

# VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

February 2003

## AND THE WINNER IS...

### VLCT GROUP SERVICES 2002 PHOTO CONTEST

Proving once again that Vermont local government is all about dedicated, caring, volunteers, the three winning photographs in the VLCT Group Services 2002 Photo Contest all depict people carrying out their local government duties.

Discussing town issues, fighting a fire and

planning for the town's future are the subjects of the winning photographs in VLCT's first ever photo contest. The contest deadline was December 31, 2002; all VLCT staff reviewed the entries last month and cast their votes for the top three.

*(Continued on Page Nine)*

**\$100 First Prize: Photographer, and Cavendish Manager, Richard Svec.**

*Mr. Svec's photo of Cavendish Lister Craig Rankin (l.) talking town business with Harry Lindberg over the counter at the town clerk's office struck a chord with the judges. According to photographer Svec, Mr. Rankin and Mr. Lindberg (now deceased) shared a long history of service to the Town of Cavendish. "A classic scene in a small town office," is how Mr. Svec described his photo.*



## TINY NORTON FACES A BIG CHANGE

It was over a half century ago that current Norton town clerk and treasurer Miriam Nelson was sworn into office. When she finishes up her Town Meeting duties and retires from office next month, she'll be closing out not only her own long service to the town, but that of her family's as well.

Just how far back does this remarkable family involvement with Norton town government go? The answer is ALL the way back. Nelson's ancestors, it turns out, have been holding the office of town clerk for as long as it has existed in the town.

This interesting and most surely unique history began when Norton was organized in 1885, according to current selectboard chair Franklin Henry. At that time, Nelson's great uncle Albert McLean was elected the town's first town clerk. Mr. McLean was succeeded as town clerk in 1911 by Nelson's father, Edward James Nelson. The day in 1949 on which she was sworn in was probably bittersweet for Nelson, as she was appointed to take her father's place after his death in office. The

*(Continued on Page Fourteen)*

## TOWN MEETING 2003

Town meeting preparations provide an early sign of spring, the chance to anticipate the exercise of the most direct democracy there is, and, as town reports are prepared, a look back at the year past and the one ahead. In this special town meeting issue we are reprinting long-time East Montpelier moderator Weston A. Cate, Jr.'s delightful mental countdown to town meeting (see next page), as well as a collection of meeting-related questions in Ask the League (see Page 6). On Town Meeting Day itself, Tuesday, March 4, 2003, the VLCT office will be open during its usual business hours of 8 a.m. - 4:30 p.m. Some staff members may be out of the office for all or part of the day attending their town meetings. In the VLCT Municipal Law Center, however, staff will be available all day. Please give the Center a call at 800/649-7915 if we can be of assistance with Town Meeting Day questions. Finally, VLCT sends its annual Town Meeting wishes out to all of our members: good attendance, productive discussions, and a fantastic lunch.



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The VLCT News is published monthly by the Vermont League of Cities and Towns, a non-profit, nonpartisan organization founded in 1967 to serve the needs and interests of Vermont municipalities.

The VLCT News is distributed to all VLCT member towns. Additional subscriptions are available for \$25 to VLCT members (\$60, non-members), plus sales tax if applicable. Please contact VLCT for subscription and advertising information.

# THE ART OF MODERATION

You stand at the rostrum watching the big black hand of the clock on the back wall of the gymnasium inch toward 9:30 a.m.

At precisely that moment you bring down the gavel with a crack that can be heard across the room.

"The polls are now open for casting ballots for town and town school district officers. The duly warned meeting of the town is now declared to be in session. Only those who have checked in and received blue cards are entitled to vote. We will now move to Article One."

The moment you have been gearing up for has arrived. For better or worse you are in charge of the meeting, and how you perform will have a lot to do with how the townspeople feel about the town, the town officers, and the whole process.

Though you may have been moderating town meetings for years, you have recently taken time to review *Roberts Rules of Order*. Like as not, there will be someone out there on the floor today who has also done just that and hankers to show off his or her knowledge at your expense.

You've reread the minutes of last year's meeting, checked the statutes pertaining to town meeting, located the members of the Board of Civil Authority in the hall in case they are needed to count paper ballots.

You've talked with the PTO luncheon committee to know when they want to serve the meal. The microphone works and the town clerk has plenty of paper ballots. You've dusted off your sense of humor, and you remember the name of the man who hasn't missed a meeting in 60 years.

You think you're ready to make the town meeting engine of democracy work. Yet down in the pit of your stomach, carefully shielded by your confident surface manner, there is that gnawing feeling that something will go wrong.

Like the professional actor, the average town moderator knows his or her town pretty well, and many of the people in it. Despite the common belief that many folks go to town meeting largely to criticize or spout off, in actual practice 90 percent of the talk will be carried on by 10 percent of the people.

The moderator knows that certain citizens plan all year to have something to say at town meeting and will feel deeply hurt if their carefully prepared comments are overlooked. The moderator also knows that a few people in town, a very few, are listened to intently and



their advice followed.

Your constant task is to try to be fair, to see that all sides of an issue get discussed before a vote is taken.

Citizens who have recently moved to town and are unfamiliar with town meeting practices are sometimes dismayed that the discussion of an issue is lengthy. But quick, crisp decisions on really significant issues are not typical, and those who move quickly to cease debate often find that unless the townspeople feel the subject has been fully aired, the two-thirds vote necessary to hurry things along is denied them.

The townspeople's perception of your fairness is apt to determine how long you remain a moderator.

The town moderator needs a good sense of humor. While being careful not to offend anyone or hold anyone up to ridicule, you will find that a comic twist from time to time may relieve the tenseness of an emotional debate. Sometimes the light touch just appears naturally – like the time you had to publicly ask if John Beardsley knew his cows were out.

With a pause for lunch around noon, a controversial meeting can last well into the afternoon. The articles are moved, discussed, and voted upon one by one. Some are swiftly passed, while others are debated warmly and at length. With property taxes ever on the rise, town and town school district appropriations are likely to generate longwinded debate.

Ninety-eight percent of your decisions will meet with public approval. Once in a while someone, usually a newcomer to town, will rise to challenge the moderator's ruling.

When that happens you will put the question before the body: "Will the decision of the chair be sustained?" Almost without exception your ruling will be sustained – partly because it's usually the right one and partly because your neighbors want you to be right.

The day seems long. You've been on your feet and on your metal for hours, and now the day's proceedings are drawing to a close. You welcome the motion to adjourn.

When you finally drop the gavel at meeting's end, you pause to reflect: Is this form of participatory democracy really out of date and useless for our times, or is it a process to be cherished and perpetuated in a world where increasing numbers of people have lost faith in government?

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## TELECOMMUNICATIONS FACILITIES; STATE APPRAISAL OF PROPERTY

### PRELIMINARY FEDERAL COURT RULING: TELECOMMUNICATIONS ACT PRE-EMPTS LOCAL ZONING

A recent U.S. District Court decision granted telecommunications provider Independent Wireless One (IWO) the temporary right to install cellular phone antennas on two existing silos in the Town of Charlotte.

Following a decision by the Charlotte Board of Adjustment (ZBA) to deny its application to install the antennas, IWO, acting under the Telecommunications Act of 1996 (TCA), filed successfully in federal court for a preliminary

two competitors plus the possibility of “roaming.”

The Court began its analysis by noting “The TCA was intended to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment... [of telecommunication technology] by opening all telecommunications markets to competition.” Congress wanted to create a balance between national growth of the technology and local control of siting towers. In doing this, it put specific limitations on local zoning authority. Furthermore, the Court said,

affected, and characterized IWO’s gaps in Charlotte as “significant” for the purposes of the TCA.

Charlotte argued that if *any* wireless provider has adequate coverage in town that shows there is no need for another provider to be given a permit to operate in the area. Under that argument, since Verizon and Cellular One had coverage with no significant gap, there was no need to issue a permit to IWO. However, the Court pointed out that the long-term effect of that interpretation would mean that competition would disappear and it “might have the effect of driving the industry toward a single carrier, as users switch to carriers having the most seamless coverage.” That result is counter to the intent of TCA.

IWO also argued that Charlotte had unreasonably discriminated against it, in violation of the TCA. The Court agreed, noting that the Town had denied the permits based on the assumption that there was already enough cell phone service in the area. The denial had nothing to do with the cumulative effect of more antennae but was based on the decision that there was enough service provided and that competitors could be excluded.

To summarize, this is a preliminary decision in a complex case. The TCA is being applied with a bias toward rapid progress in wireless communication. Even though the subject matter is local control of development, relatively little deference is being given to towns’ zoning bylaws. Town officials and attorneys should beware!

- Libby Turner, VLCT Staff Attorney

*(Editor’s Note: Municipalities seeking further guidance on balancing local control of telecommunications facilities with the requirements of the Telecommunications Act of 1996 should consult the VLCT Municipal Law Center for model bylaw language and other resources. In general, the TCA allows municipalities to regulate the location of telecommunications facilities within their borders, but does not allow outright prohibition of such facilities.)*

*(Continued on next page)*

*The Telecommunications Act of 1996 is being applied with a bias toward rapid progress in wireless communication. Even though the subject matter is local control of development, relatively little deference is being given to towns’ zoning bylaws. Town officials and attorneys should beware!*

injunction ordering the Town to issue the permits. *Independent Wireless One...v. Town of Charlotte...*, U.S. Dist. Ct. for Vermont, No. 2-02-CV-261 (Jan. 14, 2003).

The facts of the case are as follows. IWO applied for two antennae to be installed with no increase in height and no structural changes in the silos. The ZBA found the proposals met all of the applicable general and specific standards for a conditional use permit. However, it denied the permits based on Section 9.7 of its bylaws because IWO had not presented adequate “evidence of need.” The ZBA said that Section 9.7 “was intended to minimize the proliferation of telecommunications facilities once adequate coverage has been provided within the Town.” Therefore, without convincing evidence of a need for added service, the new antennae were denied.

The Town admitted that IWO had presented credible evidence of a gap in its own coverage within the town. However, the Town noted that Verizon and Cellular One already existed in town, so IWO would merely provide redundant service. In addition, Charlotte said that IWO had not explained why it could not be served by “roaming” rather than by two new antennae. The Town concluded “adequate coverage already exists” in the form of IWO’s

the standard of review is much more rigorous when reviewing TCA disputes.

IWO argued that, without the new antennae, it would suffer irreparable harm in the forms of loss of subscribers, loss of ability to compete, loss of good will and damage to its reputation. Charlotte countered that these were merely speculative and did not show irreparable harm. Citing prior telecommunication cases, the Court agreed with IWO that “every day [its] special permit is denied is a day Plaintiff loses against major competitors in today’s quickly advancing world of telecommunications services.” It noted that IWO’s inability to offer service...restricts its ability to attract and retain customers” and that reliance on “roaming,” with its dropped calls and incremental charges, would cause reputation damage. The Court also cited decisions that held that injunctive relief is appropriate where it is especially difficult to quantify the actual loss of sales.

IWO further argued that the denial of the antennae would have the effect of prohibiting it from providing wireless service in the area, as the gap in its Charlotte service runs along heavily used areas of town. The Court noted that gaps must be evaluated not so much by actual size as by the number of customers



## LEGAL CORNER -

(Continued from previous page)

### SECOND SUPERIOR COURT DECISION QUESTIONS STATE'S TAX METHODOLOGIES

The Town of Victory has won its appeal of appraisal values set by the State Division of Property Valuation and Review (PVR) for forest land for which the town was receiving payment in lieu of taxes (PILOT). Judge Kathleen Manley concluded, "the application and determination of the [property appraisal] adjustment factors were arbitrary and unreasonable." *Town of Victory v. State of Vermont, Department of Taxes*, Decision and Order, Docket No. 33-6-99ExcV, at 17 (2003).

This case is important for Vermont municipalities because it is yet another instance of a Vermont superior court questioning an aspect of the State's property appraisal methodologies. You may recall that in August 2002, the Rutland Superior Court used similar language to describe PVR's equalization methodologies under Act 60, when the Town of Killington appealed its equalized education property tax grand list value. (See September 2002 *VLCT News* Legal Corner.) That case is now pending before the Vermont Supreme Court.

In the instant case, the Town of Victory appealed the State's annual PILOT payment for about 11,000 acres of land in the town that are owned by the State Agency of Natural Resources (ANR). Pursuant to statute, the State makes payments to the Town in lieu of municipal property taxes on these ANR-owned lands (the payment for this property, which was not enrolled in the current use program, was calculated at one percent of its appraisal value). 32 V.S.A. § 3708. These properties are supposed to be appraised annually, or their values reviewed each year. The court's findings focused on the annual appraisals conducted by PVR's District Advisor, to whom the responsibility for appraising ANR lands in the PILOT program was delegated. Instead of truly appraising the property annually, the court found that the District Advisor merely rubber-stamped the prior year's appraisal, which had not changed for the four preceding tax years.

The court's opinion focused on the facts that PVR's District Advisor was not certified or licensed by the State to perform appraisals, and he was only physically on the site on six occasions (but did not inspect the property other than what he was able to observe from his immediate location). The District Advisor's "appraisal" (quotation marks used by the Court in its decision) included a series of arbitrary

calculations that were used more because of instinct than because of PVR procedures.

The value of the property in question remained the same from 1995 to 1998. In 1998 and 1999, another District Advisor reviewed the appraisal values and recommended the same values to the Director of PVR, who affirmed those figures. Throughout the trial in this matter, the Town questioned PVR's appraisal procedures, asserting, essentially, that there were no procedures to guide PVR District Advisors in appraising property, and if there were procedures in place, they were not followed, or ignored outright. Each year, the Director of PVR would then affirm those property values without any independent review. The Court accepted most of the Town's assertions, stating that a review of PVR's appraisal procedures shows "its ad hoc and essentially arbitrary nature reflects both the lack of any guiding standardized appraisal methodology or procedures on the part of PVR at the time." Decision and Order at 14. "Even the most basic principles stated in the PVR's own training manual for listers were ignored . . . There was no consideration of 'forest potential,' nor of actual alternate uses, nor of the degree such uses, if present, might have influenced the sales price." *Id* at 15.

What does this mean for your town? There are approximately 800 parcels of land in Vermont owned by ANR, for which the State must provide a payment in lieu of taxes, based on the appraisal value of the property. 32 V.S.A. § 3708. If PVR is appraising these lands without regard to accepted listing practices, there exists the possibility that many Vermont towns are being short-changed in receiving PILOT monies from the State.

More than half the acreage in some Vermont towns is owned by the State; the impacts of improper tax appraisal on these vast quantities of land are significant. VLCT encourages towns to review their PILOT payments and respective appraisals to determine if they have changed in recent years and how those changes correspond with changes in the local real estate market. It may behoove towns to contact PVR for an explanation of the process used to appraise PILOT lands; there may be errors in these figures or they may not account for changes in the real estate market. If your town has additional questions or concerns about PILOT appraisals, call the Municipal Law Center or your town attorney to evaluate your options.

- Brian Monaghan, VLCT Staff Attorney

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# ASK THE LEAGUE

## PETITIONS; AUSTRALIAN BALLOT; VALIDATING A WARNING; "TABLE" V. "POSTPONE"

**How much discretion does a selectboard have when it receives a petition signed by five percent of the registered voters to include an article on the Town Meeting warning?**

The selectboard is only **required** to include items on the warning for which the voters have explicit authority to act at town meeting.

There are many examples of questions where, if a valid petition is received (with adequate signatures and a question which voters have the authority to answer), the town must include the item on the warning. Some examples, with their corresponding authority, are as follows:

1. the repeal of the business personal property tax. 32 V.S.A. § 3849;
2. a proposal to fund a feasibility study for establishing a town library. 17 V.S.A. § 2664; or
3. a petition to authorize the selectboard to employ a town manager. 24 V.S.A. § 1241.

However, even if the selectboard receives a petition signed by at least five percent of the registered voters, if there is no statutory authority for the voters to act on the matter, the board can decline to post the petitioned article on the warning.

The legal framework for this act of discretion by the selectboard comes from several places. To begin with, it is important to remember that Vermont towns only have that authority which is expressly granted to them by the statutes. Thus, in determining what towns are able to do, it is important to look at both the statutes and the case law that surrounds them. On the question of petitions, 17 V.S.A. § 2642 suggests that the only standard that needs to be met is the signatures of five percent of the registered voters and proper filing with the town clerk not less than 40 days before town meeting. However, if one also looks at the case law, it is clear that there is an additional standard which must be met - that of authority for the voters to act. Two of the most often cited cases are as follows:

1. In 1969, the Vermont Supreme Court established the standard for inclusion on the warning in what has come to be called the Wassmansdorf ruling. *Royalton Tax Payers Protective Association v. Wassmansdorf*, 128 Vt. 153 (1969). In the *Wassmansdorf* ruling, the Court established two standards that must be met in order to properly respond to the five percent petition: 1) the subject matter must not be "useless, frivolous, or for an unlawful purpose;" and 2) the subject matter must "set forth a clear right which is within the province of the town meeting to grant or refuse through its vote."

2. In 1970, the Court declined to force a school district to hold a special meeting to discuss fiscal procedures after being petitioned to do so, reasoning that "the duty to warn relates to business to be transacted." *Whiteman v. Brown*, et al, 128 Vt. 384 (1970). In short, this ruling suggests that if an article sought to be included in a warning does not constitute business proper and appropriate for transaction (as evidenced by specific statutory authority to conduct the business), then there is no obligation to include it.

Thus, in reviewing both the statutes and the case law surrounding them, it is VLCT's opinion that towns are only required to include petitions on the warning that propose an action that is appropriate for the voters to act on.

Moreover, while advisory articles calling, for example, for the condemnation of herbicides or genetically modified foods are interesting debates, their scope is outside of the authority of the town and therefore they are not business proper before the town. Selectboards should not feel compelled to include those in the warning.

- Dominic Cloud, Manager, Local Government Services

*(Editor's Note: The following questions are adapted from inquiries received by the Law Center for its February Moderators Workshop.)*

**Our town school district has adopted Australian ballot voting for the school budget. Can any discussion**

**take place at town meeting regarding the school budget or any school issues at all? If so, to what extent?**

The general rule is that where Australian ballot voting is taking place, there shall be no discussion of the issues, including campaigning or lobbying, nor shall anyone be allowed to hand out political materials or solicit voters while the polls are open. 17 V.S.A. § 2508. Therefore, discussion of school issues at town meeting can only take place if the school budget vote is taking place in another building or at another time. In most cases, it is likely that both the town and school district annual meeting will take place in the same building, at

*(Continued on next page)*

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## ASK THE LEAGUE -

(Continued from previous page)

the same time; therefore, it would not be appropriate for the voters to discuss school issues at the town meeting. The town clerk, as presiding officer of Australian ballot votes, shall enforce the regulations contained in 17 V.S.A. § 2508. See also 17 V.S.A. §§ 2452, 2680 (f).

Many towns begin their town meetings the night prior to town meeting, by discussing issues that are voted on from the floor. Australian ballot voting happens the following day. State law authorizes towns to begin their annual meetings, as well as to conduct an "informational hearing," within the 10 days preceding town meeting. 17 V.S.A. § 2640 (c), 17 V.S.A. § 2680 (g). (These two meetings may be combined.) In such a case, school issues would be appropriately debated the night prior to Australian ballot voting on town meeting day.

- Brian Monaghan, VLCT Staff Attorney

**Soon after posting our warning for town meeting, we discovered that we had inadvertently left a budget item off the warning. Can we use the validation provisions of 17 V.S.A. § 2662 to add this item to the warning, even though the deadline for posting has passed?**

No, an item that has been omitted from the warning cannot be added after the deadline for posting has passed. A reading of 17 V.S.A. § 2662, "Validation," shows that a town can use those validation provisions to correct many types of deficiencies that may occur at town

meeting, or in the warning for town meeting. However, adding an item to be voted on that was not posted by the required date (30 days prior to town meeting, pursuant to 17 V.S.A. § 2641 (a), this year it was February 2<sup>nd</sup>) seems to be stretching the validation provisions a bit farther than the legislature intended. If the article is so important that the selectboard feels the town should vote on the issue, a better (and legally acceptable) way of appropriating money is to call a special town meeting to vote on the money. 17 V.S.A. § 2643. Certainly, this is an onerous process, but one that is more likely to keep the town out of a lawsuit for inappropriately allocating town monies.

- Brian Monaghan, VLCT Staff Attorney

**Is it acceptable if a voter moves to "table" an article (majority vote) without a time set to take the article off the table, or should the moderator ask the voter to rephrase the motion to "postpone indefinitely" (two-thirds vote)?**

Answering this question requires a reading of both Vermont law and *Robert's Rules of Order*. Under Robert's Rules, the maker of the motion can use either motion, depending on what result is desired: A motion to postpone indefinitely drops the main motion without a vote on it, and essentially kills the motion; a motion to lay on the table enables the assembly to lay the pending question aside temporarily, in place of something requiring immediate attention by the assembly. Henry M. Robert, III., *Robert's Rules of Order Newly Revised* § 11, 17 (10<sup>th</sup> ed. 2000).

The trump card here that cannot be ignored is Vermont law: "A warned article voted on at an annual meeting shall not be submitted to the voters for reconsideration or rescission at the same meeting after an assembly has begun

consideration of another article . . ." 17 V.S.A. § 2661 (a). The question that arises when trying to harmonize parliamentary law with Vermont law (which will supersede) is whether an article has actually been *voted on* when it is "tabled." VLCT believes that if an article has been warned, discussion on the merits has begun, and a motion has been made to postpone indefinitely, it cannot be revived. Motions to postpone indefinitely, while they are subsidiary to the main motion, go directly to the substance of the question, and therefore, probably constitute a "vote" for purposes of 17 V.S.A. § 2661 (a). The motion to postpone indefinitely is akin to a "no" vote on the actual question.

However, a motion to lay on the table can be voted on without violating 17 V.S.A. § 2661 (a). This would cause the main motion to be set aside, and not voted on its merits, while more immediate business is addressed, such as a motion to recess because of temperature problems, etc. VLCT believes a motion to lay on the table does not constitute "voting" for purposes of 17 V.S.A. § 2661 (a).

- Brian Monaghan, VLCT Staff Attorney

## TRIVIAL PURSUIT

Congratulations to **Joan Courser**, former secretary to the Halifax selectboard, who sent in the first correct answer to last month's question. Glover, Vermont's Runaway Pond got its name in 1810 when some of the town's more adventurous citizens decided to divert some water power to mills that needed it. Quicksand made short work of the task, sending the entire pond on a course to Lake Memphremagog, leaving a path of destruction.

February's query is:

**In July of this year in the 1800s, a political party was organized in Montpelier, making Vermont the second state to organize. What year was it, which party was organized, and what was the town and state that beat Vermont to the punch? And for extra credit, who was the first governor elected from that party, what year and where was he from?**

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](mailto:kroe@vlct.org).



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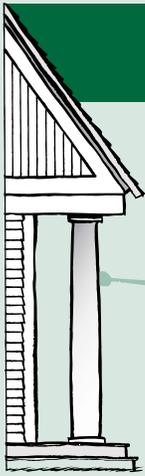
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## VLCT PACIF RENEWAL

### A STATISTICAL SNAPSHOT

The numbers are in from the 2002 VLCT PACIF renewal, and they are impressive. Once again, all of our existing members renewed their insurance coverage with VLCT's Property and Casualty Intermunicipal Fund (PACIF). And, adding in the new members who joined VLCT PACIF in 2002, membership reached a record high of 312. Other interesting renewal facts:

**Number of Member Entities (towns, villages, cities, regional districts, volunteer fire departments, etc.):**

As of 1/1/02 243

As of 1/1/03 312

**Total Property Values:**  
\$820,707,015

**Number of Vehicles Covered:**  
3,046

**Number of Police Officers Covered:**  
662

**Number of Firefighters Covered:**  
3,125

**Workers' Compensation Payroll Covered:**  
\$134,831,125

## Upcoming Dates

### GROUP SERVICES DAY

The Second Annual Group Services Day will be held on **Thursday, June 5, 2003** at the Stoweflake Resort, Stowe, Vermont. Mark your calendars and plan to attend this educational and fun day celebrating VLCT's three insurance trusts.

### VLCT PACIF WORKERS' COMP AUDITS

As a result of VLCT PACIF's surge in growth in 2002 (25 percent), Member Relations staff will be contacting each PACIF member shortly to set up a date and time to conduct your 2002 Workers' Compensation payroll audits. We realize many of our members prefer to wait until after Town Meeting Day for our visit. If we can come to your municipality before then, please call Niki White in Member Relations at 800/649-7915. Thank you for your cooperation!

### WELCOME JANA BAGWELL AND CHARLES HAFTER

The VLCT Health Trust Board appointed **Jana Bagwell**, Finance Director, City of Montpelier, to the Board's Alternate position at its meeting on February 6, 2003. Jana is a familiar face at VLCT, as she was our former Director of Administrative Services. Welcome back, Jana!

The VLCT Unemployment Insurance Trust Board appointed **Charles Hafter**, City Manager, City of South Burlington, to the Board's Alternate position at its meeting on November 18, 2002. Welcome aboard, Chuck!

### WELCOME TO VLCT PACIF South Hero Fire District #4

## ACCIDENT INVESTIGATIONS

### HOW YOU CAN HELP

The goal of any accident investigation is to answer six basic questions:

- **What** happened?
- **When** did it happen?
- **Where** did it happen?
- **Who** was involved?
- **Why** did it happen?
- **How** can we prevent it from happening again?

You can help in the investigation by:

- Making mental notes (or better yet, written notes) whenever you witness an accident or near miss so that you can help determine what actually happened.
- Answering any and all questions about the incident as accurately and completely as possible.
- Taking every accident investigation seriously and realizing that the outcome affects you, whether or not you were involved in the incident.

A near miss is an accident that didn't happen—this time. Next time, it might.

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## **\$75 Second Prize:**

**Photographer, and Manchester Planning Director, Lee Krohn.** Mr. Krohn's photo of Manchester Volunteer Fire Department member Don Pierson fighting a brush fire is a beautifully composed portrait of a firefighter doing his job. Said photographer Krohn, "...providing effective and efficient municipal services requires dedication, creativity and internal motivation...."



## **\$50 Third Prize:**

**Richard Svec.** Mr. Svec's second entry in the contest is a photo of the Cavendish Planning Commission deep in discussion while poring over a series of zoning maps. "A... blend of thoughts about the Town's future," wrote Mr. Svec about his photo.



## **PHOTO CONTEST -**

*(Continued from Page One)*

The contest asked the question, "What does Municipal or Municipal Government represent to you?" Contestants had to be Vermont municipal employees, and their municipality had to be a member of at least one of the three VLCT trusts: PACIF, Health Trust or Unemployment Trust. Photographs also had to be taken in Vermont.

"Here at VLCT, we had a great time reviewing the photographs that came in," said Member Relations Manager Suzanne Schittina. "We appreciate the efforts of the photographers, and particularly their insights into what municipal government means to them."

VLCT hopes to make its photo contest a regular event in the future. With the dedication and talent that is out there in the municipal workforce, we look forward to future contests.

*- Katherine Roe, VLCT Communications Coordinator*

## **ATTENTION HEALTH TRUST MEMBERS**

The BCBSVT Preferred Drug List has been updated as of February 1, 2003. The list is available at the BCBSVT web site (<http://www.bcbsvt.com>). Click on RX Center, then click on Preferred Brand-name Drug List. If you do not have web access and would like a copy of this list, please call Niki White in Member Relations at 800/649-7915.



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# LOCAL GOVERNMENT DAY

WEDNESDAY, FEBRUARY 12, 2003



*Governor James Douglas is introduced prior to his luncheon address by Waterbury Municipal Manager and VLCT President William Shepeluk. Two hundred and thirty local officials and 65 legislators attended this year's Local Government Day.*



*Above, seven of the 20-plus middle school students who participated in the pilot Local Government Day for students, a program sponsored by VLCT and Project Citizen.*



*Above (from left to right), VLCT staff members Dominic Cloud and Brian Monaghan, Esq., speak with Dennis Pavlicek, Norwich Town Manager. Below, members of the Senate Government Operations and House Local Government Committees meet jointly in the Senate Chamber to take testimony from dozens of local officials.*



## DOG LICENSING REMINDERS

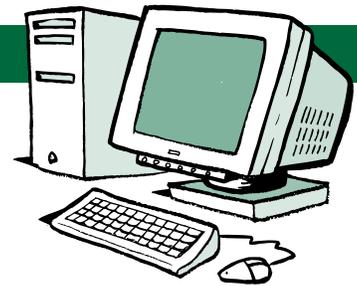
As April 1st quickly approaches, many town clerks are already engaged in the task of dog licensing. Here are some licensing reminders from State of Vermont Veterinarian Dr. Todd Johnson:

- The sunset provision for the \$1 surcharge on dog licenses collected for the State has been repealed, and the surcharge will remain permanently in effect. Towns must continue collect and submit the additional \$1.00 fee assessed for each license sold to the State Treasurer. 20 V.S.A. § 381 (f).
- A **kennel permit** is a permit issued by the town for any resident keeping domestic pets or wolf-hybrids for sale or for breeding purposes other than for his or her own use. The fee for kennel permits is \$10. 20 V.S.A. § 3681. A **special license** can be thought of as a reduced fee license for breeders. The special license is *not* intended to provide a reduced license fee to any individual possessing more than three breeding animals. If the holder of a special license also maintains spayed and neutered animals, they must be licensed individually at the minimum \$4.00 rate and are not to be included on the special license. 20 V.S.A. § 3583.
- Dogs more than six months of age may be licensed any time after January 1st of a calendar year, but must be licensed no later than April 1st of the same year in order to avoid the additional 50 percent fee assessment. If a dog reaches six months of age after April 1, the owner has 30 days to apply for a license. If a dog reaches six months of age after October 1, the fee is reduced by half. 20 V.S.A. § 3581.
- For the purposes of licensing a dog, the statutes continue to require dogs less than two years of age to have been vaccinated against rabies within the previous 12 months. Dogs over two years of age must have been vaccinated within the previous 24 months. Occasionally, owners of a sick dog, on the advice of their veterinarian, will seek an exemption from the requirement for a current rabies vaccination. In such cases, the municipal clerk should issue a license upon receiving a certificate or a certified copy thereof signed by a duly licensed veterinarian stating that the animal's medical condition exempts it from vaccination.

*(Continued on next page)*



# Tech Check



## MANAGING YOUR LOCAL GOVERNMENT

### A FEW NIFTY INTERNET TOOLS

- ✓ Find the latest CPI information at <http://stats.bls.gov/news.release/cpi.nr0.htm>
- ✓ Download CPI tables at <http://stats.bls.gov/cpi/home.htm#data>
- ✓ Find the latest IRS mileage reimbursement rate at <http://www.irs.gov/businesses/small/industries/article/0,,id=97616,00.html>
- ✓ Calculate your withholdings at <http://www.irs.gov/individuals/article/0,,id=96196,00.html>
- ✓ Get IRS tax info and publications at <http://www.irs.gov/taxstats/index.html>
- ✓ Calculate past and future (deflated and inflated) prices/costs at <http://www.jsc.nasa.gov/bu2/inflateGDP.html>
- ✓ Find minimum wage info at <http://www.state.vt.us/labind/Wagehour/wagechange.htm>
- ✓ Find workers comp, VOSHA and other labor stuff at <http://www.state.vt.us/labind/>
- ✓ Find FLSA exempt employee testing at <http://www.hrtools.com/etoolsapplets/exemptiontester/exemption.html>
- ✓ Find Vermont statutes at <http://www.romingerlegal.com/state/vermont.html>
- ✓ Find latest doings at the Statehouse at <http://www.leg.state.vt.us/>
- ✓ Download latest census data at [http://www.census.gov/Press-Release/www/2001/tables/redist\\_vt.html](http://www.census.gov/Press-Release/www/2001/tables/redist_vt.html)

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## DOG LICENSES -

*(Continued from previous page)*

Dog licenses, kennel permits and special license forms may be obtained through a **new address**: (Orders are preferred by fax on town letterhead with the name of a contact person and phone number.) **Vermont Offenders Work Program, Attn: Susan, 37 Commercial Drive, Waterbury, VT 05676; phone 800/834-2268; fax 802/241-1475.**

Please forward the duplicate copies of the kennel permit and special licenses issued in your town to: **Vermont Department of Agriculture, Food & Markets, Animal Health Section, 116 State Street, Drawer 20, Montpelier VT 05620-2901.** For more information, or if you have questions, please call the State Veterinarian at 802/828-2421.



# GASB 34 COMPLIANCE GUIDE

## FINANCIAL REPORTING, PART 1

The final three articles in our GASB 34 series will address accounting and reporting issues, as well as the requirements for Management's Discussion and Analysis. This series is **not** intended to be a basic accounting primer and assumes that the readers (presumably those responsible for generating financial reports) have some accounting or finance training or experience. For more basic instruction you should consult the resources listed at the end of each article.

It is important to note that there is a wide range of municipal accounting and reporting practices and skills in Vermont. Where a firm is contracted to do audit work, independent auditors will issue financial statements from the accounting records and trial balances of local officials. Therefore, this reporting component of GASB 34 may be of less concern to those municipalities having regular independent audits. However, this does not apply to Management's Discussion and Analysis (MD&A). The MD&A needs to come from management and generating this report requires a clear understanding of your financial statements.

This month and next, we will outline the types of reports required for compliance and what you need to know to produce them. Below you will find a discussion of basic reporting concepts behind GASB 34. In March, we'll review the Basic Financial Statements and Notes. We'll finish in April with a guide to the components of the RSI (Required Supplementary Information), including the MD&A.

### MEASUREMENT FOCUS

Measurement focus is how you present your financial statements - basically the distinction

between business and government sector reporting. There is a clear difference between reporting business-type activities and reporting governmental-type activities: one measures success in profits and capital development, and the other measures how budget obligations are met. In business-type activities the focus is on maximizing revenue, and there is a direct relationship between a service and the price you charge for that service. You are measuring total economic resources, which include your long-term obligations as well as capital assets and infrastructure. By examining the changes in total economic resources, you can better analyze future financial performance, as well as properly measure your current financial position.

In governmental-type activities the focus is on maximizing service and, since there is no direct relationship between service and price, past practice has been to measure changes in current financial resources (only what is needed to support budget obligations). *The major difference between economic and financial resource measurement is the way long-term debt and capital assets are recorded and reported.* An ambulance purchase financed by the Vermont Municipal Bond Bank is a good example to help explain this difference.

When you purchase a new ambulance, you will exchange cash of \$100,000 for a piece of equipment worth \$100,000. You will receive that cash from the Bond Bank, incurring a liability of \$100,000. On the balance sheet, if

I'm measuring **total economic resources**, I now have an asset worth \$100,000 and a long-term bond debt of \$100,000. There was no expense and no revenue, so my fund balance didn't change. I incurred a liability but replaced it with an asset.

In future years, I will expense that asset by depreciating it, essentially reducing its value and charging that reduction as an expense, decreasing my fund balance. When I make a payment on the bond, I will be reducing the liability by the amount of the principal payment and charging the interest as an expense, again decreasing fund balance. The bottom line is that I'm financing an ambulance that will be used over the next 20 years by spreading the costs over the life of that piece of equipment, effectively allocating the costs to those who will actually be using it. Business-type activities must report this way in order to assess their long-term financial position and make intelligent capital investment decisions.

With the same transaction, if I use a **current financial resources measurement** approach, I would receive the \$100,000 from the Bond Bank and show it as revenue. The liability shows up in the Long-Term Debt Account Group outside of the governmental fund where the operating transactions are recorded. I pay for the ambulance and an expense is incurred. Since there is both an expenditure and revenue, each for \$100,000, the fund balance doesn't change.

Transactions for following years would consist of only the principal and interest payments on the bond, both recorded as expenditures in the governmental fund. Debt reduction would be booked in the Long-Term

*(Continued on next page)*

## GUIDE TO THE GASB GUIDE

Part 1, Overview, June 2002 *VLCT News*

Part 2, Tracking and Reporting Capital Assets, July 2002 *VLCT News*

Part 3, Tracking and Reporting Infrastructure, August 2002 *VLCT News*

Part 4, Using the Modified Approach to Tracking and Reporting Infrastructure, September 2002 *VLCT News*

Part 5, Financial Reports, I&II, February and March 2003 *VLCT News*

Part 6, Management's Discussion and Analysis, April 2003 *VLCT News*

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## GASB 34-

(Continued from previous page)

Debt Account Group. The value of the new equipment and its associated debt obligation are not included in the governmental fund, but the debt payments, both principal and interest, are reflected in the operating statement, effectively reducing the fund balance. However, that fund's balance sheet does not reflect the true equity (net worth) because it doesn't include the net value of its capital assets.

With a business-type activity using total economic resource measurement, depreciation and debt interest payment expenses hit the operating statement and decrease the fund balance. In addition, the balance sheet reflects both the value of the depreciated asset and the balance of the outstanding debt. This approach provides more information to the reader about the municipality's management of its capital assets and infrastructure (as well as its long-term debt obligations) than does the current financial resources measurement approach. If the municipality properly records all its assets, the fund balance will truly reflect its equity.

### BASIS OF ACCOUNTING

"Basis of accounting" is a term that indicates the method used for the recording of transactions. The difference between **cash, modified accrual and accrual basis** is in the timing of the transactions.

- **Cash basis** accounting records revenue as it is received and expenses as they are disbursed regardless of their relationship to the budget or if the receipts were earned or the expenses incurred.
- **Accrual basis** matches sources of funds to their uses. In other words, revenues are recognized when earned and expenses when a liability is incurred.
- **Modified accrual** is slightly different than accrual in that sources follow uses in the near-term. In other words, revenue is recorded when earned only when it is available to cover the associated liability (appropriation) in the current period. Delinquent tax revenue received six months into the following year won't cover your current year budget expenses. Expenditures are generally recognized when the related fund liability is incurred, except for principal and interest on long-term debt and reductions in long-term liabilities that are recognized as expenditures when they are paid. In general, any revenues received beyond 60 days from year-end are considered new-year transactions for purposes of modified accrual accounting.

### REPORTING STRUCTURE

The reporting for GASB 34 compliance is outlined below, along with the required measurement focus and basis of accounting. (ERMF, ABOA = Economic Resources Measurement Focus, Accrual Basis of Accounting; FRMF, MABOA = Financial Resources Measurement Focus, Modified Accrual Basis of Accounting).

✓ *Basic Financial Statements* include:

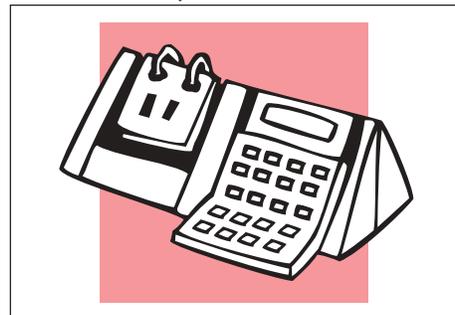
1. Government-Wide Financial Statements (ERMF, ABOA):
  - a. Statement of Net Assets
    - ◆ Governmental Activities (Governmental Funds, Internal Service Fund)
    - ◆ Business-Type Activities (Enterprise Funds)
  - b. Statement of Activities
    - ◆ Governmental Activities (Governmental Funds, Internal Service Fund)
    - ◆ Business-Type Activities (Enterprise Funds)
2. Fund Financial Statements:
  - a. Governmental Funds (FRMF, MABOA)
    - ◆ Balance Sheet
    - ◆ Statement of Revenues, Expenditures and Changes in Fund Balances
    - ◆ Budgetary Comparison (optional)
  - b. Proprietary Funds (ERMF, ABOA)
    - ◆ Statement of Net Assets
    - ◆ Statement of Revenues, Expenses and Changes in Net Assets
    - ◆ Statement of Cash Flows (Cash Basis of Accounting)
  - c. Fiduciary Funds (ERMF, ABOA)
    - ◆ Statement of Fiduciary Net Assets
    - ◆ Statement of Changes in Fiduciary Net Assets

✓ *Notes to Financial Statements* include:

1. General Disclosures
2. Capital Assets and Long-Term Liabilities
3. Donor Restricted Endowments
4. Segment Information

✓ *Required Supplementary Information* includes:

1. Management's Discussion and Analysis
  - a. Analysis of Overall Financial Position and Operations
  - b. Fund Analysis



- c. General Fund Budget Variances
  - d. Capital Assets and Long-Term Debt Activity
  - e. Infrastructure
  - f. Other Potentially Significant Matters
2. Budgetary Comparison Schedules
  3. Infrastructure Assets Using Modified Approach

The Government-Wide Financial Statements combine all your funds from governmental activities (all funds except Enterprise and Fiduciary Funds) into one column and all your funds from business activities (Enterprise Funds) into another. They do not include Fiduciary Funds as these are reported separately.

Fund Financial Statements reporting is by major fund type starting with the General Fund, and combining all non-major funds into a column called Other Governmental Funds. A fund is considered major if it is at least 10 percent of either 1) total governmental fund assets, 2) total governmental fund liabilities, 3) total governmental fund revenues, or 4) total governmental fund expenditures, AND it also is at least 5 percent of the combined total of the same for governmental and enterprise funds. In other words, if your Fire District Fund expenditures are at least 10 percent of total governmental fund expenditures AND is 5 percent of total governmental and enterprise fund expenditures, it is considered a major fund.

We will explore these basic financials as well as the required notes to the financials next month.

-Michael Gilbar, Director, VLCT Administrative Services

### RESOURCES

- ◆ *GASB Statement 34* (1999) by the Governmental Accounting Standards Board. Tel. 800/748-0659 or visit <http://www.gasb.org>.
- ◆ *What You Should Know About Your Local Government Finances* (2000) by Dean Michael Mead, available through GASB. Tel. 800/748-0659 or visit <http://www.gasb.org>.
- ◆ *Governmental Accounting, Auditing and Financial Reporting (GAAFR)* (2001) by Government Finance Officers Association. Tel. 312/977-9700 or visit <http://www.gfoa.org>.
- ◆ *Guide to Imple-*



## NORTON -

*(Continued from Page One)*

following year, she was elected for the first time as town clerk and has been reelected ever since!

This 53-year career was recognized in April 2000 by the Vermont Legislature, which passed a joint resolution honoring Nelson's "extraordinary service as Norton town clerk and treasurer" and noted her position as Vermont's longest serving town clerk and treasurer.



*Long-time Norton Town Clerk Miriam Nelson stands in front of her office, with one foot in Canada and one in the United States. (Photo courtesy of Clifford Biron.)*

The Nelson family's rich history of local government service doesn't stop here, however. Nelson's grandfather, Wilmont Nelson, attended Norton's first town meeting and was elected to the selectboard. Her longtime assistant, also retiring next month, is her 90-year old sister Ruth Nelson. (Ruth has nine years on her younger sister Miriam, a fact neither one would probably divulge.)

For as long as anyone can remember, the town clerk's office has been in a store building owned by the Nelson family, which ran a general store in the building for many years. The building itself has its own unique history, as half sits in Canada and half in the United States, with a door in each country!

Consequently, Norton faces not only a change of personnel in the town clerk's office, but a change of location as well. Selectperson Henry is on the lookout for a new town hall space to rent or a plot of land upon which to build. "We need to build or rent now, so that we know our future clerks will have a place to work," he commented. Nelson, who has for many years received an annual salary of \$200 from the town, plus her fees, has generously offered to let the new town clerk use the existing office, and to initially help him or her out as needed. Both offers, Henry noted, end with the beginning of heating season in the fall. "It must be quite a place to heat," he added.

Nelson said that the prospect of her retirement is "sad and exciting, all mixed together." She won't miss computers, she said, commenting, "everything is computerized now and I'm not very good with them." Generally, she finds, "the world is kind of fast, and I'm slowing down."

Retirement may allow Nelson to slow down a little, but the Town of Norton and its new town clerk will undoubtedly keep her busy through the summer. Somehow, we can't imagine the Nelson family's century-plus record of service to the Town of Norton coming to an end!

*- Katherine Roe, VLCT Communications  
Coordinator*

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# Classifieds

## HELP WANTED

**General Manager.** The Town of Hardwick, Vermont Electric Department, located in north central Vermont, is now accepting applications for the position of General Manager. With an annual budget of \$3.7 million, this distribution utility has 14 employees, serves 4,000 consumers in 11 towns with 375 miles of distribution line, and produces 10 percent of its electric needs through local hydro generation. The successful applicant will have proven utility management experience and be knowledgeable on current electricity re-regulation matters. We are looking for an energetic manager with strong financial management, customer service, power supply and union negotiation skills to work in a strong regulatory environment. The successful applicants must have proven leadership qualities and be an excellent communicator. The Manager reports to a five-person Board of Commissioners, who are locally appointed. Starting salary commensurate with qualifications. Please send resume with qualifications, letter of interest and professional references before **February 28, 2003** to: Ms. Joyce Bellavance, Office Manager, Town of Hardwick Electric Dept., P.O. Box 516, Hardwick, VT 05843. EOE.

**Development Director.** Essex Junction Village is a dynamic community located in

Chittenden County, Vermont. It is home to 8,500 residents, Vermont's largest private employer (IBM), the Champlain Valley Exposition and more than 250 small businesses. The Development Dept. is responsible for planning and zoning, and provides key staff support for economic development initiatives. The Development Director oversees the Asst. Development Director and the Development Secretary. Salary range \$36,088 to \$53,410. Excellent benefits. For consideration, please send resume to Manager Charles Safford, 2 Lincoln St., Essex Jct., VT 05452, 802/878-6944. **Position open until filled.** EOE

**Member Relations Representative.** Due to recent growth, VLCT has an exciting opportunity within the marketing and customer service team of its insurance trust division. The Member Relations Representative visits municipal members to perform workers' compensation payroll audits as well as marketing and customer service duties. Additional responsibilities include responding to member inquiries, problem-solving, and helping develop informational/marketing materials, customer service programs, educational workshops and promotional events. We seek an exceptional communicator with strong presentation skills and the ability to work independently. High school degree is required, college degree and/or insurance or administrative support experience preferred. Experience with MS Office preferred as is ability to learn graphic design software. Must have valid Vermont driver's license; travel throughout Vermont

necessary. Interested candidates should send cover letter with salary requirements, résumé and names/telephone numbers of three references by **February 24, 2003** via email to [jobsearch@vlct.org](mailto:jobsearch@vlct.org) with MR Rep - VN as subject line or by mail to Human Resources - VN, VLCT, 89 Main Street, Suite 4, Montpelier, VT 05602-2948. EOE.

**Chief Operator.** The Vergennes-Panton Water District seeks a Chief Operator to manage the operations and maintenance of the District's water treatment facility and distribution system. The District provides a potable water supply to Vergennes and Panton, Vermont. The Chief Operator is responsible for assuring the safe and efficient operation of the facilities in order to meet all state and federal permit requirements within the annual system's budget. Candidates should be able to establish and maintain effective professional relationships and should possess a thorough knowledge of the principles and practices involved in the treatment, pumping, and distribution of public drinking water systems. A Grade IV-C Operating Certificate issued by the Vermont ANR is required. Hiring range is \$38,000-\$44,000, depending on qualifications and includes a competitive benefits package. Interested candidates should send a cover letter, resume, and the names and telephone numbers of three professional references to: Chief Operator Search, VLCT, 89 Main Street, Suite 4, Montpelier, VT 05602, or email to [dsolomon@vlct.org](mailto:dsolomon@vlct.org). Review of resumes will begin on Monday, **February 24, 2003.**

**The H.L. Turner Group Inc.**

Contact: James Bouchard  
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# Calendar

**Planning and Zoning Workshop Series, Workshop 3.** Wednesday, March 12, 2003, Vermont Interactive Television sites throughout Vermont. Sponsored by the VLCT Municipal Law Center and 12 regional planning commissions, this third workshop in the 2002-3 series covers Subdivision, Planned Residential Development and Planned Unit Development

Review. The format will be a mix of hands-on application of model bylaws and review of a hypothetical high density PRD/PUD project, followed by brief presentations by Law Center staff and Williston Town Planner Michael Munson. For more information, please contact Jessica Hill, VLCT Conference Coordinator, tel. 800/649-7915, e-mail, [jhill@vlct.org](mailto:jhill@vlct.org).



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