

# VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

May 2003

## SURVIVING THE CONTENTIOUS MEETING

There's nothing quite like a contentious selectboard, village trustee or city council meeting to bring out the worst in people. Unlike a business meeting, everyone on a local legislative body is equal; there are no bosses, no superiors, no one who really requires deference.



But, of course, everyone isn't equal in terms of education, expertise, or experience. The legislative body is a collection of "laypeople" who sit at the table because of their interest in serving their municipality, and the voters' willingness to elect them to office.

In a business meeting, the issues may be narrow, focused, technical; in the legislative body meetings, the issues can seem like life or death. They quite often revolve around values, or rather conflicts in values, either personal or community. Add an audience to this setting, and it's no wonder meetings can disintegrate and members leave angry, disgusted, even crying, and certainly sleepless the next morning. The only person who's happy is the newspaper reporter who has lots of emotional, inflammatory quotes.

Eli Mina, a meeting facilitator and registered parliamentarian, who teaches the concepts of "healing and reconciliation" to municipalities and other organizations, says it's normal to have

a certain amount of contention when a group gets together to make decisions.

"Everyone has his own ideas about the direction in which he wants the council or group to go and this creates a certain level of energy," Mina explains. "The problem is when council members direct those energies against one another with accusations and blame, instead of focusing on the issues." When elected officials focus on personalities, they are being "fiscally irresponsible," he says. They aren't delivering value for the investment that's been made in the cost of meetings and the costs of the operations of the municipality. Further, they create cynicism in the community when arguing over personality and inconsequential details and they risk demoralizing or even losing staff, who are costly to replace.

Bothell, Washington's City Manager, Jim Thompson, says he always reminds his councils that "if one of you fails, we all fail; if staff fails, we all fail. People don't remember who it was. All they remember is the city leaders don't know what they are doing and they're all fighting with one another."

### WHAT'S A CHAIRPERSON TO DO?

The selectboard or trustee chair, or mayor, as chair of most council meetings, is in a unique position to not only lead productive meetings but also to model and to teach the associated skills. Given that so much energy is brought to a legislative body meeting, the chair has the responsibility to align and, if necessary, realign this energy.

"The first step is to move away from people and into issues," advises Mina. "Council members can differ in terms of their opinions on

*(Continued on Page Two)*

## MARK YOUR CALENDARS

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**We have the place** – the newly improved Barre Municipal Civic Center.

**We have the dates** – October 1-2, 2003.

**We have the events** – Snowplow Rally on October 1, VLCT Annual Meeting and Town Fair on October 2.

**We have the treats, edible and otherwise** – An awesome Turkey Dinner luncheon with all the fixings and our convenient Conversation Corner for a light breakfast or snack, as well as many vendor raffles and the Grand VLCT raffle.

**We have the workshops** – Sessions are planned this year on professional development, human resources, municipal finances, land use planning, disaster planning and water issues. We'll also offer our perennial favorite, the Local Officials Law and Information Roundtable, as well as many other local government association meetings and workshops.

**And lastly, we even have the theme** – Hometown Homecoming, to celebrate our hometowns around Vermont and Town Fair's return to Barre after a five-  
*(Continued on Page Ten)*

## INSIDE THIS ISSUE...

Legal Corner.....	4
Ask the League.....	6
New VLCT Staff .....	8
Group Services Comm. Center.	8
Tech Check.....	11
Green Up a Roadside .....	13
Ten Minutes with the IRS....	14
Classified.....	15
Calendar .....	16



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## MEETING -

*(Continued from previous page)*

what needs to be done for the community, but it doesn't have to be 'you against me.' It can be 'you and me against the problem.' The effort then becomes collaborative. The council can then examine the issues and the differences of opinion, not the differences of personalities."

Stated another way, it becomes "soft on people, firm on issues," says Mina. And this requires a process whereby members can reconcile their differences; otherwise, a culture of "let's beat the opposition" rules. Instead, chairs should encourage board members to adopt a written process for conflict resolution and collective decision-making.

"When people speak, they can be quite passionate and they can say nasty things about the proposal, but not about individuals," he continues. "This allows everyone to hear and express different pieces of the truth, which all members have brought to the meeting." While the rules of engagement should be tailored for each board, Mina recommends the following as examples that can be explicitly adopted to help the collaborative process:

- ◆ Every proposal needs to be clearly stated (confusion can often be a big part of any controversy).
- ◆ In discussion, there can be no interrupting; one person at a time and a time limit for each speaker.
- ◆ Respect the authority of the chair or mayor to recognize the next speaker.

By formally adopting "rules of engagement," a legislative body signals to the public that the

discourse at meetings will be civil and respectful while allowing for members to differ with each other as passionately as they want. Explicitly stated rules also avoid pitting the meeting's chair against fellow members when he or she has to enforce order.

## PREPARING FOR A HE CONTENTIOUS MEETING

There will be times when a particularly difficult issue or proposal will be up for discussion, at a public hearing or as council discussion, and Mina advises meeting chairs to consider special preparations and to bring extra awareness to the process. For instance,

- ◆ Prepare an opening statement acknowledging that the issue up for discussion may be sensitive or controversial; remind everyone, however, that the legislative body does have procedures for such discussions.
- ◆ Meet ahead of time with anyone who has the potential to be problematic, not by threatening expulsion from the meeting but perhaps suggesting a meeting later to further discuss the individual's point of view.
- ◆ Mayors should practice changing negative statements into positive statements. Listen closely and rephrase when possible.
- ◆ Avoid "you" statements; instead use "we" statements. For example: "Before we go further, let me recap what we agree on. Those are points 1,2, and 3. And we disagree on points 4,5,and 6. Now here's the rest of the proposal..."
- ◆ Look for physical indications of escalating tensions such as raised voices, eyebrows, physical agitation, and remind board members or the audience that they have agreed to behave according to the policy.
- ◆ Be prepared to rethink the choices that seem apparent, particularly if you oppose a proposal. Instead, consider proposing an amendment to the proposal on the floor rather than simply opposing it. Or, "if there appear to be two routes to a decision, A or B, a creative council might find there's a route C that's been overlooked, but that's the best route," Mina explains.

In the end, Mina concludes, "letting go is important for a meeting chair to practice. Humility is a great trait." A meeting is not the chair's meeting nor does the chair have a monopoly on ideas and truth. In fact, whether running or attending a meeting, both the chair and his or her fellow board members ought to be reminded to "check egos at the door and pick them up upon leaving."

- Betsy Bean, *Small Cities Publishing*. Betsy Bean's e-mail address is [betsybean@smallcities.us](mailto:betsybean@smallcities.us). Copyright 2003, *Small Cities Publishing*

*The VLCT Municipal Assistance Center offers onsite trainings on conducting effective meetings and hearings, as well as consulting services such as meeting facilitation and help drafting meeting guidelines similar to those discussed in this article. If your municipality would like to take advantage of these services, please contact Dominic Cloud, Manager, VLCT Municipal Assistance Center, at 800/649-7915 or e-mail, [dcloud@vlct.org](mailto:dcloud@vlct.org).*



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# ALTERING HIGHWAYS AND FELLING TREES; *DE NOVO* REVIEW AND THE ENVIRONMENTAL COURT

## STATUTORY PROCESS MUST BE FOLLOWED IF ALTERING HIGHWAYS, REMOVING PUBLIC SHADE TREES

The Vermont Supreme Court, in *Hamilton v. Town of Holland* (No. 2002-222), recently clarified the procedures that a selectboard must follow when removing trees to facilitate the alteration or widening of a public way, even if the trees are being cut for public safety reasons. The decision also clarifies when a tree warden may cut down public shade trees without a public hearing under the “hazard to public safety” exception contained in 24 V.S.A. § 2509. Finally, the Court clarifies the standing requirements necessary to assert violations of

filed a complaint in superior court alleging that: 1) The Town is required to follow the requirements of Title 19 when widening a public way; 2) The Tree Warden Statute does not authorize the selectboard to remove healthy, non-diseased trees to facilitate a road widening project; and 3) The Town violated the Open Meeting Law by prohibiting a member of the public from speaking at a public hearing. The Town subsequently filed a motion for summary judgment that was granted by the superior court. The Plaintiff then appealed to the Vermont Supreme Court.

### Altering a Highway

The Plaintiff argued that the selectboard’s decision to proceed with the proposed tree

triggering the applicability of Title 19, will depend on the particular facts of a project.

### Removing a Public Shade Tree

Generally, a tree warden must hold a public hearing prior to felling a public shade tree located within a public way located in a residential area. However, no public hearing is required when the tree is “infested with or infected by a recognized tree pest, or when it constitutes a hazard to public safety.” 24 V.S.A. § 2509.

The Plaintiff argued that the Town failed to present evidence to support its contention that the trees at issue were located on the public way, and not on private property, or that the trees were diseased and a hazard to public safety. The Town, however, argued that its actions were proper under the tree warden’s authority. Agreeing with the Plaintiff, the Vermont Supreme Court reversed the superior court and held that the Town’s tree warden had no authority to remove the trees without a public hearing because it was undisputed that the public safety hazard the Town sought to eliminate was the narrowness of the public way, and not the trees themselves, and that this was not the type of hazard to public safety contemplated by 24 V.S.A. § 2509.

*(Continued on next page)*

*The message municipal officials should take from this case is that when you are deciding to conduct roadwork that exceeds mere maintenance ..., follow the procedures contained in Chapter 7 of Title 19. Moreover, tree wardens be warned - hold a public hearing prior to felling public shade trees unless the tree is diseased or the tree itself poses a hazard to public safety ...*

the Open Meeting Law. This case should be of particular interest to municipalities because, according to the Town’s brief, this is only the second time the Vermont Supreme Court has addressed the issue of tree wardens’ authority under 24 V.S.A. §§ 2502-2511.

The relevant facts relied on by the Vermont Supreme Court are as follows. The Town’s selectboard, with the concurrence of the Town’s tree warden, decided at a public selectboard hearing to remove approximately 30 trees along a half-mile section of a Class 3 Town highway. The Town concluded that the removal of the trees was necessary to facilitate the alteration or widening of a narrow portion of a public way that was determined to constitute a safety hazard. The proposed work would require the use of bucket loaders; the removal of ledges; ditch digging; and possibly some blasting. The Plaintiff, who owns property abutting the public way, and on whose property four of the trees were located, spoke in opposition to the proposal at the hearing; another resident was not allowed to comment.

In response to the selectboard’s decision to proceed with the proposed work, the Plaintiff

removal and roadwork is ineffective because the Town did not comply with Title 19 procedural requirements for accepting, laying out, or altering a highway. 19 V.S.A. §§ 704 *et seq.* The Plaintiff contended that the selectboard was required to follow the requirements of Title 19 because the work constituted a widening of the public way, or in the alternative, an alteration of the public way, triggering the applicability of Title 19. In response, the Town argued that Title 19 did not apply because the work did not constitute an alteration, widening, or major physical change in the public way, but was being conducted as part of the Town’s responsibility to maintain the town’s highways in accordance with 19 V.S.A. § 304(1).

The Vermont Supreme Court ruled in favor of the Plaintiff and held that Title 19 did apply to the Town’s project because the project was not merely road maintenance but constituted a “major physical change” of a highway that involved substantial amounts of work and a significant change in the area abutting the existing public way. The Supreme Court did state, however, that whether a road project involves a “major physical change” of a highway,

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## LEGAL CORNER -

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Although the Court ruled in favor of the Plaintiff on both the Title 19 and Tree Warden issues, it did uphold the superior court's determination that the Plaintiff did not have standing to seek redress for the Town's Open Meeting Law violation because he was not prevented from speaking and failed to show how he was aggrieved by the fact that his neighbor was not allowed to speak at the public hearing.

The message municipal officials should take from this case is that when you are deciding to conduct roadwork that exceeds mere maintenance and that could be construed as a widening or alteration of a public way, follow the procedures contained in Chapter 7 of Title 19. Moreover, tree wardens be warned - hold a public hearing prior to felling public shade trees unless the tree is diseased or the tree itself poses a hazard to public safety, such as when a tree limb is hanging precariously over a heavily traveled public way. If the threat isn't imminent, err on the side of caution and hold a public hearing prior to taking action. It will provide a forum in which the proposed plan can be discussed, alternatives can be considered, and hopefully litigation can be avoided.

- Julie Fothergill, Attorney, VLCT Municipal Assistance Center

## ENVIRONMENTAL COURT'S DE NOVO REVIEW IS UPHELD

The Vermont Supreme Court has affirmed the Environmental Court's grant of a modified zoning permit, which had originally been approved with conditions by the City of Burlington's Planning Commission. *In re Appeal of Lorentz*, No. 2002-239 (Vt. April 1, 2003).

The applicants in this matter had applied to the Burlington Planning Commission (PC) for a "certificate of appropriateness" to construct a mini-storage facility in Burlington's enterprise zoning district. The PC approved the application with a number of conditions; the applicants appealed certain of these conditions to the Environmental Court.

When this case was appealed to the Environmental Court, the applicants presented a modified site plan, which altered the proposed development. The City never objected to this new site plan. Environmental Court Judge Meredith Wright eventually granted the applicants' permit based on the modified site plan. On appeal, the Supreme Court stated, "We will not address arguments made for the first time on appeal." Essentially, the City had an opportunity to object to the admission of the altered site plan, and waived that opportunity. Because it failed to object at the trial level, the

City was barred from presenting that argument before the Supreme Court.

It is important to realize that when the Supreme Court hears a case, it is limited in its review of the matter to those arguments presented by the parties in the proceedings below. This rule is in contrast to the general rule followed by the Environmental Court, which hears matters *de novo*. A *de novo* hearing occurs as if there had been no prior hearing, the evidence is heard all over again, and no deference is accorded to the tribunal below (such as a zoning board of adjustment).

Additionally, the Environmental Court has the power to permit, deny, or permit a development with conditions, much the same way the PC or zoning board of adjustment (ZBA) can. "The reach of the [environmental] court . . . is as broad as the powers of a zoning board of adjustment or a planning commission, but it is not broader." *In re Appeal of Lorentz*, quoting *In re Torres*, 154 Vt. 233, at 235 (1990). Therefore, when the applicant presented a modified site plan to the Environmental Court, Judge Wright was within her authority to approve or deny the application based on the new site plan. The point to take from this is that decisions of municipal planning commissions, zoning boards of adjustment, and development review boards can be altered in many ways by the Environmental Court. One way to ensure deference to your local decisions is for the municipality to adopt the Municipal Administrative Procedure Act (24 V.S.A. §§ 1201 et seq.), as well as review *on the record*. Once these procedures are enacted, the Environmental Court would review your decision as an appellate court, as opposed to hearing the matter *de novo*. Your decision would only be subject to a review of the law as applied to the case, as opposed to a review of the law and the facts.

A side issue in the case was a condition in the permit where the City had required the applicant to release the City from any liability should hazardous waste contamination be found at the site. The Supreme Court refused to uphold this provision, stating, "the City has not shown that it 'is suffering the threat of actual injury to a protected legal interest,' and instead 'is merely speculating about the impact of some generalized grievance.'" *In re Appeal of Lorentz*, quoting *Parker v. Town of Milton*, 169 Vt. 74, 77 (1998) (quoting *Town of Cavendish v. Vt. Pub. Power Supply Auth.*, 141 Vt. 144, 147 (1982).

- Brian Monaghan, Attorney, VLCT Municipal Assistance Center

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# ASK THE LEAGUE

## BCA RECUSAL; MOBILE HOME PARK LICENSE FEE; POLICIES, RULES, RESOLUTIONS AND REGULATIONS

*It is obvious that a member of the board of civil authority (BCA) should recuse herself from hearing an appeal in which she is a party, i.e., in a case where she is appealing her own property tax assessment. What is not so obvious is whether a member of the BCA who has grieved her own taxes should recuse herself from sitting on the BCA for the rest of the appeals season. Are BCA members really disqualified from hearing tax appeals once they have grieved their own taxes?*

BCA members who have grieved their own taxes are barred by law from sitting on other tax appeals for the remaining tax year. This is one of those rare instances where a statute addresses the issue: "Listers and agents to prosecute and defend suits wherein a town is interested shall not be eligible to serve as members of the board while convened to hear and determine such appeals nor shall an appellant, his servant, agent or attorney be eligible to serve as a member of the board while convened to hear and determine any appeals." 32 V.S.A. § 4404 (d).

Why, you ask, can I not sit on the BCA when my tax appeal has nothing to do with other peoples' tax appeals? There are a number of different answers, one of which is the appearance of impropriety. If a BCA member is able to have her tax assessment lowered, and then jumps back onto that board, the taxpayers are going to look at that BCA member's appeal as an awfully chummy transaction. Additionally, BCA members could scratch each others' backs by grieving their own taxes and having their values lowered, and then alternately hearing the appeals of other BCA members.

What are the practical consequences of this law? For the purposes of tax appeals, the BCA is subject to relaxed quorum requirements: "The act of a majority of the board present at the meeting shall be treated as the act of the board . . ." 24 V.S.A. § 801. Therefore, if members of the BCA appeal their respective tax assessments, and are removed from the BCA by operation of law, the diminished BCA will not

have to deal with the prospect of not having a concurrence of a majority of the entire board (which is the standard required for most other municipal boards and commissions). For example, if five of the twelve BCA members are present, then the concurrence of three of those five would be a valid act of the board.

*- Brian Monaghan, Attorney, VLCT Municipal Assistance Center*

*For many years, our town has been issuing a license to each of the mobile home parks located within the town. The parks are also charged an annual fee, and the license allows the park to "operate and maintain within the limits of the town a mobile home park." The town has been requiring*

*and issuing these permits for many years; however, a question has come up as to whether this is legal.*

Vermont towns do have the legal authority to require mobile home parks to obtain an operating permit. In order to do so, however, the town must adopt (or have in effect) an ordinance that regulates mobile home parks. See 24 V.S.A. §§ 2231, et seq.

It is important to note that such an ordinance must be in substantially the same form as is shown in 24 V.S.A. § 2232, which spells out the authority, purposes, and specific thresholds which a municipality can use to regulate mobile home parks. Some of these

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## ASK THE LEAGUE -

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provisions include the requirement of a license (24 V.S.A. § 2232 (3)), the setting of fees by the local legislative body (24 V.S.A. § 2232 (4)), and requirements for the application (24 V.S.A. § 2232 (5)).

There was, at one time, a statute that required mobile home parks to obtain an operating permit from the Agency of Natural Resources. The portion of that statute which required a state operating permit, 10 V.S.A. § 6231 (a), was repealed in 2001. Additionally, municipalities can regulate mobile homes and parks through zoning, wastewater, and other local regulations.

- Brian Monaghan, Attorney, VLCT Municipal Assistance Center

### Can you explain the appropriate use of and difference between policies, rules, resolutions, and regulations with respect to the selectboard's duties?

There is little by way of definition for these terms or distinction between uses in the Vermont Statutes Annotated. We offer the following commonly accepted legal definitions and guidance for use.

First, as the administrative head of local government, the legislative body (selectboard, village trustees, city aldermen, prudential committee) has the authority to enact public policies to guide its decision-making. Broadly speaking, a **policy** is a statement of the general principles and standards regarded by the legislative body as being of fundamental concern to the municipality as a whole, and which guides the board in its decision-making. Examples of typical municipal public policies include class 4-road maintenance policy, procurement or bidding policy for the issuance of public contracts, investment policy, conflict of interest and personnel policies. Generally speaking, public policies enacted by one board are not automatically binding upon future boards, are not subject to voter approval and may be changed or revoked at a regular board meeting.

Administrative **rules** adopted by a legislative body are similar to a policy but are more narrowly fashioned. Some commonly enacted rules adopted by a legislative body are: rules of procedure and order for meetings, highway access and permitting requirements, rules for processing citizen complaints, employment recruitment and hiring. Rules also may be changed at the discretion of the board without public involvement.

A **resolution** is defined as, "A formal expression of an opinion, intention, or decision by an official body or assembly (esp. a legislature)." *Black's Law Dictionary, Seventh Edition.* One example of a municipal board resolution consists of a statement reflecting the formal

action taken by the selectboard to 'create' a development review board (DRB). The text of such a resolution would consist in part of a statement of purpose (i.e. the creation of the DRB), establishment of the membership, terms of office, limits or extent of authority, etc. Resolutions are discretionary actions by the board although citizens may petition the board to enact a resolution for a specific purpose, such as to publicly recognize a local official or citizen volunteer for example.

In contrast to the above, when a legislative body enacts a municipal **regulation** it is creating a law, which is enforceable in a court much the same as state law. Furthermore, the municipal legislative body may impose civil penalties for violation of the regulation. At the municipal level, regulations typically take the form of and are also known as '**ordinances.**' Because Vermont is not a "Home Rule" state and municipalities only have the powers granted to them by the Legislature, the authority of the municipality to regulate a specific subject must be authorized by statute (or through a municipal governance charter). There are many examples of municipal regulations (these are only a few): animal control ordinances, zoning and subdivision regulations, speed limit, solid waste disposal, health, wastewater disposal, junkyard, public nuisances, liquor control. There is a formal process for the adoption of municipal regulations, which, once adopted by the legislative body, may be petitioned for repeal by the voters. For sample regulations, policies and rules contact the VLCT Municipal Assistance Center.

- Gail M. Lawson, Associate, VLCT Municipal Assistance Center

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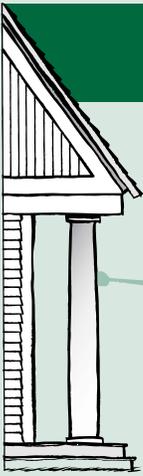
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## VLCT GROUP SERVICES ADDS TWO NEW LOSS CONTROL CONSULTANTS

VLCT is pleased to welcome Senior Loss Control Consultant **Wade Masure** and Loss Control Consultant **Chris LaBerge** to our staff.

Wade comes to the League from Chamberland Electric Company, where he was an Apprentice Electrician. He also has prior experience as a Truck Driver/Equipment Operator for the State of Vermont and the Town of Rockingham. From 1982 – 2001 Wade was an employee of the Bellows Falls Fire



*Wade Masure*



*Chris LaBerge*

Department; upon departure from the Department, he was a Deputy Fire Chief/Fire Prevention Officer.

Wade is a 1980 graduate of the Bellow Falls Union High School and the Vermont Machine Skills Training Program. He is a Vermont Fire Service Training Level 1 Certified Firefighter and has taken numerous courses at the National Fire Academy and the New Hampshire Vocational Technical College. Welcome, Wade!



### ATTENTION HEALTH TRUST MEMBERS

Open enrollment for our Blue Cross Blue Shield of Vermont plan is coming up on July 1, 2003. Employees may:

- ◆ Submit applications for additional dependents (if they refused dependent coverage or failed to add dependents by guidelines); or
- ◆ Apply for membership in the plan, unless they are covered under another group plan.

Employees may submit membership changes during the month before open enrollment (June) or during the month itself (July). Changes will be effective the first of the month following the day BCBSVT receives the notification.

### DID YOU RECEIVE THE NEW GUIDE TO 65?

The VLCT Member Relations Department recently mailed to all of our Health Trust members a helpful guide for town officials to follow when dealing with employees turning 65. The guide covers information about health insurance benefit changes when working employees turn 65. Please be sure to read through this guide and feel free to call the Member Relations department if you have questions or would like a representative to visit.

### ATTENTION HEALTH TRUST MEMBERS

The BCBSVT Preferred Brand Name Drug List has been updated as of May 1, 2003. The list is available at the BCBSVT web site ([www.bcbsvt.com](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.

### WELCOME TO VLCT HEALTH TRUST

#### Town of Franklin

Chris is a former Safety Engineer for Pizzagalli Construction Company. Prior to this position, he was Safety Manager for Neagley and Chase Construction and a carpenter for two Vermont construction companies. Chris has worked on a variety of large Vermont commercial construction projects, including the Fletcher Allen Parking Garage, the Inn at Essex, Bed and Bath in Williston, and Husky in Milton.

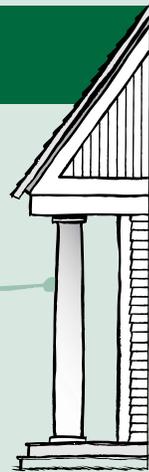
Chris graduated from Champlain Valley Union High School in 1985 and has received additional training to become a certified CPR/First Aid instructor and an instructor for forklift operators. He has also completed training in a variety of safety-related areas, including fall protection, scaffold safety, confined space and excavation.

VLCT Safety and Health Promotion Manager Brian FitzPatrick is thrilled to have Wade and Chris's combined knowledge and experience added to his department's staff. "We went looking to hire one Loss Control

Consultant and couldn't stop there," he commented. Fitzpatrick noted that a planned late 2003 retirement in his department, combined with Wade and Chris's impressive safety and municipal backgrounds, presented VLCT with an opportunity to hire both men that "was too good to pass up."

After a period of training, Wade and Chris will join current Senior Loss Control Consultants **Art LaPierre** and **Rod Bora** on the road to assist VLCT PACIF member towns with their safety and loss prevention needs. Wade will provide services to members in Southern Vermont while Chris will concentrate his efforts serving members in Northwestern Vermont. Art and Rod will continue to serve members in Mid Vermont and Northern Vermont respectively. Please give any of these staff members a call (800/649-7915) to take advantage of VLCT PACIF's wide variety of safety training programs.

*- Katherine Roe, VLCT Communications  
Coordinator*



## EMPLOYEE ASSISTANCE PROGRAM

Money a problem? Not enough to go around ... living paycheck to paycheck ... credit card debt piling up ... wondering about financing a house, college or retirement?

EAP can help! Call 800/287-2173 for assistance.

*(Co-sponsored by the VLCT Health and PACIF Trusts for their member municipalities. Employees and their household members are eligible to use the EAP for free.)*

## DON'T DELAY, SIGN UP TODAY!

### COME LEARN ABOUT WHERE HEALTHCARE IN AMERICA IS HEADING

Please come and join us for the Second Annual Group Services Day Educational Meeting on Thursday, June 5, 2003. Our meeting this year will take place at the beautiful Stowe/Flake Resort. Take the time out of your busy schedule to learn from our **two** keynote speakers about the trends, issues, and costs related to one of the biggest budget items for cities and towns - health insurance.

Other important agenda items include unemployment insurance and the inner workings designing pool insurance for VLCT PACIF, VLCT Health Trust and VLCT Unemployment. You will also learn how to address risk management issues in the workplace and how to resolve conflict in the workplace.

This will be a worthwhile day, so fill out the registration form we sent to you or register online at [www.vlct.org/calendar/](http://www.vlct.org/calendar/). We hope to see you there.



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## UPRIGHT AND ALL RIGHT!

### YOUR ROLE IN PREVENTING SLIPS, TRIPS, AND FALLS

Think about what could happen if you slipped on a wet spot on the floor or tripped over a box sticking out into an aisle. You could break an arm or a leg, you could suffer torn ligaments or muscle strains and sprains or you could injure your back. Slipping or tripping and falling are among the most common workplace accidents - and they are among the most preventable. How much do you contribute to their prevention? Answer these questions to find out:

	YES	NO
• When you carry a load, can you see over it?	<input type="checkbox"/>	<input type="checkbox"/>
• If you see a spill on the floor, do you clean it up right away?	<input type="checkbox"/>	<input type="checkbox"/>
• Do you wear shoes with flat heels and nonskid soles to work?	<input type="checkbox"/>	<input type="checkbox"/>
• When you walk across a slippery surface, do you move slowly, sliding your feet?	<input type="checkbox"/>	<input type="checkbox"/>
• Do you keep walkways, aisles, and stairs clear?	<input type="checkbox"/>	<input type="checkbox"/>
• Do you take your time and watch where you're going?	<input type="checkbox"/>	<input type="checkbox"/>
• Do you climb and descend the stairs slowly, keeping one hand on the railing?	<input type="checkbox"/>	<input type="checkbox"/>
• If you're cleaning or repairing a floor area, do you block it off and mark it with warning signs?	<input type="checkbox"/>	<input type="checkbox"/>
• Do you pick up tools, materials, and trash in your work area?	<input type="checkbox"/>	<input type="checkbox"/>
• Do you close drawers after use?	<input type="checkbox"/>	<input type="checkbox"/>

Did you answer yes to all these questions? If not, you're not doing your share to prevent slips, trips, and falls.



## TOWN FAIR -

(Continued from Page One)

year absence.

Please plan to attend Town Fair this year. We'll be sending out registration materials in July, but asking for your help on a few Town Fair related tasks before then.

This month, VLCT members received a form asking if they would be willing to serve on one of the four committees that will meet once or twice over the summer to draft the annual *Municipal Policy*. This is VLCT's draft annual legislative platform that is debated and voted on at our annual meeting at Town Fair. Please let us know by **Tuesday, May 27, 2003** if you would like to serve one of the four committees: **Finance, Administration and Intergovernmental Relations; Transportation; Public Safety; or Quality of Life and the Environment.**

Early next month, we will be mailing out nomination forms for seats on the VLCT Board of Directors, and for the five annual awards VLCT bestows at Town Fair: **Municipal Person of the Year; Legislator of the Year; Town Government Award; Town Citizenship Award; and Lifetime Achievement Award.** Please watch your mail for these forms, and be thinking in the meantime of a special local official who deserves recognition, or who might be willing to serve on the VLCT Board of Directors. Thank you!

- Katherine Roe, VLCT Communications Coordinator

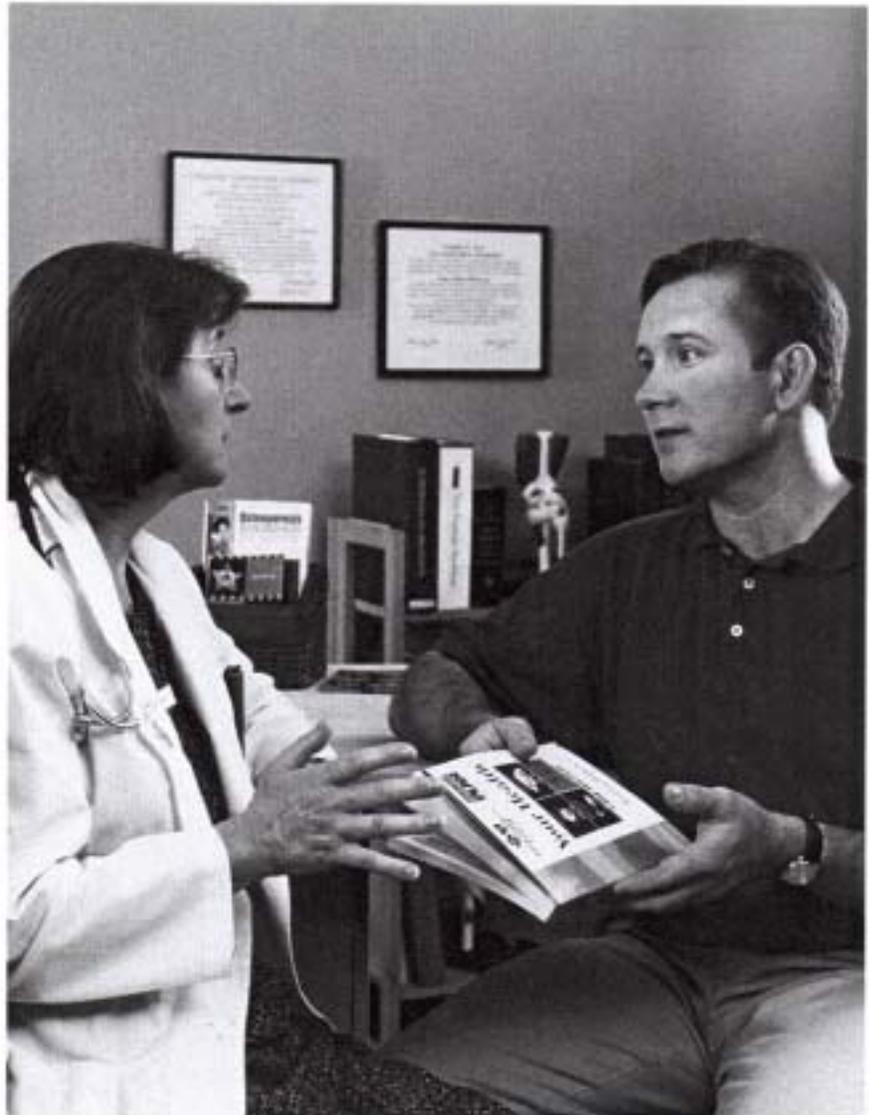
## TRIVIAL PURSUIT

Congratulations to **John Hall**, former St. Johnsbury Town Manager and current Vermont Commissioner of Housing and Community Affairs. John was first to report that Grand Isle is the Vermont county with the highest percentage of surface water (135 percent), while Bennington County comes in last with .21 percent. Here is this month's query:

**This man was a mechanical engineer and a U.S. Senator. His most famous deed was introducing a resolution for censuring a colleague. Who was he, where was he from, who was the colleague and what year did he introduce the censure?**

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).

the signs of a healthier vermont.



When a patient has the knowledge to ask his doctor the right questions

...when health support and information are just a phone call or click away, these are the signs of a healthier Vermont. Blue Cross and Blue Shield of Vermont's *Your Health Program* provides subscribers with state-of-the-art tools including a handbook, website and 24-hour, nurse-staffed phone line, to help them make informed decisions about their health. For information about Blue Cross and Blue Shield of Vermont coverage, call 800-255-4550 or visit us at [www.bcbsvt.com](http://www.bcbsvt.com).



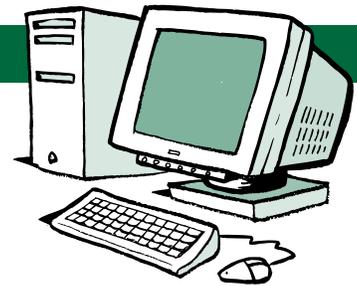
BlueCross BlueShield of Vermont

Blue Cross and Blue Shield of Vermont is an independent licensee of the Blue Cross and Blue Shield Association.

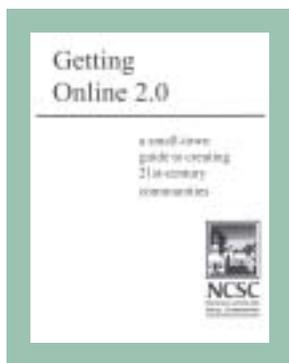


# Tech Check

## GETTING ONLINE 2.0



Are you an Internet-challenged local government official wondering how to bring your town onto the "information superhighway" and need some basic information without all the technical jargon? Or perhaps you're a small town local official with limited resources and a little practical Internet know-how looking for some ideas about how to expand your services



through e-government. Then *Getting On-Line 2.0: A Small-Town Guide to Creating 21<sup>st</sup> Century Communities*, from the National Center for Small Communities

(NCSC), is an excellent resource for you.

This second reprint of the original *Getting On-Line* is packed with practical tips, ideas, home pages, and most important of all, clear definitions for those tech terms that seem to elude comprehension. Divided into four

chapters and three appendices, this 74-page informative and user-friendly guide won't leave you scratching your head when you've finished reading it. Over 36,000 copies have been distributed to date.

Chapter 1, "Getting on the Internet", explains what the Internet is and how to use it. Some interesting statistics cited in this chapter: 54 percent of our nation was using the Internet as of September of 2001 and between 1998 and 2001, use by rural areas increased by 24 percent. Typical use includes e-mail, researching federal government information, keeping abreast of daily news, and e-government.

This chapter also includes a brief overview of accessibility by the disabled, wireless communications, choosing a provider, using search engines, and security and privacy on the Internet. Hardware and software requirements are discussed in very basic terms and the reader with very little computer experience will leave that section with a clear understanding of the five items need to link to the Internet. There is a sidebar on Page 6 called The Dos and Don'ts of E-mail outlining some practical and handy tips and on Page 16 is a list of popular search engines and electronic reference databases.

The second chapter is titled "Putting Local

Government On-Line" and includes an interesting discussion about partnerships designed to make cost-effective use of e-government. City-county and state-local partnerships are cited as well as initiatives by professional organizations such as the New Jersey State League of Municipalities and national initiatives such as the National League of Cities (NLC)-IBM partnership (Totally Web Government) or the International City/County Management Association (ICMA)-League of Minnesota Cities partnership (GovOffice).

In this chapter you'll learn how to choose an Internet address and domain name and get nine great web site design tips, including information on Section 508 of the Rehabilitation Act dealing with disabled accessibility, and the World Wide Web Consortium, the organization that established accessibility standards.

Privacy policies are discussed here and web content suggestions are provided. The chapter ends with a sidebar listing "Web Sites That Go That Extra Mile." Other useful e-government reports and guides are listed on Page 25.

Chapter 3 contains an interesting discussion of how local governments can encourage greater public access and use. It explores initiatives like the federal E-rate programs for schools and libraries, piggybacking on your school district's resources, community technology centers and community networks. Interspersed throughout the chapter are sidebars that give examples of innovative programs to increase the public's access to the Internet.

A particularly intriguing project is the Terrell County TeleCommunity or TCTC. This Texas county received nearly a half million federal dollars to install T-1 connectivity for high-speed Internet access. Community training sessions are designed to create demand with staff training citizens who then train other citizens. The goal of the initiative is economic growth and sustainability for the program.

E-commerce and use of the Internet by non-profits is examined, as well as the role of community leaders in bringing Internet services and training to the business sector. Pages 42 through 45 list a number of resources available

*(Continued on next page)*



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## TECH CHECK -

(Continued from previous page)

for non-profit organizations.

A beefy chapter on furnishing high-speed telecommunications rounds out this guide. Attracting businesses that require high-speed access has become more of a priority in Vermont as the need for economic growth has become more apparent with the weakened economy. High-speed communications technology is described here, including DSL (Digital Subscriber Line), cellular, cable, and satellite.

Five articles by various consultants explain how to conduct a telecommunications inventory, demonstrate that a market exists for high-speed services, deploy DSL, take advantage of cable service for connectivity, and deploy broadband through your power utility. The chapter ends with the story of how the City of Buffalo, New York, became a pioneer in offering wireless service to residents and businesses. When they couldn't get vendors to provide high-speed Internet access, the City decided to become its own ISP (internet service provider), designing an affordable and successful service.

## GRASSROOTS RURAL ENTREPRENEURSHIP AWARD

The National Center for Small Communities (NCSC) announces the Grassroots Rural Entrepreneurship Award, supported by the Ewing Marion Kauffman Foundation.

Local government officials can help to reduce or remove obstacles to rural entrepreneurship. In collaboration with others – local schools and community colleges, regional development organizations, chambers of commerce, local banks, service clubs, government agencies and neighboring communities – local leaders can build a supportive environment for entrepreneurs.

Elected officials who serve small communities (less than 10,000 population) and have a demonstrated record in promoting local entrepreneurship are encouraged to apply. Grassroots Rural Entrepreneurship Award applications must be received by NCSC by **June 30, 2003**. A panel of expert judges will select one winner and two finalists. The winner will receive a **\$5,000 grant** to further the community's entrepreneurial development efforts. Information and application materials are posted on the NCSC Web site at <http://www.natat.org/ncsc/Kauffman/entrepdefault.htm>.

Three appendices are included in this guide. The first provides an overview of the CSPP (Computer Systems Policy Project) Readiness Guide, a self-assessment tool that helps communities determine if they are ready to compete in today's world of high-speed communications networks. Appendix B is a glossary of over 60 Internet-related terms. The last appendix lists a variety of web sites that may be of interest to the reader.

This guide is recommended summer reading for all of you municipal officials who have been wondering how you can jump start your own e-government initiatives. The *Getting Online 2.0* guide is available through the National Center for Small Communities at <http://www.smallcommunities.org/hcsc> or by calling 202/624-3550.

- Michael Gilbar, Director, VLCT  
Administrative Services

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# GREEN UP A ROADSIDE PROGRAM LAUNCHED

Building on the success of Green Up Vermont Day, the day when thousands of volunteers spread across the state to clean up roadside litter, the Vermont Agency of Transportation (VTrans), Green Up Vermont, Vermont Local Roads and the Vermont League of Cities and Towns (VLCT) have worked together to create a new program, *Green Up a Roadside*.



Similar to Adopt-a-Highway programs (minus the signs), *Green Up a Roadside* encourages groups, organizations (civic, social, school, etc.), businesses, agencies and

individuals to pick up litter along a selected, approved portion of state and local maintained roadways at least twice a year.

For clean up along state-maintained highways, participants must follow VTrans' elaborate safety specifications, some of which

are:

- ◆ Putting up warning signs before the work area.
- ◆ Participants must wear safety vests.
- ◆ One adult supervisor for every five children under 18 years old.

Municipalities considering administering a *Green Up a Roadway* program should be familiar with the state's safety specifications. VLCT also recommends contacting Green Up Vermont, the organization that coordinates the annual Green Up Day, as they can help promote the program in your community. Green Up Vermont can be found at [www.greenupvermont.com](http://www.greenupvermont.com).

On the Green Up Vermont website, you will find information about the *Green Up a Roadway* program, as well as a list of individuals in your area who can provide further information regarding the program. In addition, municipalities should visit the VTrans website at <http://www.aot.state.vt.us/maint/greenup.htm> in order to learn how VTrans administers the beautification program for state-maintained highways. Pay particular attention to the general and safety contract conditions VTrans requires of volunteers in order to participate in the

program. The League strongly encourages any municipality that decides to start a program to adopt the same safety requirements VTrans sets forth. If your town is a VLCT PACIF member, our loss prevention staff may also be available to assist you in addressing safety issues.

If your municipality has any questions, please contact Todd Odit, Associate, VLCT Legislative and Membership Services, tel., 800/649-7915, e-mail, [todit@vlct.org](mailto:todit@vlct.org). You may also contact Melinda Vieux at Green Up Vermont, tel., 800/974-3259 or [www.greenupvermont.com](http://www.greenupvermont.com).

- Todd Odit, Associate, VLCT Legislative and Membership Services

## FROM THE VLCT MUNICIPAL ASSISTANCE CENTER LIBRARY

The following new Planning Advisory Service reports have been received at VLCT from the American Planning Association.

**PAS Report #510/511 - *Parking Standards*:** includes discussion of basis for zoning code parking requirements; other relevant factors related to drafting street parking requirements; zoning code provisions that respond to and/or influence parking demand; the Uses with a Maximum Parking Standard, uses with a parking standard for bicycles.

**PAS Report #512 - *Smart Growth Audits*:** provides definition for 'smart growth,' describes purpose of a smart growth audit and lessons learned from existing audits/alternatives for conducting an audit and implementation guidelines/steps; issues of effectiveness and a list of Do's and Don'ts.

**PAS Report #513/514 - *Regional Approaches to Affordable Housing*:** includes discussion of affordable housing as a regional planning priority; historical development of regional housing planning; defining affordable housing, regional dimensions of affordable housing and weaknesses of regional planning authority, the NIMBY problem; regional housing trust funds; private sector and other initiatives; model program for regional approaches to affordable housing.

VLCT and Vermont Planning Association members can borrow these reports, and others, from the VLCT Municipal Assistance Center lending library. Contact Gail Lawson, [glawson@vlct.org](mailto:glawson@vlct.org), to request a report.

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# TEN MINUTES WITH THE IRS

April 15 has come and gone. Your personal returns are done. But as a municipal treasurer, human resources director, finance director or personnel director, you may have questions year 'round for the Internal Revenue Service (IRS).

Wondering about a particular notice from the IRS? How to report a payment to a Canadian independent contractor? Are you unsure of the tax consequences of employees taking home their government vehicles? You may want to consider a call to your regional Federal, State and Local Government (FSLG) Specialist.

We would like to take this opportunity to tell you about our program. The Internal Revenue Service (IRS) recognizes that govern-



mental entities are a unique form of employer with their own issues and concerns. In 2000 the Federal, State and Local Government group was established. Our mission is to provide federal, state, local and quasi-governmental customers top-quality service by helping them to understand and comply with the applicable tax laws and to protect the public interest by applying the tax laws with integrity and fairness to all.

FSLG is accomplishing this mission through a mixture of education and compliance tools. Over the past couple of years we have reached out by setting up our own educational seminars,

*Fran Reina will be speaking at the Vermont Government Finance Officers Association Spring Workshop and Annual Meeting on June 12, 2003 at Suzanna's Restaurant in Berlin. For more information on the workshop and meeting call Deb Solomon, VLCT Administrative Assistant, 800/649-7915; e-mail, dsolomon@vlct.org.*

speaking at VLCT workshops and providing materials at trade-show booths. The seminars are tailored to address the issues that governmental entities encounter. At some point during the presentations we play "stump the IRS guy." Generally, someone manages to come up with a question we have not thought about before, so the seminars are also a learning experience for us. In the event that you have not had an opportunity to attend an FSLG presentation, here are a few of the topics that come up:

**Section 218 coverage:** When the Social Security system was set up, governmental units were not allowed to participate. Over the years Congress changed the rules that allowed the states to set up agreements with the Social Security Administration to provide coverage to the state and local government employees. If you have any employees that you are not providing Social Security and Medicare coverage for, you should review the circumstances to ensure that you are correctly treating the employee's wages.

**Form 1099:** We have been told more than once that governmental entities do not have to file Form 1099. That is not correct. If you are not filing any Forms 1099 you are probably mistaken. A payer is required to file Form 1099 for payments that total \$600 or more in a year to an unincorporated business or individual. There are also some types of businesses (for example health care providers and attorneys) that must be issued Form 1099 even if they are incorporated. If you require your vendors to complete Form W-9, *Request for Taxpayer Identification Number and Certification* you will have all of the information needed to complete the 1099s. In general, an employee should not be getting a W-2 and a 1099. If you have that situation, you should take a look at it to ensure that the payments are being reported correctly.

**Employer provided vehicles:** Many government entities provide vehicles for their employees to use. If the employee is allowed to use the vehicle personally, there is probably a taxable fringe benefit to the employee. The value of that benefit should be added to the employee's W-2 and the usual employment taxes should be withheld. Keep in mind that commuting (driving the vehicle from home to work and back again) is personal use. Consequently, if an employer allows an employee to take a vehicle home, it is likely a taxable event. There are several options for valuing the personal use of an employer's vehicle. These are explained in Publication 15-B *Employer's Tax*

## *Guide to Fringe Benefits*

**Cash Allowances:** This is an area where we see many mistakes. At the beginning of the year/month employees are given a set amount of money to cover business expenses. These expenses are usually the purchase of work clothing, equipment, or the use of an employee's personal automobile. When the employer does not obtain substantiation of how the money is actually spent, those cash allowances are always additional wages to the employee.

**Accountable plans:** The determining factor as to whether a payment to an employee is taxable often comes down to an accountable plan or lack of one. An accountable plan is a documented policy for fringe benefits that has the following three requirements:

1. There must be a business purpose for the expense.
2. The employee must provide substantiation of the expense to the employer.
3. If the employee has been given an advance on the expense, any overpayment is required to be reimbursed to the employer.

Cash reimbursements or allowances for expenses that do not meet the above listed requirements are reportable to the employees as additional wages.

**Meals and lodging:** In general, reimbursements for employee meal and lodging expenses must be related to overnight travel on behalf of the employer. We have seen government entities with policies that reimbursed employees for meals purchased 50 miles from their office or meals purchased outside of county boundaries. In both cases, these reimbursements would generally be additional wages to the employees if there is no overnight travel associated with the expense.

The above comments are provided to give some examples of issues we have observed in our reviews of governmental entities. The comments are not a complete analysis on the particular topic. Most of the regulations for employment taxes are fact-and-circumstance driven. In order to evaluate an employer's compliance with an area, all facets of the question must be considered. This is where your FSLG Specialist can assist you. The specialist will compile the information necessary to give you a complete answer. Talk with you soon, either by phone or in person at this year's Clerks and Treasurers workshop or at Town Fair in October. Give us a call: Francis Reina, FSLG Specialist, Vermont, 315/793-8171; Donald Palermo, Area Manager, 585/262-1900; and Deborah Bowick, Management Assistant, 585/262-1901.

*- Francis Reina, Federal, State and Local Government Specialist, Internal Revenue Service*



# Classifieds

## HELP WANTED

**Town Manager.** The Town of Pittsford, Vermont is recruiting for a Town Manager. Pittsford has a population of 3,140 and is located in Rutland County on the banks of the Otter Creek. The town has 9 full time employees and a budget of \$2.3 million. The Manager reports directly to a five-member Selectboard and is responsible for the day-to-day management of the town. Candidates should have working knowledge of municipal government, ability to direct and coordinate activities of others, and strong communication skills. Additional qualifications include knowledge of public works, budgeting, grant writing, public relations, and relevant state

and federal laws. Public administration degree and relative experience preferred. Salary dependent on qualifications and includes an excellent benefits package. A full job description may be viewed at [www.vlct.org](http://www.vlct.org) under classifieds. Please send a cover letter and resume in confidence to [dsolomon@vlct.org](mailto:dsolomon@vlct.org), or to ATM/HR Search, VLCT, 89 Main Street, Suite 4, Montpelier, VT 05602. Review of resumes will begin on Monday, May 26, 2003. EOE.

**Zoning Administrator.** The Town of Berlin, Vermont is accepting applications for the position of Town Zoning Administrator. Persons interested in the position may submit a resume to the attention of: Town Administrator, Municipal Office Building, 108 Shed Road, Berlin, Vermont 05602. Résumés will be accepted until the position is filled. Persons interested in the position must have knowledge and experience in municipal zoning and planning. Office hours are flexible while attendance at certain evening meetings are required. Salary for the part-time position is commensurate with education and experience. The Zoning Administrator shall be appointed by the Select Board, following consultation with the Town Planning Commission. Information may be obtained by contacting the Town Administrator's Office at 802/223-4405.

**Staff Planner.** Chittenden County Regional Planning Commission, South Burlington, Vermont seeks candidates for the position of Staff Planner. Responsibilities: open space planning, pre-disaster mitigation planning, interpretive plans for byways and heritage corridors, stormwater planning and local technical assistance. May include review of municipal plans and Act 250 applications. Qualifications: Master's Degree in planning preferred, Bachelor's Degree in planning, public administration or related field plus at least three years professional planning experience considered. AICP desirable, not required. Knowledge of principles and practices of public planning, preparation of reports and studies; ability to interpret regulations; strong written/oral communications skills, ability to maintain effective working relationships with diverse clientele. Will work simultaneously on wide variety of projects with limited supervision in a team environment. Proficiency with Microsoft Office applications essential, Arc View 3.2 or Arc GIS experience desirable. Salary Range: \$35,000 – \$37,500. Resume, professional writing sample, salary history by June 2, 2003 to: Greg Brown, Executive Director, CCRPC, 30 Kimball Avenue Suite 206, South Burlington, VT 05403, e-mail at [gbrown@ccrpcvt.org](mailto:gbrown@ccrpcvt.org).

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# Calendar

**Perspective, the Future and New Strategies.** Thursday, June 5, 2003, Stoweflake Resort, Stowe. VLCT Group Services presents its second annual Group Services Day, a day of educational workshops about insurance and benefits trends. Keynote speakers this year are John Erb, of Deloitte & Touche, and Bret Connors, of Hope Health. Erb will speak on "Health Insurance – Issues and Concerns for Cities and Towns," and Connors will speak on "What Lies Ahead for the Future of Health Care in America." For more information on the meeting call Niki White, VLCT Administrative Assistant, Member Relations, 800/649-7915, e-mail, [nwhite@vlct.org](mailto:nwhite@vlct.org). To register online, visit [www.vlct.org/calendar/](http://www.vlct.org/calendar/).

**Home Occupations & Nonconforming Uses/Noncomplying Structures.** Wednesday, June 11, 2003, Vermont Interactive Television Sites around Vermont. The fourth and final evening workshop of

the VLCT/Regional Planning Commissions' 2002-2003 Planning and Zoning Workshop Series. This session will cover two complicated areas of zoning law by offering a discussion of legal authority, procedural requirements and best practices for regulating home occupations and a nonconforming use and noncomplying structure. For more information on the meeting call Deb Solomon, VLCT Administrative Assistant, 800/649-7915, e-mail, [dsolomon@vlct.org](mailto:dsolomon@vlct.org). To register online, visit [www.vlct.org/calendar/](http://www.vlct.org/calendar/).

**VGFOA Spring Workshop and Annual Meeting.** Thursday, June 12, 2003, Suzanna's Restaurant, Berlin. The spring meeting of the Vermont Government Finance Officers Association features workshops on IRS issues, legislative issues and state purchasing contracts. A very brief VTGFOA annual meeting will precede lunch. For more information on the

workshop and meeting call Deb Solomon, VLCT Administrative Assistant, 800/649-7915, e-mail, [dsolomon@vlct.org](mailto:dsolomon@vlct.org).

## WELCOME BABY GIRL HILL

VLCT Conference Coordinator **Jessica Hill** is the proud mom of Delanee Grace Hill, born May 9, 2003. Delanee weighed in at 8 lbs. 5 ozs. and 21 inches long.

Delanee's dad, Dan, and big brother, Brady, welcomed Jessi and Delanee home from the hospital on Mother's Day, a very special day for the Hill family this year.

Jessi will be on leave until mid-July. **Deb Solomon**, VLCT Administrative Assistant, will be covering many of Jessi's duties in her absence. Please do not hesitate to call Deb if you have questions related to VLCT workshops, events, or Town Fair.