

VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

November 2002

BACK TO BARRE

TOWN FAIR RETURNS AFTER FIVE-YEAR HIATUS

The 2003 VLCT Town Fair will be returning to its original home at the Barre Municipal Convention Center on October 1 and 2, 2003.

The Barre Auditorium and BOR Shelter hosted the first "Town Fair" as we know it today in 1971. The facility was the Fair's home for 26 additional years, until lack of handi-

capped-accessible meeting rooms forced the annual event to be moved to the Killington Grand Hotel in 1998. The return to Barre will also bring back Town Fair's two-day format, with the Vermont Municipal Highway Association's Field Days happening on October 1 and VLCT's Annual Meeting, workshops and traditional turkey dinner happening on October 2. Heavy equipment exhibits will run for both days.

The City of Barre is now completing a major overhaul of the Convention Center that will provide newly renovated and accessible meeting rooms to complement the wonderful banquet and exhibitor space. A new heating system, reconstruction of the front stairs of the Auditorium, parking improvements and landscaping will round out the \$1.2 million upgrade. The improvements will provide the League an opportunity to have six on-site meeting rooms (holding up to 120 people in the largest), indoor exhibit space for up to 90 exhibitors, including large spaces for trucks and other heavy road maintenance equipment, and banquet seating for over 750 attendees.

Prior to leaving Barre in 1998, VLCT had resorted to bussing attendees over much of Barre City in search of handicapped-accessible

meeting space. For the last several years there, VLCT used meeting rooms in the Barre Opera House and City Hall. Though the space was good, the bussing restricted attendance at those meetings and consumed valuable time in the one-day program.

For the past five years, the Killington Grand Hotel has ably hosted Town Fair. VLCT was one of its first convention functions, construction having been recently completed before we arrived for Town Fair in 1998. Like Barre, the site is somewhat centrally located and made it easier for attendees from the southern part of the state to attend.

Until Town Fair settled in Barre 31 years ago, it had been nomadic, moving from location to location, including Middlebury and Rutland. During its tenure in Barre, Town Fair grew to over 700 attendees and 200 vendors, speakers, staff and guests. The exhibit halls contained over 90 exhibits from companies specializing in products used by municipal governments. Up to 17 workshops were held during the day.

These numbers remained steady during our Killington years, and we'll be looking to boost them upon our return to Barre. League staff will be working over the coming year with Barre City staff to assure our return next October is the biggest and best Town Fair ever. Watch your mail next summer for further information about this important event!

- Steve Jeffrey, VLCT Executive Director



Town Fairgoers in 2003 will return to a new and improved Barre Municipal Convention Center.

VLCT PACIF MEMBERSHIP REACHES RECORD HIGH

Each month, for almost a year now, the VLCT News has featured a list, sometimes lengthy, of new PACIF members. Membership now stands at a record 305 towns, cities, villages, fire and solid waste districts, regional planning commissions and others.

Much of this recent growth can be attributed to the fact that the property and casualty commercial insurance market has been in what is called a hard market for the past two years (see "Insurance Market Tightens," VLCT News, April 2002). This

means that commercial insurance companies must raise their insurance rates dramatically to cover their expenses. They must do this in response to their previous soft market practices of lowering their rates to dangerous, below cost levels in order to buy the customer's business. Often, customers will buy an insurance policy based on price due to their budget criteria in any given year. Unfortunately, sometimes the lowest price is not necessarily the best policy value. As has

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VLCT BOARD OF DIRECTORS PROFILE

NICHOLAS ECKER-RACZ, SELECTPERSON, TOWN OF GLOVER

New VLCT Board member Nick Ecker-Racz is lucky enough to live and work in a place he loves, Glover, Vermont. He is also worried that others in the Northeast Kingdom are not so fortunate.

The day we spoke, he had just finished cutting 500

Christmas trees on his land for the wholesale market. In December, he will sell more trees and wreaths at a stand he has run for 14 years in Connecticut. In between the holiday seasons, Ecker-Racz is a self-employed logger and forester. "I've done a little bit of everything," he admits.

This economic adaptability is nothing new in the Northeast Kingdom, though maybe more necessary now given the region's recent economic downturn. "People in Glover are worried about their jobs," Ecker-Racz said. "The recent job losses have been difficult, and if Ethan Allen leaves Orleans, there will be a black cloud over the Northeast Kingdom."

Ecker-Racz doesn't see a lot of resources flowing northward from Montpelier to help the region's economy. Instead he sees a lot of state mandates that make it more and more expensive to run a town, at the same time taxpayers are feeling an economic pinch. "I meet lots of good

people from state government," he said. "They are good folks and the mandates are well intentioned, but there are no funds to carry them out."

He is currently most exercised by the impending requirement to cover all municipal salt piles with a structure. "I bet," he said, "that the Governor does not even know about that detail," which Ecker-Racz believes

is going to cost Vermont municipalities \$200 million to accomplish. He cites the mandate to recycle as another problem. "Each individual town does not have the volume to get a decent price. Instead, we have to pay to have it hauled away," he noted. He'd like to have the state put together a plan to sell recyclables in bulk, a task

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Nick Ecker-Racz

LETTER TO THE EDITOR

COUNT US IN TOO!

The Village of Wells River is pleased to congratulate Frank Higgins on his very commendable delinquent property tax collection record, as was noted on the front page of the October VLCT News.

We feel that Frank's record is more than just "pretty good!" Wells River Village Clerk, Treasurer and Delinquent Tax Collector Jody Engle is well aware of the hard work and persistence that goes into achieving such a record.

Jody took office seven years back at a time when the delinquent tax list stood at about \$54,700 due from 23 different taxpayers. Mid October of this year – a month after

Frank's record date – Jody had her total delinquent tax balance also reduced to ZERO!!

Jody's total tax levy for 2002 runs about \$360,000 and is due by November 20th when that nice zero balance will disappear. But we feel that Jody will knock that balance hard to again achieve that record. She is not mean, but she IS persistent. The Village population is about 400, although the 2000 census says 325 – in error. (The 1990 census was 424.)

As in East Haven, the net result is a good cash flow status and very little borrowing, if any.

Sincerely, for Wells River Village Trustees,
David Stevens, Chair



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INTERESTED PARTY, LOCAL ZONING DEFINITIONS

SUPREME COURT ALLOWS NEIGHBOR'S INTERVENTION IN ZONING APPEAL; AFFIRMS LOCAL ZONING LANGUAGE

The Vermont Supreme Court has upheld the right of a municipality to exercise *some* discretion in establishing its zoning bylaws. *In re Appeals of Shantee Point, Inc.*, No. 2000-474 (Vt. October 4, 2002).

Shantee Point focuses on a number of legal issues, two of which are of great importance to Vermont municipalities and will be discussed herein.

...in circumstances where the State has not established a definition, municipalities can write their own definition for something like "subdivision," to establish a truly "local" meaning to the word. However, it is important to exercise caution, because municipal definitions cannot be at odds with a state definition, or establish a standard that would reduce the effectiveness of a state law.

The Facts

This case focuses on a road located on the peninsula of Shantee Point, which juts out into Lake Champlain in the town of St. Albans. The land at issue in this case was once owned by a single landowner, who subsequently conveyed it to his daughters by will, who then sold their interests in the land to the litigants in this case, Shantee Point Estates, Inc. (SPE), and Stephen Dana (Dana). Throughout this time, the land at issue contained various camps and permanent homes, all of which leased their interests on the property from the landowners. SPE and Dana owned the property as tenants in common, a form of legal ownership where neither party has full control over the property.

The parties went to superior court in 1990 for a partition action, where the court divided the property into three parcels, with SPE's middle piece sandwiched by Dana's outer parcels. Because of the way in which the land was divided, anybody traveling to these camps would have to use the access road to get to those properties. The litigation that became this case began when SPE decided to relocate the access road on its lots from the shoreline to the rear of its parcel. Dana decided not to do a similar relocation of the road on his properties, thus, "after SPE's road relocation, a vehicle

coming onto the peninsula from the north would first proceed along the lake on the old road in front of Dana's ten lots, then proceed to the east on the 'connector' portion and then proceed south on the new road behind SPE's lots, until joining the old road again south of these lots." *Id* at 2.

The Legal Issues

Because the issues involved were diverse, they were sent to superior court and Environmental Court for decisions based on their respective jurisdictions. On appeal to the Vermont Supreme Court, all of the issues were

consolidated. The relevant municipal issues here include the Court's interpretation of the St. Albans subdivision regulations, as well as the application of the term "interested person," as defined by 24 V.S.A. § 4464 (b) (3).

When Dana first went to superior court to determine whether the road was public or private, he also sought a determination that SPE unlawfully interfered with his easement over the road by relocating part of it without his consent. He also claimed that SPE unlawfully built a portion of the road on his property, and SPE filed a third-party complaint against the Town to resolve whether the road was public or private.

While all this was happening, the St. Albans zoning administrator informed SPE that a site plan permit was required for the road reconstruction (apparently, the administrator had previously informed SPE they did *not* need a site plan review or subdivision permit), as well as a subdivision permit. Soon thereafter, the zoning administrator issued notices of violation, alleging a failure to obtain the necessary municipal permits. The zoning board of adjustment upheld both of these decisions, which were then appealed to the Environmental Court.

Intervenor Status

Before the Environmental Court, Dana attempted to intervene based on the Vermont Rules of Civil Procedure, which allow intervention "when a statute confers an unconditional right to intervene." V.R.C.P. 24 (a) (1). Vermont municipalities are well aware of one such statute, 24 V.S.A. § 4464 (b) (3), which defines "interested person" to include "a person owning or occupying property in the immediate neighborhood of a property which is the subject of any decision or act taken under this chapter, who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality." The Environmental Court denied Dana the right to intervene, apparently believing he was not an "interested person" based on 24 V.S.A. § 4464 (b) (3), interpreting that statute to allow persons to intervene only if they are *contesting an adverse decision* of the ZBA, but not when *supporting* a decision of the ZBA. The Supreme Court stated that this interpretation of the statute was too narrow, allowing intervention as of right to "persons described in 24 V.S.A. § 4464 (b) (3) who make a timely motion to intervene." *Id* at 6. VLCT agrees strongly with this interpretation of the statute,

(Continued on next page)

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LEGAL CORNER -

(Continued from previous page)

as adjoining landowners deserve to be notified of appeals taken with regard to their neighboring land, and moreover, deserve the right to participate in such litigation.

Municipal Discretion in Establishing Subdivision Regulations

Last month, we wrote about the Supreme Court's recent decision in *In re Richards* (VLCT News, October 2002), where the Court stressed the importance of municipal conformity with the state zoning enabling law, 24 V.S.A. Ch. 117. VLCT believes the Court's holding in *Richards* to require a town to use the state law on existing small lots *verbatim*. The *Shantee Point* case, however, shows us that municipalities walk a fine line when using the state's enabling legislation to establish their zoning regulations, as towns may be able to define items not defined by state law, or in some cases, establish stricter standards than those propagated by state law.

The relevant portion of St. Albans' subdivision regulations states that land development for residential or recreational purposes is subject to the subdivision regulations if it involves "construction or extension of a road or driveway to serve more than two lots." St. Albans Zoning

Ordinance § 200 (b). SPE claimed that the subdivision regulations were invalid, arguing they didn't precisely follow the state law on subdivision regulations, and the state law only allows subdivision regulations if there is a division of land into two or more parcels. The Court stated, "although [Ch. 117] contains no explicit definition of 'subdivision,' we held in *Lowe* that, consistent with the definition of land development, 'subdivision' means the division of a parcel into two or more parcels." *Id* at 8 (citation omitted).

The Court gave three reasons for approving the St. Albans subdivision regulations:

1. Because Ch. 117 does not define "subdivision," towns should be allowed to define it for themselves; also, Ch. 117 does not explicitly limit the circumstances in which a municipality can require a subdivision permit.
2. The issue of the siting of a road is a "traditional central concern of subdivision regulation." *Id* at 9.
3. The St. Albans subdivision regulations allow subdivision jurisdiction only if the newly constructed or extended road serves more than two lots. Therefore, there must have been *some* subdivision of land either at the time of the road construction, or in the past. The Court affirmed the right of municipali-

ties to regulate subdivisions, stating "it would not be in the public interest to allow the landowner to make significant changes in a preexisting subdivision with no regulatory review." *Id* at 10. Additionally, the Court acknowledged the right of municipalities to establish local definitions of subdivisions: "While the local discretion is not unlimited, we conclude it is broad enough to validate the ordinance provision involved here." *Id* at 11.

What Does This Mean for My Town?

The municipal relevance here cannot be understated: Town planners will be pleased to know that in circumstances where the State has not established a definition, municipalities can write their own definition for something like "subdivision," to establish a truly "local" meaning to the word. However, it is important to exercise caution, because municipal definitions cannot be at odds with a state definition, or establish a standard that would reduce the effectiveness of a state law. In this case, the Supreme Court was careful to note that the real constraint on a town comes from the state definition of "land development," which has been defined very explicitly and is something a municipality cannot deviate from. The road development in this case came squarely within the definition of land development, and therefore, was something the town could regulate based on the State's definition, as effectuated by the Town's zoning ordinance and subdivision bylaws.

- Brian Monaghan, VLCT Law Center Staff

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CONGRATULATIONS

The **Town of Hartford** recently received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association of the U.S. and Canada (GFOA). Said William Hall, Hartford's Finance Director, "this means we are doing a really good job minding the store." The GFOA has 14,000 members across the country.

Deborah Beckett, CMC, town clerk/treasurer for the Town of Williston, was recently awarded the designation of Certified Municipal Clerk from the International Institute of Municipal Clerks (IIMC). Ms. Beckett received her designation after successfully completing 100 hours of courses in managerial and leadership skills and technical training offered by the IIMC-approved Municipal Clerks Institute Program at Salve Regina University, Newport, Rhode Island.



ASK THE LEAGUE

INCREASING SELECTBOARD'S PAY; OATHS OF OFFICE

What is the required procedure for increasing the selectboard's salary? Does this have to be a separately warned item at town meeting or can the selectboard simply increase the line item amount in the proposed town budget?

The law regarding setting compensation for elected and appointed town officials is clear. Either the voters at the annual town meeting fix the amount or the selectboard decides how much to pay. There is one *exception* to this general rule, however. Selectboards are prohibited from setting their own salaries. Instead, the statute authorizes the town auditors to establish or adjust the selectboard's compensation at the time of the annual town audit. 24 V.S.A. §§932, 933.

Such adjustments are generally made administratively, without voter input. Just before the annual town meeting, while auditing the town's financial records, the auditors decide upon the figure to be inserted as a specific line item ("selectboard's salary") into the proposed general budget. The general budget article then appears on the official warning for the annual meeting, and voters approve the adjusted salary as part of the annual budget. There is no legal requirement to make annual adjustments, and we can only guess at the events that may cause the auditors to adjust the board's compensation in any given year, as the reasons vary.

In 1998, the Legislature gave municipalities the authority to eliminate the office of town auditor and to contract with a licensed public accountant to audit the town's financial records. There is no legal authority for the public accountant to set the selectboard's compensation. Thus, if the office of town auditor has been eliminated, according to statute, the board "shall be compensated at the rate at which they were compensated during the immediately preceding year." 24 V.S.A. §933. Towns that vote their budgets from the floor can easily debate and adjust the selectboard's salary during town meeting. In towns that vote their budgets by Australian ballot, since voters can only vote

'yes' or 'no' to the bottom line, more forethought is needed. There are no auditors to adjust the budget before it is presented to the voters. So, how can the board's salary be adjusted in this case? A proposal to adjust the selectboard's salary must be brought to the voters under a separate article on the warning.

We suspect selectboards' compensation is not a major issue for most towns, given the amount of responsibility these dedicated volunteers willingly assume and the modest stipend most board members are paid. According to VLCT's 2000-2001 *Vermont Municipal Salaries and Benefits* survey, annual compensation for selectpersons and trustees in municipalities with municipal property taxes less than a \$900,000 ranges from \$0 to \$2,460 per regular board member. In municipalities with property taxes greater than \$900,000, salaries range from \$50 to \$3,750. Recognition that board chairs generally assume additional responsibilities is evidenced by the fact that some towns opt to pay the chair slightly more than regular members. Most selectboard payments take the form of a set annual stipend, but some towns pay on a "per meeting" or hourly basis. No matter how you look at it, most municipalities get a real bargain!

- Gail Lawson, VLCT Associate, Legal and Membership Services

Do the members of the board of tax abatement have to take an oath before hearing requests for abatement?

It depends. The members of the board of tax abatement are the clerk, selectboard, justices of the peace, listers and treasurer. The clerk, selectboard members and listers have already been sworn in under 24 V.S.A. § 831. The justices of the peace have been sworn in under 4 V.S.A. § 491. Because serving on the board of tax abatement is a part of their duties as elected officials, the original oath which they took after having been elected applies, and no other oath is required before acting on abatement requests.

Strangely enough, a town treasurer is not required to take an oath in order to serve as treasurer even though a village treasurer is. 24

V.S.A. § 1306. Therefore, before acting as a member of the board of tax abatement, the town treasurer must take the general oath found in 12 V.S.A. § 5813.

Do members of the board of civil authority have to take an oath before hearing tax appeals?

- Libby Turner, VLCT Staff Attorney

Yes. In spite of the fact that the clerk, selectboard members and justices of the peace have taken oaths prescribed for their offices under 24 V.S.A. § 831 and 4 V.S.A. § 491, they are required to take a second oath prior to hearing tax appeals. 32 V.S.A. § 4405.

- Libby Turner, VLCT Staff Attorney

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LAW CENTER SURVEY RESULTS

SERVICES ARE HIGHLY RATED AND OFTEN USED

Last month, we asked Vermont municipal officials to respond to a VLCT survey on the Law Center's services. Two hundred and twenty-seven responded; the responses show that the Law Center's services are highly valued and that there is strong support for assuring that this resource be expanded to meet the growing demand of the members. Member utilization statistics also indicate that the Law Center has become an essential service to our members.

Your survey responses have helped the VLCT Board to assess the Law Center's value to the membership, the membership's priorities and the direction in which you want to see the Law Center go.

MUNICIPAL LAW CENTER SURVEY

Responses to the survey came from an excellent mix of elected local legislators, town clerks and treasurers, planning and zoning officials, appointed administrators and some listers. The respondents also reflected the variety of sizes of municipal populations, assuring that the respondents represented a good cross section of our entire membership.

As the graph below shows, 89 percent of the respondents obtain municipal legal advice through telephone calls and/or e-mail inquiries to the Law Center. Approximately three-quarters of the respondents have attended Law Center seminars, read the "Legal Corner" and "Ask the League" features in the *VLCT News*, read handbooks and obtained sample or model ordinances. Slightly less than half have obtained written legal opinions and had municipal plans or ordinances reviewed by Law Center attorneys. Usage is high, as is the value members placed on such services. On a scale of 1 (poor) to 5 (excellent), advice given over the telephone was rated at 4.58. Publications, seminars, sample documents and *VLCT News* articles also were rated very highly.

When asked how VLCT should respond to the growing demands being placed on the Law Center, a large plurality favored adding a staff person, rather than imposing a fee for telephone and e-mail advice, reducing other services or providing information in other ways (e.g., expansion of services on VLCT's web site).

Lastly, there was strong support from the membership for a variety of options to fund additional Law Center services in response to the growing demand. Large majorities rated as either their "first choice" or as being "acceptable" a 33% dues increase, a \$325 per member flat fee or a combination of a dues increase and a flat fee (see sidebar). The only proposal that met with significant resistance was raising the fees to attend workshops and purchase publications; 41% of the respondents rated that as "unacceptable."

LAW CENTER USAGE FIGURES

While we crunched the survey results, VLCT also analyzed calls for legal advice made to the Law Center. With the implementation of a computerized "inquiry system" in 2000, VLCT has been able to track the number of calls, the towns that placed the calls and the amount of time that was spent researching and answering the questions asked. Between the 2000 and 2002 fiscal years, calls for legal advice from municipal officials to the Law Center rose 30%, from just under 2,200 to 2,990. The time necessary to answer the questions also rose by 33% to approximately 1,000 hours a year.

The usage was also fairly evenly distributed among towns based on their population. When broken down in quintiles of towns by population (groups of 50 towns in descending population), usage in both the number of calls and amount of time spent answering the questions were both fairly equal, with the larger towns using the service slightly more than the smaller towns.

This analysis of the telephone requests for legal advice complements the results of the survey and was useful to the VLCT Board when faced with making the decision about whether to raise funds from the membership for additional staff resources and, if so, how to fairly distribute the burden.

The VLCT Board has incorporated this information into its plans for the future. We hope to be able to share the Board's plans and actions taken to implement those plans with the membership in the December issue of the *VLCT News*.

- Steve Jeffrey, VLCT Executive Director

MEMBERSHIP DUES ADJUSTED TO PROVIDE EXTRA SERVICES

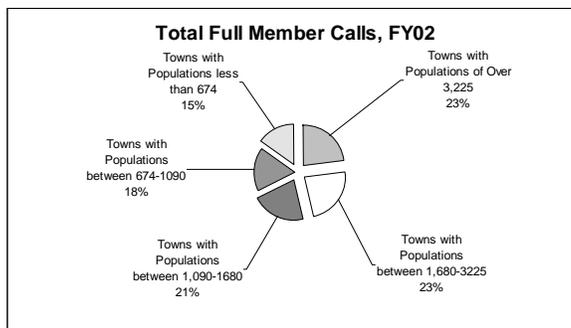
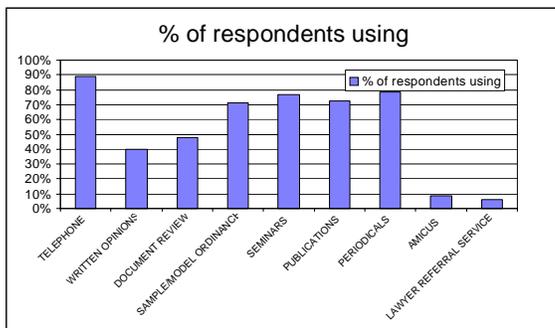
In response to the growing demand and high member support for Law Center services, the VLCT Board of Directors voted on October 24, 2003 to increase membership dues by 18 percent, effective July 1, 2003. VLCT has sent notices to all municipal members of the changes so that selectboards may include the new amounts in preparing their budgets for the coming fiscal year.

The Board increased the dues rate based on population from \$.65 per capita to \$.67, a 3 percent increase. In addition, based on the fairly equal usage of Law Center services among towns of all population sizes, the Board voted to add a \$250 flat member services fee for each city and town. The two changes will add a total of \$71,732 to total League revenues. Total VLCT dues from cities and towns will amount to \$469,142. The median member town will see its VLCT dues go from \$816 to \$1,091.

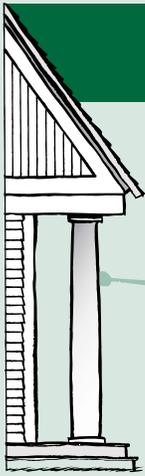
To place this amount in perspective, the full member dues increase amounts to just 2.76 percent of our currently budgeted total revenues. They represent an increase on the total property taxes collected of .00776 percent, and on municipal taxes of .03 percent. Associate members (e.g. villages, fire districts, regional

regional planning commissions, etc.) will see their FY04 membership dues remain at \$300.

In response to the growing demands for our services, VLCT plans to use the additional revenue to hire a new staff attorney.



89 percent of the respondents obtain municipal legal advice through telephone calls and/or e-mail inquiries to the Law Center. Usage was fairly equal, with the larger towns using the service slightly more than the smaller towns.



PACIF GROWTH -

(Continued from Page One)

been the case throughout the cycles of the commercial insurance market, the customer will undoubtedly run the risk of double or sometimes triple digit rate increases and restrictive or inadequate coverage in the years following an initial contract.

Who Can the Customer Turn To?

Luckily, Vermont municipalities can turn to VLCT PACIF. Risk sharing pools have proven to be a very safe and low-risk alternative for municipalities that stay in the pool for more than five years. Rates are kept stable when municipalities participate in a carefully designed risk management program solely dedicated to them as a group. Pooling methodology also gives back to the customer. The customers (or members) are the owners, and there are no profits to be made on them. Surplus dollars go back to those that are paying the premiums.

What is the Result of all This?

VLCT PACIF membership has grown by 25% as of April 2002. As noted above, the reason for this has to do with the hard market and the fact that on April 1, 2002, we learned that the State of Pennsylvania's Insurance Commissioner had put the Legion Insurance Company into rehabilitation. It is expected that Legion will be declared insolvent. The Legion insured 60 Vermont municipalities for their liability, auto and workers' compensation coverage. This program was sold as the "Metrogard" insurance program. The general agent for this program is Massamont.

Many of the municipalities in this program called the League looking for help. Many learned from their local agent that there was no replacement carrier willing to insure them. Others had not been informed of the financial ramifications of the Legion program and its impact on payment of claims. PACIF staff worked jointly with the Vermont Department of Banking to respond to the insurance needs of the municipalities. Due to PACIF's rapid



ATTENTION PACIF MEMBERS !

Have you returned your 2003 renewal packet? If not, please do so immediately! This information was due at our offices on **November 8, 2002**. The 2003 invoices will be mailed out in mid-December. Thank you for your cooperation!

WELCOME NEW PACIF MEMBERS

**Town of Charleston
Town of Dorset**

**Village of Manchester
Orleans County Natural Resources
Conservation District**

PACIF WORKS FOR VERMONT MUNICIPALITIES

"I can't say enough good things about our recent experience with VLCT PACIF and, in particular, the help of its excellent staff! The City of Montpelier found itself in a pickle when our current provider was unable to continue coverage. VLCT PACIF responded to our request for proposals in a timely fashion with complete information. ... Since joining we have received many needed training programs for our City employees and are working with VLCT PACIF to carry out a risk audit to further protect the City. We are very pleased with VLCT PACIF!"

- Jana Bagwell, Finance Director, City of Montpelier

"For years the Town of Bennington sought to join PACIF. After all, our health insurance coverages had long been with VLCT, and we knew the service and cost efficiencies were excellent. However, our desire to bid our municipal coverages locally had always been the key factor against joining PACIF. This past year, the cost of our locally-bid workers' compensation converges went through the roof without notice. PACIF personnel were there to assist us in a transition to PACIF which brought immediate savings. Since joining PACIF, we have found the staff to be very helpful, and the programs very cost efficient, aggressive in safety orientation, both for workers and for general liability, and tailored to meet our needs. The available training programs far exceed anything we've seen, and the overall performance has been unmatched by previous carriers. We feel like we're part of a team working for a common goal. It can't get any better than this."

- Stuart A. Hurd, Manager, Town of Bennington

response to the Metrogard/Legion crisis, 31 of the 60 municipalities insured by the Metrogard/Legion program have joined PACIF. We are not sure at this time what the new Metrogard program will offer customers. We do know that an additional 31 municipalities previously insured by commercial carriers *other than the Legion/Metrogard program* have also joined PACIF this year due to the hard market.

Many insurance companies have either abandoned municipalities altogether, or have increased rates beyond affordability, much like what happened in the 1970's. It was this type of hard market that prompted the creation of pool insurance. It is through quality of service and programs and responsible underwriting that VLCT PACIF remains today. We will always be

there for our municipal members! Please contact our Member Relations department (info@vlct.org) if you would like more information about the PACIF program.

- Suzanne Schittina, Manager, Member Relations

VLCT PACIF BOARD APPROVES TWO NEW POSITIONS

To keep up with PACIF's recent growth spurt, the VLCT PACIF Board of Directors recently approved the creation of two new positions. A new Claims Adjuster will begin early in 2003 and a new Loss Control Consultant will also be hired in 2003. Both positions will keep PACIF's record of excellent "behind the scenes" claims service and "on the road" loss prevention programs intact.



HEALTH INSURANCE COST STRATEGIES

It is that time of year again, the rapidly approaching renewal season. This season brings with it the announcement of changes in the VLCT Health Trust benefit plans and the announcement of rates (see accompanying article for rate information).

As part of this process, each year we encourage members to attend the Health Trust Annual meeting for current information about health care trends in the nation and within the Trust. The meeting was held this year on November 15 at the Lake Morey Inn. If you missed it this year, look for a write-up in next month's *VLCT News*, and plan to attend next year. The meeting is a great opportunity to hear from the source – Blue Cross and Blue Shield and Health Trust officials – why health care costs continue to rise, and what the Health Trust is doing to minimize the increases.

This is also the time of year when member communities are preparing their budgets. With health care costs now considered one of the top budget items for all employers, it is no wonder that the VLCT Member Relations staff receives many phone calls from select persons, human resource representatives and town clerks and treasurers inquiring about how to stretch those employee benefit dollars to get the most value.

With all that said and an average projected

rate increase of 15% for 2003, we would like to offer some problem solving thoughts:

- If employees contribute toward their premium costs or if a member municipality is considering this to control costs, a Flexible Spending Account through a Cafeteria plan may be the best option to consider. Cafeteria plans are gaining in popularity with employers and employees due to the pre-tax dollar savings associated with these plans.
- The Health Trust offers members four different medical plan choices with several deductible and co-pay options within each plan to choose from. Have you considered changing from a higher-cost health plan to a lower-cost plan? The premium savings can be significant and may be used to buy other important benefits such as group life insurance, dental insurance, disability insurance or long-term care insurance.

The Health Trust offers members a full complement of valuable group benefits. Please call a VLCT Member Relations staff person to assist you. We are available to discuss program options and to help you problem solve. For more information, or to schedule an on-site visit with you and or your employees, please call our toll-free number, 800/649-7915, or e-mail us at info@vlct.org.

2003 HEALTH TRUST RATES – THE NEWS IS NOT GOOD

Last year, we were able to announce “Great News from the VLCT Health Trust” when we wrote up the average five percent increases for Health Trust health insurance benefit plans.

This year, the news is not nearly as good. For all Health Trust indemnity plans, 2003 rates will increase by approximately 17 percent. For the Vermont Health Partnership, the increase is an average of 14 percent; for BlueCare Plus (TVHP), the average increase is 13 percent.

These numbers are high, but if it is any consolation, they do match the nationwide trends and even come in lower than the 35 percent rate increases some plans nationwide have experienced. Driving our increase is the fact that our “medical care utilization trend” ran slightly higher than Vermont’s 2002 statewide average of 12.5 percent.

VLCT and Blue Cross Blue Shield realize
(Continued on next Page Fifteen)



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BOARD PROFILE -

(Continued from Page Two)

that he feels is more than one town can handle alone.

Ecker-Racz says his parents taught him to do more than just sit around and grumble, and that is why he became involved with local government 30 years ago, and why he joined the VLCT Board of Directors. "My mother worked in county government for 25 years and my dad was a school board member," he recalled. "They were always the kind of people who spoke up and did something." Ecker-Racz, who grew up in Arlington, Virginia, received a BA degree in forestry from Syracuse University and a MA in education from its School of Education. From 1963 to 1968 he worked in Nepal as a Peace Corp volunteer and employee of the U.S. Agency for International Development.

When Ecker-Racz bought land in Glover in 1968 and moved there in 1970, he quickly joined the Glover Planning Commission. For two decades he was on and off the commission, trying to get town citizens interested in planning and zoning. (Glover still has no town plan or zoning bylaw.) "Planning definitely has a negative connotation – people see it as control," he commented.

His next municipal endeavor was to run for town and school moderator, a post he has held for the last 12 years. In the 1990s he was an EMT with the Glover Ambulance Squad and also served as delinquent tax collector. Glover had a large backlog of delinquent taxes when he took office, and he was able to substantially reduce it. "I mailed the tax policy out each year and offered folks a number of options. ...once I

got them organized and on a schedule of partial payments, we did much better," he noted.

In 1998 Ecker-Racz was elected to the selectboard and is now serving his second term. He is clearly enjoying it. His interest in planning for Glover's future, a holdover from his planning commission days, was rekindled by his new role of selectboard member. "I really wanted to sit down and think as a town about where we are going to be in 20 years," he said.

To do so, he had to come up with a new and innovative way to have the town look ahead. "Now, as a selectboard, we are drafting town policies on various subjects that would normally be found in a town plan. We've done a transportation policy, where we said, 'Let's think about these things before they happen, like what if people build on a Class IV road, and what if they build across an old bridge and it needs to be upgraded?'"

He'd like to have the selectboard work next on a recreation policy. A fisherman and hunter himself, Ecker-Racz noted that Glover now has an extensive trails network used by hikers, horseback riders, snowmobilers, cross-country skiers, ATVs, bicyclists, hunters, etc., that he would like to see preserved. "Our landowners now are comfortable with these uses. New ones in the future might not be," he commented, adding that now would be the time to work with landowners on some kind of permanent protection for use of the trails.

"In the heat of the moment, the discussion of these issues is not always rational," Ecker-Racz said of the many meetings he has participated in over the years. He is proud of the town's new approach. "[The selectboard] gets a range of folks involved that are knowledgeable

and who have a stake in the issue. In a calm atmosphere, we can do it," he said.

For him personally, tackling the town's issues in this way has meant a change in approach. "I'm learning to implement these things by taking little bites, and finding the people who are interested. Maybe," he also admits, "I've become a little more subtle and patient over the years."

- Katherine Roe, VLCT Communications Coordinator

NOVEMBER'S TRIVIAL PURSUIT

Congratulations to **Cyndi Humphrey, Jericho Town Administrator**, for being the first to correctly guess that John S. Robinson (1853-1854) was the first Democrat to occupy the Governor's office, and that four have occupied it since. Oh yes, they were Governors Hoff, Salmon, Kunin and Dean. Here's this month's trival pursuit:

What was the last election in which the Vermont Legislature was called upon to decide the winner, and the person with less than a majority of the popular vote was chosen? Name the year, the candidates, the office they were running for, and the winner.

Contact us with your answer: VLCT, 89 Main Street, Ste. 4, Montpelier, VT 05602; 800/649-7915; fax, 802/229-2211, e-mail, kroe@vlct.org.

SMALL TOWN ADVICE ON CITIZEN INVOLVEMENT...

In Glover, there are two areas where Selectperson Nick Ecker-Racz is proud of the town's citizen involvement, and he has some opinions about why they are successful. One is the Town's relatively new recreation committee. When Glover extensively renovated its Town Hall two years ago after a flood, the beautiful new building stood empty for a majority of the time. The selectboard set up a recreation committee, and now the building is used four nights a week for a variety of recreational classes and programs. "It stunned us," he said, "that more than 40 people would show up for a yoga class. In fact, it was oversubscribed." The success of the program is evidence that, in Ecker-Racz's words, "if you can prove that local government can do something for them, you can get folks involved."

As moderator, Ecker-Racz is also proud of Glover's town meeting, which he says is a day of "fruitful discourse." He said he "tries to sponsor a town meeting where everyone can be heard. Even a timid person can speak up, and I help them if they don't know what kind of motion they should make." While he feels that Town Meeting Day should be a paid holiday, he also realizes that not everyone is comfortable speaking up. For that reason, he tries to make sure that there are other venues in which Glover's citizens can express their opinion – even the sidewalk will do if someone wants to talk to him about a pressing town issue.



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Tech Check

FOUR PRACTICAL EXCEL FORMULAS FOR LOCAL OFFICIALS

1. PERCENTAGE INCREASE OR DECREASE

To calculate a change from one number to the next, you simply take the new number minus the old number and divide the total by the old number. Another way to look at it is that you are dividing the change in the two numbers, whether it is an increase or a decrease, by the original number. So, for example, if you are looking for the percentage change from FY02 to FY03 salaries, with FY02 being \$520,000 and FY03 being \$542,000:

$$\begin{aligned} \$542,000 - \$520,000 &= \$22,000 \\ \$22,000 / \$520,000 &= .0423 \\ .0423 \times 100 &= 4.23\% \text{ (to convert to \%)} \end{aligned}$$

In Excel, you substitute numbers with cell addresses. If your FY02 salary is in cell C10 and the FY03 salary is in D10, type the following formula in the blank cell in which you wish to show the result:

$$=(D10-C10)/C10$$

You can format the cell to show percentages by clicking on the % icon on the formatting

toolbar, or by clicking on Format, then Cells, then choosing Percentage from the drop-down list. Choose the number of decimal places you wish in the window that appears after you click on Percentage. If you use the % on the toolbar, you can click on the Increase Decimal or Decrease Decimal icons that appear to the right of the % icon.

Excel formulas always begin with the "equals" sign (=). You also enclose the first part of this formula in parentheses to ensure that that part of the formula is calculated first. Excel does multiplication and division before doing the addition and subtraction, so you will get very different answers if you don't group the first part using parentheses. Here's what happens without them:

In the formula above, calculates the division part first:

$$\$520,000 / \$520,000 = 1$$

Then moves on to the subtraction:

$$\$542,000 - 1 = \$541,999$$

So without the parentheses, the answer Excel will give you will be \$541,999.

2. CALCULATING AN AVERAGE FOR A COLUMN OF NUMBERS

Let's say you have a column of 20 employee salaries and you would like to know what the average salary is. Your column extends from cell B4 down to cell B23. Type the following formula in the blank cell where you'd like to show the average salary:

$$=AVERAGE(B4:B23)$$

The (B4:B23) indicates the range you are calculating the average for. The colon (:) between the B4 and B23 tells Excel that you want to include all cells between the two cell addresses.

By using commas (,) between the cell addresses in the formula, you can get an average for cells within the range that are not together.

For example, if you wanted to average the salaries in B4, B6, B9, B10 and B20, the formula would look like this:

$$=AVERAGE(B4,B6,B9,B10,B20)$$

(Continued on next page)

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TECH CHECK -

(Continued from previous page)

3. CALCULATING YOUR TAX RATE

For this calculation, you need two blank cells, one for your grand list and one for your tax levy (amount to be raised in taxes). Let's assume that cell A1 is for the grand list total and A2 is for your tax levy. The formula is:

$$=A2/(A1/100) \text{ or}$$
$$=A2*100/A1$$

You are dividing the tax levy by your grand list divided by 100. Since the tax rate is based on each \$100 of your property valuation, the grand list must be divided by 100 before you can calculate the tax rate. Both of these formulas accomplish this.

4. DAILY COMPOUND INTEREST EARNINGS

You have an investment that is compounding daily and you'd like to know how much interest would be generated for a specific number of days. You can set up a worksheet to work out the interest earned by setting up three blank cells to input your invested amount (principal), the interest rate (annual), and the term of the investment or the number of days you would like to know the accrued interest for.

Assuming that cell B1 is principal, B2 is interest, and B3 is the term (in days), the formula should be typed as follows:

$$=B1*(1+B2/360)^B3-B1$$

The compounding piece of the formula, $(1+B2/360)^B3$, works the same way as a schedule that takes the balance of the investment each day (the principal plus interest accrued for the prior day) multiplied by the interest rate 30 times. For example, if principal is \$50,000, interest rate is 2% and the term is 30 days:

$$\text{Day 1 Balance } \$50,000.00 \times .02/360 = \$2.7777$$

$$\text{Day 2 Balance } \$50,002.78 \times .02/360 = \$2.7782 \text{ and so on.}$$

When you go through this exercise 30 times and add up the results, you get the same total that the above formula gives you. Excel's Future Value (FV) function works the same way. To use that in place of the above formula, type the following:

$$=FV(B2/360,B3,,B1)-B1$$

- Mike Gilbar, Director, VLCT Administrative Services

NEW PROGRAM SUPPORTS VILLAGE REVITALIZATION

The success of the 1998 Downtown Development Act generated legislation in 2002 that brings new attention to revitalizing Vermont's village centers – creating a "Village Center Designation" process, and bringing new state benefits to help with village revitalization.

At the heart of the new legislation is the designation process, with applications to be made by the town legislative body. A map is required, showing the designated village center district boundary, consistent with the statutory definition, along with photographs of the district. The boundary will typically be smaller than an incorporated village boundary (if one exists), and focus on the core village area. The boundary does not include "growth centers," since the purpose of the legislation is to encourage investment in existing buildings and infrastructure. The application must also show that the regional planning commission and regional development corporation have been notified of the application, and that the town planning process is confirmed by the regional planning commission.

Several benefits are created to support projects within designated village centers. A five percent income tax credit is available for the costs of substantially rehabilitating a building listed in the National Register of Historic Places, and which qualifies for the 20 percent Federal Rehabilitation Investment Tax Credit. A separate 50 percent tax credit is available for commercial buildings for work necessary to comply with building and health codes, with

only one award, up to \$5,000, to be given to any one building. And a priority is given to designated village centers for both the Municipal Planning Grant Program and the Community Development Block Grant (CDBG) program.

Application guidelines for Village Center Designation, including an explanation of the benefits and other useful information, will be in the mail to all municipalities this month, and should answer many questions about the program. The guidelines are also available at the Vermont Downtown Program's website, www.HistoricVermont.org, or by calling Joss Besse (828-5212) or Jane Lendway (828-3042) at the Vermont Downtown Program.

- Joss Besse, Vermont Downtown Program

WHICH ONE FITS?

With this year's amendments to the Downtown Development Act, there are now three types of community centers that can be recognized through a "designation" process:

- **Downtowns** are the larger, traditional socio-economic centers in Vermont, like Rutland, Bellows Falls, or Montpelier.
- **Villages** are smaller settlements, with a mix of residential and commercial uses.
- **New Town Centers** are larger, "new downtowns," which are being proposed or built in several communities to accommodate new growth and/or help create a community center, like South Burlington and Milton.

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FEDERAL ELECTION BILL APPROVED

Last month, Congress passed the Help America Vote Act of 2002. The bill sets national standards for the conduct of elections and authorizes nearly \$3.9 billion in grants to states during the next three years to upgrade their voting systems. The measure authorizes:

- \$3 billion to help states pay for meeting the new requirements, with the federal government paying 95 percent of the cost and the states paying five percent.
- \$325 million to replace punch-card and lever voting machines with modern equipment.
- \$325 million to improve state election administration.
- \$100 million to increase polling place access for the disabled.

The new law requires (by the year 2006):

- Each state must have a statewide, computerized voter registration list linked to its driver's license agency.
- All voting equipment must allow voters to correct errors in their ballot before it is cast.
- There must be at least one disability access voting machine at every polling site.
- Each state must enact laws defining what constitutes a legal vote for each type of voting machine used in the state.

(Excerpted from Nation's Cities Weekly, October 21, 2002, published by the National League of Cities. Please note that Vermont Secretary of State Deborah Markowitz is forming a committee to work on implementation of the Help America Vote Act in Vermont. Please contact her office, tel. 802/828-2363, if you would like to participate in the committee.)

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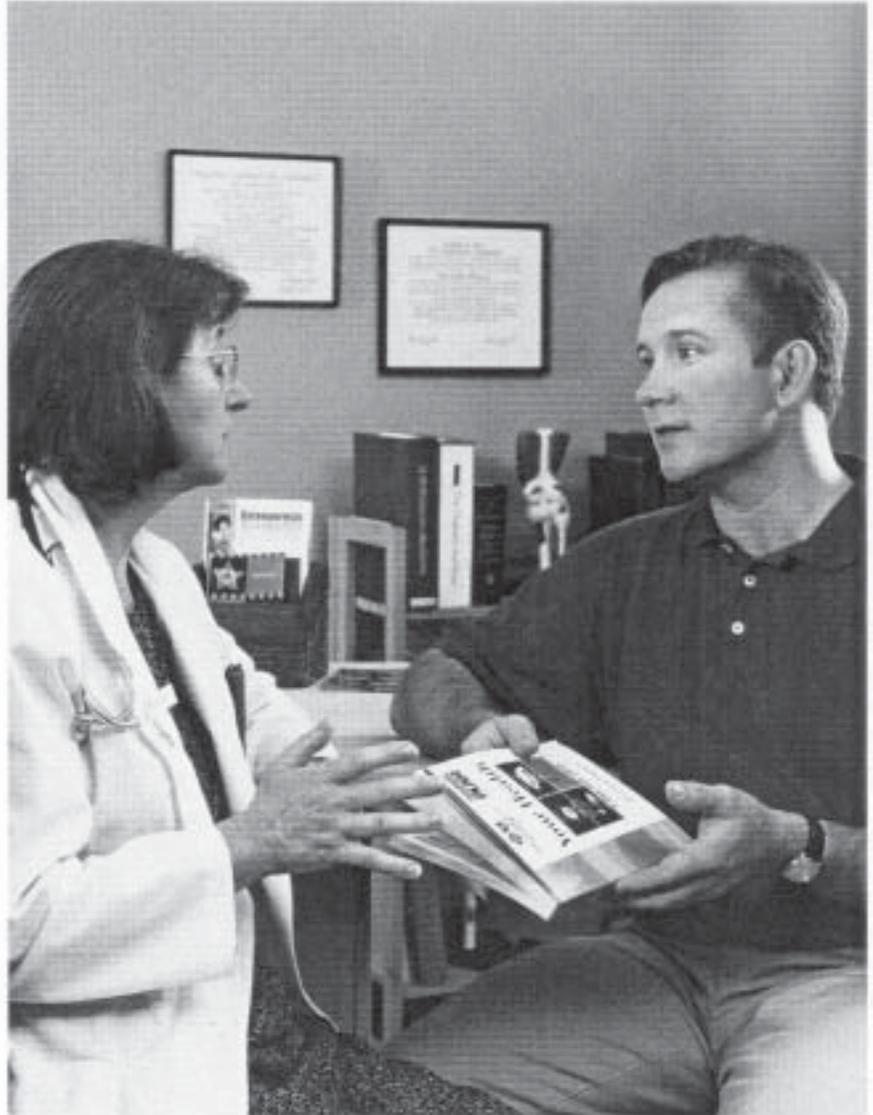
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STORMWATER PERMIT UPDATES

Municipalities around the State will soon be subject to stormwater permitting requirements pursuant to a number of permits issuing from the Agency of Natural Resources (ANR).

Most immediately, your town may have received letters from Wallace McLean, Director of ANR's Water Quality Division, informing you that you are the owner or operator of a stormwater discharge that was previously permitted by the Department and that you must now obtain coverage under a new general permit (3-9010). The Agency of Natural Resources has more than 1,000 expired stormwater permits that were never renewed as required. The fact that you may not know where your permitted stormwater system is or whether you even had one is no surprise, but rather the case across the State for both municipalities and the private sector. For assistance, contact Wally McLean (wallym@dec.anr.state.vt.us) or Pete Laflamme, Director of the Stormwater Division, (petel@dec.anr.state.vt.us).

You may also need to obtain state stormwater permits for redevelopments that create new impervious surfaces, for new developments and for developments in impaired watersheds. Additionally, if you are undertaking a project that during the construction phase will disturb more than five acres, you will need to

obtain a federal construction general permit. For information about all these permits you may contact the Stormwater Division, or view a helpful flowchart of required permits on their web site, <http://www.vtwaterquality.org>.

One of the permits that may most affect local governments is the Multi-Sector General Permit (MSGP). The MSGP is a federally-mandated National Pollutant Discharge Elimination System (NPDES) five-year permit that will cover new and existing discharges of stormwater associated with certain types of industrial activity.

This general permit protects water quality by requiring that the regulated industrial activities undertaken by both private and municipal entities be conducted in a manner that prevents and minimizes contamination of stormwater runoff. The permit will be required by private and municipal industries identified on the MSGP Standard Industrial Classification (SIC) code list that have a stormwater discharge to either a municipal separate storm sewer system (MS4) or to Waters of the State. Typical municipal industries that will require coverage under the MSGP include public works garages, wastewater treatment facilities, transfer stations, and recycling facilities.

If your municipal facility and discharge meet the eligibility requirements then you must apply

for coverage under this permit. If your facility keeps all of their materials and activities from being exposed to rain, snow, snowmelt, and/or runoff you may be eligible for a No Exposure conditional exclusion from permitting requirements. If you do not meet the criteria for the No Exposure certification, you will need to prepare a Stormwater Pollution Prevention Plan (SWPPP) that evaluates the potential threat of your operations on stormwater quality, develops management procedures to minimize polluting stormwater runoff, and periodically reports on the implementation of the procedures.

The MSGP is currently in its draft form. The deadline for compliance will be established by the final permit, most likely beginning March 2003. For more information view ANR's Department of Environmental Conservation web page at <http://www.vtwaterquality.org/stormwaterMSGP.htm> or contact Margaret Torizzo, Environmental Analyst, ANR, Water Quality Division, tel. 802/241-4320.

- Karen Horn, VLCT Director of Legislative and Membership Services, and Margaret Torizzo, Vermont Agency of Natural Resources

NEED MORE HELP?

Next month, VLCT and the Vermont Department of Environmental Conservation are sponsoring a special workshop on the MSGP at five sites around Vermont. Please see the Calendar on Page 16 for a description of the workshop, and information about signing up to attend. Or go directly to www.vlct.org's Calendar section and register on-line for this free afternoon workshop.

HEALTH RATES -

(Continued from Page Nine)

that double-digit rate increases put an enormous strain on already tight municipal budgets. The Board of Directors of the VLCT Health Trust is working carefully with Blue Cross Blue Shield to strengthen their services and benefits, so that we can continue to deliver an excellent program to Vermont municipalities, at the most reasonable prices possible in this difficult environment.

"We have been in the business of providing an outstanding product since 1982," Dave Sichel, VLCT Director of Group Services commented. "We are not going to let this challenging time in the health care industry prevent us from continuing to do so. In fact, now, more than ever, our program is needed by Vermont municipalities."

If you have any questions about your municipality's VLCT Health Trust plan, please call the VLCT Member Relations department toll free at 800/649-7915.



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HELP WANTED

Associate, Legislative And Information Services. The Vermont League of Cities and Towns has an immediate opening for an Associate, Legislative and Information Services, to provide public policy and advocacy services to Vermont's municipal governments. Responsibilities include conducting research, legislative advocacy, writing articles, report preparation and

servicing as liaison with affiliate organizations. Facility with MS Word, Excel and Access and excellent communication skills are necessary; experience in a public interest association and a basic understanding of local government are highly desirable. Must have BA in political science or related field; advanced degree preferred. VLCT offers a competitive salary and benefits package. Candidates should send cover letter, résumé and names/phone numbers of three references by November 30th to: Human Resources-VLCT, Vermont League of Cities & Towns, 89 Main Street, Suite 4, Montpelier, VT 05602 or via email to jobsearch@vlct.org with Associate-VLCT as subject line. An Equal Opportunity Employer.



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Calendar

Microsoft Licensing Options: Cost-effective Solutions for Towns.

Tuesday, December 3, 2002, Suzanna's Restaurant, LaGue Inn, Berlin. Sponsored by VLCT, KnowledgeWave and the Microsoft Corporation, this afternoon workshop will review Microsoft's recent licensing agreement and price changes, and how to take advantage of cost savings through the state purchasing contract. For more information, please contact Jessica Hill, VLCT Conference Coordinator, tel. 800/649-7915, e-mail jhill@vlct.org. You may also register on-line for this workshop at www.vlct.org, in the Calendar section.

2002 Vermont Urban Forestry Technical Workshop. Friday, December 6, 2002, Vermont Technical College, Randolph. Sponsored by the Vermont Urban and Community Forestry Program and the Vermont Association of Professional Horticulturalists. If you are in charge of

planting and taking care of your municipality's trees, this technical workshop about tree ailments, planting techniques and invasive plants is for you. For more information, contact Jill Mahon, Vermont Urban and Community Forestry Program, tel., 223-2389, e-mail, jill.mahon@uvm.edu.

Multi-sector General Permit Compliance Workshop. Monday, December 9, St. Johnsbury; Tuesday, December 10, Essex Town; Wednesday, December 11, Montpelier; Thursday, December 12, Brattleboro; Friday, December 13, 2002, Rutland Town. Sponsored by VLCT and the Vermont Department of Environmental Conservation, this afternoon workshop will help municipalities understand the new Multi-sector General Permit (MSGP) for Stormwater Discharges, a federally mandated permit intended to prevent industrial materials and activities from polluting stormwater runoff. For more information, please contact Jessica

Hill, VLCT Conference Coordinator, tel. 800/649-7915, e-mail jhill@vlct.org. You may also register on-line for this workshop at www.vlct.org, in the Calendar section.

Planning and Zoning Workshop Series: Site Plan and Conditional Use Review. Wednesday, December 11, 2002, Vermont Interactive Television Sites throughout Vermont. Sponsored by VLCT and the Vermont Regional Planning Commissions, this is the second workshop in the 2002-3 Planning and Zoning Workshop Series. This session will cover the distinct differences between site plan and conditional use reviews, and will lead participants through a learning exercise using hands-on analysis of mock applications. For more information, please contact Jessica Hill, VLCT Conference Coordinator, tel. 800/649-7915, e-mail jhill@vlct.org. You may also register on-line for this workshop at www.vlct.org, in the Calendar section.