

VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

STRENGTHENING VERMONT LOCAL GOVERNMENT

November 2001

MONTHS BETWEEN LEGISLATIVE SESSIONS ARE BUSY

STUDY COMMITTEES DO HOMEWORK

As summer waned this year, multiple legislative study committees started work on reports that are due to the Legislature by January 15, 2002. Several other committees, not specifically designated by the Legislature, have also been working throughout the spring and summer on different issues.

LEGISLATIVE STUDY COMMITTEES

Governor Dean appointed a commission



in the early fall to study **municipal planning and zoning statutes** (Title 24 Chapter 117), with a special concentration on making it easier to build housing in the state. There is a study committee on **downtowns and upper stories** of buildings in downtowns; and a study by the legislative council to investigate **mechanisms used by other governments to address cumulative growth**, with a focus on approaches that might be adapted for use in Vermont. There is a study committee led by the Secretary of the Agency of Natural Resources to examine the **land use permitting process**. This committee will make recommendations for permits that could be reviewed for approval together or consolidated for review as one. It will review the entire land use permitting process for overlap, redundancy and efficiency, and for the logical sequencing of appeals.

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VLCT BOARD OF DIRECTORS PROFILE

ROCCO GRAZIANO, SELECTPERSON, NORTH HERO

(This month, we start a series of profiles on three new members of the VLCT Board of Directors. Graziano, Mona Marceau, Selectboard Chair; Barnet, and Jeffrey Wilson, Manager, Manchester, were elected to the Board at Town Fair in September. Welcome all!)

New England relatives brought Rocco Graziano from Kansas to Vermont two-plus decades ago; water drew him to the Town of North Hero, and a sense of civic responsibility prompted him to join local government and the VLCT Board of Directors.

Rocco's move from the country's heartland to Vermont pales when compared to the journey his grandparents and father took from Italy to America when his father was young. Rocco grew up speaking Italian with his grandparents, and observing as they and his father settled into their new country.

Rocco's entry into public service might be viewed as the culmination of his family's journey from Italy to America, but he sees it

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GREAT NEWS FROM VLCT HEALTH TRUST

Municipalities waiting anxiously for news of the 2002 VLCT Health Trust rates were relieved to learn earlier this month that rate increases for all indemnity plans and the Vermont Health Partnership will increase by *less than five percent*. While still exceeding the rate of inflation, this increase is substantially less than last year's average ten percent increase.

For those in Blue Care Plus, the Trust's health maintenance plan, the news was not as good. Rates for this plan will increase an average of 14 percent.

"VLCT and Blue Cross Blue Shield have worked extremely hard to keep rates

at the lowest possible level without jeopardizing the high quality benefits which have been a Trust trademark since 1982," Dave Sichel, VLCT Director of Group Services, noted. While utilization rates have been going up substantially in other Blue Cross Blue Shield group plans, the VLCT Health Trust has enjoyed a lower rate of increase, thus permitting the Health Trust Board of Directors to set lower rate increases. The institution of a three-tier prescription drug plan and Freedom Plan changes also helped to moderate the rate increases.

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89 Main Street, Suite 4
Montpelier, VT 05602-2948
Tel.: (802) 229-9111 • Fax: (802) 229-2211
E-mail: info@vlct.org
Web: www.vlct.org

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*Partial List

Katherine B. Roe, Editor, VLCT News

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"TO SERVE AND STRENGTHEN VERMONT LOCAL GOVERNMENTS"

- NEW DRAFT VLCT MISSION STATEMENT

This summer and fall, the Vermont League of Cities and Towns Board of Directors has been busy developing the League's first Mission Statement and Strategic Plan.

It has been 34 years since a group of Vermont selectboard members, mayors and town managers gathered in Montpelier City Hall and agreed that VLCT's purpose would be "the improvement of municipal government and administration and the promotion of the general welfare of the political subdivisions of the State of Vermont by appropriate means."

Much has changed since 1967. Wordy statements of purpose have given way to slim mission statements. More seriously, the roles of local, state and federal government have evolved dramatically. The relationships between governments and between government and the people have been significantly changed. VLCT, too, has grown from a handful of member towns and cities to an organization of 245 municipalities and over 130 associate member regional planning and solid waste commissions, fire districts and others. Its services to its members, along with its staff, budget and its presence in the state, have mushroomed.

Given all of this, the Board felt it was important to use relatively new strategic

planning principles to revisit the purposes for which the League now exists. Below you will find the Board's first cut at defining its mission, core beliefs and objectives. This document will be considered for adoption at the Board's December 20th meeting. From there, the Board and staff will review existing programs and evaluate new ones to assure that VLCT is delivering on its promise to serve and strengthen Vermont local government.

We hope that you are not surprised by any of the content of the strategic planning document, and that the words fit nicely with your impression of the League. In fact, after considering a variety of mission statements, the Board settled on a variation of the slogans that have graced our stationary for many years.

The Board encourages you to consider the work they have done to date and share with them your thoughts on the subject. Please call, write or e-mail me by December 14 with any suggestions that you have to improve on this document. It will become the foundation on which the future of VLCT services will be based, and all municipal officials should feel that it reflects their expectations of their association.

- Steven Jeffrey, VLCT Executive Director

MISSION

To serve and strengthen Vermont local governments.

CORE BELIEFS

We believe in...

1. The critical role that local government plays in the lives of Vermonters.
2. Municipal authority over municipal issues.
3. Representative and participatory local government.
4. The value of collaboration as a means of strengthening municipalities.
5. The value of public service and excellence in municipal leadership.
6. A commitment to honesty, integrity, and the highest ethical standards among municipal officials.
7. The individuality of each local government.

OBJECTIVES

1. To advocate policies that serve and strengthen Vermont local governments.
2. To anticipate the needs of Vermont municipalities and develop strategies to meet those needs.
3. To promote participation in local government.
4. To strengthen the ability of municipal officials to serve their communities.
5. To deliver innovative, effective, and quality services to our member municipalities.
6. To be the voice of Vermont local government.
7. To enhance the stature and influence of Vermont municipalities and the League.



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SEWER ALLOCATION ORDINANCES

The Vermont Supreme Court recently ruled on the authority of municipalities to adopt sewer allocation ordinances to regulate development. *Brennan Woods Limited Partnership v. Town of Williston*, Docket No. S1494-98CnC (Sept. 2001).

BACKGROUND

Sewer allocation ordinances have been used by municipalities throughout the country as a means of fostering the type of growth and development that communities envision for their cities and towns.

Numerous studies have shown that providing sewer service to an area facilitates development. As we all know there are many areas in Vermont where the soil is simply not suitable for significant on-site sewage disposal, and without adequate waste disposal the value of property is diminished.

Municipal sewer service provides an efficient, affordable means of disposing of effluent that enhances the development options for properties that are served by the system. Cognizant of this fact, municipalities often seek to regulate development by allocating sewer capacity at treatment plants to areas of town where the municipality would like growth to occur. The most obvious example of this practice is for a municipality to prioritize disposal capacity for downtown development or to allocate capacity to ensure development will be phased in over time in order to minimize the impacts of new development on the ability of a municipality to provide services such as police, fire and education.

CASE ANALYSIS

Under 24 V.S.A. § 3625 Vermont municipalities are authorized to adopt ordinances governing the allocation of sewage capacity. In *Brennan Woods*, the Town of Williston, pursuant to an sewage allocation ordinance adopted under 24 V.S.A. § 3625, attempted to regulate the number of dwelling units that the property owner could build at one time by allocating sewage for a set number of units per year. Concerned

about the impact of residential development on municipal services, the town limited the developer through its sewage ordinance to nine dwellings in 1998-1999, 15 dwellings in 1999-2000, 22 dwellings in 2001-2002 and up to 22 dwellings units in each subsequent year through 2006-2007. The developer challenged the town's authority to require phasing for its project through the sewer allocation ordinance.

There is no dispute that municipalities can regulate the allocation of sewage capacity. As noted above this authority is clearly provided in 24 V.S.A. § 3625. The issue raised in *Brennan Woods* is whether or not municipalities are authorized to regulate the type and/or volume of development through

sewage allocation ordinances. The Vermont Supreme Court answered this question by stating that "only where decisions are based on the load to the sewer system ... may the sewer allocation ordinance be used to control population density and growth." *Id* at 4. Citing the lack of home rule in Vermont, the Court noted, "in construing a municipal act, we will resolve all doubts concerning a municipality's authority against the municipality." *Id* at 3. Applying this strict standard, the Court ruled that there was no authority in 24 V.S.A. § 3625 for municipalities to broadly regulate development through sewage allocation ordinances.

(Continued on next page)

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LEGAL CORNER -

(Continued from previous page)

What does this mean? It means that municipalities cannot regulate development through sewage allocation ordinances unless the restrictions can be tied to the need to manage the sewage system. In the Vermont Supreme Court's view, 24 V.S.A. § 3625 does not authorize municipalities to create land use or zoning type restrictions on development through sewage allocation

... municipalities cannot regulate development through sewage allocation ordinances unless the restrictions can be tied to the need to manage the sewage system.

ordinances. The Court has narrowly construed 24 V.S.A. § 3625 to allow for allocation restrictions solely as a tool to effectively manage the wastewater treatment plant.

In response to the *Brennan Woods* decision, there has already been some discussion about amending 24 V.S.A. § 3625 to broaden the authority of municipalities to utilize sewage allocation ordinances to regulate development. VLCT will keep you

updated on any legislative developments that occur this session. In the meantime, municipalities seeking to regulate development for reasons other than system management through sewage allocation must enact such restrictions through zoning bylaws rather than through sewage allocation ordinances that are not part of the zoning bylaws.

ALTERNATIVES

It is extremely important to note that under 24 V.S.A. § 3625 a municipality may

adopt a sewage allocation ordinance under its zoning bylaws. The Vermont Supreme Court, citing a previous decision relating to this issue, stated that "a town could use a sewer allocation ordinance to control growth generally ... if it acted under its zoning authority and the policy was adopted under the procedures required to adopt a zoning ordinance." *Id* at 4. Accordingly, municipalities may regulate development for reasons other than load management if the allocation

ordinance is part of its zoning.

It is also important to note that municipalities may enact phasing requirements, independent of sewer allocation regulations, through zoning and subdivision bylaws. This means that even if you do not have a municipal wastewater treatment plant, your town could enact a zoning or subdivision bylaw that requires developments to be constructed in phases to minimize the impacts of the development on municipal services. In VLCT's opinion, there is clear authority to enact phasing requirements through subdivision and Planned Residential/Planned Unit Development regulations. It is not as clear that there is authority to include phasing requirements in zoning bylaws. However, this is still an open legal question. Call us at the VLCT Law Center if you are thinking about enacting phasing requirements and we will be happy to advise you about adopting such restrictions.

- Jon Groveman, Director, VLCT Municipal Law Center

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ASK THE LEAGUE

EX PARTE COMMUNICATIONS; ATVs AND PUBLIC ROADS

If one member of the Planning Commission meets with a representative of an applicant and one interested party at a site visit, is this an ex parte communication?

It certainly is. State law prohibits a local board member sitting in a contested hearing from speaking with an applicant on any of the merits of their application, unless it is during a public hearing on the matter, with the board present as well as any interested parties. 24 V.S.A. § 1207 (b). This law applies to all quasi – judicial boards, whether it be the planning commission, the development review board, or any board that makes a decision concerning the legal rights of a person. In this case, your planning commissioner should be joined by the entire commission and all interested parties at the site visit.

In a small Vermont town, it is easy to foresee situations where a member of a board runs into an applicant, say, at the local store. If the applicant asks the board member about an issue in the proceeding, the board member should simply say, "I'm sorry, but I cannot talk about the issues unless we are in a hearing." If a board member receives any ex parte communications, such as written letters, or even oral statements made by an interested party, the board member should acknowledge at the hearing that this contact occurred and inform all parties of the information exchanged at the site. This way parties can address the information and it can be made part of the record of the proceeding.

There is one wrinkle in this issue that is important to be aware of. *Before* a hearing is "formally opened," i.e., prior to an application being filed, it *is* acceptable for a member of a board to discuss, in very general terms, the requirements for an application. It is the practice in some municipalities to designate one member of a Board or Commission to meet with potential applicants to discuss application requirements and the application process before an application is actually filed. Such a practice would not constitute an ex

parte communication as long as the merits of the application (whether the project meets with the applicable criteria) are not discussed. As you can see, the danger in engaging in this practice is that potential applicants may attempt to engage a board member about the merits of a proposed project at such a meeting. It takes discipline to avoid getting into such a conversation. Accordingly, such contacts must be handled with extreme care.

Notwithstanding this wrinkle, in our opinion, it is still not acceptable for Board or Commission members to conduct a site visit with an applicant before an application is filed. It would be virtually impossible to avoid discussing the merits of a project at a site visit, and to do so would prejudice those who may wish to participate in hearings on the application. Some local officials have said, "sometimes it is helpful for us to have a member do a preliminary site visit with the applicant and talk about the issues." While it may seem helpful, we believe it is a violation of the rights of other, absent parties who do not get the chance to address the matter and have their side heard.

There has been some confusion in our town regarding where all-terrain vehicles (ATVs) can be ridden. Are ATVs allowed on all Class IV town roads in town as a matter of law?

No. The state law that governs ATVs states: "An all-terrain vehicle may not be operated . . . along a public highway unless it is not being maintained during the snow season or unless the highway has been opened to all-terrain vehicle travel by the selectmen . . . and is so posted by the municipality except an all-terrain vehicle being used for agricultural purposes may be operated not closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the farm." 23 V.S.A. § 3506 (b) (1).

In our opinion under this statute a road that is not maintained by the town during snow season is "fair game" for ATV riders during the snow season. Some towns have

questioned whether the statute authorizes ATV's to use roads not maintained during the snow season year round. While the statute is not crystal clear on this issue, in our opinion the purpose of the statute is to allow ATVs on roads that are not plowed during the winter. It simply does not make sense to open up ATV use to these same roads as a matter of law during the non-snow season.

Support for this position is found in this same statute, which authorizes the selectboard to identify the roads that ATV's can utilize. The VLCT model ATV ordinance is set up to allow selectboards to identify the roads ATV riders may use in the winter (the roads that are not plowed), and the other roads in town (they can be any Class of Town Highway) the selectboard chooses to identify and post for ATV use, year round.

Please call the VLCT Law Center for guidance, or for a copy of our model ATV ordinance. In addition, see the July 1999 *VLCT News* column for more information on regulating ATV use.

- Brian Monaghan, Intern, VLCT
Municipal Law Center

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POPULAR PLANNING/ZONING SERIES CONTINUES NEXT MONTH

If you are a municipal planning or zoning official, staff planner or selectboard member, by now you should have received an announcement for the second workshop in the *Planning & Zoning Basics Series*, scheduled for December 12, 2001. Even if you missed the September 12th opening session, you will still benefit from the remaining programs and we encourage you to take advantage of this unique opportunity.

The *Planning & Zoning Basics Series*, sponsored by the Vermont League of Cities and Towns and the Vermont Regional Planning Commissions, provides a comprehensive review of the entire zoning and planning process in four parts over the course of 10 months. Each of the three-hour workshops is broadcast at 13 Vermont Interactive Television sites around the state from 7:15 p.m. – 10:15 p.m. The sessions are designed to combine information with interaction among attendees to make them more meaningful. Attendees may sign up for the entire four-part series or individual workshops.

The September 12 introductory program on **Planning Principles** focused on two main areas: (1) the statutory basis for zoning; (2) the role of the municipal plan. Participants learned that zoning is a proper exercise of municipal police power when it is established to provide for the health, safety, or welfare of the public.

The second part of the program provided an overview of the purpose and goals of the Vermont Planning and Development Act, the basis of all municipal planning.

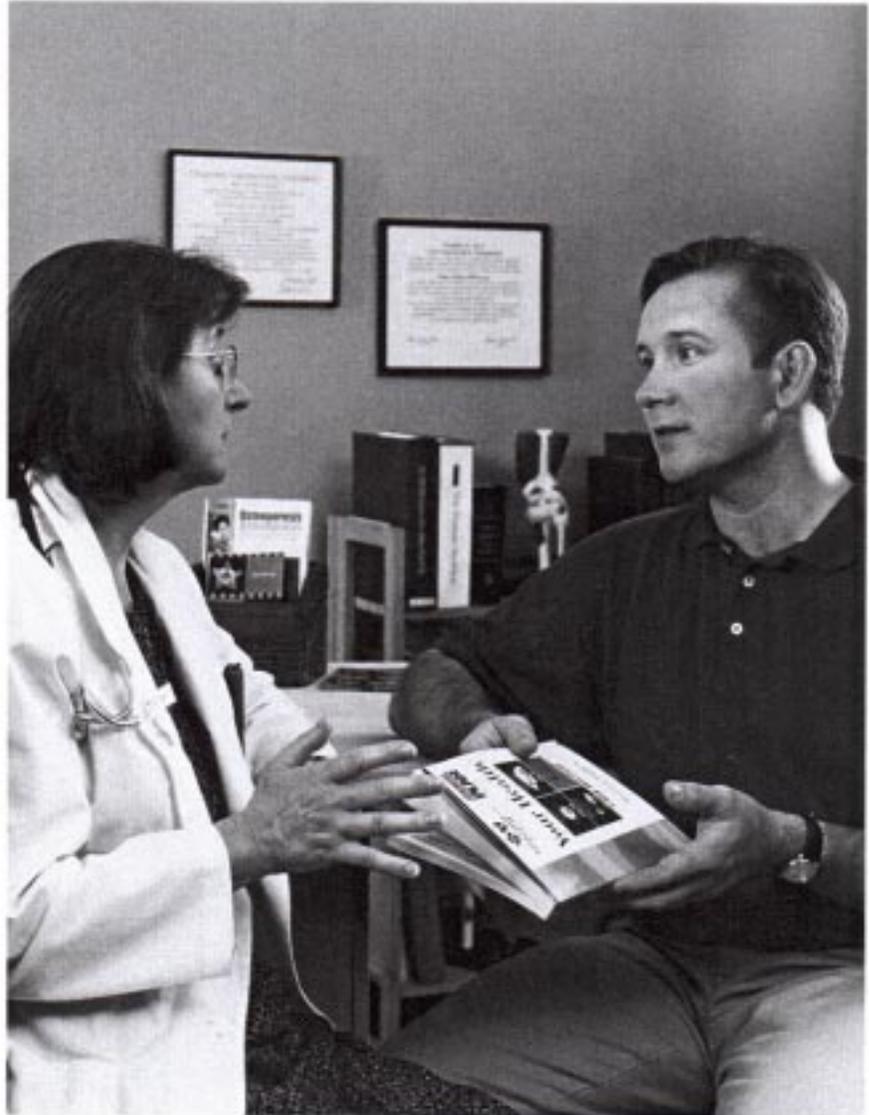
The December 12, 2001 program is on **Planning and Zoning Officials** and will help you as a local official know where you fit into the zoning and planning process.

Whether you are a seasoned zoning veteran or a newcomer to the planning world, please join us to ask questions, share experiences and to have fun learning!

- Gail Lawson, VLCT Associate, Legal and Membership Services

(For a more detailed description of the September and December programs in this series, please see the *What's New* section of the VLCT web site, www.vlct.org.)

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RISK MANAGEMENT NOTES



A monthly column by the VLCT Property and Casualty Intermunicipal Fund (PACIF)

ELECTRICAL SAFETY TIPS

There is no question that electricity makes our lives easier. Unfortunately, if not used properly, electricity can also make our lives shorter.

Unsafe conditions such as overloaded circuits, damaged insulation, faulty appliances as well as misuse of extension cords and other electrical devices create fire hazards and may result in serious injury including electrocution. Injuries include electrical burns, minor shocks that cause falls, and shocks that result in death. *That's a lot of pain for the injured and, what is worse, each incident has the potential to be fatal.*

We all need to know how to work safely with electricity. There are two steps to safety: awareness and action. *Awareness* not only involves accepting the fact that electricity can kill, but recognizing the specific hazards in your workplace. *Action* involves doing what is needed to remove those hazards so that the probability of injury or fire is reduced. We hope the following information will not only help you recognize electrical hazards, but help you take the necessary actions to avoid them.

CIRCUITS

- Do not overload circuits – if fuses or circuit breakers trip frequently, have a licensed professional electrician examine and repair the system.
- All electrical panel disconnecting switches and circuit breakers should be labeled to indicate their use or equipment served.
- Maintain at least three feet of clearance (no storage) all around electrical panels.

OUTLETS & SWITCHES

- Make sure all switches, junction boxes and outlets have tight fitting cover plates in place. Look for any signs of discoloration that could indicate arcing or overheating. Exposed wiring and connections present a serious shock hazard.
- Are switches or outlets unusually warm or hot to the touch? If so it could indicate that an unsafe wiring condition exists. Turn the power off by tripping the circuit breaker. Unplug cords carefully and “lock

out” the plug or switch until a qualified professional can check it out.

- Before using a three-wire grounded plug, test it to make sure it's wired correctly. An inexpensive circuit testing tool (less than \$5) is available at most hardware stores.

LIGHT BULBS

- Check the manufacture's directions or the

fixture itself for the proper bulb size. A bulb of too high a wattage rating or the wrong type may lead to a fire through overheating.

SHOCK PROTECTORS/GFCIS

Ground Fault Circuit Interrupters (GFCI) detect any leakage of electrical current in a circuit that might be flowing through a person using an electrical device. When such a loss is detected, the GFCI turns electricity

(Continued on next page)

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TIPS -

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off before serious injuries or electrocution can occur.

- GFCIs should be installed by licensed professionals in any area where there is a possibility of moisture or wetness, including bathrooms, kitchens, basement, garages and outdoor work areas.
- Plug-in GFCIs are available for temporary use.
- All GFCIs should be inspected frequently. Be sure to follow manufacturer's directions.

CORDS

- All cords should be placed out of the flow of traffic and *never* stretched across walkways.
- Never allow furniture or equipment to rest on cords; never run cords under rugs or carpet.
- Never place cords near excessive heat, water or in damp areas.
- Avoid attaching cords to walls or the floor with nails or staples. Use tape instead. Never try to remove a nail or staple from a

cord before unplugging the cord.

- Never remove the third (grounding) prong. It exists to prevent shock and serious injury.
- Inspect cords frequently. Look for damage or frayed insulation. Pay particular attention to the plug. Unplug the cord before inspecting, and have repairs made professionally.
- If a cord is taken out of service, cut both ends off and attach a label indicating that the wire is defective before discarding it.
- Never unplug an appliance or tool by pulling or jerking the cord. This will cause hidden damage to the connection at the plug and lead to serious shock and fire hazards.
- Recognize that extension cords may be handy for temporary use but should not be used in place of permanent wiring.
- If you do use an extension cord, make sure it has the proper amp or wattage rating to handle the device connected to it.
- Consider replacing older #18 gauge cords with larger #16 gauge cords as well as older two-prong ungrounded extension cords.

PORTABLE TOOLS/APPLIANCES

If electrical current comes in contact with a tool housing or other parts that we touch, shock, including electrocution, can occur. Protection from shock while using conventional portable power tools depends on third wire grounding. Double insulated tools are available that provide more reliable shock protection without the third wire ground. Rechargeable, battery-operated tools present the least degree of shock hazard. As an added benefit they eliminate the need for an extension cord. Here are a few other things for you to consider:

- Never remove the third wire or prong from any tool or cord.
- Always disconnect the tool from the source of power before changing accessories, like drill bits or saw blades, etc.
- Only use tools and appliances that carry recognized approval markings indicating they meet appropriate electrical safety requirements.
- Always follow manufacturer's directions for operation, maintenance and repair of all tools or appliances.
- Don't make repairs to tools unless qualified.
- Never use an electrical tool in a wet area.
- If tools are used outside, use a Ground Fault Circuit Interrupter (GFCI) in the circuit. Extension cords and plug adapters that contain GFCIs are readily available and inexpensive.
- Do not pick up or carry a tool by the cord.
- Inspect all tools prior to use. Look for any cracks in the tool housing, cord and plug, exposed wires and missing guards. Never use a tool that has a damaged cord or plug, especially one that has the third prong removed.
- If you are using a standard (not double insulated) tool, check the housing and plug for proper resistance and continuity before each use. This can be done with a low-cost meter available at any hardware store.
- Store tools carefully; dropping or throwing them or leaving them exposed to the elements can cause the electrical insulation and connections to break down and lead to injury.
- If you are using a cutting tool such as a saw or hedge trimmer, take special precautions to keep the cord away from the cutting edge of the tool.

- Brian FitzPatrick, VLCT Loss Prevention Supervisor

HOME FOR THE HOLIDAYS

Holiday time is family time. However, for some, spending time with family members is more stressful than joyful.

This year is an especially appropriate one in which to try to break this cycle and make holiday time together more enjoyable. To do so, remember these five simple ideas.

1. Have realistic expectations. "Picture-perfect" holidays are just an illusion.
2. Resolve to be flexible and tolerant. Let the small things go. You can put up with most anything for one day.
3. Take a break if you need it. Go for a walk or escape for a nap.
4. Care for yourself. Eat nutritious foods, exercise, and go to bed early.
5. Set limits. It's okay to control the length of visits and reserve time alone for your own family.

Enjoy these happy and healthy tips throughout the holidays!

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VLCT's "NEXT" EDUCATION FUNDING PLAN

PART TWO - WHERE WE WOULD LIKE TO GO

(Last month, we discussed property taxes in Vermont and the impact of Act 60 on education funding. This month, we continue our question and answer format on the new education funding proposal made by VLCT's Finance, Administration and Intergovernmental Relations Committee. VLCT will continue to educate its members about the proposal and study its potential impacts in more detail, prior to bringing the proposal to the VLCT membership for a vote sometime next year.)

7. What are the goals of VLCT in its attempt to "improve and simplify" our education financing system outlined above?

VLCT has been guided by three strong goals:

- To retain the education financing equity objectives laid out in the *Brigham* Vermont Supreme Court decision.
- To significantly reduce Vermont's reliance on the property tax, specifically as a major source of education finance.
- To make an education finance system that most people can understand.

8. How does VLCT propose to fund Vermont's education system?

A block grant for each student similar to that provided under Act 60 would be funded from existing state General Fund contributions and a uniform statewide education property tax on all non-residential property in the state. Vermont residents would then pay for additional spending above the block grant approved by local voters through a locally set income tax. The state would collect the income tax and assure that each school district received equal revenue per pupil for an equal local tax rate, "equalizing the yield" of the income tax similar to what the state does now for the property tax under Act 60. As with Act 60, the higher the education spending a community approves, the higher the tax the residents would have to pay. The difference is that it will be directly based on the income of those residents approving the school budget.

9. How large is the block grant per pupil?

The block grant we have worked with is

approximately \$4,436, approximately \$950 less than the current block grant per pupil under Act 60. We arrived at this figure by combining the current amount that non-residential property is contributing statewide to their local schools and the State Education Fund, and the state non-property tax revenues contributed to the Education Fund that are not used for categorical grants in aid for such things as special education, school bussing and school construction, among others. This provides us with \$458.4 million dollars. When we divide that by the 103,347 students used in the Act 60 formula, it gives us \$4,436 per pupil.

This figure can be raised or lowered depending on the amount of non-property tax revenues the state is willing to commit and the property tax rate imposed on the non-residential property.

10. What is the education property tax rate VLCT's plan assumes will be applied to non-residential property?

If we wish simply to collect the same amount that non-residential property is currently paying, the statewide uniform rate at which non-residential property would be assessed is \$1.546. This means that all non-residential property, regardless of its location in the state, would pay the same education property tax rate. This rate would be set annually by the legislature to assure that non-residents continue to pay their current share of the education bill.

Some towns now have artificially low education property tax rates because of private fund raising efforts used to lower school budgets. If we were to include these towns at the tax rates they otherwise would be paying without private fund raising, this would raise the rate to about \$1.60. This would also increase the funds available to fund a larger per-pupil block grant and therefore lower the residential education income tax.

11. How would this non-residential education property tax be administered?

VLCT is not advocating on the issues of who should assess the property or collect the tax. There is no reason why it could not

continue to be assessed, billed and collected locally, like the current statewide property tax. Towns would continue to have the benefits of local collections, including the revenues from the float and delinquency charges as well as the problems of paying the state or school even when taxpayers are delinquent and administering a tax for the state. On the other hand, there is nothing to preclude the towns from simply sending their grand lists to the state and having it apply its own "equalized" appraisal values and bill and collect the tax.

12. How much would residents have to pay for local education costs under VLCT's plan?

Currently, the average Vermont school district has "local education spending" (funding from the block grant and local share taxes) of \$7,226 per pupil. This means that the residents of the state would have to support a cost of approximately \$2,790 per pupil. Not coincidentally, this figure statewide comes out to be close to the \$300 million that residents are now paying.

13. How would residents pay for this spending above the block grant?

All residential property would be totally exempt from paying education property taxes. Instead, local residents would vote on a budget that would set the amount to be spent above the block grant and a local education income tax rate would be set, based on that spending decision. Mixed-use

(Continued on next page)

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EDUCATION FUNDING -

(Continued from previous page)

properties that include the primary residence of an owner (e.g. a store with living quarters on the second floor) would probably still have to be split, as is the case now under Act 60. The commercial use portion of the property would be subject to the non-residential education property tax and the residential portion exempt with the owner paying the income tax.

14. How would this local education income tax rate be set?

VLCT proposes that Act 60's "equalized yield" concept be used, only it would be based on the income tax and not the property tax. Towns with higher income individuals and lower numbers of students would share local income tax proceeds with towns with lower incomes and higher numbers of students. The income tax in Vermont had always been sent to the state and "shared" to meet human service and other state needs in cities and towns across the state, regardless of the town in which the tax was raised.

Regardless of the amount of non-residential property, the number of students or the income of your residents, your town's local education income tax rate would be the same as any other community spending the same amount per pupil as you. The higher the spending per pupil you wish to set, the higher your local education income tax rate.

15. Would this local education tax be a surcharge on our existing state income tax?

VLCT is not advocating a specific form of income tax, though a surcharge on the existing state tax is one option. Another option would be to mimic the state income tax and have the local tax "piggy-backed" on the federal income tax structure. Yet another version could have us taking the "adjusted gross income" we report on the bottom of page 1 of our federal 1040 tax form or the "taxable income" we report on the second page and apply a tax to that. If people are worried that a higher income tax would encourage our wealthiest residents to flee or at least claim their residency elsewhere, there could be a cap on the tax imposed or the amount of income on which the tax was based. There are an infinite number of ways in which this tax can be structured as an income tax, all of which are more familiar and less complicated than our current system of prebates, tax payments and "true-ups." VLCT believes that the legislature and administration are better able to develop

the details, but would be happy to assist in any way we possibly can.

16. What are we talking about for possible income tax rates and how will this affect the taxpayers in my town or city?

VLCT has prepared printouts that show possible rates and what happens to hypothetical taxpayers in each Vermont city and town. How the legislature decides to structure the tax is the key to determining this answer. If the tax were "piggy-backed" on the state income tax, the average Vermonter would pay about 82% of what they are currently paying in state income taxes. If it were a surcharge on the federal income tax, the average tax bill would be 20% of what the taxpayer paid in federal income taxes.

All of this depends on how the tax is assessed, the income of the individual taxpayer and the spending decisions that your town makes. To obtain specific information on some of the potential scenarios and how they might affect your taxpayers, contact VLCT at info@vlct.org or by calling 800/649-7915.

17. How would this income tax be collected?

Again, the state may have better ideas, but we envision that the tax could be collected as the state income tax is right now. Employers could be required to withhold amounts from employees' paychecks, possibly at a uniform rate statewide for simplicity's sake. Individuals would have to do a return at the end of the year determining how much they owed and how much they had already had withheld.

18. How are people who rent apartments treated under this plan?

The existing "renters rebate" program that assists lower income renters would have to be altered and expanded. Otherwise, renters would pay both their local education income tax and some statewide non-residential property tax through their rent payments.

19. Why does VLCT believe that this is an improvement over our existing system?

- The plan totally eliminates residential property taxes to fund education and reduces property taxes for education by almost 55%.
- All Vermonters will truly contribute to the funding of education based on their incomes and not some hodge-podge system of property taxes, "income sensitizing", prebates and "true-ups."

- School district voters will see a direct relationship between the school budgets that they approve and the taxes they will have to pay.
- The equality obligations imposed by the *Brigham* decision continue to be met, perhaps to a higher degree than the current system
- It is far simpler. Non-residential properties will be taxed at a uniform rate across the state. Residents will no longer have to compute "household income" figures in addition to the figuring they already do for their state and federal income tax return.

20. Do we know what the impact of the VLCT plan is on Vermont's economy and has there been an economic analysis done on it?

We are unaware of any study available that would analyze the impact of the Next Tax Plan. We do know that the Plan proposes to have residents continue to pay the same amount they currently pay in aggregate, but the changes in taxes paid would vary based on your income and the town in which you live.

VLCT would encourage the legislature, if it were to go forward with this concept, to obtain some independent evaluation of its economic impact. With its resources in the Joint Fiscal Office and the ability to request experts to testify, the legislature is in a better position to obtain this information than VLCT.

21. Where do we go from here?

The VLCT Board is convinced that this plan is far superior to Act 60 and believes that in the long run, this should replace Act 60 as Vermont's education financing system. However, due to the recent downturn in our economy and the short period that we have to try and educate our members, the public and the legislature before the legislative session begins anew, the Board has decided to defer further action at this time. We hope to make this proposal the major topic of the state election campaign next year.

VLCT will continue to research this initiative to better provide you with the information that you need to make a decision on this proposal. We may be polling our members about the proposal and will try to obtain additional information on how the proposal might affect Vermont's economy. Please continue to look for material in this newsletter and other VLCT sources.

- Steven Jeffrey, VLCT Executive Director



STUDY COMMITTEES -

(Continued from Page One)

A **transportation revenues** study committee, chaired by the Secretary of the Agency of Transportation, is examining the health of the Transportation Fund, the likelihood that current revenue sources can continue to support that fund, and the uses to which Transportation Fund revenues are put. (Recent figures indicate that the Transportation Fund has a projected FY02 deficit of \$5.3 million and \$11 million *less* in funding for FY03.) Information requests regarding this committee should be directed to the VTrans Planning Section at 802/828-3960. VLCT staff members are offering comments to the committee, asking it to purge the Transportation Fund of non-transportation allocations (which in this fiscal year totaled \$51,798, 508 as opposed to \$38,315,751 allocated to local transportation programs). We are also following the land use committees mentioned above.

Legislatively-authorized committees were also convened on **teens and youth services**, **health access and charter schools** to name a few others. For information on any of the committees mentioned in this article, please contact the Legislative Council, 802/828-2231, or visit www.leg.state.vt.us.

OTHER COMMITTEES

The Agency of Natural Resources has been particularly active this summer and fall, convening committees of interested parties to review:

- proposed rules on stormwater management;

- proposed rules on on-site sewage;
- a stormwater technical standards manual;
- a strategy for addressing growth management issues in the ANR permitting process;
- a riparian buffer procedure;
- watershed planning efforts;
- Total Maximum Daily Load (TMDL) strategies (the first one is in the Lake Champlain basin); and
- water supply rules.

Each of the topics noted above affect local land use planning and regulation. One of the toughest jobs of these committees is to keep track of what the others are doing, so that their efforts do not impinge on local governments' ability to determine future land uses in their communities. Recommendations from these ANR committees will undoubtedly end up in the House and Senate Transportation, Natural Resources, Local Government and revenue committees because they address controversial issues.

BUDGET WOES

All of this activity takes place against the backdrop of a General Fund deficit, no longer looming but already here. Last month, the Chair of the Senate Appropriations Committee, Senator Susan Bartlett, sent a memo to her colleagues explaining the situation.

The \$8.6 million rescission already approved by the Joint Fiscal Committee and the proposed holdback of \$7 million of one-time expenditures are first steps in budget reductions for FY 2002. Revenue shortfalls projected through the first four months of this fiscal year may offset those

reductions. During the budget adjustment [a look at current year expenditures that takes place in the first weeks of the new legislative session] we may need to find an additional \$10 - \$25 million of further reductions in anticipation of another eight months of revenue loss. ... We are likely to have little money for one-time expenditures, necessitating that the Transportation Fund and the Education Fund stand on their own. Things like PILOT funding and travel and tourism and many other smaller programs, which have been funded through one-time appropriations, are in jeopardy.

Whether the Legislature will have any time to address the recommendations of the summer study committees is highly questionable, given the other issues that will take its time this year. It is fairly clear that the Legislature will not have much in the way of dollars to direct toward these matters.

Readers should note, however, that the recommendations made in summer study reports, even if not implemented in the session they were written for, have a way of resurfacing in later legislative sessions. Thus, recommendations should not be dismissed as unlikely to be implemented. And local officials should try to keep informed about these issues! Remember to talk to your legislators about your local government's needs and capacity. And mark your calendar to attend VLCT's Local Government Day on February 13.

- Karen Horn, Director, VLCT Legislative and Membership Services

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SO YOU WANT TO SEND A FAX FROM YOUR COMPUTER?

REVIEWING THE SOFTWARE OPTIONS

In the September, 2001 *VLCT News* we covered the basics of faxing hardware and software technology. This month we'll focus on computer-based faxing. We'll review available software and offer guidance for your search for just the right solution.

DESKTOP WITH FAX MODEM SOFTWARE

Three possible options for desktop faxing include Symantec's WinFax Pro, ACCPAC's Simply BitFax, and Smith Micro's HotFax Message Center Pro. All three products will send, receive, forward, and broadcast faxes. Both Simply BitFax and HotFax Messaging have a variety of e-mail, voicemail, and paging features in addition to the faxing functions. WinFax allows networking of individual PCs to share a fax modem and phone line through a non-dedicated fax host computer. It also has a signature feature as well as SPAM and junk fax blocking. The price range for these products is between \$50 and \$100.

It is important that you check out the system requirements thoroughly before making a final decision on the product that best fits your needs. The minimum requirements can vary widely depending on what you're looking for. You'll need to fit the product to your work environment as best as you can. Know your computer's specifications and exactly what sort of functions you want before you start looking for software. Also check the features carefully. Beyond the basics, you may find some useful tools that will enhance your productivity. However, be sure you fully understand what you're getting before you buy it. Sometimes a lot of extra features may look nice in the ads, but turn into a nightmare when you start using them.

Find WinFax Pro at www.symantec.com/winfax/index.html, Simply BitFax at

www.accpac.com/products/communication/, and HotFax Messaging under Products for Windows at www.smithmicro.com/.

FAX SERVER SOFTWARE

Read the Internet article by Kenneth Macleish at www.findarticles.com/cf_dls/m0FOX/n12_v3/21160981/print.jhtml for a great comparison of eight different fax servers for Windows NT. Three options for fax servers are ACCPAC's FAXserve, Equisys Inc's ZetaFax, and Omtool's Fax Sr. Two of these options, FAXserve and Fax Sr, are reviewed in the above-mentioned article and get good ratings from Mr. Macleish.

A quick review of the features of FAXserve, ZetaFax and Fax Sr show that all three provide sending with least cost routing, receiving (via DID or Direct Inward Dialing), scheduling and broadcasting, archiving, integration with Microsoft Outlook and Exchange, monitoring of traffic and reporting activity, and data exporting functions. All of the software packages also allow you to fax from within Windows applications. FAXserve has an integrated e-mail and fax-messaging feature that will combine a single message to send to e-mail and fax recipients at the same time.

In evaluating available server software, you should first list and prioritize your needs. Examine all of the features of each proposed application carefully and determine whether or not they will meet those needs. Server faxing will allow you to reduce the number of phone lines used but first perform an analysis of your fax usage to find the most efficient number of lines required to provide your faxing service. Understand that fax servers, like other network servers, will require a knowledgeable administrator. Be sure you have someone on staff or a contractor ready to provide this service.

The price range for a 25-user software package for a single line is \$1,200 to \$2,500.

Look for more information on FAXserve at www.accpac.com/products/communication/, Zetafax at www.equisys.com/, and Fax Sr at www.omtool.com/products/faxsr/.

INTERNET FAXING SOFTWARE

There are two types of Internet faxing software: desktop-based and web-based. Desktop-based Internet faxing requires downloaded software in order to send or receive faxes. Web-based faxing is accomplished through the faxing service and requires no software to be downloaded. We will examine four vendors that provide both services: FaxMate, Faxaway, EasyLink, and eFax.

Common features include fax broadcasting and sending from e-mail or PC to a fax machine, and receiving e-mail from fax machines. FaxMate includes a fax to fax service as well.

Each vendor handles features a bit differently. Broadcasting with FaxMate requires e-mailing them your document with blank personalized fields for name and title, as well as a list of recipients with fax numbers. EasyLink requires that PC to Fax software's Faxmerge function be loaded to enable printing to the "FaxLauncher." With eFax, documents can be e-mailed directly to the recipients as faxes using eFax Messenger Plus software.

PC to fax software works pretty much the same way for each vendor. FaxMate uses a tool called Docufl@sh, EasyLink uses PC to Fax, and eFax uses Messenger Plus. All of these software tools allow documents to be converted by "printing" them to the fax. You simply print the document, choosing as a printer whatever the software has set up as a print driver (ie FaxLauncher in the EasyLink software).

All four vendors, including Faxaway, give you both e-mail to fax and fax to e-mail abilities. These processes work the same way regardless of the vendor. You simply e-mail your message or document and the vendor converts it and sends it as a fax to the

(Continued on next page)



FAX OPTIONS -

(Continued from previous page)

recipient(s). The same process occurs in reverse when you are receiving a fax. You may also receive faxes as e-mails.

FaxMate's fax to fax service forwards faxes directly from your fax machine to the Internet, where it is passed on to the receiving fax machine. A similar service called @fax Portal is offered by @fax, another faxing service provider. Another interesting feature offered by both FaxMate and eFax is Websend. It provides the ability to fax documents from your website to a recipient.

Pricing, including both monthly and per fax charges, average about \$.31 per fax. More information can be found for FaxMate at www.faxmate.com, EasyLink at www.easylink.com, eFax at www.efax.com, Faxaway at www.fax-away.com, and @fax at www.atfax.com. Also check out IP Telephony's article about Internet faxing complete with an extensive table of vendors and their products at www.iptelephony.org/GIP/how/fax/index.html.

A shareware company called ElectraSoft provides free downloads so you can try out their software before purchasing it. They have four products: FaxAmatic, 32bit Fax, FaxMail Network for Windows and FaxMail for Windows. Visit their website at www.electrasoft.com.

As with desktop and server software, you should evaluate your options thoroughly before making a purchasing decision. Understand your needs and how the features of each option will fit those needs. Fully investigate all costs related to the products and the cost savings you will see in both phone line use and productivity. Compare the various features and understand the differences between them. Finally, take advantage of the demos that many of the vendors offer and try out each software option before you decide what is best for your office. Doing your homework up front can save you a lot of frustration and cost later on. Planning a purchase always leads to a better decision than impulse or "seat of the pants" buying.

- Mike Gilbar, VLCT Director of Administrative Services

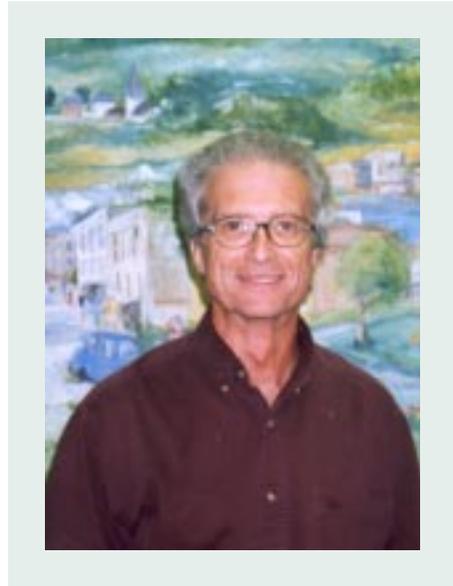
WELCOME

The **Town of Whiting** recently became VLCT PACIF's 243rd member. Welcome Whiting!

GRAZIANO -

(Continued from Page One)

as just fulfilling his civic duty. Shortly after moving to Colchester in 1979 he became a member of the town's Lakeshore Advisory Committee, then became Colchester's representative to the regional planning commission. It was around this time that



Rocco and his wife, Mary, started their family – daughter Mary Catherine just graduated from McGill University and son Patrick is 17. Just before moving to North Hero in 1990, Rocco was appointed Colchester's Health Officer, a post he still holds. In North Hero, Rocco began as the town's representative to its solid waste district, sat on the zoning board and then, in 1998, became a "reluctant recruit" to North Hero's selectboard.

While he moved to North Hero to enjoy Lake Champlain's abundant recreational activities (more on that later), as a new selectboard member Rocco found himself involved with another aspect of the Lake – provider of drinking water. The Town was in the process of building a public drinking water system, as zebra mussels were causing problems for private intakes from the Lake. North Hero now has a new public drinking water system, which Rocco hopes will eventually serve the entire town.

Not so easily solvable is the problem of the property tax and funding education, another of North Hero's challenges. "Act 60 hurts us because the majority of our properties are seasonal," Rocco commented. A private foundation raises money for North Hero schools with varying degrees of success,

which results in a fluctuating property tax. "The basic equity [of Act 60] is not the problem," he said, "but how it is paid for is. We are sending more taxes to the state and working with less money in our schools. Our children are suffering."

On the VLCT Board, Rocco would particularly like to work to get the message out about some of the complicated issues facing local governments, like education funding. "If we can assist local governments with the education of their communities on some of these larger problems," he noted, "then maybe we can do more to accomplish solutions and the whole effort will have a stronger grassroots base."

"These issues are complex and become a yawn to many people – they do not lend themselves to soundbites," Rocco said.

As *VLCT News* readers know, all local officials need a break from the intricacies of education funding, highway budgets, zoning matters, meetings, and more meetings. Rocco takes his on the water when he sets out in a 100-year old Adirondack guide boat for what has become an annual 200-300 mile trip. "I either start or end in North Hero," he said, adding that he often doesn't know where he will end up at night because conditions on the water vary so much. The boat is one that he restored, and rows, himself.

Water is Rocco's vocation as well as avocation. He has used his bachelor's degree in biology and chemistry education from the University of Kansas to work in both the water and wastewater professions. As an employee of the state Agency of Natural Resources, Department of Environmental Conservation, he taught wastewater treatment plant operators proper laboratory techniques. Working for the state Health Department, he helped public drinking water systems come into compliance with state regulations. Now, Rocco owns Vermont Water Utilities, a firm that owns public water systems and consults and manages other public water systems.

Looking ahead, Rocco would like to see the Town of North Hero selectboard work to manage the Town in the most fiscally responsible way possible. "I am responsible for other people's money," he commented, "so I have to be careful." His words of wisdom for us all? "A true public servant looks out for the community as a whole and should make the community as a whole feel that they have a strong and unbiased voice in their selectboard."

- Katherine Roe, VLCT Communications Coordinator



SUE RITTER AND MARIA CHOUINARD JOIN VLCT STAFF

New Law Center attorney **Sue Ritter's** first day at the League coincided with VLCT's first staff "team building" day at an outdoor facility in Northfield. Talk about jumping

right in. Sue traipsed through a forested "treasure hunt," problem-solved on a mini ropes course, built a castle with her teammates out of newspaper and tape, and accomplished all of this while working with 30 other people she hardly knew. And, best of all, she showed up at the office the next day, ready to help local officials and employees with their legal questions!

Sue took the position previously held by **Libby Turner**, who retired from VLCT in October. She comes to VLCT from the law firm of Powers, English, Carroll and Ritter in Middlebury, where she worked on in general municipal law, employment law and civil rights litigation. Prior to joining the Middlebury firm, Sue was a senior attorney with the Electric Insurance Company in Beverly, Massachusetts, where she managed toxic tort litigation on behalf of the General Electric Company. Prior to that, she was a junior partner with the Boston law firm Nutter, McClennen and Fish. Sue graduated from Middlebury College with a bachelor's degree in economics and she received her J.D. *magna cum laude* from the Temple University School of Law in Philadelphia, Pennsylvania. In her "free" time, she is President of the United Way of Addison County, chair of its Personnel Committee, a figure skating coach and mom to three children. Sue's husband, Bob, is the head football coach at Middlebury College.

"Sue brings numerous skills to VLCT that

will undoubtedly help the Law Center and VLCT grow in new directions," said **Jon Groveman**, director of the VLCT Municipal Law Center. Welcome Sue!

VLCT's newest employee is **Maria Chouinard**, who began work earlier this month as production clerk. She takes the place of **Rebecca Shaffer**, who is returning to school and her home state of Pennsylvania. While Maria's first day of work wasn't as exciting as Sue's, she also hit the ground running as she had helped out at the League on a temporary basis several years ago.

Maria comes to VLCT from the Bombardier Corporation in Barre, where she was an administrative assistant. She has also worked for E.E. Packard Enterprises in East Montpelier, Stokes Communications in Randolph and National Life in Montpelier. Maria graduated from U-32 High School in East Montpelier and has completed courses at the Community College of Vermont. She lives in Northfield Falls with her son, Brandon, who is seven. Welcome Maria!

- *Katherine Roe, VLCT Communications Coordinator*



Sue Ritter



Maria Chouinard

HEALTH RATES - (Continued from Page One)

Most of these changes will be discussed in detail on November 30 at the VLCT Health Trust Annual Meeting. Representatives from Blue Cross Blue Shield, VLCT staff and the Health Trust Board of Directors will also discuss future trends and their impact on health care in Vermont. Please look for a summary of this meeting in the December *VLCT News*.

- *Katherine Roe, VLCT Communications Coordinator*

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Town Fair 2002

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Killington Grand
Resort and Hotel,
Killington

Calendar

Special Topics in Planning and Zoning Workshop. Please note that this Thursday, November 8, 2001 workshop was cancelled and has been tentatively rescheduled for Thursday, March 28, 2002.

Planning and Zoning Basics Series. Wednesday, December 12, 2001, Vermont Interactive Television sites throughout Vermont. This evening workshop, co-

sponsored by the VLCT Municipal Law Center and the Vermont Regional Planning Commissions, is the second of a series of four to be held September, 2001 – June, 2002. Please see article elsewhere in this issue for more information about this new series. For registration information, contact Jessica Hill, VLCT Conference Coordinator, tel. 800/649-7915 or jhill@vlct.org.

Classifieds

HELP WANTED

Zoning Administrator. The Planning Commission of the Town of Enosburgh is seeking a zoning administrator. Experience preferred. Workload is approximately 15 hours per week. Job description available at the Town Clerk's office,

235 Main St, Enosburgh Falls. Tel. 802/933-4421. Please submit a cover letter, resume and references by December 1, 2001 to: Carolyn Stimson, Town Clerk, 235 Main St., Enosburgh Falls, VT 05450.