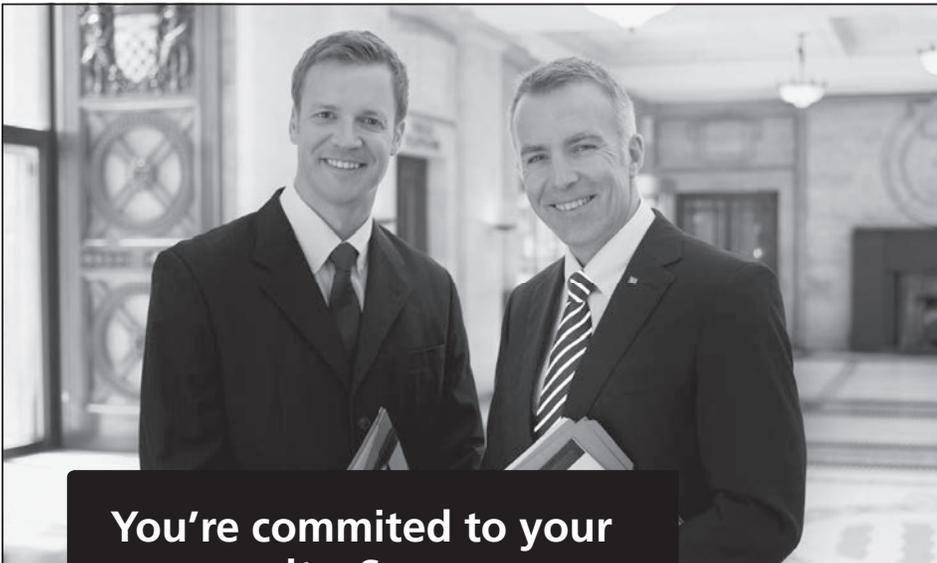
For more information about the position, please contact Sunderland Selectperson John Williams at VermontJW@yahoo.com. For information about the Town of Sunderland, please visit www.sunderlandvt.org. (08-26)

Executive Director. The Rhode Island League of Cities and Towns (RILCT) seeks qualified candidates with association management or other relevant experience for its Executive Director position. RILCT is a private, nonpartisan, non-profit association formed in 1968 to advocate for the interests of its 39 cities and towns. Its offices are in Providence, the state capital. RILCT represents municipalities at the General Assembly and elsewhere, and provides other services. The

successful candidate should have a Master's degree in Public Administration or related field from an accredited institution, ten years of progressively higher levels of responsibility in administration of governmental or association programs and services, demonstrated supervisory and organizational development abilities, and relevant experience with intergovernmental issues and processes, or an equivalent combination of education, skills and experience. Competitive salary; excellent benefits. Email letter of interest, resume, and salary history to Ellis Hankins, Sr. VP, The Mercer Group, Inc., at ehankins@mercergroupinc.com, or request a recruitment brochure. Review of applications begins October 18, 2016. EOE. RILCT values diversity. (08-20)

Deputy Town Clerk. The Town of Morristown seeks an energetic, team-oriented, and experienced individual with the highest ethical standards to fill the position of Deputy Town Clerk. The Deputy Town Clerk is responsible for a moderately complex administrative, clerical, and cashier position requiring a high level of accuracy, integrity, and considerable contact with the general public. The successful candidate must communicate effectively, have knowledge of routine office duties, and be proficient in Word and Excel. Knowledge of local government a plus. More detailed information is posted on the Town website, www.morristownvt.org. This is a year-round, 40-hour per week position with employee benefits. The Town's compensation plan determines the pay range depending on qualifications and experience. To apply, email (1) a cover letter describing reasons this position is important to career goals and describing the "fit" for both the candidate and the Town of Morristown and (2) a resume with at least three current letters of reference to mawilson@morristownvt.org with Deputy Town Clerk as the subject, or mail the documents to Mary Ann Wilson, Town Clerk, Town of Morristown, Attn: Deputy Town Clerk Position, PO Box 748, Morrisville, VT 05661. Position open until filled. EOE. (09-06)

Operator. The North Branch Fire District #1, a wastewater treatment facility located in West Dover, Vermont, is seeking a full-time Operator to perform skilled and semi-skilled work in the operation of the



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CLASSIFIEDS

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District's wastewater facility. The Operator works under supervision of the Chief Operator. Work includes daily operation and monitoring of influent and effluent conditions; laboratory analysis, collection system maintenance and repairs, equipment maintenance, grounds care, and performing pump runs on a daily basis; collection of water quality samples as applicable; operating and maintaining plant equipment including pump control systems, alarm signals, chemical feed systems, and belt filter press; making adjustments in plant operations as needed due to seasonal changes, quality changes, maintenance schedules or special programs or circumstances; and performing other duties as assigned. Applicants must have a valid driver's license, a high school diploma or equivalent (GED), and be able to read and write English. Weekend work is necessary. Pay compensatory with work experience. Benefits include health insurance, life insurance, short- and long-term disability insurance, vacation days, personnel days, holidays and participation in VMERS. For an employment application and information, please contact Linda Holland, Administrative Manager (802-464-7560 ext. 110), or Bart Howes, Chief Operator (802-464-7560 ext. 113), or email nbfd1@myfairpoint.net. You can also pick up an application at the North Branch Fire District #1 office, 78 Dorr Fitch Road, West Dover, VT 05356. (09-07)



Kay M Kuzmik
Office Coordinator
(802) 229-2391 main office
(802) 229-2637 fax

Ronald "Chip" Sanville
Key Retirement Plan Counselor
(802) 626-4412 office

Jonathan Smith
Retirement Plan Counselor
(802) 434-5119 office

Willard Watson
Retirement Plan Counselor
(802) 417-7937 office

www.vermont457.com

VERB's HIAS PROGRAM

(continued from page 11)

maneuvering the world of health insurance and benefits easier for you and your employees, alleviate much of the administrative burden on municipal officials, and maximize the municipality's cost savings and benefit plan offerings. VERB provides these services in partnership with Hickok & Boardman HR Intelligence (H&B), a Vermont-based insurance and financial products agency.

VERB's Health Insurance Advisory Services include:

- Education and communication for health insurance options and benefits
- Advice and assistance with overall benefits strategies
- Financial modeling of benefit plans and funding options
- Assistance with pre-enrollment, enrollment, and post-enrollment activities
- General support of health benefit plan administration, including working with insurers
- Providing forms, templates, education, and information to help participants comply with the Affordable Care Act (ACA).
- Support and attendance at meetings of members' governing boards, management, and employees, and at union negotiations
- Health Advocate's Core Advocacy services
- Support from H&B for complying with relevant state and federal regulations
- Access to additional H&B services at a reduced cost [see sidebar]

The HIAS program is **open to all VLCT members at very competitive rates**. It's important to note that VLCT members that choose not to enroll in the HIAS program will still receive basic health insurance-related information from VERB. However, the VERB Trust cannot provide the special customized services listed above without a signed HIAS Agreement in place.

For additional information about the HIAS program or for a copy of the

agreement, please contact Member Relations Manager Larry Smith (lsmith@vlct.org) or Health Benefit Programs Administrator, Kelley Avery (kavery@vlct.org) at 800-649-7915.

LAW VIOLATIONS

(continued from page 15)

that are identical to the federal changes. PACIF will communicate this information to members when it is available.)

The IRS has increased its penalties for not filing or furnishing ACA tax forms (1095/1094). This can be really costly, as the amount is \$260 per form (up from \$100) for both the 1095s (Employee Statements) that should have been furnished to employees and the copies of them and the 1094 (Transmittal Form) that should have been filed with the IRS. For example, if paperwork should have been furnished and filed for five employees, the penalty is 5 x \$260 (for the Statements not furnished to the employees) **plus** 6 x \$260 (for the copies of the statements and the Transmittal form not filed with the IRS).

One last agency, the Department of Justice, got into the act too by increasing the penalties that apply to employers who *knowingly* employ an unauthorized worker. The fine was \$375 and has been increased to \$539 per person. If you don't correctly complete an I-9 form, the penalty increased from \$1,100 to \$2,156.

Remember, these penalties will be adjusted each year going forward. Noncompliance has become an expensive mistake!

So how should VLCT members comply? Go to government websites? Search the web? Call VLCT? Keep in mind that only members participating in the VERB Trust's Health Insurance Advisory Services Program will be able to benefit from the full spectrum of comprehensive HR Compliance Support services that VLCT and Hickok & Boardman HR Intelligence provide. In order to avoid some costly penalties, we encourage you to contact Larry Smith (lsmith@vlct.org) or Kelley Avery (kavery@vlct.org) at 800-649-7915 to find out how you can take advantage of these services today!

*Brenda JM Sabin,
CBP, SPHR, SHRM-SCP, CHRS
Director of HR Compliance and Payroll Solutions
Hickok & Boardman HR Intelligence*



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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

**LOOK FOR THE TOWN
FAIR 2016 WRITE-UP
WITH PICTURES IN THE
NOVEMBER ISSUE OF
THE VLCT NEWS!**



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