

VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

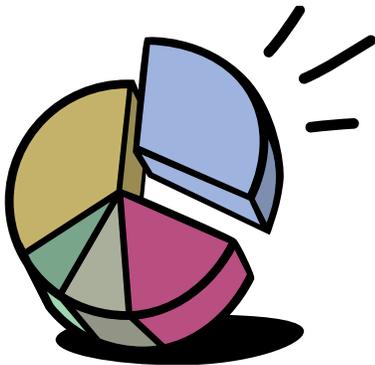
SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

November 2003

PROACTIVE BUDGETING

(Editor's Note: Many Vermont municipalities are currently in the throes of drafting their budgets for next year. To assist you, this issue includes the following article, an Ask the League question on reserve funds, and a commentary by Executive Director Steve Jeffrey on the budgetary needs of the listers' office.)

Municipal finance has always survived with a "current year" focus, getting through each budget year without paying much heed to the long-term needs of the community. This focus on purely financial resources is reflected in the financial statements in many annual reports; very few municipalities show sufficient information to provide the reader with a long-term picture of the financial health of the town, i.e.



its economic resources shown in a balance sheet.

As municipalities begin to comply with the reporting standards of the Government Accounting Standards Board (GASB) Statement 34, the differences between this traditional budgetary compliance model and the long-term planning model championed by GASB become increasingly evident. When Vermont municipalities move toward this new way of tracking their finances, the benefits of sharing a more complete financial picture with taxpayers, and thinking more proactively about budgeting, should become apparent.

A long-term view of your municipality's financial condition should be the foundation for your budget planning. It is important to emphasize the word "planning" here. Budgeting is the process of allocating resources and that process should include careful consideration of the goals of your community. It's tough to determine what the best use of the resources may be when you have no clearly defined direction. For instance, it is important for a municipality to analyze its overall debt load and its budgetary impact prior to approving more debt financing. Knowing where you are

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VLCT BOARD OF DIRECTORS PROFILE

**HUNTER RIESEBERG, MANAGER,
TOWN OF HARTFORD**

New VLCT Board member Hunter Rieseberg's 22-year career in public administration can be traced back to a high school test. Not a U.S. history or civics test as one might expect, but an aptitude and interests test along the lines of the currently popular Myers Briggs personality analysis.

"The test confirmed that I get a lot of enjoyment from working with people, and, though this may sound a little corny, making the world a better place," Rieseberg recalled.

Any number of career paths could have been built upon this discovery, but with interests in government, law and public service, Rieseberg was delighted to find out in college that a public administration career would meld all three – and utilize his people skills and idealism. As an undergraduate, he double-majored in political science and sociology at the University of Denver and then went on to receive his masters in public administration from the University of New Hampshire.

The University of New Hampshire was a bit of a homecoming for Rieseberg. He was born (he says "launched") at the Portsmouth Naval

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HEALTH TRUST MEETING FEATURES RATES, NATIONAL REFORM EFFORTS

The snow fell and the rates rose.

That, in a nutshell, is a summary of the VLCT Health Trust's Annual Meeting, held November 14 at Montpelier's Capitol Plaza Hotel and Conference Center.

Fifty hardy souls (half those pre-registered) braved icy and snowy roads to hear Health Trust President and Waterbury Municipal Manager William Shepeluk announce a rate increase of 20% for most

Health Trust plans. Before delivering the news, Shepeluk warned his audience with a smile that between the storm and the rates, "you may reconsider your decision to get out of bed this morning."

The only exception to the 20% increase is The Vermont Health Partnership (TVHP) Blue Care Plans, which will see an increase of 14.1%.

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Katherine B. Roe, Editor, VLCT News

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.

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TIME TO THINK ABOUT INVESTING LOCALLY

VLCT has never made it a practice to tell selectboards how to spend their scarce resources. But my recent experiences have prompted me to part with tradition and offer a suggestion: review your listers' budget now and make sure it can support the time, technology and training they need to do a good job.

FROM THE EXECUTIVE DIRECTOR

Since the passage of Act 60 and now Act 68, I've been hanging around a fair piece with town listers and learning more about the process of appraising property than I ever thought I'd want to. As a result, I hope that the selectboards across the state, as they begin the arduous process of preparing a budget for voter consideration at Town Meeting, make an effort to sit down with their listers and really understand the job that they do for our towns. Then I hope that those selectboards will include the resources commensurate with those duties in the budget, along with all those other important obligations of the town.

In 2002, selectboards approved property tax bills of over \$934 million on 315,713 properties in the state. Given that there are about 750 listers statewide, that means that each lister is responsible for setting the "fair market value" on an average of 421 parcels generating \$1,245,333 in annual property taxes.

These are big numbers. They give us just a taste of the amount of work required and the importance of the decisions the listers make. Perhaps no single officer at any level or department of government has more of an impact on how much in taxes Vermonters have to pay. If towns do not adequately provide for effectively listing (as defined not by us but by the state courts, Legislature and administration), the recent calls for state assumption of this responsibility will grow louder and the voices of those trying to do the job in your towns will grow weaker. It happened 35 years ago when the state took the welfare duties away from the town "overseer of the poor." It has also happened incrementally in almost every other government function performed at the local level, from education to land use planning.

Every job in local government has grown more complex and time-consuming, but recently, it seems that the listers have had to shoulder more than their fair share. You've seen the facts and figures (e.g., total property taxes collected are 382% of what they were 20 years ago) that illustrate the growth in the amount of taxes paid. You have seen page after page of explanation of the changes and the complexities of administering the tax for state purposes ("common level of appraisal," "homesteads," "housesites," "SPANs," and "AFMV") that have cascaded out of Montpelier almost every year since Act 60's enactment in 1997. With tax bills rising almost as fast as the litigiousness of homeowners (did you know that for just \$11.95

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VLCT INCLEMENT WEATHER POLICY

VLCT generally holds all scheduled meetings, workshops and other events regardless of the weather. This is for two reasons: rescheduling such events is extremely difficult to do and we wish to avoid, if at all possible, the situation where a member makes the trip only to find that an event has been cancelled.

If we do have to cancel an event, we will put a message on our telephone answering service and Web site by 6:30 that morning. Please call us at 800/649-7915 or log on to www.vlct.org if the weather is questionable.

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LEGAL CORNER



STATE EQUALIZATION OF PROPERTY APPRAISALS; STATE PROJECTS AND LOCAL ZONING AUTHORITY; FIREARMS

STATE'S EQUALIZATION OF FAIR MARKET VALUE UPHELD

The Vermont Supreme Court has reversed a decision of the Rutland Superior Court in the Town of Killington's appeal of its Act 60 equalized education grand list value. *Town of Killington v. Department of Taxes*, 2003 Vt. 88 (October 24, 2003).

The lower court had found that the State's equalization procedures, used to determine how much in education property taxes each town must raise, were "arbitrary and capricious" and, therefore, unconstitutional. As a result, it ordered the State to re-equalize the Town's education grand list. The Vermont League of

on which to base an equalization study. While the Rutland Superior Court agreed with the Town that the State's procedures were flawed, in fact, "arbitrary and capricious," the Supreme Court disagreed. Justice Skoglund, writing for the Court, wrote that the lower court was wrong in finding that the State's procedures were "arbitrary and capricious." She continued, "The record reveals that the State adduced ample credible evidence demonstrating that its methods – while limited by the resources available and improvable in certain areas – comported with industry standards and yielded a reasonably reliable estimate of aggregate fair market value." *Town of Killington* at 11.

and "unrelated to its intended purpose," the decision will stand. Whether the taxing authority is the state, or the town, acting through its local listers, the courts grant broad deference to that decision-maker: "absent a clear and convincing showing to the contrary, decisions made within the expertise of . . . agencies are presumed correct, valid and reasonable." *Town of Killington v. Department of Taxes*, citing *Vermont Dept. of Taxes v. Tri-State Indus. Laundries, Inc.*, 138 Vt. 292, 294 (1980). Justice Skoglund, in a footnote, stated that the Supreme Court has a "responsibility to affirm the Commissioner's equalization methodology if credible evidence supports a conclusion that it was rational and yielded reasonably reliable results." *Town of Killington* at 6, fn. 2.

The Court also stressed that PVR was only required to do as "reasonable" a job of equalizing property taxes as it had resources available for that purpose. In order to have successfully challenged the State's method for distributing almost \$700 million in property tax payments, Killington would have had to show that not only was the "State's approach wholly irrational and unreasonable in relation to its intended purpose," but also that, given the resources (e.g., funding, staff) provided to PVR by the

(Continued on next page)

While this case is important because it shows the Court's willingness to support the overall Act 60 taxation scheme, it is also important because it addresses a recurring theme in the law of property taxation: The taxing authority's decision enjoys a "presumption of validity"...

Cities and Towns filed a brief of *amicus curiae* ("friend of the court"), asking that the lower court's decision be applied to all other towns in the state.

Killington had appealed the equalized education grand list value set by the state in 1997, the first year Act 60 was instituted. Each year, the Division of Property Valuation and Review (PVR) is required to "equalize" the aggregate fair market value of each municipality's grand list. This is because the relationship between grand list value and actual "fair market value" varies from town to town, depending on real estate market activity, timing and quality of reappraisals, and other factors. The law states that this determination "shall be based upon such methods, as in the judgment of the Commissioner, and in view of the resources available for that purpose, shall be appropriate to support that determination." 32 V.S.A. § 5405 (d). PVR then applies the statewide property tax rate to the municipality's equalized grand list, and this number becomes the value due the state education fund.

The thrust of Killington's appeal was that PVR's equalization procedures were flawed because there were not enough sales of each category of property to yield reliable statistics

While this case is important because it shows the Court's willingness to support the overall Act 60 taxation scheme, it is also important because it addresses a recurring theme in the law of property taxation: The taxing authority's decision enjoys a "presumption of validity," and unless a challenger can prove that the decision was "wholly irrational"

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LEGAL CORNER -

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Legislature, that PVR could be expected to do any better.

The politics of the case notwithstanding, will there be any changes in the education funding process? Towns will continue to receive their equalized education grand list assessment from PVR in January, and the appeals process has not changed. Towns that believe the State's assessment process is flawed or incorrect may petition the director of PVR for a redetermination within 30 days of receipt of the equalized education property value. 32 V.S.A. § 5408 (a). This petition must be in writing, and must be signed by the chair of the selectboard or its designee. *Id.* The town will then have a hearing before the PVR director, and this decision may also be appealed still further to the Valuation Appeal Board. See *id.*; 32 V.S.A. § 5407.

- Brian Monaghan, Attorney, VLCT Municipal Assistance Center

MUNICIPAL AUTHORITY TO REGULATE STATE BUILDING PROJECTS CURBED

The Vermont Supreme Court recently clarified the extent to which local zoning authority may be exercised over certain state facilities and institutions under 24 V.S.A. §

4409(a). *In re Appeal of Buildings and General Services*, 2003 Vt. 92 (Oct. 10, 2003). This case is important to municipalities because it is the first time that the Court has interpreted the meaning of the first sentence of § 4409(a) and its impact on municipal zoning authority. The Vermont League of Cities and Towns filed a brief of *amicus curiae* ("friend of the court") in support of the Town's interpretation of the case.

The statutory language interpreted by the Court is as follows: "Unless reasonable provision is made for the location of any of the following in a bylaw ... the following uses may only be regulated with respect to size, height, bulk, yards, courts, setbacks, density of buildings, off-street parking and loading facilities and landscaping or screening requirements... (2)." 24 V.S.A. § 4409(a).

The primary issue addressed in *Appeal of Buildings and General Services* is whether municipal zoning authority over state institutions and facilities is always limited to the items specifically listed in 24 V.S.A. § 4409(a); or if such authority can be exercised without limitation so long as the local bylaw makes "reasonable provision" for the location of state or community owned and operated institutions and facilities.

The project at issue in *Appeal of Buildings and General Services* involved a state-owned correctional facility and a maintenance facility. The Department of Buildings and General

Services (BGS) applied for a zoning permit to replace the maintenance facility's one-bay garage with a three-bay garage. The zoning administrator determined that site plan review by the planning commission and a conditional use permit from the zoning board of adjustment were required. BGS did not appeal the zoning administrator's determination and obtained the necessary approvals. BGS did, however, appeal the conditions the zoning board of adjustment placed on the conditional use permit to the Environmental Court.

On appeal, BGS argued that the Town exceeded its authority by regulating the *use* of the project and by requiring the project to conform to all town zoning requirements, in addition to the requirements relating to size, height, bulk, yards, courts, setbacks, density of buildings, off-street parking and loading facilities, and landscaping and screening contained in 24 V.S.A. § 4409(a).

The Town, on the other hand, asserted that 24 V.S.A. § 4409(a) allows a municipality to regulate state institutions and facilities to the same extent as private land uses so long as a municipality's bylaws make reasonable provision for the location of state institutions and facilities. The Town argued that a municipality's zoning authority is limited to the specific items listed in 24 V.S.A. § 4409(a) only when the municipality fails to make a reasonable provision for the location of such a facility.

Despite the Court's acknowledgement that "if we were to decide this case solely on the statutory language, the Town has the better side of the argument," it sided with BGS and held that municipal authority to regulate state facilities through local zoning is limited to those items specifically listed in § 4409(a), regardless of whether a town's bylaws make "reasonable provision" for the location of such projects or not.

In reaching its conclusion, the Court relied heavily on the legislative history of the statute. This revealed that the "unless reasonable provision is made for the location of" language was merely added to the statute to allow municipalities to regulate the location of a state-owned and operated facility *in addition to* size, height, setbacks, etc., as provided for in the statute and was not added to allow municipalities unlimited zoning authority over state projects.

In re Appeal of Buildings and General Services reaffirms that municipalities can exercise local zoning authority over state facilities and institutions with respect to location, size, height, bulk, yards, courts, setbacks, density of buildings, off-street parking and loading

(Continued on Page Seven)

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ASK THE LEAGUE

RESERVE FUNDS; DEDICATION AND ACCEPTANCE OF PRIVATE ROADS

What is a reserve fund and what can it be used for?

A reserve fund is a separate, dedicated financial account that is created to fund a specific municipal purpose. Reserve funds are created by approval from a majority of voters at an annual or special town meeting. 24 V.S.A. § 2804. A reserve fund can be created for any legitimate municipal purpose. Once created, it falls under the control and direction of the legislative branch of the municipality.

An example of a legitimate municipal purpose is a "road maintenance equipment fund," by which the voters have determined that items such as graders, plows, or dump trucks will become a necessity, in the near future, for the town to purchase. Approval of this fund requires a majority vote regarding the purpose and amount of money to be set aside to create this fund. Once created, the selectboard has the authority to spend the money only for the special purpose for which the fund was created. The money set aside for this fund and any monies accruing from investing it are used for the original purpose of the reserve fund. If it is determined that the money allocated to a reserve fund would best serve an alternative purpose, this money can be so designated at an annual or special town meeting where the majority of voters approve of this reallocation.

Frequently towns create a catch-all fund, which many refer to as a "rainy day" fund or "emergency" fund. The concept of this fund is to establish a cash reserve for unanticipated expenses and emergencies that may arise over the course of the year. The creation of this fund allows the town to tap into this account, as opposed to seeking a bank loan or running a deficit, when an unanticipated expense arises. Although no statutory authority speaks to the creation of this fund and no specific cases have come before the Vermont courts, it may be considered a legitimate special purpose. For additional information on these types of undesignated funds, see Michael Gilbar's article on "Proactive Budgeting" on Page One.

- Daniel S. Phillips, VLCT MAC Law Clerk

(Editor's Note: For more information on reserve funds, please see the January 1996, Page 8, and February 2002, Page 6, issues of the VLCT News.)

When one citizen believes a road is a private road and another thinks it is a town highway, how does the town settle the dispute and determine if the road is a town highway or a private road?

A road may be established as a town highway by the procedures laid out in statute or by dedication and acceptance. 19 V.S.A. § 1 (12).

If the town determines that the road has not been established by the procedures laid out in statute, the next step is to see if it has been established by dedication and acceptance. To make a road a public highway by dedication and acceptance, there must be both a dedication by the private owner and an acceptance of that dedication by the town.

Dedication of a road as a highway or public road is the setting apart of the land for public use, and may be either express or implied from the acts of the owner. *Druke v. Town of Newfane*, 137 Vt. 571 (1979). The intent of the owner is an essential part of the process. Dedication alone is not enough to impose on the town a duty to maintain the road without acceptance by the government of the road as a public highway.

To constitute acceptance, there must be both an act of acceptance and the intent to accept the dedication. *Okemo Mountain, Inc. v. Town of Ludlow*, 164 Vt. 447 (1995). Acceptance may be inferred from evidence that the town, acting through the proper officials, has voluntarily assumed the burden of maintaining and repairing the road, and where it is found that labor or money has been used for repairs. Acceptance can also be supported, in part, by the placement of a road on the state highway map.

The selectboard of the town is the proper board vested with the power to lay out, alter and discontinue highways, as the convenience of the inhabitants and the public good may

require. Work done by officers of a town unauthorized by the selectboard, although with its knowledge, is not a sufficient basis to constitute the acceptance of a road as a town highway. For instance, if the road commissioner repairs a road with town money and the selectboard knows about it but did not authorize it, then there has been no acceptance of the road.

The existence of a public road or town highway is a mixed question of law and fact. There is no clear-cut test to follow when making this determination. It is important to note that a town can use the facts of a particular situation to make a valid argument either for or against the proposition that a road is a town highway depending upon the political will of the town at that time. The key elements are dedication, acceptance, and intent by both parties to form a public highway. Whether the facts found constitute a public road or town highway is for the selectboard or, if necessary, the court to decide on a case-by-case basis.

- Jennifer Ciarlo, VLCT MAC Law Clerk



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LEGAL CORNER -

(Continued from Page Five)

facilities, and landscaping and screening requirements. This case also clarifies that even if a bylaw reasonably provides for the location of a state facility and institution, a municipality's zoning authority is still restricted to the regulation of location, size, height, bulk, yards, setbacks, density of buildings, off-street parking and loading facilities, landscaping and screening requirements.

It is also important to note that although *In re Appeal of Buildings and General Services* addresses municipal zoning authority with respect to "state-owned and operated institutions and facilities," the Court's decision also applies to public utility power generating plants and transmission lines; public and private schools; churches, convents, and parish houses;

public and private hospitals; regional solid waste management facilities; and hazardous waste facilities. 24 V.S.A. § 4409(a)(1)-(7).

- Julie Fothergill, Attorney, VLCT Municipal Assistance Center

MUNICIPAL AUTHORITY TO REGULATE HUNTING

The Chittenden County Superior Court has ruled that the Winooski Valley Park District (District) has the right to prohibit hunting on its lands. *Vermont Hunters, Anglers v. Winooski Valley Park District*, Docket No. 258-03 Cn Cv (Oct. 6, 2003). Judge Matthew Katz stated that, although 24 V.S.A. § 2295 prohibits municipalities from "directly regulating hunting," the District's regulation prohibiting the discharge of firearms is not a direct regulation of hunting. Instead, it is a permissible regulation on the discharge of firearms as allowed by 24 V.S.A. § 2291 (8).

The District is different from other Vermont municipalities in that it is not a city, town or village, all of which may have parks or recreational areas within their borders. Instead, the District's land is comprised entirely of recreational properties located within other, larger Chittenden County municipalities. This differentiation is important because cities may wish to prohibit the discharge of firearms in a small park located in a crowded downtown area. Most people wouldn't bat an eye at such a regulation because firing a weapon in that park would create a clear safety hazard to those nearby, and thus would not likely face a legal challenge. However, in a municipality like the Winooski Valley Park District, which is comprised of parkland and walking trails, a regulation that prohibits the discharge of firearms may have the ancillary effect of regulating hunting. Believing this to be an illegal prohibition on hunting, the Vermont Hunters, Anglers, and Trappers Association sued the District.

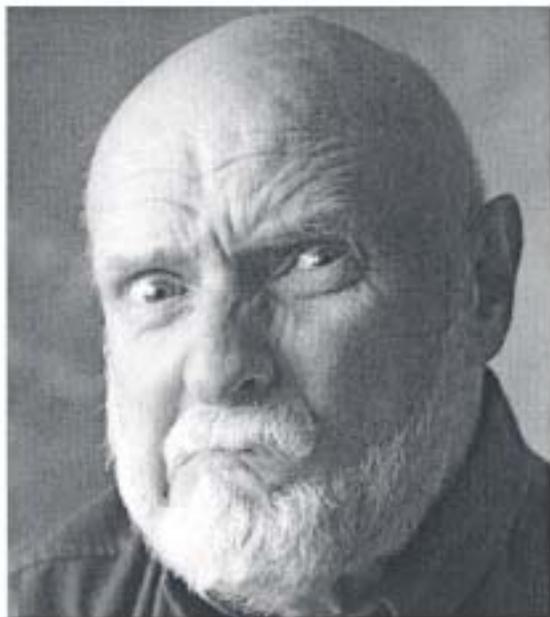
An initial reading of the law, particularly 24 V.S.A. § 2295, would lead one to believe that no municipality may regulate hunting in any respect, because the law states, "no [municipality] shall directly regulate hunting, fishing and trapping or the possession . . . of firearms or ammunition." However, municipalities are authorized to prohibit the discharge of firearms within their limits, or within specified portions of the municipality. As noted above, such a regulation would likely be enacted in more densely populated areas, where shooting guns likely does not mix well with other uses.

Judge Katz stated, "When the District bars hunting on its lands, it is acting under its private and proprietary function . . . it is not 'directly regulating hunting,' although it creates an obvious, indirect effect." *Id* at 2. Essentially, Judge Katz stated that the District may act like any other owner of property, even a private property owner, and prohibit the discharge of firearms on its lands (even when such a regulation effectively bans hunting).

Though subject to appeal to the Vermont Supreme Court (watch future *Legal Corners* for updates), this case is important because many cities, towns, and villages have taken steps to protect their residents by prohibiting the discharge of firearms within their limits, or within densely populated areas of the municipality. The decision in this case affirms that right, and also makes clear that municipalities may regulate shooting in places like town forests and parks, even if the regulation effectively bans hunting.

- Brian Monaghan, Attorney, VLCT Municipal Assistance Center

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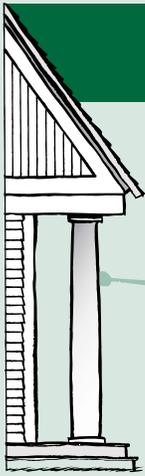
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ANNUAL MEETING -

(Continued from Page One)

While the increases are steep, Group Services Director Dave Sichel reminded his audience that the Health Trust is not alone in its struggle to hold down rates, and that, in fact, *its rate increases continue to run well under state and national averages.* "Since 1995" he said, "VLCT Health Trust rates have increased an average of 9.43% per year, while statewide trends have been in the 15-16% range."

Sichel also compared the cost of Health Trust plans to other, comparable Vermont groups; in almost all cases *Health Trust rates are lower.* "You are," Sichel told his audience, "getting some of the lowest rates available in the state." He further noted that Health Trust rate increases are at the low end compared to similar municipal health insurance pools around the country.

"The Health Trust realizes that the news that we are providing municipalities the best possible value for their health insurance dollar is overshadowed by the 20% rate increase," Sichel commented later. "We know 20% is a lot to absorb in one budget. But we are not alone, and this situation drives home the challenges facing health care today."

Sichel outlined some of the factors that are increasing the cost of health insurance in Vermont:

- **Technology** – More sophisticated procedures are available at a higher cost than their predecessors.

- **Prescription Drugs** – More are available,
(Continued on next page)

CUTS

(COMMUNICATIONS UNDER TEN SENTENCES)

ATTENTION VLCT HEALTH TRUST MEMBERS

For those member municipalities enrolled in the **Comprehensive S plans** through Blue Cross Blue Shield, please note that these plans will be eliminated from our program *effective January 1, 2004.* Any member who offers this plan as part of a collective bargaining agreement will be "grandfathered" until the conclusion of the current agreement. *It is imperative we hear from you.* If we do not hear from you, BCBS will automatically transfer employees in your current Comp S plan to a comparable Vermont Freedom Plan. A mailing was sent to each Comp S member in late October, alerting you of this situation. Please call a Member Relations Representative, if you have not already, at 800/649-7915 to review the Health Trust's other plan offerings. We would be happy to help you select another plan.

The **BCBSVT Preferred Brand Name Drug List** has been updated as of November 1, 2003. The list is available at the BCBSVT Web site, 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.

January is open enrollment month! Now is the time to add or delete employees or dependents, add riders to your policy or change prescription card deductibles. If you need assistance, please call the Member Relations Department at 800/649-7915.

GROUP SERVICES PHOTO CONTEST WINNERS ANNOUNCED

Congratulations to **Karen Curavoo**, Town Clerk of Weybridge, for submitting the first prize entry in our Group Services photo contest! Karen's photo of the local Cub Scout Troop leading the pledge of allegiance at town meeting made her the \$100 winner. Second place went to **Connie Quimby**, Town Clerk of Concord, for her patriotic photo at the town's annual Memorial Day celebration. Connie won \$75. Thank you for your submissions!

MESSAGE FROM WASHINGTON

In a last minute change, Rep. Bernie Sanders' Senior Legislative Aide stood in for his boss at the VLCT Health Trust's Annual Meeting.

Delayed, but undaunted by the snowstorm, Michael Behan delivered Sanders' message that "our health care system is disintegrating." He noted that official numbers of uninsured Americans, already alarmingly high, would be even higher if they included those who face a gap in coverage of up to a year. In 2001-2, he said, 120,000 Vermonters (22.3%) were without health insurance.

Three key reforms in Washington are needed to change this situation, according to Sanders:

- Make the federal government pay its share of Medicare and Medicaid.
- Take the 13 cents of every health care dollar now spent in our current system on administration and profits and use it to provide a national system of universal coverage instead. Behan noted that less than 2% of the cost of the federal Medicare system is spent on overhead, and that a national health care system might actually cost less than the current system.
- Impose controls on the cost of prescription drugs.

With a Medicare prescription drug benefit hanging in the balance at the time he spoke, and little interest in national health care or price controls in the Republican Congress, Behan couldn't promise his audience any progress any time soon on these issues. But it was interesting for Health Trust members to hear about ideas being discussed at the national level that may, in the future, have an impact on delivering and paying for health care in Vermont.



COPING WITH STRESS

Much of what you feel as stress is really tension in your body. Your jaw is clamped. Your neck and shoulders are tied in knots. Your stomach is churning. That's because your thoughts are sending a message around your body saying, *Something's up. Get ready for trouble.* Even if things aren't really that bad, as far as your body is concerned, it's time to run or fight for its survival.

While there are no miracle cures for stress, breathing is a key to relaxation. Try slowing your breathing and allowing your stomach to expand and then your chest. Focus on each breath for a minute or two, and you'll find your whole body relaxing.

Here are some other tips for easing daily stress:

- **Get enough sleep and rest.**
- **Take time out to play.** Do whatever you find the most fun, preferably an activity that's not competitive.
- **Don't bottle up your feelings.** Talk to friends you can trust. Tell them how you're feeling and what's going on. If your feelings have been hurt or you're angry, acknowledge it to yourself and your friend. Bad feelings that aren't expressed don't just go away. They fester and increase your stress level.
- **Don't try to be perfect.** You're not a machine. Doing your best is more than enough.
- **Do something for others.** Stop arguing with life and start agreeing with it. Give someone a helping hand or some deserved praise. It's amazing how much better *you'll* feel.



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ANNUAL MEETING-

(Continued from Previous Page)

more are being used and they are more expensive.

- **Utilization** – Health Trust members are aging, and using more health care services.
- **Cost Shifts** – The federal Medicare and Medicaid programs reimburse doctors and hospitals at less than the actual cost of providing the service; the difference is picked up by those with insurance.
- **Capital Costs** – Vermont's hospitals continue to update and expand their facilities to meet health care needs.
- **Us** – Health Trust members reflect the general population in that some of our lifestyle choices (smoking, bad diet) are unhealthy, resulting in claims that could be avoided

Sichel also outlined the Health Trust Board's cost containment work plan for 2004. The Board will be exploring four items in particular:

1. The option of buying prescription drugs in Canada.
2. Reviewing the Trust's 47 different plan offerings and their relative coverage costs/rates/claims to determine the most cost effective offerings.
3. Developing a "wellness" initiative.
4. Negotiating a performance contract with Blue Cross Blue Shield.

Please watch the *VLCT News* in the upcoming year for announcements about these initiatives. In addition, members of the VLCT Member Relations Department are available to meet with Health Trust members to review their plan design and selection, explore plan alternatives and financing mechanisms, and educate employees about costs and coverage. Please contact Nicolette White, nwhite@vlct.org or 800/649-7915 to set up a meeting.

- Katherine Roe, VLCT Communications Coordinator



BUGETING -

(Continued from Page One)

financially, comparing it to where you've been, and deciding where you want to be in the future makes decision-making a whole lot easier.

FORECASTING AND TRENDS

Your budget consists of operating costs, capital costs and debt service, and transfers from reserves or other funds. Separating it into those three categories makes it easier to both understand and project future expenses. Operating costs, made up of labor and non-labor line items, are the largest share of your appropriation. Trending (the process of compiling and analyzing your historical data) all of these costs by category will give you a better sense as to where the largest increases are occurring. A history of at least three years (preferably five or more, if possible) worth of data is key to determining how the distribution of your costs is shifting. You may see that benefits costs are increasing as a percentage of your overall budget, reducing the non-labor costs proportionately. That may indicate that you've been sacrificing one area of the budget to fund another, a decision that may have been made unintentionally when you agreed to fund a particular benefit without fully understanding the impact on the rest of the budget.

Revenues should be trended as well, keeping track of current property taxes, delinquent property taxes, non-tax revenue and user fees separately. Understanding your tax collection trends is crucial to the budgeting process, for in most towns, tax revenue may be as much as 90% or more of total revenue. If you don't know the percentage that is generally collected each year of both current and delinquent, you may have a hard time forecasting revenue for the ensuing budget year.

For both expenditures and revenues, it is a good practice to try to come up with multi-year forecasts. Using historical data and projecting future benefits, salary, capital and debt costs, increasing non-labor costs by an inflation rate, and projecting tax revenue based on grand list increases, as well as trended tax collection rates, may give you a fairly good idea of any problems that may be looming over the next couple of years. This allows you to plan your current budget to anticipate and correct future shortfalls by reserving fund balance, for instance.

CAPITAL AND DEBT

Capital improvement planning is key to maintaining your assets and infrastructure, as well as to matching the benefit with the cost. Reactive capital replacement, paying for

replacements only as needed ("pay as you go"), places the burden of payment on those taxpayers who happened to be around when the purchase was made. Once it is paid for, everyone else gets use of the asset without footing any of the bill. A good capital plan will spread the costs, whether through debt, cash or reserve financing, over the useful lives of the assets.

Remember that you are trading cash for an asset, and even though you have spent the cash, you have an asset of equal value that will be used over a number of years. Depreciation expense uses up that asset, showing the declining value over time. This is the main difference between a current budget or financial resources focus and a long-term or economic resources focus. If you're just looking at your current cash, you've expended \$100,000. However, you've received an ambulance that will last for the next 10 years and has a \$100,000 value this year.

Debt that isn't properly managed can be a drain on resources available for operating uses. Knowing how much of your assets are tied up in debt is extremely important. Total debt as a percentage of your grand list or per capita debt are good ratios to know, and debt payments as a percentage of total budget will help you understand how much of your operating funds are tied up in capital. Large fluctuations in these percentages or continuous increases may be a red flag and force you to reevaluate your priorities.

FUND BALANCE

Use of unreserved fund balance is a somewhat controversial area due to differing standards recommended by GASB and required

by Vermont statute. To be fiscally prudent, it would be wise to maintain about 5% of your budget in undesignated fund balance (not reserved for any other purpose). Some would argue that those funds should be returned to the taxpayer by reducing the ensuing year's taxes by the amount of the prior year's undesignated fund balance. This limits the municipality's ability to recover when an emergency creates expenditures in excess of what was budgeted, or revenue is less than anticipated, and forces the taxpayers to fund a deficit the next year.

Asking taxpayers to fund an undesignated fund balance should be part of your budget planning process. The GFOA (Government Finance Officers Association) recommends that municipalities adopt a policy for maintaining undesignated fund balance at a level appropriate for their particular circumstances. This amount should be approved at your annual meeting as part of your budget. (See this month's Ask the League article for the Municipal Assistance Center's guidance on "emergency/rainy day" funds.)

Proactive budgeting will allow you to understand and take control of your finances. The choices and decisions that you make should be informed. Poor planning can lead to bad decisions, which in turn can lead to financial disasters.

- Michael Gilbar, Director, VLCT
Administrative Services

(Staff members from VLCT's Municipal Assistance Center are available for onsite trainings on any of these topics. If you would like to schedule an on-site training for your town, call VLCT MAC at 800/649-7915.)

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Tech Check

CAUTION IS KEY IN FIGHT AGAINST COMPUTER VIRUSES

If you find yourself in a love/hate relationship with your antivirus software, you aren't alone. It is a necessary evil in today's computing world, and a once-a-week computer scan just does not cut it anymore. You also are not the only one to think twice before opening your e-mail attachments. If those who have experienced a virus seem a bit paranoid about safe computer usage, believe them – their paranoia is justified. There really are people out to get them...or their computer, really.

Computer malware, an all-inclusive term for malicious software, is commonly referred to as a virus for a reason. Malware mutates and spreads faster than any form of influenza we

have seen yet. And it does not just travel via e-mail or in an infected file anymore. If a machine is designed to exchange files of any type or access the Internet, sooner or later there will be a form of malware aimed at it. Personal digital assistants (PDAs such as a Palm Pilot or HP's IPAQ) are susceptible, as is any Microsoft software product. This corporate software giant is stomping around with a big red target on its back. If you use Microsoft products (and can you avoid it?), you wear the same target.

But refusing to use your computer is the equivalent of refusing to use a door handle because it has germs. You cannot live your life or do your job, if you are afraid to use the tools.

Instead, take a more proactive approach. Knowledge and caution – just short of paranoia – are really the best weapons against malware. Consider these weapons as Purell hand sanitizer for computer usage.

UPDATE, UPDATE, UPDATE

In January 2003, the Slammer worm crippled the Internet by capitalizing on a weakness in Microsoft's SQL database products. The SQL weakness Slammer preyed upon was not new. Microsoft announced the issue and supplied a free patch to resolve it six months prior to the January crisis.

While the dates are recent, the story is pretty old. Almost every software company releases free software updates to their customers. Your job is to stay on top of them – after all, the best offense is a strong defense. Networking veterans will cringe when you mention updates. They have flashbacks to the all-nighters they pulled back in 1995, fixing what Microsoft's latest service pack broke. Given their experience, they tend to delay updates as long as possible. The Slammer worm was created with that outlook in mind.

But software updates have become much easier to find and safer to use, thanks in part to those network veterans giving software manufacturers a piece of their mind. Microsoft has dedicated an area of its Web site (www.microsoft.com/downloads) to providing updates to their various software products. Granted, not all of these updates are mission-critical, but Microsoft is doing a better job of identifying the type of update the download includes. It is very easy to tell the difference between the security patches (mission-critical) from new screen savers and wallpaper (cosmetic at best).

AUTOMATE, AUTOMATE, AUTOMATE

Your time is precious and you do not want to be spending massive amounts of it looking for new software updates or virus patterns, so look
(Continued on next page)

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TECH CHECK -

(Continued from previous page)

to automate this process through the software manufacturer where you can. Microsoft provides an automatic update service for the many flavors of Windows and Office products it supports, as does any antivirus software worth its salt. The idea is that the software has a component that regularly checks in with the manufacturer, looking for its own updates. You can configure what the software does when it finds an update: automatically retrieve and update the product, automatically download the update, but alert you before it installs it, or just tell you it's available and let you go from there. It is in the manufacturer's best interest that its customers are as up-to-date as possible, so it tries to make it easy on you if it can. After all, it is their name getting trashed in the news during these outbreaks.

This is where the extra money for a constant connection to the Internet can actually be to your advantage. The automation features are only as good as we let them be. The software can only check for updates when it has connection to the Internet. Picture this: You connect to the Internet to download your e-mail or search for a sample ordinance. The update software finds an update during this connection window and tries to download it in the background. Your e-mail download or Web surfing then slows to a crawl. What happens next? You either get frustrated and turn it off to come back later or you cancel the update download to speed up your surfing. Either way, the update does not happen.

Be aware that all updates are not created equal. Typically, office suites, desktop operating systems, and antivirus software can be updated as necessary. Databases, servers, and the software they run, are much more complicated and, therefore, delicate beasts. Before you apply an update or a patch, make sure you know what

it does. You should also check with any mission critical software company, such as your financial software package or GIS software provider, before applying patches and updates. In these cases, you are playing with a house of cards where everything is interrelated. You need to know how they will react to the change. It may require more than just an update from Microsoft.

LAYER UP

You must do this when shoveling snow and preventing malware attacks. There are multiple ways to attack a computer or network, so you need multiple defense mechanisms. An antivirus suite is in order these days – one that scans your incoming e-mail and scans your hard drive for known virus files. A firewall, which blocks your Internet connection from unwanted intruders, is also necessary. Even if your Internet service provider includes a firewall with your service, consider getting a software-based firewall for your computer or a hardware-based firewall for your network. For some extra money, you can probably get it to block unwanted junk mail and those annoying advertising pop-ups as well.

BE A GOODY-TWO SHOES

When it comes to e-mail, it pays to be cautious and a goody-goody at the same time. If you do not recognize the sender of an e-mail, proceed with caution. That means not opening attachments or clicking on Internet links until you are confident both source and content are safe. The same goes for e-mails from people you do know with weird subject lines, especially if they are misspelled. After all, why would your brother-in-law send you an e-mail entitled "I love you" or about a Spice Girls concert?

You can do your part to stop e-mail viruses. Do not forward jokes or other junk mail. If that is too much to ask, then use two e-mail addresses: one for work and one for play and use them accordingly. If that is still too much to ask, start using very specific subject lines. If

your friends and co-workers stop seeing e-mail from you with silly subject lines, the more the stilted subject lines generated by a computer will stand out as out of place.

The same applies to downloads. If you are surfing the Web and get prompted to download software, be cautious. If the Web site you are on does not warn you of the download and you do not recognize the name of the company or product that is causing the prompt, cancel it. Just say no. Your mother would be proud.

SLOW DOWN AND DO YOUR RESEARCH

If something looks out of the ordinary, it will only take two minutes to check it out on an antivirus website like www.antivirus.com or www.norton.com. Compare that to the two days it could take you to rebuild your computer and it suddenly comes into perspective. When you get an e-mail from your friend about a new virus, check it out before you follow the instructions. Visit an antivirus Web site or pick your favorite search engine and do a search. Try using the word "virus" followed by the subject of the e-mail or the name of the attachment. If the results include specifics from the antivirus Web sites of the world, play it safe and delete the e-mail without opening it.

In the end, it boils down to the same type of "don't be a victim" advice we get for personal safety and phone scams. Accidents and viruses do happen, but there are ways to mitigate the damage. So update your software as often as you wash your hands and both your mother and your computer will be happy.

- Heather Roberts, Manager of Information Services, Iowa League of Cities

(Reprinted with permission from *Cityscape*, May 2003)

BUDGET NOTES

MINIMUM WAGE INCREASE

Vermont's minimum wage will rise from \$6.25 per hour worked to \$6.75 on January 1, 2004. Looking ahead, on January 1, 2005, the minimum wage will rise to \$7.00 per hour. Also note that at any time, if the federal minimum wage rises above the Vermont minimum wage, the federal wage will prevail.

ELECTION WORKERS

From the IRS: the threshold for coverage under social security and Medicare for election workers will remain at \$1,200 in 2004, unchanged from 2003.

MILEAGE RATES

More from the IRS: Beginning Jan. 1, 2004, the standard mileage rate for the use of a car (including vans, pickups, or panel trucks) for all business miles driven will be 37.5 cents a mile, up from 36 cents a mile in 2003;

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EXECUTIVE DIRECTOR-

(Continued from Page Two)

plus \$2 shipping and handling you too can buy a book entitled "How to Appeal Your Vermont Property Tax"?), listers are spending more time and energy defending their actions than ever before. Lastly, with a schizophrenic, hyperactive real estate market (since 1997, residential values of the state rose 31.32% whereas vacation, commercial, industrial and utilities rose just 8.48%), listers have to reappraise more often and work harder to maintain a fair and equitable grand list.

Vermont is unique in so many ways, but in

has relied on the time, commitment and dedication of its citizen governors.

There may be no way to avoid the growth in complexities detailed above and the drain this puts on the "social capital" our volunteers are willing to invest to keep our way of governing and serving. Perhaps the complexities are necessary to serve some higher purpose. But we must be willing to admit they extract a cost, and we must be willing to pay the price if we are to maintain this government that still truly is "of the people, by the people, for the people."

If we are to keep our elected, volunteer local listers – or any other local "volunteer" officials – they need just two things. They need the resources to do the job right and to be

amount of it if they are going to hew their native common sense, wisdom and sound thinking into the refined performance of the art of assessing property. Their offices need to be equipped with computers, supplies and other tools for the job to be accomplished.

As for providing the resources, a much larger portion of the onus must be borne by the state. Close to 75% of the property taxes assessed are for state education taxes, and the state must provide more than \$7 a parcel and the meager resources made available through the Division of Property Valuation and Review (though, by most accounts, they do a fairly good job with what they are allocated). The Division must be staffed with more people who not only know property valuation but also how to train and assist others to do a better job. More and better lister training opportunities must be provided. A state database of property sales that can be queried by listers must be developed, made available and kept up to date. The list of ways the state can support the local volunteers on whom they rely to collect their state education tax goes on and on.

The pressures on listers are indicative of those on all our municipal officials. The rampant real estate market has flooded our clerks' offices, acronymic horrors such as GASB, HIPAA and COBRA give elected treasurers nightmares, and new homeland security mandates make local police and fire departments groan under the weight. Investing in these offices and services at the town level in your budgets is one way to make sure these local decisions can remain local.

In meeting with your listers as you develop your budget, you might also be able to provide them with the resource that money can't buy. You can show that their work is appreciated and of value to your community.

If we are to keep our elected, volunteer local listers – or any other local "volunteer" officials – they need just two things. They need the resources to do the job right and to be appreciated for what they do for their community.

particular in the way we have governed ourselves and served others. Given our small scale, our penchant for doing for ourselves, and our sense of obligation to our community, we have traditionally used volunteers to provide government and community services, instead of hiring someone to do it for us. This system has ensured low cost, familiarity with problems and solutions, and common sense decisions. But it

appreciated for what they do for their community. We must realize that the listers' job, in particular, is no longer a job that can neatly fit into the nights and weekends of a few months a year in many of our communities. Higher pay might be necessary to convince competent people to run and perform effectively in the office of lister for a sufficient length of time. They need professional training and a significant

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TRIVIA

Congratulations to **Lisa Mancuso**, Administrative Assistant for the Town of Grafton. For the second month in a row, she nailed the answer to our monthly Trivia question. Lisa knew that Lake Willoughby, in Westmore, at 312 feet deep, is the deepest lake in Vermont.

Here is November's Trivia:

When, and where, was the last poor farm in Vermont closed? For extra credit, what act of the Legislature prompted the closing?

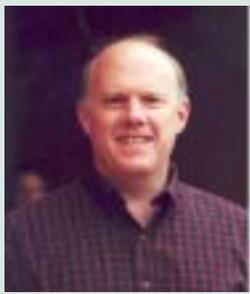
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RIESEBERG -

(Continued from Page One)

Shipyard. Though the shipyard is located in Kittery, Maine, his birth certificate is on file in the Portsmouth, New Hampshire city clerk's office. Raised on New York's Long Island,



Hunter Rieseberg

Rieseberg was glad to return to New Hampshire for graduate school and his first managerial position, in Epping.

Hartford is his first managerial foray out of New Hampshire, and he is very pleased

to have crossed the Connecticut back in 1996. "In many areas, Vermont law is less cumbersome and more pragmatic," he noted. One good result, he said, is that towns spend less time at the Legislature asking it to fix something that went wrong because of complicated laws that are difficult to follow.

Rieseberg is also a great fan of Hartford and its surrounding region. "The Upper Valley is slowly being recognized as a really unique area to live and work. It offers a rural setting with a lot of higher level professional opportunities available." Rieseberg, his wife, a medical practice manager at Dartmouth Hitchcock Medical Center, and 14-month old son get out as often as they can to hike their town's trails and back roads.

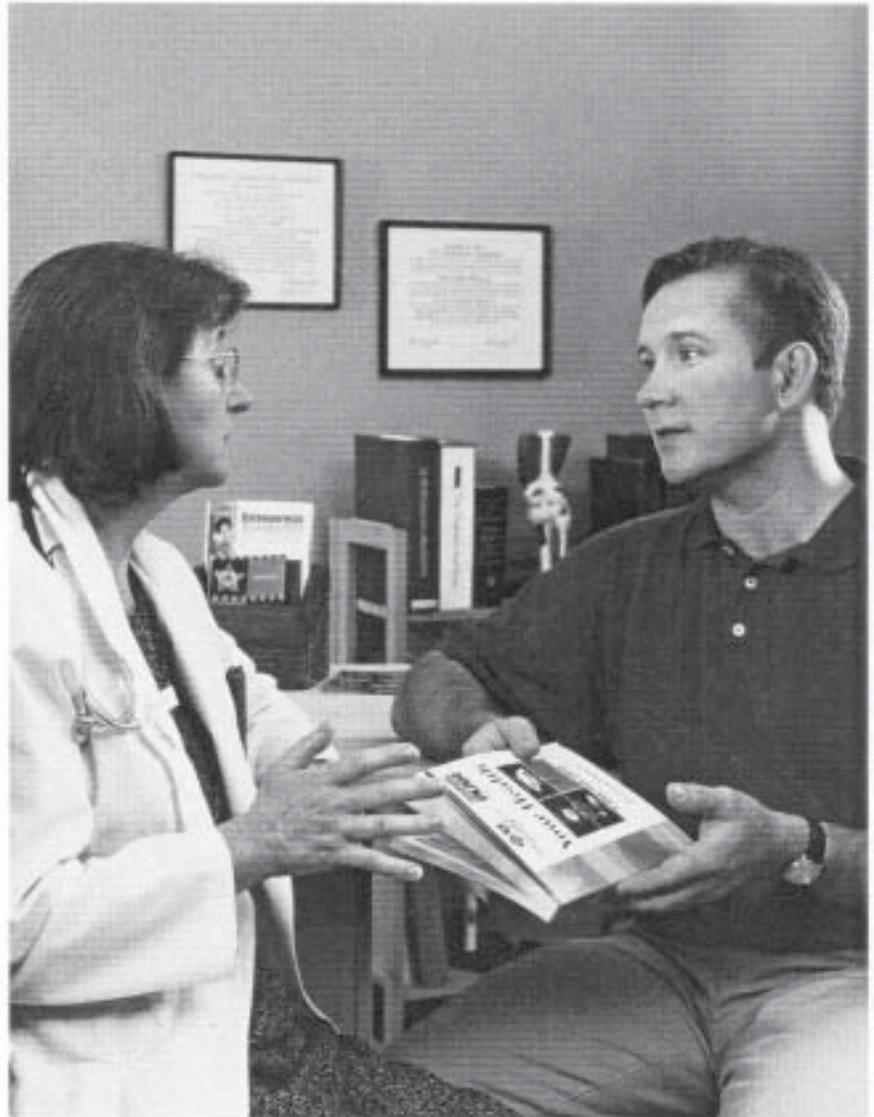
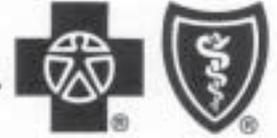
Hartford's unique location as a transportation crossroads and gateway to Vermont also presents its challenges, however. Rieseberg cites two of them – state tax policy and infrastructure maintenance - as reasons why he sought a seat on the VLCT Board.

"There needs to greater attention paid [by the State] to its infrastructure, in particular the infrastructure outside of Chittenden County," he explained. "The State's tax policies do not work over here because of our proximity to a non sales and income tax state. A penny on the tax rate may not seem like a big deal on the Western side of the State, but it is a big deal on this side. We don't want to take anything away from the Western side, but just ask for a more balanced view."

Looking ahead, Rieseberg sees these statewide issues continuing to play out in the challenges Hartford faces in the future. "Our major issues center around growth and

(Continued on next page)

the signs of a healthier vermont.



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

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RIESEBERG -

(Continued from previous page)

infrastructure demands," he said. With I-89, I-91, the railroad and a number of state highways all passing through Hartford, the condition of the state's infrastructure becomes of utmost importance. That his newly improved roads inevitably bump up against a decaying state bridge or lead to a bumpy state highway is obviously a source of frustration for Rieseberg and others promoting development in Hartford.

And, yes, promoting economic development consumes a great deal of Rieseberg's time. While loud warnings about the perils of sprawl emanate from Chittenden County and Montpelier, Rieseberg wistfully says that he would be quite pleased to have such worries. Actually, when pressed, he says he doesn't think Hartford would have problems with sprawl, and would love the opportunity to prove it.

"We are a full service local government. We have our own planning staff, engineer, and water and sewer facilities. Our town plan designates areas for growth and we have the infrastructure to support it," he says. But, in his work to recruit new business for the town, Rieseberg says that in addition to tax and infrastructure issues, "the specter of permitting hangs over us."

Even with all the hurdles, Rieseberg proudly notes that Hartford's economic development efforts brought in approximately 200 new jobs to the town in the last year or so. When asked if business promotion is an unexpected, and unlikely, role for a town government, he noted that while it may not be new to the field of public administration, it is "certainly becoming more important. We are all trying to share the same resources," he said.

This is a key change Rieseberg has observed during his public administration career. Managers are increasingly trying to attract more

jobs and business activity to their communities, hoping to bring in more tax and utility revenue. This is revenue they need to meet the increasing citizen demands, and internal demands for more training or better technology to meet citizen needs.

Caught right smack in the middle of declining revenue and

increasing demand, the manager's seat can be a hot one. "When I first started, I spent 80 percent of my time working and 20 percent of my time on politics," Rieseberg noted. "Now it is the opposite. Communities have become more pluralistic and special interests are more pronounced. It takes more time to chart a course through the special interests, and our resources are not growing as fast as the demands."

It is certainly a challenge to meet the needs of a community with the resources it has, but Rieseberg loves a challenge. He has had at least one big one in each town he has managed: solving a multimillion dollar, ten year old civil rights lawsuit against Epping; learning on his first day on the job in Durham that they hadn't had an audit in two years and subsequently reconstructing two years of financial transactions; closing a landfill in Jaffrey and then doing it again in Hampton. In Hartford, he was able to bring a complicated series of lawsuits and counter suits involving the town and the failed Quechee Lakes resort development to a close, collecting most of the back taxes owed to the town and fixing the failed water and sewer systems associated with the development.

"So far, my proudest moment here has been watching the chair of the selectboard give a hug to the President of Quechee Lakes Landowners' Association," Rieseberg said. "Prior to that, such a scene would not have been possible."

Not bad for someone who likes to bring people together to make the world a better place.

- Katherine Roe, VLCT Communications Coordinator

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VLCT Regional Legislative Meetings.

Final two! Wednesday, December 3, 2003, Montpelier City Hall Memorial Room, Montpelier, and Thursday, December 4, 2003, Rutland Police Department Community Room, Rutland. Please join VLCT staff

members Karen Horn and Todd Odit for an informal breakfast meeting to discuss issues of importance in the 2004 Legislature. The meetings take place from 8-9:30 a.m. and are free for VLCT members. A light breakfast will be provided. For more information, contact Jessica Hill, VLCT Conference Coordinator, tel., 800/649-7915, e-mail, jhill@vlct.org.

Local Economic Development Strategies. Wednesday, December 10, 2003, Capitol Plaza Hotel and Conference Center,

Montpelier. Sponsored by the VLCT Municipal Assistance Center. To register online, visit www.vlct.org/calendar/.

Planning and Zoning Series #2: Agriculture and Local Zoning.

Thursday, December 11, 2003. An evening program delivered via Interactive Television to sites around Vermont, sponsored by the VLCT Municipal Assistance Center and Vermont's Regional Planning Commissions. To register online, visit www.vlct.org/calendar/.



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