

VLCT NEWS



A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

STRENGTHENING VERMONT LOCAL GOVERNMENT

January 2000

WHAT HAPPENED?

HEALTH TRUST AND BLUE CROSS BLUE SHIELD OFFICERS EXPLAIN RISING INSURANCE RATES AT HEALTH TRUST ANNUAL MEETING

Seventy local officials gathered last month for the VLCT Health Trust's annual meeting in Essex. As employers and/or employees, they heard the disturbing news that the Health Trust's 2000 rates for various medical insurance plans will rise between 9 and 30% over 1999 rates.

While high, the increases continue the Health Trust's three-year trend of rate increases that lag well behind the Vermont average. The end of this year, in particular, has seen health insurance rates across the state rise sharply (some press reports peg them as high as 50% for certain employers). At the Health Trust's annual meeting, board members and executives from Blue Cross Blue Shield attempted to explain to Trust members why the state, and the Health Trust in particular, is experiencing such severe rate increases.

In his introductory remarks, Health Trust Board President and Waterbury Municipal Manager William Shepeluk commented that "health care is now a high-tech proposition and that, in and of itself, is driving some of the costs." Shepeluk added that those insured

through the Health Trust are also using the health care system "a lot" and that the increased demand increases costs. Blue Cross Blue Shield Chief Executive Officer Bill Milnes and VLCT Group Services Director Tom LoPizzo elaborated on the three forces driving recent insurance rate increases, not only for VLCT, but for employers across Vermont.

UTILIZATION

The number of medical procedures and services used by Vermonters is rising rapidly. This drives hospital budgets up and costs the insurance system more. State and insurance company officials are predicting that state-wide, utilization will rise by 16.9% in 2000. Municipal officials and their dependents insured through the VLCT Health Trust used 6.3% more medical care in 1998, 10.3% more in 1999, and predictions are for this trend to continue through 2000. Compounding the trend of increased utilization is the rising cost of prescription drugs. Currently prescription drug use is increasing 10% annually for the

Health Trust and drug costs now equal 17% of all claims paid by the Trust.

MANDATED COVERAGE

State mandates in 1998 (mental health parity and diabetic supplies) and in 2000 (chiropractic and prescription contraceptives) have added 10.6% to Health Trust insurance rates during the last three years.

UNDERFUNDING BY MEDICARE AND MEDICAID

Federal and state underfunding of Medicare and Medicaid (which shifts costs to those who have health insurance) is nothing new, but the practice can no longer be borne by a system that is already stretched to the financial limit. Noting that Medicare pays only \$.40 - .60 on the dollar and Medicaid only \$.29 on the dollar for some medical services, Mr. LoPizzo said that this shortfall annually adds millions of dollars to the cost employers must pay for health insurance. "If Medicare and Medicaid paid up," LoPizzo remarked, "we could lower our rates by 20-30%."

The discussion of Medicare and Medicaid served as a good introduction to a presentation by Leigh Tofferi, Blue Cross Blue Shield's

(Continued on Page Three)

MARK YOUR CALENDARS

LOCAL GOVERNMENT DAY IN THE LEGISLATURE

Wednesday, February 16, 2000 is the date of the 11th Annual VLCT/Vermont Municipal Clerks and Treasurers' Association (VMCTA) Local Government Day in the Legislature.

This event brings legislators and Vermont local officials together to meet and talk about legislative issue of local concern. It's also a great opportunity for local officials to get an up-to-date briefing, in person, from VLCT and VMCTA legislative staff and volunteers. League staff members

Steven Jeffrey, Karen Horn and Molly Dugan will speak on the morning of the 16th at the Capitol Plaza about pending legislation, and will be joined by Kathy White, VMCTA Legislative Chair. Attendees will be given a schedule of important committee meetings at the State House, where they will be able to witness first hand Vermont's Legislature at work. Tours of the State House will also be offered. Back at the Capitol Plaza, a luncheon will feature many legislators and a special speaker.

Please watch your *Weekly Legislative Report* for more information about Local
(Continued on Page Nine)

INSIDE THIS ISSUE...

VLCT Board Profile	2
Legal Corner	4
Ask the League	6
Loss Prevention Notes	8
Junkyards Revisited	10
Book Review	11
Making Movies in Vermont	12
Citizenship at Risk	13
Calendar	14
Classifieds	15



VLCT BOARD PROFILE

MEET WILLIAM FRASER, MONTPELIER CITY MANAGER

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Katherine B. Roe, Editor, VLCT News

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The newest member of the VLCT Board of Directors is William Fraser, Manager of Vermont's capital city, Montpelier. Bill has been at the helm of Montpelier's city government for just shy of five years, and felt the time was right to begin working on behalf of municipal government at the state level. "Vermont communities have a lot in common," he commented, adding "more often than not we focus on the few areas where we differ. I'd like to help keep us focused on what can benefit the whole." Besides his emphasis on the common interests of Vermont municipalities, Bill also brings to the Board an interest in and close proximity to the Legislature. As he put it, "I'm handy, and can head up to the Legislature to testify when needed."

Going to the state capitol was an early and frequent activity in Bill's life. His father, a high school principal, died when Bill was nine. As a result, Bill spent a lot of time with his grandfather, a Maine state legislator. He helped him campaign, and accompanied him to meetings, including one at which he had a chance to meet the Governor of Maine. "There was definitely a public sector bias in my house," Bill noted. "My mother was a school teacher, and my time with my grandfather made a big impression on me."

Though he feels that public service was considered much more of an honor in his grandfather's time than it is now, Bill continues to believe in its intrinsic value. "I really think," he said, "that public service is an honorable profession whether you are an employee or a volunteer." It is this belief, coupled with the ever-changing nature of the manager's job and the sense of satisfaction that Bill gets from helping Montpelier's citizens, that keep him working in the public sector. "Where else," he asks, "do you meet with the engineers at the water treatment plant in the

morning, discuss youth policy in the afternoon and wrap up the day with some work on the budget?"

Bill also welcomes the trend in the manager's profession in which the governing body, in his case the Montpelier City Council, and the manager work as a team. "The lines used to be clearly drawn," he noted, "between the elected body that took the political stance and made policy, and the manager, who implemented it. Over time this has been changing somewhat. Now, people are looking for more input from the manager. They are looking for an opinion, and asking, "What do you think we should be doing here?"

The times, Bill believes, demand this team approach. He and his city council are faced with citizens who want more services, but at the same time are unwilling to pay more in taxes. "There is an interesting dichotomy at work now," Bill said. "There is a growing resistance to government at the same time that government is being asked to tackle problems it used to leave to others, such as attracting businesses and promoting the downtown." There is also, Bill noted, more of a demand for amenities

such as bike paths and parks, while support dwindles for funding the traditional highway, police and fire budgets.

With one of the highest tax rates in the state, Montpelier is particularly pressed by taxpayer demands and limitations. "At the same time our tax rate curbs our economic and residential activity," Bill said, "we must support a community that extends well beyond our borders. This is amplified by the state's presence." This situation points out an issue that Bill believes Montpelier, and other Vermont municipalities, will have to deal with in the future. Citizens are no longer based in just one community; instead they regularly



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FRASER -

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travel to several to work, recreate and shop. He asks, "How will we balance these regional social and economic needs with our traditional political boundaries?" Bill believes that citizens and those in local government will need to look at regional relations from a service perspective, put aside allegiances, dollars, and history, and "decide who can do the job the best."

Montpelier is not waiting for regional services to arrive in the area any time soon, however. Bill is justifiably proud of the City's recent accomplishments in the area of longstanding capital and infrastructure needs. The City is building a new police station, installing new storm sewer lines, recently renovated its downtown fire station, and is currently completing a new water treatment plant. It has also made an extra effort to reach out to the public by issuing more press releases, creating a web site and placing a regular column in *The Bridge*, Montpelier's monthly community newspaper.

Bill, his wife Anne, and their four children Olivia, Patrick, Claire and Angus (ranging in age from 6 1/2 years to three weeks) are also enthusiastic Montpelier residents. It is clear that the Frasers consider Montpelier a wonderful community to have settled in, and that Bill has an intensely personal interest in making the City be all it can be for its

residents and visitors. And when he is not working on behalf of the City, Bill admits to outside interests heavily weighted toward Arthur, Barney and Star Wars, with a little guitar playing and hiking in Montpelier's Hubbard Park slipped in whenever possible.

Bill, Anne, Olivia and Patrick moved to Montpelier in 1995 from Cambridge, Massachusetts, where he was Finance and Personnel Director for the City of Cambridge's Department of Human Services. Working within a department that had a larger budget and more employees than the entire City of Montpelier, Bill "learned a valuable lesson about what it's like to be in the middle of an organization, with orders coming down from above." He also was able to take advantage of a City scholarship program to get his Masters in Public Administration from Harvard's John F. Kennedy School of Government. "That was a chance of a lifetime for a kid from Maine," Bill recalled, "and it offered me another valuable lesson - exposure to a lot of people from all over the world." Prior to his Cambridge work, Bill received his undergraduate degree in public management from the University of Maine and served as manager in three small communities in Maine and New Hampshire.

Montpelier, and now the League, have benefited from Bill's wish to get back into general municipal management, and to raise his family in a less urban setting. The staff and members of VLCT welcome you aboard Bill!

HEALTH CARE -

(Continued from Page One)

Director of Government Relations. While the health care system is influenced by many factors out of the Legislature's control, Tofferi and other officials at the meeting did note that legislators need to hear from Health Trust members on two issues in particular: mandated coverages and the Medicare/Medicaid cost shift at the federal and state levels.

For the most part, Health Trust members took the bad news about rates with an air of resignation. However, they did press Blue Cross officials for an explanation of the extremely high rate increase for the Vermont Health Plan HMO (30.6% versus 9% for the Vermont Health Partnership, and 15-16% for the indemnity and comprehensive plans). Milnes noted that the Vermont Health Plan (Blue Care Plus) was a new product three years ago, competing against an HMO (Kaiser Permanente) that offered low rates, despite losing some \$10-15 million per year.

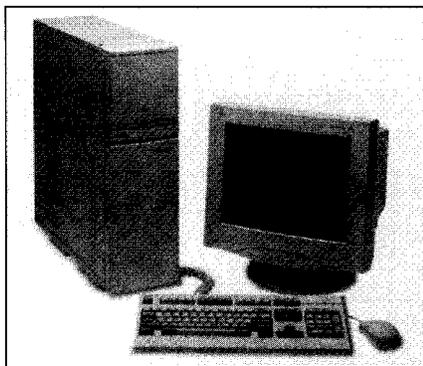
"Frankly," Milnes said, "we were closer to Kaiser rates than we should have been." The Vermont Health Plan is also the only product offered through the Health Trust whose rates are set exclusively by Blue Cross Blue Shield, without input from the Trust. This resulted in a higher than expected rate increase because the Health Trust's actual claim experience (generally better than the average for other members of the HMO) could not be factored in to lower the rates as was done in past years.

Looking ahead, Health Trust and Blue Cross Blue Shield officials offered little hope for reasonable rate increases next year. Trends toward more use of the health care system, higher prescription drug costs and continued underfunding of Medicare and Medicaid show no signs of abating. While noting that the Health Trust will continue to work with Blue Cross Blue Shield to pare rates down to the lowest possible level, and at the same time will press the federal and state governments to fully fund Medicare and Medicaid, Trust President William Shepeluk concluded the meeting with a warning: "Municipalities are providing huge benefits [in the form of health care insurance], and we have gotten away from just protecting our employees from a catastrophic health event. Because of this we are now shouldering more of the cost for what is essentially a high quality but very expensive health care system. It's a system which people, by nature, demand."

"Unfortunately," he concluded, "we need to consider sharing this cost with our employees."

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SAME-SEX MARRIAGE; PROPERTY TAX APPEAL

SAME SEX COUPLES DENIED CONSTITUTIONAL RIGHTS UNDER CURRENT MARRIAGE LAWS

The case on everyone's mind these days is *Baker v. State of Vermont*, No. 98-032 (Entry Order, December 20, 1999). In this recent case, the Vermont Supreme Court ruled that the State is required to extend to same-sex couples the "common benefits and protections" that flow from marriage under Vermont law. This article will briefly recap the Court's lengthy decision.

The case began when three same-sex couples applied for marriage licenses in their respective municipalities, Milton, Shelburne, and the City of South Burlington. The licenses were refused under the Vermont marriage statutes. The couples then sued the State and the three municipalities, arguing that the refusal to issue them a license violated the marriage statutes and the Vermont Constitution.

The Court first discussed the plaintiffs' claim that they should have been issued licenses under the Vermont marriage statutes. It noted that the plain and ordinary meaning of "marriage" is the union of a man and woman as husband and wife. The marriage

license statute, 18 V.S.A. § 5131(a), uses the terms "bride" and "groom," which are gender-specific terms. The Court thus easily concluded that the Legislature assumed that marriage under the Vermont statutes consists of a union between a man and a woman, and it rejected the plaintiffs' statutory claim.

The plaintiffs won the case on their constitutional claim. Chapter I, Article 7 of the Vermont Constitution contains the Common Benefits Clause, which states in pertinent part:

For the time being, therefore, the law remains unchanged, and town clerks may not issue marriage licenses to same-sex couples. ... We will keep you posted.

That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community, . . .

In discussing the history of the clause's interpretation, the Court observed that "Vermont case law has consistently demanded . . . that statutory exclusions from publicly-

conferred benefits and protections must be 'premised on an appropriate and overriding public interest' [citation omitted]." In other words, the State would have to have very strong reasons for denying same-sex couples the benefits and protections of marriage.

The Court then looked at the purposes that the State argued were served by the exclusion of same-sex couples from marriage. The State's main argument was that marriage between a man and a woman serves the government's interest in "furthering the link

between procreation and child-rearing." The Court concluded that the statutory exclusion was significantly under-inclusive, because many opposite-sex couples either choose not to have or cannot have children. Furthermore, many children today are being raised by same-sex couples, and some of these children are conceived by these parents through various techniques of assisted reproduction.

The Court then asked whether the

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LEGAL CORNER -

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exclusion of same-sex couples from the benefits and protections of marriage violated Article 7 of the Constitution. It found a violation, in part because the freedom to marry has been recognized as a "vital personal right" for a long time, and "... the marriage laws transform a private agreement into a source of significant public benefits and protections." These benefits include inheritance rights, workers' compensation survivor benefits, homestead rights, and hospital visitation rights, to name just a few. The Court therefore concluded that the statutory exclusion of same-sex couples from these benefits could not be justified, because none of the State's reasons in support of the exclusion were strong enough to overcome the injustice of the exclusion.

The Court's holding was that under Article 7 of the Constitution, the plaintiffs are entitled to the *same benefits and protections* given by Vermont law to married, opposite-sex couples. Turning to the question of how to remedy the situation, the Court passed the ball to the Legislature. (Justice Johnson

dissented from this portion of the Court's opinion, arguing that the Court should issue an injunction so that the plaintiffs could obtain marriage licenses.) The majority of the justices reasoned that because a sudden change in the marriage laws could have "disruptive and unforeseen consequences," they would allow the current statutory scheme to remain in effect for a reasonable period of time to allow the Legislature to enact remedial legislation in an "orderly and expeditious fashion." The Court suggested that this legislation could be (but does not have to be) modeled on laws from other states establishing "domestic partnership" or "registered partnership" arrangements. Alternatively, the Legislature could, of course, decide to allow same-sex couples to obtain a marriage license.

For the time being, therefore, the law remains unchanged, and town clerks may not issue marriage licenses to same-sex couples. All indications are that the Legislature will work hard on this issue during the session. We will keep you posted.

TOWN NOT OBLIGATED TO TELL APPELLANT OF INDEPENDENT APPRAISER OPTION

Another recent Vermont Supreme Court case is worth a very brief mention on one point. The case of *Kalish v. Town of Manchester*, No. 99-184 (Entry Order, Nov. 24, 1999) concerned a taxpayer's appeal from the State Board of Appraisers. The State Appraiser had upheld the Town's Board of Civil Authority, which had listed the taxpayer's residential property at the amount of its sale price. The Supreme Court agreed with the State Appraiser on this point but remanded the case back to the State Appraiser to address an equalization issue. The point worth mentioning is that the taxpayer had argued that the Town should have informed her that she could obtain an independent appraisal of the property. The Court refused to impose such a requirement, noting that the Town "was not compelled to assist [the taxpayer] in presenting her appeal." Although local officials are certainly free to mention the option of an independent appraisal to a taxpayer who appeals his or her valuation, they are not required to do so.

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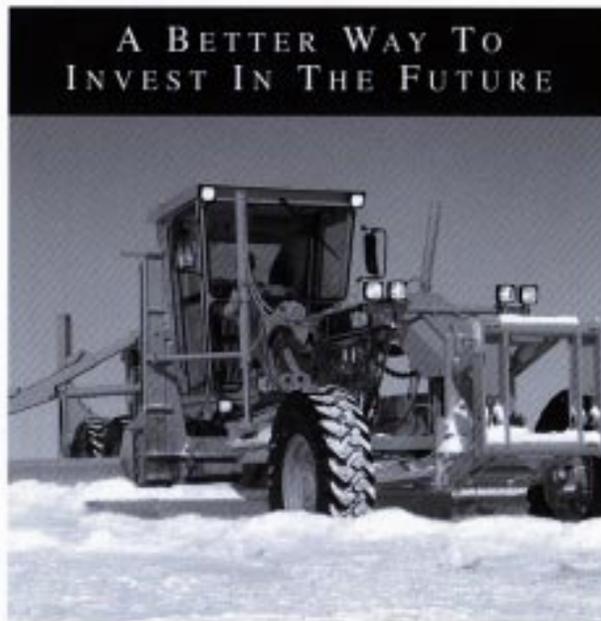
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ASK THE LEAGUE

ABSENTEE VOTING; LIVING IN A SCHOOL BUS; PLANNING COMMISSION AND DEVELOPMENT REVIEW BOARD

How many days before town meeting may a person vote by absentee ballot?

First, it must be pointed out that the absentee ballot process of voting is only available to voters when the question is to be voted on by Australian ballot (where ballots are prepared in advance of town meeting). Unless specifically required by statute, or the voters vote to use the system, the Australian ballot system does not apply to an annual or special meeting of a municipality (17 V.S.A. §2680). Two examples of actions requiring the use of Australian ballot are replacing an elected constable with an appointed one (17 V.S.A. §2651a), and adopting or amending zoning bylaws in rural towns (24 V.S.A. § 4404). Some towns also choose to use this system to elect officers, act on the budget and other financial matters, and decide some or all public questions. Clearly, there is no way to allow absentee balloting if your town votes "from the floor" at town meeting. Voters have to be present to be counted.

In *local* elections, if an article is to be voted by Australian ballot, a voter may vote as many as 20 days before the election. The reason for

this is that the law requires the town to prepare ballots a minimum of 20 days before the local election (17 V.S.A. § 2681a). The clerk is then required to make the ballots available to persons requesting them. To wit, *"The absentee ballots shall be mailed forthwith upon the filing of a valid application (request for absentee ballot by voter), or upon the town clerk's receipt of the necessary ballots, whichever is later."* (emphasis added). 17 V.S.A. § 2539(a). Further, ballots for state-wide elections (presidential primary, September primary, and general elections) must be made available to town clerks by the Secretary of State's office no later than 35 days prior to the election (17 V.S.A. § 2479). Thereafter, applications for absentee ballots can be processed.

A voter who expects to be absent on the day of election, or an authorized person acting in the voter's behalf, may apply for an absentee voter ballot by telephone, in person, or in writing. A voter can apply until 5 p.m., or the closing of clerk's office, on the day before election, and an authorized person can request a ballot for another person until noon on the day before election. More and more

absentee voters are finding it convenient to apply and vote in person at the town clerk's office, saving both themselves and the town the expense and time involved in mailing the application. It should be noted that a voter cannot pick up an absentee ballot and take it to another location to fill out later and mail back. The ballot *must be* completed at the clerk's office.

A final word about absentee voting. There is the perception by some that only voters who are ill, or who suffer from a disabling physical condition that prevents them from getting to the polls, can vote by absentee ballot. The fact is, however, that you don't have to be sick or disabled to vote early. Any registered voter *can* vote early (17 V.S.A. § 2531(a)). We do not, however, wish to give the impression that we are encouraging early voting as a general rule. In addition to electing [its] officers by Australian ballot, many municipalities vote on a variety of public questions and money articles by Australian ballot. In this case, the law requires the legislative body to hold a public informational hearing on the questions within 10 days of the vote. 17 V.S.A. §

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ASK THE LEAGUE -

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2680(g). By voting too early, you run the risk of making a decision before you have a chance to attend this hearing and gather all of the information needed for an informed decision. Needless to say, whether you vote on the day of the election, or earlier if need be, what's important is that you participate in local government. Please vote!

If a town does not have zoning what action, if any, can it take against the use of a school bus as a residence, when: (1) the school bus is parked with permission of the landowner behind the landowner's house; (2) the bus occupant claims to use the sanitary facilities of the house; and, (3) neighbors are complaining that the bus, located beside the church and town office, is unsightly?

At first glance, town officials may feel powerless to act; however, there are a number of legal options available in such situations.

Probably the best approach for a town without zoning is to proceed under the *abandoned vehicle* laws, provided that the school bus is not registered. State law prohibits the placement of a junk motor vehicle within view of a public highway. 24 V.S.A. § 2271. "Junk vehicle" is defined as "one other than an on-premise utility vehicle which is allowed to remain unregistered for a period of ninety (90) days from discovery." 24 V.S.A. § 2241(6). This definition would

appear to apply to the school bus in question if it remains unregistered. (NOTE: If the vehicle owner registers the school bus, this statute will *not* apply.) One method of enforcing the "junk vehicle" law requires notifying the Agency of Transportation, which in turn notifies the property owner or last known registered owner of the vehicle. 24 V.S.A. § 2272. The landowner or the vehicle owner must then "dispose of such vehicle in such a manner that it is no longer visible from the main traveled way of the highway..." 24 V.S.A. § 2272(a). If the landowner or motor vehicle owner fail to do this, the state may take possession of the vehicle. 24 V.S.A. § 2272(d). The contact person at the Agency of Transportation is Denise Kingsbury at 802/828-2067.

The Board may also rely on its general authority under 24 V.S.A. § 2271 to seek an injunction for the abatement of a public nuisance under 24 V.S.A. § 2121. This power applies because 24 V.S.A. § 2271 states that "Motor vehicles so placed, discarded or abandoned are hereby declared to be a public nuisance." It is recommended that the town first consult with the town attorney concerning the time and expense involved with such an approach. Also note that the selectboard has the authority "To define what constitutes a public nuisance, and to provide procedures and take action for its abatement or removal as the public health, safety or welfare may require" through a nuisance ordinance. The advantage of having a local ordinance is that the town may set and impose penalties against violators. 24 V.S.A. § 2291(14) (15).

You may also be aware that there is a state *junkyard permit* law that regulates the storage of junk vehicles visible from a public highway. However, a junkyard permit is required only if four (4) or more junk vehicles are visible from the highway. Unfortunately, this law does not apply to your specific situation, given the fact that only a single vehicle is involved. 24 V.S.A. § 2241(7). Again, however, the selectboard could adopt a local junkyard and junk car municipal ordinance and enforce violations locally.

The town could also approach the problem from a health and safety perspective. A municipality is empowered to adopt an ordinance governing sewage systems. 24 V.S.A. § 3633. If the town has such an ordinance, it should be examined closely to see if the residential use of the school bus violates the provisions of the ordinance.

The local board of health (that is, the selectboard and the local health officer) has jurisdiction over sewage disposal. 18 V.S.A. §

613(b). In addition to sewage disposal, the board can make and enforce rules and regulations concerning health hazards. To wit, "The Board may act to abate nuisances affecting the public health caused by the failure of a sewage system to (1) prevent surfacing of sewage and the creation of a health hazard; or (2) prevent pollution or contamination of drinking water supplies, groundwater and surface water; or (3) maintain sanitary and healthful conditions during operation." 24 V.S.A. § 613(b).

Additionally, the State Board of Health has jurisdiction over "emergent conditions which create a risk to the public health as a result of sewage treatment and disposal, or its effects on water supply..." 18 V.S.A. § 102. The general phone number for the state Department of Health is 800/464-4343.

The ability of the state or local board of health to act in this instance depends upon whether there is any evidence that the sewage system of the dwelling is failing due to use by the bus inhabitant, or evidence that the bus inhabitant is, in fact, not using the house's facilities. In these circumstances, the local health officer has the authority to issue a health order.

In conclusion, a town without zoning is not without legal remedies! Please contact the VLCT Municipal Law Center if you would like a sample copy of the ordinances mentioned above.

When a town creates a development review board (DRB), is the planning commission still responsible for approving access to lots without road frontage pursuant to 24 V.S.A. § 4406(2)?

No. The planning commission does not retain its approval authority under this provision once a DRB is created. As provided in 24 V.S.A. § 4401(2), "If a municipality establishes a DRB, ... the DRB, until its existence is terminated, shall exercise all of the functions otherwise exercised (under Chapter 117) by the board of adjustment. It also shall exercise the specified development review functions otherwise exercised, under this chapter, by the planning commission (emphasis added). In situations where this chapter refers to functions that may be performed by a DRB or a planning commission, or functions that may be performed by a DRB or zoning board of adjustment, it is intended that the function in question shall be performed by the DRB if one exists..."

Because the required road frontage provision is a development review function, the authority to approve such proposals would transfer to the DRB, once created.



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LOSS PREVENTION NOTES

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LOSS PREVENTION STAFFER UP TO DATE ON OSHA REGULATIONS

Dave Sears, VLCT Loss Prevention Representative, recently attended and successfully completed the federal Occupational Safety and Health Administration (OSHA) course on General Industry Standards. Dave is now an authorized Outreach Trainer for OSHA Standards for General Industry.

The week-long training session provided an in-depth look at the federal workplace safety requirements commonly known as "OSHA Regulations." Topics covered included: Hazard Communications, Personal Protective Equipment, Respiratory Protection, Material Handling and Fire Protection. Instructors noted that at this time, OSHA's number one safety violation inspection in New England is machine guarding. Previously, it had been

hazardous materials labeling, which is still a problem area.

Time was also set aside to discuss the federal government's proposed ergonomics, or repetitive motion injury, regulations. In the course of the discussion, it was noted that nationally, back injuries are the number two reason for people missing work. Number one is the common cold.

The OSHA course instructors are affiliated with the Keene State College Industrial Safety Program. Course attendees included safety professionals from many different industries and from around the country.

According to Dave, the common theme throughout the training was: If people are safe on the job, then compliance with OSHA regulations is relatively easy. If you have any

questions about OSHA regulations and how they apply to your municipality, or questions about any other safety issue, please call the VLCT PACIF Risk Management Services Department, tel.800/649-7915.

NOTE: An astute reader, Tony Weinberger from Chester, noted that a statistic in our November 1999 column on driver training was wrong. We apologize for the error. A normal passenger car, with ABS brakes and under dry conditions, will take approximately 100 feet to brake from 50 mph, not 30 feet as was stated in the article. All the more reason to drive carefully!

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CALENDARS -

(Continued from Page One)

Government Day, or call VLCT at 800/649-7915.

TOWN FAIR

A recent decision by the League and the Vermont Municipal Highway Association has Town Fair returning to a one-day format. The Fair will be held this year on Thursday, September 28, 2000 at the Killington Resort and Conference Center. All events, with the exception of the Local Government Golf Tournament on Wednesday, September 27, will be held on Thursday, September 28, including the VLCT, VLCT PACIF and Unemployment Trust annual meetings, workshops, the plow rally and the annual roast turkey dinner luncheon and awards ceremony.

Plan now to be there for Town Fair 2000!

STRESS BUSTERS

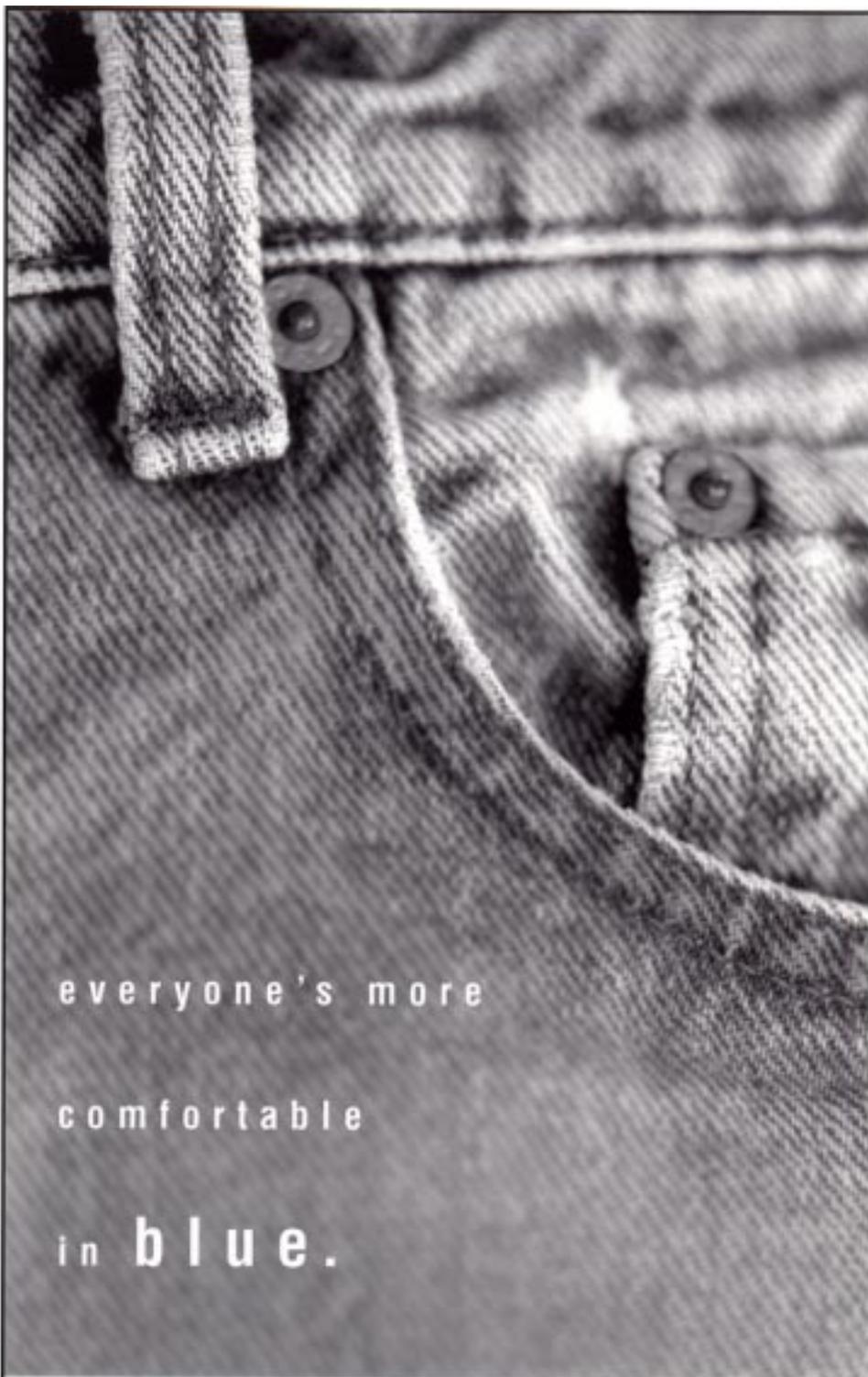
WORKSHOPS 2000

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VLCT Health and Safety Coordinator Heidi Joyce offers the following new, 1 ½ hour workshops for the year 2000:

- Fast Action Stress Relief: Learn the Freeze Frame Technique to Reduce Mental and Emotional Stress and Boost Clarity and Creativity in the Moment
- Creating More Time to Enjoy Your Life
- Freeing Yourself From the Food and Weight Obsession
- Preventing Injuries by Managing Stress
- Laughter is the Best Medicine. Prayer is Too!
- Employee Assistance Programs: How They Can Help You Manage Stress
- Creating a Spiritual Life From Scratch
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JUNKYARDS REVISITED

Junkyards. Everyone can think of one they know that needs to be addressed because of state or local regulatory infractions. Now there is a report that verifies your anecdotal evidence. And it may result in some new ways of dealing with junkyards in your community.

Last spring the Agency of Natural Resources asked a staff member of the Solid Waste Division to investigate the status of junkyards in Vermont. Craig Ruberti undertook that investigation and produced an informative report last summer.

While the report does not do justice to municipal efforts to regulate junkyards under the current statutes, it does provide a lot of information about the nature of junkyards in Vermont. It also traced the history of efforts to address junkyards and offered recommendations for action. According to the report there are currently 84 junkyards in Vermont licensed by the Agency of Transportation (VTrans). The purpose of such licensure is to screen them from public view of the highway system. However, since 1981, the Agency of Transportation has had just \$1 in its annual budget to handle junkyards.

The history of efforts to address junkyard issues is spotty. Resources have not been

allocated to the issue in almost 20 years. The Agency of Transportation and Agency of Natural Resources have not been able to devise effective monitoring or regulation of the industry. Local efforts to enforce junkyard ordinances or regulate junkyards have often failed in the courts.

Ruberti visited 12 of the licensed facilities during the course of his study. As a result of his site visits, research of practices in other states, and complaints lodged with the Agency of Natural Resources, Ruberti developed six classifications of junkyard. They are:

1. *Automobile Metal Recycler* – receives automobiles for the purpose of disposing of them for scrap value (steel). The vehicles are stored and crushed at some point to be delivered to a shredder. White goods (washing machines, refrigerators, etc.) and scrap metal may also be handled.

2. *Scrap Metal Recycler* – does not deal with vehicles. Receives various types of metal for scrap value. White goods may be handled. Material is hauled off site in containers.

3. *Used Parts Dealer* – receives wrecked vehicles to cannibalize parts for resale. Crushing of car hulks is accomplished on or off-site.

4. *Automobile Mechanic/Rebuilder* – repairs vehicles and also buys old vehicles to keep for parts or repair for resale. Crushing may or may not be done.

5. *Salvage Pool* – receives cars from insurance companies that have been declared a total loss. Some vehicles are purchased and others received at no cost. The vehicles are left on-site with no removal of fluids except gas. Cars are sold by auction to dealers with licenses. Used parts businesses are the most frequent clients. There is only one site in the state.

6. *Household Scrap Collector* – collects metals from various products. Homeowner may sell scrap pieces on occasion but does not

run a legal permitted place of business. Livelihood may center around or be subsidized by sale of their “junk.” This type of operation falls under the legal junkyard definition if four or more junked vehicles are stored on the property. There are an estimated 2,000 such sites in Vermont.

The Agency of Natural Resources’ main concern with junkyards is the potential for environmental contamination from fluids that are not drained or not completely drained and leak into the ground from the vehicles. The fluids that are most often collected are antifreeze, engine oil and gasoline. Other fluids that must be handled include freon/CFCs, parts cleaning solvents, brake/steering/transmission fluids, and windshield washer fluid. Stormwater runoff from a junkyard is also a concern as it may contain some or all of these fluid wastes. Estimated total waste fluid generated in one year in Vermont from junkyards is 102,000 gallons.

Other types of waste include batteries, air bag cartridges, tires and rubber, glass, plastics, metals and mercury switches. An estimated 18,000 mercury switches can be found in salvaged vehicles in Vermont each year, and the potential exists for 32-40 pounds of mercury to be released to the environment from those vehicles each year.

More than anything else, the environmental issues will probably drive the Legislature to finally take action on junkyards. This report provides a good background for legislators. It recommends an information and outreach program to junkyard owners as well as targeted enforcement, potentially including junkyards under the solid waste rules and a clear definition of a junkyard.

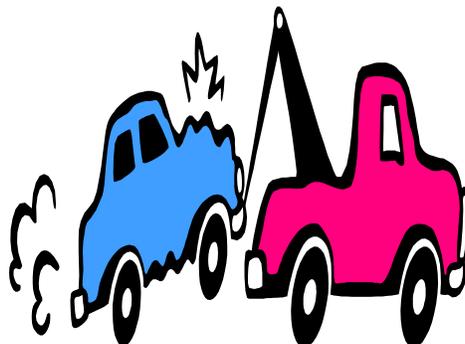
While environmental impact is a key consideration for local governments, public safety around junkyards and their visual impact are equally important at the local level. The Town of Weathersfield has adopted a solid waste ordinance that addresses junkyards. They believe this approach will be more effective than adopting an ordinance under the junkyard section of the statutes as there are more specific enforcement provisions under the solid waste statutes. Their ordinance also cites authority under the Enumeration of Powers (24 V.S.A. 2291 (12) and (14)) to address solid waste and nuisances.

You may contact Karen Horn, Director, VLCT Membership and Legislative Services, for copies of the Agency of Natural Resources’ report or the Weathersfield ordinance. Please also watch the VLCT *Weekly Legislative Report* for proposed legislation that may result from this report.

JUNKYARD DEFINED

What constitutes a junkyard is often dependent on “the eyes of the beholder.” However, state law does define them in 24 V.S.A. § 2241 (7) as follows:

“Junkyard” means any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. “Junkyard” also means any place of out-door storage or deposit, not in connection with a business, which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway. However, the term does not include a private garbage dump or a sanitary landfill which is in compliance with Section 2202 of this title and the regulations of the secretary of human services. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.”

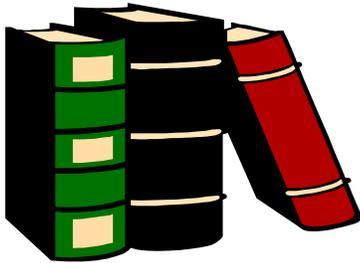




BOOK REVIEW

Selecting a Police Chief: A Handbook for Local Government. 1999. *International City/County Management Association and the Police Executive Research Forum.* 184 pp. \$35.00. Ordering information: 800/745-8780.

Selecting a Police Chief: A Handbook for Local Government (all 184 pages!) is chock full of practical advice for those communities facing a search for what the handbook refers to as, "the single most consequential appointment" in local government. The handbook includes nine chapters written by a wide array of professionals including managers, police chiefs, lawyers, human resource professionals and executive search consultants.



Selecting a Police Chief looks at all aspects of the police chief selection process, and considers the many different perspectives that are brought to the table when the selection process begins. For instance, a chapter is dedicated to a manager's perspective and is authored by a current city manager. Issues facing the city manager such as whether to promote someone from within or proceed with outside recruitment are addressed. How to handle the news media and elicit the broadest community input is also carefully explored. Sample community survey forms and interview panel questions are included.

A chapter in this handbook is written by a police chief and covers the selection process from the chief's perspective. This chapter is especially insightful for local governments because it spells out many of the departmental issues about which prospective candidates will seek information. For example, this chapter explains that labor, budgets, department quality and reputation, pending and past litigation and staffing are all issues that a candidate will expect a thorough briefing on from their prospective employer. Also, this

chapter outlines the issues and requests that a police chief will most likely bring to the table during the final negotiation process such as family and housing considerations, job security, etc.

A chapter written by human resource professionals focuses on reducing the risk of litigation during the hiring process. It provides a helpful summary of the myriad of federal anti discrimination laws and provides a laundry list of things local governments can do to maximize the perception of fairness throughout the employment process. A chapter is also dedicated to employment contracts for police chiefs. It includes a lengthy section on tips for negotiating an employment contract, and sample performance objectives to be included in a chief's contract. A sample seven-page Police Chief Employment Agreement is included in the handbook.

Lastly, this handbook provides a listing of executive search firms and advertising outlets (don't forget the *VLCT News* classified section) for police chief vacancy announcements. *Selecting a Police Chief* is comprehensive and recognizes the high importance and value citizens place on public safety in their communities. It provides a virtual roadmap to help a community hire the right police chief.

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MAKING MOVIES IN VERMONT

FILM COMMISSION SEEKS MUNICIPAL INPUT FOR GUIDEBOOK

The Vermont Film Commission was created in 1996 by the State Legislature to attract and assist incoming films, television productions, commercial shoots and still photography assignments. In addition, the Commission works to promote the growth of Vermont's indigenous film and video industry.

The process of attracting and servicing productions involves working with Vermont and its communities. The Commission works in cooperation with numerous state and local government entities, including all state agencies, local zoning and selectboards, the Vermont Chamber of Commerce and all local chambers, state, county and local police and emergency forces, as well as individual businesses and private landowners. It also works with the Agency of Commerce and Community Development through the Department of Tourism and Marketing.

As a result of our collective efforts, Vermont played host to two major Hollywood films this year: 20th Century Fox's "Me, Myself and Irene" starring Jim Carrey, which shot in 15 different communities; and Dream Works' "What Lies Beneath" starring Michele Pfeiffer and Harrison Ford, which shot in numerous towns throughout Addison, Chittenden and Washington Counties. Last fall Miramax films shot a good portion of "The Cider House Rules" in Windham County. There have also been a number of smaller budgeted independent films that have shot around the state these past few years.

With the growing interest in filmmaking in Vermont, in addition to working with the film companies, it is the Commission's top priority to work with communities in order to make filmmaking in Vermont a positive experience for everyone. Therefore, we are seeking your assistance in helping the Vermont Film Commission prepare a guidebook with the working title, "A Community Guide to On-Location Production." This guidebook will be distributed to each and every town clerk and/or town manager's office in the state of Vermont. It will also be available to local businesses and private landowners. The guide will cover a variety of topics including: How

to Negotiate Location Agreements; How to Negotiate Realistic Location Fees; Insurance Issues; Permit Requirements; How to be an Extra in a Film; Road Closures and Other Nuisances; and the like. However, in order to write a first-class comprehensive guidebook, the Commission needs to know what your town would like to see addressed in such a publication. Please send any comments to the Vermont Film Commission, P.O. Box 129, Montpelier, VT 05601-0129. Please let us hear from you within the next few weeks. Thank you for your input.

(By Jeannette Wulff, Deputy Executive Director, Vermont Film Commission. The Vermont Film Commission is a non-profit organization, funded through a public grant as well as private and foundation contributions. The Commission has two full-time, permanent staff members and one part-time assistant. It is overseen by a Board of Directors made up of individuals with diverse backgrounds in the arts, education, business and government, and with expertise and knowledge of the film and television industry.)

HOME FUEL TANK TIE DOWN PROGRAM

The Economic Development Council of Northern Vermont, serving the six northern counties of Vermont, has received a grant that will cover the cost of this program. The program is a 75%/25% share, with the grant paying the 75%. To be eligible, the home must be located in a flood plain. For information, please call Jim Fitzgerald, 802/524-4546, at the Economic Development Council of Northern Vermont.

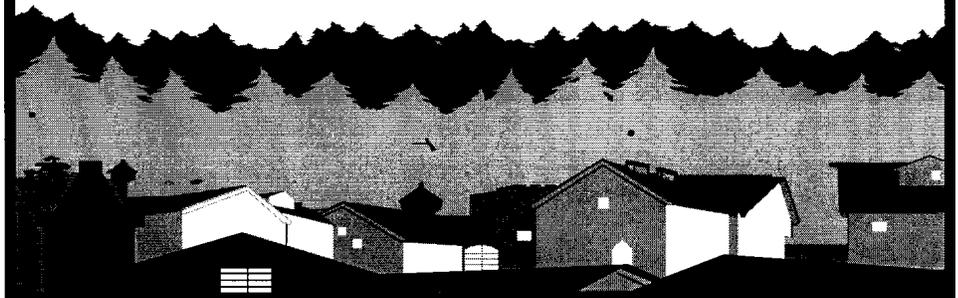
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CITIZENSHIP AT RISK

The theme of citizenship has always been supported by our political leaders. President John F. Kennedy said, "Ask not what your country can do for you but what you can do for your country." After his death 36 years ago, millions of Americans engaged in some form of public service.

In 1985 Governor Richard Snelling stated in his farewell address: "For Vermonters, participation in government is as much a principle as a tradition and is essential to our hopes for the future. The obligation and the opportunity begins with the Freeman's Oath and continues, for a true Vermonter, as long as life in Vermont."

Chief Justice of the Vermont Supreme Court, Jeffrey Amestoy, recently said, "The

transference of civic values, and a fundamental appreciation of the relevance of the law to democracy, is the lifeline from generation to generation."

Unfortunately, despite all of these excellent examples, a recent publication entitled *The Millennium Project* paints a gloomy picture. The publication says: "It's not an exaggeration to say that the strength or weakness of American democracy in the 21st century will be determined to a very large extent by the attitudes that young Americans bring into the larger society over the next decade or so." One young American said, "If one doesn't learn the lessons of citizenship in the early, formative years, if one doesn't develop de Tocqueville's habits of the heart, there is little

reason to expect that one will be transformed in mid-life into a model citizen."

The project found that in the last quarter century, voting decreased by 20 % among 18 - 24-year olds, and that in 1998 only 28 percent of young people voted because they felt it was their civic duty. It also found that by a two-to-one margin young people believe government is run by big interests and that schools don't give them enough information to cast an informed ballot.

The project goes on to say that young people "are generally apprehensive about their future," that "they have only a limited understanding of what it means to be a citizen," and that they "suffer an information deficit about politics and the process of voting."

Some examples of how young people feel about citizenship are as follows: "I'm 21 years old. I've got other things on my mind right now. But as far as being a citizen, I don't know what to say." Speaking of citizenship one college student said "I honestly hadn't thought about it." Another college student said, "My parents don't vote, so I guess that's probably why I don't vote." Harvard professor Robert Putnam noted these trends relating to the decline of civic disengagement in a recent publication entitled *Bowling Alone*.

While Vermont has a great tradition of civic responsibility, it's not immune to these national trends. One can take heart at the demonstrations last fall by students at the State House in favor of better funding for our state college system. Credit should also be given to the media, which has helped place this issue on the 2000 legislative agenda.

We can encourage our students to be involved in political campaigns, encourage voter registration and encourage parents to talk to their children about how voting can affect their lives.

In 1950 educator Robert M. Hutchins warned that "the death of democracy is not likely to be an assassination from ambush, it will be a slow extinction from apathy, indifference, and undernourishment."

The challenge to parents, civic leaders, educational institutions and young citizens is to find a way for the new millennium generation to effectively promote their rights and their obligations of citizenship.

If we can succeed in such an endeavor, we will realize Tocqueville's understanding of citizenship as a habit of the heart.

(Reprinted with permission of the author, Vermont State Senator Bill Doyle.)



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GRANT PROGRAM WRAP-UP

VTRANS BICYCLE AND PEDESTRIAN PROJECT FUNDING AVAILABLE

The Vermont Agency of Transportation (VTrans), announces the availability of funding for bicycle- and pedestrian-related projects through the 2000 Bicycle and Pedestrian Program. The 2000 Program is comprised of two components:

1. *Technical Assistance* – To facilitate the preliminary planning phases of bike and pedestrian projects, funding of up to \$15,000 per project, for a total of \$200,000, is available statewide. To be eligible, a community should have a vision for a bicycle and/or pedestrian facility and desire additional planning assistance to develop a conceptual alignment analysis, environmental study, conceptual design plans and a preliminary project cost estimate.

2. *Project Construction* – \$ 1.8 million is designated for design, acquisition of right-of-way and construction of projects statewide. Projects **must** have completed a conceptual alignment analysis or feasibility study to be eligible for consideration of funding for construction.

Program applications must be submitted through your respective regional planning commission or the Chittenden County Metropolitan Planning Organization. Municipalities will be responsible for 10% local match for both funding options. Applications are to be submitted to VTrans by **Friday, April 7, 2000.**

For additional information, application

materials or a program guidebook, contact your respective regional planning commission, the Chittenden County Metropolitan Planning Organization, or Amy Bell, VTrans Bicycle & Pedestrian Coordinator at 828-5799 or Amy.Bell@state.vt.us.

TREES 2000 GRANTS

In commemoration of the new millennium, the Department of Forests, Parks and Recreation is offering an opportunity for communities to celebrate the start of the 21st century with trees.

Trees 2000 can provide special, one-time grants of up to \$200 for the purchase of a tree

to plant on the town green, in front of the municipal office, or at the local school. Any group in town may apply, but the community may receive only one grant. Applications are available by calling 802/241-3678. The deadline is February 22, 2000.

Trees 2000 is just one of several grant opportunities for tree planting and care offered by the Department of Forests, Parks and Recreation. This year, \$85,000 is available for projects ranging from street tree inventories, to town forest planning, to tree planting and maintenance activities. Grant amounts and eligibility guidelines vary depending on grant options. Contact the Department at the above number for more information.

(Continued on next page)



Local Government Day in the Legislature: Wednesday, February 16, 2000, Capitol Plaza Hotel and Conference Center, Montpelier. Please see Page One for details on this annual event.

Robert's Rules of Order Workshop for Vermont's Moderators: Thursday, February 17, 2000, Suzanna's Restaurant, Lague Inn, Berlin. This annual seminar, offered by the VLCT Municipal Law Center, is designed for annual meeting moderators and other local officials who are interested in learning more about Robert's Rules and running municipal

meetings more effectively. There will be a session on using Robert's Rules for annual and special town meetings presented by Paul Hanlon, Esq., Worcester Moderator; a mock town meeting moderated by State Treasurer and Middlebury Moderator James Douglas; and a session entitled "What Would You Do?" run by former Deputy Secretary of State and Berlin Moderator Paul Gillies, Esq. For more information about the seminar, contact Jessica Hill, VLCT Conference Coordinator, tel. 800/649-7915 or jhill@vlct.org.

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VLCT WELCOMES TRISHA CLARK

Trisha Clark began work with the League last month as a production clerk in the Department of Administrative Services. She takes the place of Caroline Stubbs, who retired from the League at the end of the year with her husband, former VLCT Loss Prevention Manager Don Stubbs.

Trisha comes to VLCT with over ten years of experience at Minuteman Press in Montpelier. She has settled right in at the League, and, with a cheerful professionalism, has taken on the management of our document production, assembly and mailing.

Trisha lives in Montpelier with her husband and two boys, ages 5 and 1 ½. She is a graduate of Montpelier High School and Champlain College.



Trisha Clark

Classifieds

FOR SALE

Fork Lift. The Town of Grand Isle offers for sale a 1978 Allis Chalmers yard fork lift. 4,000 lbs. lift capacity, model # ACP 40B P.S. New hydraulic pump, good running condition. Asking \$2,500. Contact: Town of Grand Isle, P.O. Box 49, Grand Isle, VT 05458-0049. For more information, call 802/372-4863.

Dump Truck. The Town of Hartland is selling a 1992 Model 4900 International dump truck with a 7CY body, 9' one-way plow, and hydraulic tailgate sander. Automatic transmission, 72,500 miles. Can be seen or driven at the Hartland Town Garage by appointment. Send all offers to Robert Stacey, Town Manager, P.O. Box 348, Hartland, VT 05048, tel. 802/436-2119.

ATTENTION

These classified ads, and more, can be found on the VLCT web site (www.vlct.org). Go to the *VLCT News* area in the Members section of the site for classified ads that appeared in the newsletter, *plus* those that did not appear because their deadlines did not meet the *VLCT News* publication schedule.

VLCT NEWS CLASSIFIED ADVERTISING POLICY

The *VLCT News* welcomes classified advertisements from municipal entities, public agencies, businesses and individuals. This service is free for VLCT members (regular,

contributing and associate); the non-member rate is \$37.00 per ad. Ads are generally limited to 150 words and are accepted in the following categories: For Sale, Help Wanted, Situations Wanted and Services.

The *VLCT News* is published every month and usually reaches readers by the third week of the month. The copy deadline for advertisements is the first Friday of the month for that month's issue. However, space is occasionally available for late additions. Please feel free to check with the editor for availability.

For more information on classified and display advertising in the *VLCT News*, please contact Katherine Roe, Editor, tel. 800/649-7915, fax 229-2211, e-mail, kroe@vlct.org.

GRANT WRAP-UP -

(Continued from previous page)

RECREATION CHALLENGE GRANTS AVAILABLE

Recreation Challenge Grants to help communities add or improve recreation programs are available to municipalities. The grants are provided by the Vermont Recreation and Park Association (VRPA), an organization that works to improve recreation and park opportunities in Vermont. Examples of eligible activities are: starting a summer recreation program, hiring a part-time or full-time recreation and/or parks director, developing an after school program, or creating an innovative fitness program. Four grants will be awarded of \$500 each. A 50% match, either in cash or in-kind, is required.

Applications must be received by February 28, 2000. Applications will be ranked on the basis of need, evidence of support, a well-developed plan, and uniqueness of the program. Results will be announced by March 31, 2000. Applicants must be, or become, members of VRPA to be eligible.

To obtain a copy of the grant application or further information, contact your nearest municipal park and recreation director or the Vermont Recreation and Park Association, 305 Plumb Lane, Washington, VT 05675 (tel. 802/883-2313, e-mail at plumb@together.net).

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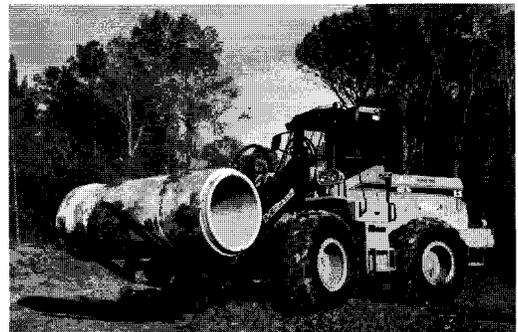


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