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## **VLCT News - 2019 Issues**

### **VLCT News January 2019**

#### **Executive Director's Message**

Happy New Year! It is my sincere hope that you enjoyed the holidays, had the opportunity to spend time with family and friends, and are experiencing a peaceful start to 2019. January is the time when we look ahead strategically, plan for the year to come and pursue our course. After celebrating a successful PACIF renewal and the completion of several successful regional and online workshops hosted by the Municipal Assistance Center, preparing for the new legislative session, and reviewing important feedback from the spring Listening Sessions, VLCT's Board and staff are now poised to develop a roadmap for continued success in the pursuit of our mission to serve and strengthen Vermont municipalities.

Throughout the coming year, we will be discussing the details of what it means to be VLCT, what programs and services are or should be offered, and the role we play in the day-to-day work of our membership. When we observed VLCT's 50th anniversary in 2017, we promised to explore the best ways to move the organization forward in order to remain a vital and trusted resource to members. We continue that work in 2019, identifying what matters to you, where VLCT can best partner with you to enhance your success, offer resources and develop

initiatives that will deliver the greatest member benefit over the next several years. This is an exciting undertaking, part of which will entail collecting data from you - our members - and working closely with VLCT Board members and staff to steadfastly evolve as your organization and to transform the information you share into actionable projects that meet your needs. You should see evidence of this work by spring.

Another important focus is this publication. VLCT News underwent an amazing creative redesign last year, and it will continue to grow and develop in 2019. We plan to offer our readership a wider range of perspectives and news stories, while still providing the expert advice, guidance, and useful information for which VLCT News is well-known. And, of course, the monthly trivia question and classified listings will continue to be popular features. The VLCT News team will solicit work from outside authors and news sources to present the helpful and interesting information you expect. VLCT News is your publication, and in order to ensure that you get the most from each issue, please send us your feedback. Are there specific issues you want to see featured? What topics would help you best serve the needs of your community?

The holiday rush is behind us. As we settle into the remaining months of Vermont's long winter, I look forward to having the opportunity to speak with you, to see you at an upcoming event such as Town Meeting Tune-Up on February 7 or Local Government Day on February 14, or to connect with you via email ([mcarroll@vlct.org](mailto:mcarroll@vlct.org) <sup>[1]</sup>) should there be any topic that you would like to bring to my attention.

Working together, we are sure to see a successful year ahead!

Warm regards,

Maura Carroll

Executive Director, VLCT

## Voter-Backed Petitions Deadline

Patty Mark, Assistant Clerk from the Town of Westminster, recently asked VLCT's Municipal Assistance Center this question: If the town begins its annual meeting in 2019 on the Saturday before town meeting (March 2nd) and continues it to Town Meeting Day on the first Tuesday in March (March 5th), is the deadline for voter-backed petitions affected?

It is a great question and one that we had not received before. The law governing petitioned articles provides that "[t]he warning shall also contain any article or articles requested by a petition signed by at least five percent of the voters of the municipality and filed with the municipal clerk not less than 47 days before the day of the meeting." 17 V.S.A. § 2642(a)(3)(A). When we read this statute, our attention was instantly drawn to the words, "not less than 47 days before the *day of the meeting*." The "day of the meeting" refers to Town Meeting Day that, by law, falls every year on the first Tuesday in March. 17 V.S.A. § 2640(a). In 2019, that day is March 5<sup>th</sup>. Counting back 47 days from that date puts the deadline for petitions at January 17<sup>th</sup>. But, the Town of Westminster took advantage of a state law (17 V.S.A. § 2640(b)) that permits towns to start their annual meetings on any of the three days immediately preceding the first Tuesday in March and will hold its annual meeting on Saturday March 2, 2019. Counting back 47 days from that date puts the deadline for petitions in Westminster at January 14<sup>th</sup>.

It would seem that the town has two separate Town Meeting Days: one on January 14<sup>th</sup> and the other on January 17<sup>th</sup>. So, which deadline should they use? At this point in our legal analysis, it would seem that we are no closer to answering Patty's question than when we started.

However, a closer examination of the law governing when towns must hold their annual meetings provides us with some much needed guidance. First, the law says that when a town so votes, it may "start" its annual meeting on any of the three days preceding Town Meeting Day. Second, a "meeting so started shall be *adjourned* until the first Tuesday in March." (Emphasis added.) 17 V.S.A. § 2640(b). The dictionary defines the word "adjourn" to mean "suspend until a later stated time." The meeting on March 2<sup>nd</sup> is, therefore, just the beginning of Town Meeting Day in Westminster. This meeting is "adjourned" or continued to March 5<sup>th</sup>, when it ends. In the eyes of the law, these are not two separate days after all, but rather one long continuous day. The date of Westminster's annual town meeting therefore will be Saturday March 2<sup>nd</sup>. Having determined "the day of the meeting" we can now count back 47 days to find the petition deadline - which brings us to Monday, January 14, 2019.

We thank Patty for her question. If you have one that you think would make a good "Ask MAC" article for our news magazine, please contact us at 800-649-7915 or [info@vlct.org](mailto:info@vlct.org) [2].

Garrett Baxter, Senior Staff Attorney

VLCT Municipal Assistance Center

## **Australian Ballot and Informational Hearings**

### **How do towns give notice of the public informational hearing that is required when using the Australian ballot system of voting?**

The selectboard must hold a public informational hearing when a town uses the Australian ballot system of voting on any public question or its budget. 17 V.S.A. § 2680(g). The informational hearing, which is administered by the selectboard, must be held within the 10 days immediately preceding the town meeting at which the Australian ballot system of voting is to be used. The purpose of the informational hearing leading up to the Australian ballot vote is to afford the electorate an opportunity to discuss the article(s) on which they will be voting.

The informational hearing must be warned at least 10 days in advance by posting notice of the hearing in at least two public places in town and in the town clerk's office.

Note that if the town has voted to change the date of its annual town meeting to one of the three days preceding the first Tuesday in March, then the public informational hearing may be held in conjunction with that town meeting, in which case the moderator presides. 17 V.S.A. § 2680(g)(2)(B).

Carl Andeer

Staff Attorney II, VLCT MAC

## **Is a Town Subject to Gasoline and Diesel Taxes?**

Vermont law exempts governmental agencies from taxes assessed on diesel fuel purchases only. 23 V.S.A. §§ 3003(d)(1)(c) and (d)(2). There is no municipal exemption for the gasoline tax (or taxes assessed on heating oil purchases).

Even if the town deals with a fuel dealer located in a state that exempts municipal purchases of both gasoline and diesel fuel from state taxes (such as New Hampshire and Maine), the Vermont gasoline tax must still be paid to the Vermont Department of Motor Vehicles. Municipalities do not lose the money, however, since it comes back to them through the state transportation fund in the form of state aid for highway maintenance. 23 V.S.A. § 3106(c).

If you have a specific fuel tax question, contact the Miscellaneous Taxes Section of the Vermont Department of Taxes at 802-828-2551, extension 4.

Susan Senning, Staff Attorney I

VLCT Municipal Assistance Center

## **CWSRF Loans Expanded to Include Private Entities**

*Vermont's Clean Water State Revolving Fund (CWSRF) is a federal-state program that provides communities with a permanent and independent source of low-cost financing for a wide range of water quality infrastructure projects. This is the first in a series of VLCT News articles outlining the evolution of the CWSRF a result of Act 185, which became law last May.*

While Act 185 caused eligibility in Vermont's CWSRF to become more flexible, you could also say it became more adaptable, more accommodating, and - in keeping with its clean water moniker - more fluid.

In addition to funding municipal clean water projects, the CWSRF is now open to private entities including for-profit applicants, non-profit organizations, and private landowners. This is timely, because the fund can provide private entities with access to capital to invest in upcoming and potentially costly stormwater retrofits required under the draft (as of this writing) updated Stormwater Management Rule. Additionally, the CWSRF can now help mobile home parks and homeowners associations that need wastewater infrastructure financing.

Several changes in the new law protect municipal interests. Municipal projects are prioritized under the CWSRF, and in order for a private entity to utilize the fund, all municipal projects must first be bypassed. Additionally, private entities may not access more than 20 percent of the available fund balance in a

given year and will need a letter of support from the relevant municipality in which the entity resides.

If you have any questions, please contact VLCT Water Resources Coordinator Milly Archer at [marcher@vlct.org](mailto:marcher@vlct.org) [3] or 800-649-7915 and she will provide an answer or direct you to someone who can.

## Staff News

After Dave Sichel (remember him?) announced his recent retirement, VLCT discussed plans for the future for Risk Management Services. After much thought, RMS decided not to fill his position and to instead give deserving staff the opportunity to take on more responsibility.

**Fred Satink** has been promoted to Deputy Director, Underwriting and Loss Control. In his new role, he will continue to perform many of the same duties and now help with overall administration of the Trust. Fred will continue to supervise the Underwriting staff and will have Jim Carrien's assistance with overseeing Loss Control.

**Jim Carrien**, who has demonstrated an outstanding work ethic and an ability to work closely with his members to facilitate change, has been promoted to Loss Control Supervisor. Jim will maintain servicing responsibility for at least half of his current members and will assume day-to-day supervision of the loss control consultants and administration.

**Vicky Abare**, who has been a dedicated member of the Underwriting division for several years and has consistently produced highly quality work, has been promoted to Senior Underwriter. In her new role, she will join Pam Fecteau in helping to balance workloads, cross-train staff, and work on new member and renewal proposal development and presentations.

**Kelley Avery** has been our unemployment insurance expert and has continued to work hard helping members with their Health and benefit needs. Because of Kelley's continued hard work and dedication to the VERB Trust and the organization as a whole, she has been promoted to Senior VERB Program Administrator. In her new role, she will continue to perform all of the same duties and assist with the overall administration of the Trust. Importantly, her new title features a *lot* fewer characters than her previous one (Unemployment Insurance Underwriter & Health Benefit Programs Administrator), meaning that it'll fit way better on her business card.

Lastly, to reflect the depth of human resource experience that **Jill Muhr** brings to our member municipalities, her title has been revised to Senior Human Resources Consultant.

Congratulations to everybody!

## Municipality Triviality, January 2019

Can it be?! *No one* knew the answer to last month's trivia question! You remember it, right? Q: What was

the first Act 250 permit? A: The Rutland District Commission: timber harvest above 2,500 feet elevation on state lands in Mt. Holly. An overflowing cauldron of congrats to Brendon Whittaker for stumping our trivialogists! First time, in, oh, in ages!

According to a reliable source, a Vermont mountain was named by a party of hunters who went out one winter's day in search of deer on that same natural elevation of the earth's surface rising abruptly from the surrounding level. Regrettably, their GPS receiver was on the fritz and the men got lost in the woods. They had to stay out all night with nothing to eat save one partridge, "and that without salt or sauce." (Oh, the tribulation!) When, on the following day, they finally found their way home, they were half starved and wholly tuckered out, telling anyone who would listen that they had been on \_\_\_\_\_.

The name stuck. What was – and still is (I just checked) – the name of the mountain? If you know the answer, email it without delay to [dgunn@vlct.org](mailto:dgunn@vlct.org) [4]. My answer will appear in the flabbergastingly frosty February fishue.

## Trust Matters, January 2019

### **VERB's Vision Benefits Have Online Resources**

While the holiday shopping season is finally over, many consumers make purchases year-round. That's why we urge all EyeMed member groups to remind subscribers about the in-network options for buying contact lenses and eyeglasses online. The two sites that provide EyeMed in-network benefits are **Glasses.com** and **ContactsDirect.com** and they offer:

1. free shipping
2. shipping within 24 hours of purchase (once prescription is verified)
3. a wide variety and selection of top-selling name brand products
4. easy, user-friendly tools and interface
5. virtual 3D "try-on" technology at Glasses.com to show purchasers how various styles of frame would look on their face before they decide to buy

You will find how-to guides for both of these sites on our website's Vision Insurance Partner Resources page, [www.vlct.org/resource/vision-insurance-partner-resources](http://www.vlct.org/resource/vision-insurance-partner-resources) [5]. Contact VLCT's Larry Smith ([lsmith@vlct.org](mailto:lsmith@vlct.org) [6]) or Kelley Avery ([kavery@vlct.org](mailto:kavery@vlct.org) [7]) for more information.

### **Join VERB's Life and Disability Program at Any Time**

Since the VERB Trust first partnered with Lincoln Financial Group in 2014, our members have benefited from substantial cost savings. Lincoln recently announced it will guarantee its existing rates with VERB until July 1, 2020!

In addition to excellent rates, members also enjoy access to these Lincoln perks:

- extensive online resources

- the Travel Connect and Life Keys programs for those with Group Life
- new, employee paid voluntary plans such as Optional Life and Accidental Death & Disability (AD&D)

With more than 100 years of expertise in life and disability insurance, Lincoln Financial Group is a proven leader in the group benefits field. Through Lincoln's real-time online claims system, employers can access forms, view certificates, pay bills, and track the status of claims. Claims can be submitted online or by phone, fax, email, or regular mail.

For a quote on group life or disability insurance (short-term or long-term), or if your municipality already has a Lincoln group life plan and is curious about adding optional life and AD&D, please contact Larry Smith ([lsmith@vlct.org](mailto:lsmith@vlct.org) [6]) or Kelley Avery ([kavery@vlct.org](mailto:kavery@vlct.org) [7]) at VLCT.

### **West® HealthAdvocate for Use by ALL in VERB**

We urge **all** VERB Trust members to encourage your employees to make full use of the Health Advocacy services offered by West® HealthAdvocate throughout 2019. This toll-free telephonic service is available to your employees – as well as (or on behalf of) their spouses, dependents, parents, and parents-in-law – 24 hours a day and seven days a week. If your employees are having any issues with benefits, claims, or coverage, please encourage them to **call Health Advocate at 866-695-8622** immediately for assistance! For more information, visit [vlct.org/rms/verb/health-advocate](http://vlct.org/rms/verb/health-advocate) [8].

We can help you spread the word by providing you with specific Health Advocate marketing materials to post or give out to your employees. Contact Larry Smith ([lsmith@vlct.org](mailto:lsmith@vlct.org) [6]) or Kelley Avery ([kavery@vlct.org](mailto:kavery@vlct.org) [7]) to request them.

### **2019 PACIF Scholarships and Grants**

PACIF is **of course** continuing two of its most popular and widely used loss control programs in 2019: Scholarships and Grants. Both reimburse members for certain pre-approved costs associated with reducing the municipality's risk of claims. Scholarship applications are accepted and awarded on a rolling basis until all of the allocated funds are used. Although grants are available in two application periods, most of the allocated funds are used in the first period. All relevant information about both programs is available through [our Grants and Scholarships webpage](#) [9].

Below are a few of the important points relating to grant eligibility. Most have been developed in the interest of distributing the available funds as broadly and fairly among members as possible. The eligibility requirements may sound complex, but applying is actually a lot easier than for other grants, and we are happy to work with members who contact us for guidance about how to make their application both complete and successful.

**We consider applications** in the context of many factors, including how well the PACIF-covered departments or operating units in the municipality have followed up on formal loss control recommendations we have made in the previous two years. One department not addressing its recommendation can actually limit the eligibility of the rest of the municipality. If an application is at risk of partial or complete ineligibility for this reason, we will reach out to the PACIF contact and give the

member a chance to address the recommendation and restore eligibility. In fact, part of any application can be for systems, equipment, repairs, or services that address these outstanding recommendations.

**Starting in 2019**, reimbursements for roadwork items such as sign packages, barricades, and traffic cones will be determined by the pricing available through the State of Vermont contract. For this pricing information, visit [bgs.vermont.gov/purchasing-contracting/contract-info/current#Highway Materials and Equipment](https://bgs.vermont.gov/purchasing-contracting/contract-info/current#Highway_Materials_and_Equipment) <sup>[10]</sup>/.

**Each member will now be allowed** to purchase certain emergency services protective gear – including turnout gear, SCBA equipment, and EMS clothing – **only once** with a PACIF grant. This means that if turnout jackets and pants are purchased one year, different gear such as helmets, boots, or gloves are eligible for reimbursement in future years, but turnout jackets and pants will not be eligible again. Also new this year is a \$2,000 maximum reimbursement for firefighting turnout gear and personal protective equipment.

**As in previous years**, all applications must be signed by a senior municipal official (i.e., mayor, municipal manager/administrator, or selectboard member). This helps assure that someone with overall budget responsibility can oversee the applications for grant funds within each municipality. Please contact Adam Davis ([adavis@vlct.org](mailto:adavis@vlct.org) <sup>[11]</sup> or 800-649-7915 ext. 1921) with any questions about PACIF Scholarships and Grants.

## Winter Property Safety

Although winter-like snow and low temperatures greeted Vermonters early this year, it isn't too late to remind readers of some special risks that our winters impose on man-made structures *and* to suggest a few ways to head off damage before it happens. Think of risk prevention as enlightened self-interest. When all PACIF members work to reduce their potential for claims, fewer claims occur, which directly influences future property coverage rates.

**Snow and Ice on Roofs.** Excessively deep or heavy snow on a roof can weaken the underlying structure or develop into an ice dam – or both. It's a good idea to monitor the depth of snow on roofs throughout the winter and to notice the weather conditions that contribute to the snow load, because they can affect how dense and heavy the snow becomes. For example, rain on top of snow can add to the snow's weight significantly.

The best winter safety tip for roofs is to pay attention to the snow load and, when the snow becomes excessively deep or heavy, to hire a properly insured contractor to remove it.

Certain building types or characteristics pose a higher-than-average risk of roof collapse, including:

- any building more than 50 years old
- buildings with wood “bowstring” trusses
- unoccupied buildings (because they are not routinely monitored)
- buildings with a flat or low-pitch roof
- “L” or “T” shaped buildings

Ice dams develop when snow builds up on a roof, melts partially (usually because of heat loss from inside the

building), and refreezes. After an ice dam has formed, water easily backs up into roofing materials above the dam and seeps into the structure, causing water damage that can lead to mold and rot. If you have a building that has a history of developing ice dams, regularly remove snow four to eight feet back from the drip line to prevent ice buildup in the first place. Roof overhangs are particularly vulnerable to ice build-ups. While snow removal does control the issue, the best long-term solution is to identify and solve the building's heat loss issue(s). "Dealing with and preventing ice dams," from the [University of Minnesota Extension](#) [12], is especially informative.

**Freezing Pipes and Staying Warm.** During cold spells, heating systems often struggle to heat all areas of a building adequately. Particularly in Vermont's older buildings, there are minimally heated crawl spaces as well as nooks and crannies that may contain potable water and sprinkler lines. These pipes are particularly vulnerable to freezing on very cold nights.

To help prevent heating problems:

- Make sure the heating system is inspected and cleaned every 12 months by a qualified technician. If this is overdue, please get this addressed ASAP!
- Never store combustible materials within six feet of a heating appliance. Ideally, remove all combustible materials and liquids from the area.
- Make sure all furnace room fire doors are kept closed.

To help keep pipes from freezing during extremely cold weather, especially overnight:

- Increase the building temperature.
- Open doors to cabinets, closets, crawl spaces, and other places where water pipes or sprinkler lines are located so the general building heat can get to them. If necessary, use small fans to push heated air into the coldest of these locations.
- Let hot and cold water faucets trickle overnight.

It may be tempting to do so, but never use an open flame device to thaw a frozen pipe. Instead, turn the faucet on, increase the temperature in the area, and use a blow dryer on the affected line. Or hire a contractor – properly insured for both workers' compensation and general liability, of course – to do the job.

As always, if you have any questions, please contact your loss control consultant at [losscontrol@vlct.org](mailto:losscontrol@vlct.org) [13] or 800-649-7915.

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PACIF property damage claims that resulted from winter snow and cold include:

- Situations where sprinkler lines froze and then burst, creating significant water damage at multiple levels within the buildings. One such incident resulted in a claim to repair more than \$300,000 in damage.
- Roof collapses from the weight of snow, though these are typically limited to smaller shed buildings.
- Vehicle damage caused by snow and ice falling from buildings during freeze/thaw cycles. You can avoid these incidents by posting signs that clearly warn drivers of the falling ice/snow hazard. Some high hazard locations might warrant placing barricades to restrict access.
- Using heavy equipment to remove ice and snow buildup from a roof. One PACIF claim of roof and structural damage caused by heavy equipment involved more than \$80,000 of repairs. Here again,

given the fall hazard, the best solution would have been to transfer the risks by contracting with a properly insured vendor to perform these services. Never allow an employee to remove snow while working from a raised bucket, unless they are working from a personnel basket designed for the purpose and are using appropriate fall restraints.

## **VLCT News February 2019**

### **Executive Director's Message**

Town Meeting Day is almost here! On Tuesday, March 5, Vermonters will participate in town meeting, a cherished tradition for many and a time to exercise local “direct democracy” in our communities. Town meeting offers residents the chance to voice their opinions about the business of their towns, to vote on various issues, and to elect their municipal officials. There will be the usual assortment of tasks to attend to such as adopting a budget and authorizing the setting of the tax rate, as well as not-so-usual items like supporting or opposing the expansion of a landfill.

February is an understandably busy time for municipal officials – and for VLCT staff – as we all work to ensure that Town Meeting Day runs smoothly for officials and residents alike. By the time you read this, VLCT will have hosted the ever-popular Town Meeting Tune-Up Workshop, which gives attendees helpful information and guidance on holding an effective town meeting. For those of you who were unable to attend, additional resources are available in this issue of VLCT News. On page 4, the Municipal Assistance Center team answers some frequently-asked Town Meeting Day questions. That article also includes a list of resources that you can access on the VLCT website.

Preparing for Town Meeting Day can be stressful for local officials, so I encourage you to contact us at any time if we can be of assistance. Be sure to reference the dates listed on our 2018-2019 Municipal Calendar so you do not miss any of the pre-Town Meeting Day deadlines that happen this month. The planning and execution of town meeting is a critical role for local officials and much depends on how well you do it, so “we have your back.” We know you have an enormous capacity to get things done, but don’t hesitate to let us help!

We wish you all great success on March 5 and beyond!

Warm Regards,

Maura Carroll  
VLCT Executive Director

# CWSRF Program Eligibilities

## Water Quality Priorities Now Eligible for the CWSRF

Vermont's Clean Water State Revolving Fund (CWSRF) is a federal-state program that provides communities with a permanent and independent source of low-cost financing for a wide range of water quality infrastructure projects. This is the second in a series of VLCT News articles tracing the evolution of the CWSRF, a result of Act 185, which became law in May 2018. Last month, we wrote about how the program has expanded to include private entities. This month, we explore the program's new flexibility to fund a broad range of projects with clean water benefits.

The CWSRF program established in 1987 limited project eligibility to "water abatement and control facilities," i.e., municipal wastewater treatment plants, or so-called publically owned treatment works (POTWs). Since then, the federal program has expanded to include many "nontraditional" projects that focus on green infrastructure, water and energy efficiency, and environmental innovation. The federal program gives states the flexibility to direct funding to their particular environmental needs, so long as they further the health and environmental protection objectives of the federal Clean Water Act.

By amending the statutory definition of "water pollution abatement and control facilities" to include a more wide-ranging "clean water project" definition, Act 185 expanded CWSRF eligibility in Vermont to include all federally eligible project types with a clean water benefit. Now, in addition to "traditional" water pollution abatement and control facilities, the Vermont CWSRF applies to all projects listed under Section 603(c) of the Clean Water Act, such as:

- Energy and water conservation
- Agricultural Best Management Practices (BMPs)
- Contaminated sites and landfills
- Habitat protection and restoration
- Silviculture
- Groundwater and surface water protection and restoration
- Phosphorus removal
- Stormwater treatment and Green Stormwater Infrastructure (GSI)
- Acquisition of easements and land for the purpose of providing water quality benefits

Vermont CWSRF staff will determine eligibility to ensure that projects are consistent with federal and state statutes. More information on eligibility is available on EPA's "Overview of Clean Water State Revolving Fund Eligibilities," found at [www.epa.gov/sites/production/files/2016-07/documents/overview\\_of\\_cwsrf\\_eligibilities\\_may\\_2016.pdf](http://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf) [14].

If you have any questions, please contact VLCT Water Resources Coordinator Milly Archer at [marcher@vlct.org](mailto:marcher@vlct.org) [3] or 800-649-7915 and she will provide an answer or direct you to someone who can.

# VLCT's Economic Development Forum

Strengthening Communities for the Future: VLCT's Community and Economic Development Forum

Local government and community leaders play a vital role in the creation of thriving local economies that generate local revenue, attract new residents, create jobs, and preserve the unique qualities of a town. VLCT is pleased to partner with the Vermont Regional Development Corporations and the Vermont Agency of Commerce and Community Development to host an economic development forum on March 27 at the Burke Mountain Resort.

Our keynote speaker, Rebecca Sanborn Stone, is the Principal Engagement Specialist and Senior Planner for Community Workshop LLC based in Randolph, Vermont. Her expertise includes building community networks, communication strategies and creative placemaking. Five years ago, Rebecca helped launch Bethel University, an immensely successful "pop-up" university. She also helps shape community engagement during Richmond, Vermont's town planning process. Rebecca will present tools and strategies to further local community goals and show attendees how to use these skills in their communities.

The forum will feature stories about successful community development initiatives and detail the resources and techniques used to overcome challenges and achieve goals. For instance, the "One Burke" initiative revealed that the town needed to upgrade its wastewater system to support an increase in residents and growth in the skiing and mountain biking industry. It also helped to procure significant grant funding for infrastructure improvements.

The forum provides ample opportunity for structured learning and networking. The plethora of agencies, associations, and resource groups exhibiting and attending make this an invaluable experience for anyone looking for new ideas, personal connections, or assistance with enhancing their local economies and achieving goals for the future.

Register today at <https://www.vlct.org/training-events> <sup>[15]</sup>

## Town Meeting Q&A

### **What can we do if a town meeting warning contains an error?**

The deadline for posting a town meeting warning is 30 days prior to town meeting. 17 V.S.A. § 2641. Once that day has passed, the warning is final and cannot be altered or amended. Nor can an article be added from the floor, since state law requires that all articles to be voted upon are those that appear on the official town meeting warning. 17 V.S.A. § 2642. If an article was inadvertently omitted but is considered important, the only options are to either wait until the next annual meeting or call a special town meeting to vote on the article. 17 V.S.A. § 2643.

If there was a mistake in the way the town meeting was warned or noticed, there will need to be a subsequent town meeting to “validate” the action taken at the first meeting. Seventeen V.S.A. § 2662 allows voters to “correct and legalize” an omission or noncompliance with notice and warning requirements for a town meeting so long as the meeting and the business conducted at that meeting was otherwise legal and within the scope of the town’s authority. Validation takes place when the town holds a properly warned subsequent special or annual town meeting and votes to “readopt, ratify and confirm” the action taken at the first meeting. 17 V.S.A. § 2662. The town need not vote anew on each article of the prior meeting, but merely pose one question in substantially the following form: “Shall the action taken at the meeting of this town [or city, village or district] held on [state date] in spite of the fact that [state the error or omission], and any act or action of the municipal officers or agents pursuant thereto be readopted, ratified and confirmed?” 17 V.S.A. § 2662.

Some town meeting warning problems can be addressed on Town Meeting Day if the town votes from the floor. For instance, if an article was inadvertently included on the warning, a town that votes from the floor may vote to “pass over” the article (or, more properly, to “postpone the article indefinitely”) so that it is not voted upon. In a town that votes by Australian ballot, it is not possible to postpone or pass over an article.

If the error was in an amount of money listed in an article, the voters may vote to increase or decrease that amount by amendment from the floor at town meeting. However, any amendment must be “germane” (closely related) to the amount that was warned. It is up to the town meeting moderator to decide whether a proposed amendment is germane, although the voters may vote to override the moderator’s decision. An amendment is not germane if it changes the subject, object, or means of execution of an article. In a town that votes by Australian ballot, it is not possible to amend an article on Town Meeting Day.

### **What is the difference between a paper ballot and an Australian ballot?**

Australian ballots are uniformly pre-printed ballots for secret vote elections and include any ballots counted by machine vote tabulator approved for elections conducted in this state. Articles to be voted on must have been pre-warned and the polls must be open for an extended period during or after a municipal meeting, or both. 17 V.S.A. § 2103(4). In contrast, a paper ballot is just a piece of paper on which the voter may write “yes” or “no” or the name of a candidate who is running for office.

The Australian ballot process for voting applies only if specifically required by statute or charter, or if the law enables the voters to use it for certain items of town business. A municipality may vote to use Australian ballot voting for officer elections, or to vote on budget articles and public questions either individually or collectively. 17 V.S.A. § 2680. A municipality may also vote to adopt or amend a municipal plan by Australian ballot. 24 V.S.A. § 4385(c). In a “rural town,” the selectboard or the voters may require that zoning bylaws be adopted by Australian ballot. 24 V.S.A. § 4442(c)(2). A rural town is a town having a population of fewer than 2,500 persons or a town having between 2,500 and 5,000 persons that has voted by Australian ballot to be considered a rural town. 24 V.S.A. § 4303(25).

In contrast, municipalities are required by law to use Australian ballot in some instances, including:

- governance charter amendments. 17 V.S.A. § 2645(a)(7);
- municipal mergers. 24 V.S.A. § 1485(c);
- entrance into a union municipal district such as a solid waste district. 24 V.S.A. § 4863(c).
- bond votes. 24 V.S.A. § 1758(a);

- borrowing for public improvements or the acquisition of capital assets when the term is more than five years. 24 V.S.A. § 1786a(c);
- the decision to appoint rather than elect a constable. 17 V.S.A. § 2651a(a)(1); and
- the question of whether or not to have a town manager if the town elects its officers by Australian ballot. 24 V.S.A. § 1243.

There are other statutes that refer to paper ballots rather than Australian ballots. State law directs that certain town officers must be elected by paper ballot. These include selectboard members (17 V.S.A. § 2646(4)); listers (17 V.S.A. § 2646(5)); auditors (17 V.S.A. § 2646(6)); and, if the town so votes, road commissioner(s) (17 V.S.A. § 2646(16)); water commissioners (17 V.S.A. § 2646(17)); and advisory budget committee members (17 V.S.A. § 2646(18)). This means that unless the town has voted to elect officers by Australian ballot, the town must use paper ballots to elect those officers. Paper ballots are also required for the vote to eliminate the office of elected auditor under 17 V.S.A. § 2651b and the vote to eliminate the office of elected lister under 17 V.S.A. § 2651c. Lastly, Robert's Rules of Order allows for the voters at town meetings to request the use of a paper ballot in certain instances. Robert's requires a majority of the voters to request a paper ballot, but, under authority of 17 V.S.A. § 2658, the paper ballot may be demanded by just seven voters.

### **How do we elect someone to local office with only one “paper” ballot cast?**

When voting takes place at a floor meeting by paper ballot, a majority of all votes cast is ordinarily required for election. However, when there is only one nominee for an office, the voters of the town may vote to instruct the town clerk to cast one ballot for the nominee and, unless objection is made, “upon such ballot being cast he or she shall be declared elected.” 17 V.S.A. § 2660(b).

For assistance with specific town meeting questions, please contact the Municipal Assistance Center at [info@vlct.org](mailto:info@vlct.org) [2] or 800-649-7915.

Garrett Baxter, Senior Staff Attorney  
 Carl Andeer, Staff Attorney II  
 Susan Senning, Staff Attorney I  
 VLCT Municipal Assistance Center

## **Riding the Community Rails**

Commuting from Point A to Point B in Vermont typically involves a car, a bus, a bicycle, a ferry, an airplane, a canoe, a trusty pair of feet, a Segway, a horse, and, perhaps soon – thanks to the vision of AllEarth Rail founder David Blittersdorf – a fleet of rail diesel cars (RDCs).

An RDC is a bidirectional railcar designed for regional passenger service built by the Budd Company of Philadelphia. Between 1949 and 1962, the company built a total of 398 of them for 32 different railroads. RDCs were especially popular in New England. By the late 1950s, for example, the number of RDCs operated by the Boston and Maine Railroad grew to 108.

Each car can seat 94 passengers and is 85 feet long. (Coincidentally, the unit's top speed is 85 m.p.h.) It has a diesel engine and driver's control vestibule at each end, thus eliminating the need to turn the car around at a terminal. A typical passenger train requires a crew of three or more; an RDC can be operated by a single engineer, which is a significant cost-saver. Under normal conditions, an RDC averages 2.8 miles on a gallon of diesel fuel. Because each car is independently self-propelled, a train of several cars can uncouple at a station and individually go on to serve multiple destinations.

The 12 rail cars that comprise AllEarth Rail's fleet had been part of a light rail system in Dallas, Texas. When that city outgrew the cars and switched to larger, double-decker units, it put these units on the market. And Blittersdorf out-bid ViaRail Canada for them.

The cars are in remarkably good shape, having been overhauled and refurbished in Montréal in the late 1990s. Additional servicing of the cars takes place at the former Bombardier plant in Barre. Ten of the rail cars are currently there, as are lots of spare parts – an important part of the Dallas bid package.

Last November, at an open house (open railcar?) in Montpelier, AllEarth Rail representatives showed off one of their cars. Communication and Public Affairs Manager Nick Charyk said there was a great deal of enthusiasm from both the public and from legislators as they envisioned how the car could serve their communities. And “community rail” – that is, rail that connects communities – was more indicative of how the cars could serve Vermont than was “commuter rail.”

AllEarth Rail is proposing an initial trial route of Saint Albans through Milton to Essex. The advantages, says Charyk, are that “the infrastructure is ready to go, the rail is in really good shape, some facilities are already in place, and there is a significant commuter population.” Saint Albans City Manager Dom Cloud enthusiastically supports the idea. “It's a no-brainer for us,” he says. “We're in the business of economic development, and these rail cars would help bring that to our city.” Thereafter, the company hopes to rapidly expand the service throughout the state.

Before that can happen, some issues have to be resolved. Vermont's railroad tracks are owned by different concerns: Vermont Rail System owns some of the track. Other parts are owned or leased by the State of Vermont or by entities such as Genesee and Wyoming, an American short line railroad holding company. The operator of an RDC would need to secure trackage rights. “We're very early in that phase,” says Charyk, “but as communities and the State get behind this project, it's a negotiation that I think will go smoothly.”

Another question is who would operate the RDCs? AllEarth Rail's role is to provide and maintain the rail cars, not to operate them. The Agency of Transportation supports the idea of commuter rail service in the state but doesn't have funds to subsidize it. However, Charyk says there are other good options. “Vermont Rail System could do it. They operated the Champlain Flyer [a commuter train that serviced Burlington, Shelburne, and Charlotte from 2000-2003], and they (currently) do some excursion rail.” Amtrak is another possibility.

This winter, AllEarth Rail plans to educate transportation committees members and do outreach to municipalities on the benefits of RDCs in Vermont. Eighty-five percent of Vermonters live within one mile of a railroad track, so the project could affect a large swath of the population.

Interested in having a rail diesel car stop in your town? Contact AllEarth Rail ([www.allearthrail.com/](http://www.allearthrail.com/) <sup>[16]</sup>), spread the word around town, and maybe you'll soon be able to ride Vermont's community rails!

David Gunn  
Editor, VLCT News

## Municipality Triviality, February 2019

Bevan Quinn, Carolyn Hier, Irene Nagle, Julie Rohleder, Louise Luring, and Michael McCarthy from Guilford, Weathersfield, the Northeastern Vermont Development Association, Hyde Park, Saxtons River, and Georgia, respectively, knew that the Vermont mountain on which a bunch of hunters got lost was named by them – once they made their way back to civilization and, more importantly, breakfast – Mount Hunger. Good hunting, Will!

Once upon a time, the Vermont Legislature honored a local composer with a joint resolution, noting that “the stupendous dissonance” of one of the composer’s tunes “sent even the Avant-Garde scurrying for shelter. With the passage of time,” the composer “has not mellowed [and] remains fearless, uncompromising, terse. There is no mincing of words, no sugar-coating, no padding ... ” Sheesh! Who is this person, when was the resolution presented, and why is no meditation center named after her or him? Extra credit if you can hum a few bars of the “stupendous dissonance” tune. When you’ve sussed the answer, email it to [dgunn@vlct.org](mailto:dgunn@vlct.org) [4]. My answer will appear in the marginally marketable March issue.

## Trust Matters, February 2019

### **UI Members: 2018 Annual Wage Reports Due May 1**

Early in February, the contact person for each member of VERB’s Unemployment Insurance (UI) Program will receive an email and also a hard copy mailing from Kelley Avery asking them to report their group’s 2018 wages using the Excel template she provides. Completing this wage report is an important part of the UI Program’s annual cycle: Kelley, VLCT’s UI Underwriter, relies on each member’s response as a factor in calculating their 2019 UI contribution.

Kelley has made this template very easy to use. If you lose track of the email (with the template attached), this year’s file is also posted at [www.vlct.org/rms/verb/unemployment-insurance](http://www.vlct.org/rms/verb/unemployment-insurance) [17]. If you are the UI contact person for your municipality, please follow the instructions provided to fill in the new template (do not reuse last year’s because the taxable wage base has changed) and email your completed Excel file to Kelley by May 1st. If you have any questions about the 2018 UI Annual Wage Report, or the VERB Trust’s UI Program in general, contact Kelley at 800-649-7915, ext. 1965 or [kavery@vlct.org](mailto:kavery@vlct.org) [7].

### **Updated Info for Quarterly Reporting to VDOL**

The Vermont Department of Labor (VDOL) is reducing the taxable wage base for 2019 from \$17,600 to \$15,600 per employee. This will take effect with online filing of your Employer’s Quarterly Wage and

Contribution Report for the quarter ending March 31, 2019, for which the filing deadline is April 30, 2019. We urge all VLCT members to file their quarterly VDOL wage reports on time and accurately to avoid being penalized \$100 for any instance of a late or missing report or missing information. If you encounter any problems with your password or logging in to the system, please contact VDOL's Employer Services Unit at 802-828-4344.

SPECIAL ALERT for VERB's UI Program members: When filing your online VDOL reports, do not change the "TALX UC EXPRESS, PO Box 283, St. Louis, MO" address. This is for our third party administrator, and it is the correct address for VDOL to use in order for VERB to be able to pay your UI claims bills. If you change this address, VLCT will be completely cut out of this information loop, and your claims will go unpaid! If you have any questions regarding the VERB Trust's UI Program, please contact Kelley Avery at [kavery@vlct.org](mailto:kavery@vlct.org) [7] or 800-649-7915, ext. 1965.

### **PACIF Underwriting's February Give-and-Take**

All PACIF members will receive their 2019 coverage documents from the trust's Underwriting team by early February, after which the team will contact members for wage and job role information needed for the spring workers' compensation audits.

First, keep an eye out for the 2019 coverage documents mailing: a large envelope containing four or five documents and the appropriate Declarations Pages. The thickest document is for Property & Casualty, the second is for Workers' Compensation, the third is Cyber Liability and Data Breach Coverage, and the fourth, labeled "Special Risk Accident Policy," is for injury-related medical coverage for non-firefighter municipal volunteers. A fifth document will only be sent to members that have a volunteer fire department insured through PACIF. (It is labeled "Technology Assigned Risk Policy" because it involves a carrier named Technology Insurance.) The PACIF contact person for your municipality should receive this mailing by the middle of February. If you have any questions after you have reviewed all of the documents, or if you prefer to have PDFs of these emailed to you, please contact a member of our Underwriting team immediately at 800-649-7915.

By the end of February, Larry Smith and members of the Underwriting team will send an email announcing the upcoming workers' compensation audits. It will contain instructions for how to prepare for your audit so it can be completed as efficiently as possible. Collecting all the required information early in the process will save you time and the time of any auditors who may be working with you. We look forward to streamlining these procedures to benefit everyone involved.

## **A Letter from PACIF**

Dear PACIF Member/Owner:

Now that the busy holidays and renewal season are behind us, we want to thank each of you individually for your continued trust and support of VLCT PACIF. All of our member-focused programs, services, and ability to deliver outstanding customer support are only possible through your participation in this member-owned, risk sharing pool.

We understand that in the current insurance environment, commercial carriers are more active in trying

to quote municipal business. While PACIF may not always be less expensive than the private carriers, no one gives you the value that we do - through our full complement of services, programs, experience, and comprehensive coverage. Our 99.7% retention rate and addition of a new member this January gives us confidence that you truly understand and appreciate this value.

We encourage your municipality to take advantage of all that we offer, whether it be the PACIF Grant Program, our recently launched law enforcement consulting services, the free referrals to legal counsel for employment practice issues, or any of the other services that we provide.

Within the next couple of weeks, your municipality will receive your 2019 PACIF renewal coverage and related documents. You are encouraged to review these and contact our underwriting team if you have any questions. In 2019 and beyond, we will continue to work hard to earn your trust and provide you with the coverage and service that you deserve. We would be happy to attend a meeting of your municipality's governing board to educate board members, answer questions, or more fully explain the substantial benefits of being a PACIF member. As always, we work for you - our member-owners - and are available whenever you need us.

Best Regards,

Joe

## **VLCT News March 2019**

### **Executive Director's Message**

It is important to begin this issue of VLCT News by recognizing local officials retiring from their positions and welcoming all the newly elected officials to the vital world of local government. First, we at VLCT want to thank each of you for giving your time, skills, and energy to the critical work undertaken by municipal government all around Vermont. Many of you have served for several years - perhaps decades - and the state and your communities are better for it. We salute you and wish you well as you pursue other interests, or simply take a little time "off."

To our newly elected colleagues, I look forward to meeting you in person over the coming months and sharing with you the numerous ways that VLCT is committed to working with you. Our monthly publication, VLCT News, is but one of the many resources in which we share important news and information with our members. In this issue, for example, you will find a comprehensive article from our Municipal Assistance Center detailing the post-town meeting process, as well as guidance about what to do should a town's Australian ballot budget be rejected by the voters. We work hard every month to deliver useful information in a timely and easy-to-understand manner. As you look through this issue and visit us online to read past issues ([www.vlct.org/newsletters](http://www.vlct.org/newsletters) [18]), I encourage you to let me know if there

are topics that you would like to see covered in upcoming issues of VLCT News, or if there is an article about what is happening in your city or town that you would like to highlight.

When VLCT hosted the organization's annual Local Government Day on February 14, attendees were given a sticker to wear with the easy to remember tagline "Municipal Government - the Heart of Vermont." It was a little play on words, since Local Government Day was held on Valentine's Day, however it also accurately captures the truth of just how essential local government is to Vermont and places appropriate focus on municipalities being special places to live, to work, and to visit. Whether you are new to municipal government or have been active in your town for years as an elected official or employee, know that your efforts are what keep the heart of Vermont beating strongly.

One topic that is of interest to many VLCT members is economic development, and we are excited to host our annual Economic Development Forum on Wednesday, March 27, at Burke Mountain Resort. Building on the success of last year's event that explored the relationship between economic development and "placemaking," this year's forum will show attendees how to implement creative and sustainable economic development initiatives that drive results. The day will begin with a keynote address from Rebecca Sanborn-Stone, a principal with Community Workshop LLC, who was a popular presenter at last year's forum. In her keynote, Rebecca will discuss the role of civic infrastructure in building strong communities. She has also authored an article in this issue of VLCT News on that subject to give you a glimpse of what she will cover at the forum. Rebecca is an engaging and knowledgeable speaker, and I hope you will come listen to her in Burke on March 27 ([www.vlct.org/econforum](http://www.vlct.org/econforum) [19]).

Thank you all for your past, current, and ongoing dedication to strong, effective municipal government. I wish you continued success and remind you that all of us at VLCT are here whenever you need us. There are many talented individuals with significant municipal expertise who are only a phone call, email, or car ride away from your town or city office, so never hesitate to reach out to us.

Warm regards,

Maura Carroll  
Executive Director, VLCT

## Australian Ballot Budget Rejection

### **What happens if the town's Australian ballot budget is rejected by the voters?**

If the town's budget is rejected by the voters, then 17 V.S.A. § 2680(c)(2) is triggered, which describes the required process to adopt a subsequent budget. This law requires the selectboard to warn a special town meeting, prepare a revised budget, and set a date for the town to vote on the revised budget.

To warn a special town meeting, the selectboard must post the warning and notice in at least two public places in town and in the clerk's office, not fewer than 30 nor more than 40 days before the meeting. 17 V.S.A. § 2641. The warning must also be published in a newspaper of general circulation in the town at least five days before the meeting.

In addition, the selectboard must hold another public informational meeting on the revised budget, which

must be noticed at least five days in advance. The selectboard should give notice of the additional public informational meeting by posting warnings in at least two public places in town and in the clerk's office.

The date of the vote on the revised budget must be at least seven days following the notice of the public informational meeting. The vote on the revised budget must be by Australian ballot and must occur at the same location that the first vote was taken; however, if that polling place is unavailable, the vote may be held at a different location, so long as notice of the new meeting location is also posted at the original location. The revised budget is adopted by a majority vote.

If the revised budget again is voted down, the town must repeat the above procedure until a budget is adopted.

Carl Andeer, Staff Attorney II  
VLCT Municipal Assistance Center

## Civic Infrastructure

Most Vermont towns spend millions of dollars and many dozens of hours each year maintaining infrastructure, planning for it, and probably arguing about it. We all know that roads and bridges, cell towers, and fiber-optic lines are essential for thriving local economies and quality of life. If your town is thinking long term, you're likely also looking at green infrastructure. Healthy natural systems can absorb and filter stormwater, minimize heat impacts, and protect drinking water – all saving money, protecting property, and meeting community needs.

But very few communities anywhere in the U.S. are strategically planning for or investing in civic infrastructure. Every single town should be.

Built infrastructure is the physical structures and systems that allow a community to function. Civic infrastructure is the culture and systems that allow people to connect, work together, get information, solve problems, and create a thriving community. Civic infrastructure supports many of the things Vermonters value most: engaged and connected communities, local democracy, independence, and resourcefulness. It's also the key factor in whether we can function together as towns, make decisions, respond to disasters or challenges, and take advantage of opportunities.

What does it look like when civic infrastructure is strong? Vermont is a great place to take a peek, and here are some examples of towns that are doing it well:

- Middlesex distributes an "Operators' Manual" to the community. This invaluable guide has information for all residents on how the community works, where to find information and help, and how to participate and get involved.
- Windham County and the Upper Valley have strong COADs – Community Organizations Active in Disaster. COADs are teams of local organizations (like hospitals, fire and rescue groups, churches, shelters, and social service providers). They meet regularly and build relationships, so they are ready to mobilize and work together the instant disaster strikes.
- Morrisville keeps finding creative new ways to enliven its downtown and public spaces. Each year, it invites local artists to paint Adirondack chairs, which are placed around town to offer outdoor

seating in the summer and auctioned off as a fundraiser in the fall. This year, high school students just finished banners and stories about diverse local leaders, which help people get to know one another and celebrate leadership while adding color and vibrancy to the downtown streetscape.

- In my town, Bethel, we're in the midst of our sixth season of Bethel University – a community pop-up university. During March of each year, anyone can teach a class on any topic under the sun, and everyone can take classes for free. In addition to courses on bread baking and knitting, "BU" has become a platform for local groups and committees to reach new volunteers and educate the community on everything from wilderness medicine to invasive species removal.
- In many Vermont towns, Front Porch Forum has taken dialogue and communication to a whole new level. With dozens of daily messages, it creates a way for people to connect with neighbors, instantly get and share information, and practice civil discussion. (Yes, practice is the operative word.)
- These examples highlight some of the ingredients in strong civic infrastructure: gathering places, information channels, relationships and connections. It's far more important and less common to take a holistic look, but Randolph, Braintree, and Brookfield have been doing just that. A group spent the last year taking inventory of what's available and what's needed in terms of community meeting spaces, activities, and opportunities for social connection, and identifying recommendations to strengthen those areas. The emerging needs may seem like a lower priority than potholes (or at least draw fewer angry phone calls). But investments in civic infrastructure will pay off in more volunteers and fewer expectations on government, more collaboration and less overlap, more support for local businesses and fewer Main Street vacancies, and more civic participation and fewer civic battles.

There is no single recipe for building stronger civic infrastructure. There are a dozen other ingredients and ways of combining them. It's up to your town to find creative ways to mix and match, stir and sauté. Start with small, inexpensive projects: invite your neighbors to join Front Porch Forum and plop a chair or two on a street corner. And start together: invite a new neighbor for coffee and civil dialogue. Better yet, invite a whole group to take a look at where civic infrastructure is strong in your community and where it needs to be stronger. If you'd like to learn more about ingredients and examples of civic infrastructure, next month's Economic Development Forum at Burke Mountain (see details on page 14) will be a great place to start. It's up to you to get cooking.

Rebecca Sanborn Stone, Principal  
Community Workshop LLC

*Community Workshop is a Vermont consulting firm that offers creative engagement, planning, placemaking, and effective communications to towns, cities, and non-profit organizations across North America.*

## **Post Town Meeting - What's Next?**

### **2019 Post-Town Meeting Process**

The gavel has come down and the polls are closed, but the work necessary to ensure a truly successful

town meeting is just beginning. This article will help you navigate the numerous post-town meeting legal requirements found in Vermont statutes.

### **The Official Record**

Under state law, the town clerk must record “all proceedings of all town meetings.” There is no requirement that the clerk create a full transcript of the meeting, but the record should at least include the following information: all articles introduced, the substance of any motions made, the identity of the motion-makers and of those who spoke in regard to the articles and motions, and the results of all votes taken. Once it is created, the record must be approved by any two of the following officials who were present at the meeting: moderator, selectpersons, and justices of the peace. The clerk must request approval of the record from these officials within seven days after the meeting and the request must be given prompt consideration. 24 V.S.A. § 1152.

### **Certifying Elections**

State law mandates that the town clerk report the election of certain officials. Certificates of election can be found on the Elections Division page of the Office of the Secretary of State’s website, [www.sec.state.vt.us/elections/town-clerks-election-workers.aspx](http://www.sec.state.vt.us/elections/town-clerks-election-workers.aspx) [20]. Here are some of the elected positions to be certified:

- **Town Clerk:** File a certificate of election or appointment and a copy of the official oath with the county clerk within six days of the election or appointment. This certificate must be signed (1) by the moderator if the clerk is elected from the floor; (2) by the chair of the board of civil authority if the clerk is elected by Australian ballot; or (3) by the selectboard if the clerk is appointed. 24 V.S.A. § 1151. The clerk must also supply each library in town with two copies of the town report and one copy to the Vermont State Archives and Records Administration. 24 V.S.A. § 1173.
- **Treasurer:** Report the name of the town treasurer to the state treasurer on or before July 1st of every year. 24 V.S.A. § 1166.
- **Selectpersons:** File with the secretary of state a list of the names and addresses of selectpersons elected and notify the secretary of state of any changes in the list as filed. 17 V.S.A. § 2665.
- **Lister:** Names, post office addresses, and lengths of term of office of each lister must be reported electronically to the director of the Division of Property Valuation and Review after each annual meeting and when a lister is appointed to fill a vacancy. 24 V.S.A. § 1168.
- **First Constable:** Certify the name and post office address of the person elected to the county clerk. 24 V.S.A. § 1169.
- **Justice of the Peace:** Send or deliver to each candidate that is elected a certificate (on a form provided by the secretary of state) signed by the town clerk and one other election official. The town clerk shall also file with the secretary of state a list of the names and addresses of justices of the peace and notify the secretary of any changes in the list as filed. 17 V.S.A. § 2592(i).

### **Announcing and Reporting Votes**

The clerk’s post-town meeting responsibilities also include reporting certain actions taken by the voters at town meeting. When a town votes to raise a tax, borrow money, or make any appropriation, the town clerk must certify such vote within five days to the town treasurer and selectboard chair. 24 V.S.A. § 1167. If the townspeople voted to amend their town charter, the clerk must, under direction of the selectboard, announce and post the results of the vote immediately after it is counted. Within ten days, the clerk must certify facts of the origin and procedure followed for each amendment adopted, if any, to the secretary of state and certify the result before any subsequent action on the amendment by the Vermont Legislature. 17 V.S.A. §§ 2645(b), 2663.

Towns that conduct elections by Australian ballot have different reporting requirements depending on how votes are tabulated. In towns that count by hand, the presiding officer must publicly announce the results when each summary sheet is completed. For those that use vote tabulating machines, the presiding officer may publicly announce the results from the tabulator tape and post them as “unofficial incomplete results” in the polling place. The town clerk must report, as soon as practicable on the day of the election, the unofficial vote counts of all candidates whose names appeared on the ballot to the secretary of state electronically via the secretary’s online elections reporting system or, if unable to submit electronically, via telephone, facsimile, or email. Within 48 hours of the close of the polls, the clerk must deliver one certified copy of the election return to the secretary of state, the senatorial district clerk, the county clerk, and the representative district clerk. 17 V.S.A. § 2588.

### **Appointing Assistants**

After his or her election, the town clerk must appoint at least one assistant (24 V.S.A. § 1170) who must be sworn into office (24 V.S.A. § 1171). A record of the assistant clerk’s appointment must be certified by the clerk and a copy of the assistant’s oath must be deposited with the county clerk. 24 V.S.A. § 1172. The treasurer may, but does not have to, appoint an assistant. 24 V.S.A. § 1573. If the treasurer fails to appoint an assistant within ten days of a selectboard’s written request to do so, the selectboard may appoint one for him or her. Appointments for both offices must be recorded in the town clerk’s office.

### **Administering Oaths of Office**

A handful of town officers must be sworn into office before they may carry out any of their duties. Among them are the clerks and their assistants (24 V.S.A. §§ 831 and 1171); justices of the peace (4 V.S.A. § 491); selectpersons, constables, listers, and fence viewers (24 V.S.A. § 831); village clerks, treasurers, and collectors of taxes (24 V.S.A. § 1306); assistant election officials (17 V.S.A. § 2454(a)); and members of the board of civil authority (32 V.S.A. § 4405). State law prescribes different oaths for different town officers. The town clerk may administer oaths of office whenever they are required and must keep a record of all oaths taken. 24 V.S.A. § 1160. The clerk’s oath may be administered by a justice of the peace; notary public; supreme, superior, or assistant court judge; presiding officer, secretary, or clerk of either chamber of the Vermont General Assembly; or by the governor. 12 V.S.A. § 5852. A listing of the different oaths of office is posted on the Elections Division page of the Office of the Secretary of State’s website, [www.sec.state.vt.us/elections/town-clerks-election-workers.aspx](http://www.sec.state.vt.us/elections/town-clerks-election-workers.aspx) [20].

### **Settling Accounts**

When a new treasurer is elected, his or her predecessor must immediately pay over to his or her successor all funds belonging to the town and town school district and deliver all official books and papers in his or her possession. 24 V.S.A. § 1578. Similarly, if there is a change regarding the collection of taxes, the predecessor collector must give the treasurer all uncollected tax bills and all moneys collected thereon. These bills must be audited and reissued to the new collector, who must in turn provide a receipt for them. 32 V.S.A. § 4671.

### **Bonding Requirements**

Certain officers and employees must provide a bond conditioned on the faithful performance of their duties. These include constables, road commissioners, collectors of taxes, treasurers, clerks, assistant treasurers when appointed by the selectboard, and any other officer or employee of the town authorized to receive or disburse town funds. 24 V.S.A. § 832. The purpose of the bonding requirement is to protect the municipality financially from the possible wrongdoing, misappropriation, or honest mistake committed by its officers or employees. Bond amounts are set by the selectboard and paid for by the town. 24 V.S.A. § 835. Such bonding is customarily done through the town’s insurance carrier or a

specialty surety company. (VLCT PACIF provides coverage to its member municipalities that meets the statutory requirement for bonding but is technically not a bond. Certain acts committed by elected and appointed officials and employees are covered by the PACIF program as stated in the coverage document. PACIF will facilitate the procurement of additional coverage.) On approval, the selectboard must file all bonds with the town clerk who must record them in a separate book kept for that purpose. 24 V.S.A. § 833.

### **Organizational Meetings**

After its election, the selectboard must hold an organizational meeting at which it must elect a chair and, if it so votes, a selectboard clerk. 24 V.S.A. § 871. Certificates of election for these positions must be recorded with the town clerk. The first organizational meeting of the selectboard is a good time to establish the board's regular meeting schedule and adopt rules of procedure (available on the Resource page of our website, vlct.org). The selectboard may also want to use this meeting to designate physical locations in the town for posting meeting notices, choose the town's newspaper of record for public notices, and authorize a designated selectboard member to sign orders on behalf of the town. The selectboard must also appoint a legally-qualified voter to serve as the tree warden and may - though it is no longer required to - appoint three fence viewers, a poundkeeper (residency not required), a town service officer, a grand juror, and one or more inspectors of lumber, shingles, and wood, and weighers of coal. These appointments, if made, must be recorded by the town clerk. 24 V.S.A. § 871.

### **Validating Errors or Actions**

If there was a mistake in the way the town meeting was warned or noticed, there will need to be a subsequent town meeting to "validate" the action taken at the first meeting. Seventeen V.S.A. § 2662 allows voters to "correct and legalize" an omission or noncompliance with notice and warning requirements for a town meeting so long as the meeting and the business conducted at that meeting was otherwise legal and within the scope of the town's authority. Validation takes place when the town holds a properly warned subsequent special or annual town meeting and votes to "readopt, ratify and confirm" the action taken at the first meeting. 17 V.S.A. § 2662. The town need not vote anew on each article of the prior meeting, but merely pose one question in substantially the following form: "Shall the action taken at the meeting of this town [or city, village or district] held on [state date] in spite of the fact that [state the error or omission], and any act or action of the municipal officers or agents pursuant thereto be readopted, ratified and confirmed?" 17 V.S.A. § 2662.

Validation may also be used to correct and legalize procedural errors or omissions in the conduct of the town meeting itself. In this type of situation, it is the selectboard that must act to validate the previous town meeting. Seventeen V.S.A. § 2662 allows a selectboard, at a properly warned selectboard meeting, to pass a resolution by a two-thirds vote stating that the procedural error or omission that occurred at the town meeting was "the result of oversight, inadvertence or mistake." Once this resolution is passed, and assuming that the town otherwise had the power to act, the actions taken at the prior town meeting are deemed valid.

For more helpful Town Meeting Day resources, including this article as a Post Town Meeting Process Info Sheet, visit [www.vlct.org/municipal-assistance/municipal-topics/town-meeting](http://www.vlct.org/municipal-assistance/municipal-topics/town-meeting). [21]

Susan Senning, Staff Attorney I  
VLCT Municipal Assistance Center

# Trust Matters

## UI Program Works with Equifax

To those groups in VERB's Unemployment Insurance (UI) program, we ask you to remember that Equifax is our partner for UI claim administration, and Kelly Storm is the person we rely on to interact with the Vermont Department of Labor to shepherd these claims through the state system. If your office gets a request from her – most likely via [kelly.storm@equifax.com](mailto:kelly.storm@equifax.com) [22] – seeking a former employee's separation information, we urge you to fulfill her request in a timely manner. It is critical that Kelly receive the information as quickly as possible, in part so you can avoid a costly state penalty, and in some cases to allow her to protest the claim on behalf of the municipality or VERB. Your timely responses to these legitimate requests help keep the pool strong by allowing us to serve all VERB Trust UI groups well.

If you have any questions about information requests from Equifax or VERB's UI Program in general, please call VLCT's own Kelley Avery at 800-649-7915, ext. 1965.

## How Can Health Advocate Help?

West® Health Advocate, the nation's leading independent healthcare advocacy and assistance hotline service, is available to employees of all groups that are in a VERB program at no additional cost to the group or the employee. Health Advocate tackles issues that would otherwise distract your employees during normal work hours. Health Advocate's professionals help callers navigate frustrating health care issues, particularly with claims and coverage. They are well versed in Medicare issues and coverage options, which can be extremely confusing to employees approaching Medicare eligibility.

Any employee – or the employee's spouse, dependent children, parents, and parents-in-law – can call 866-695-8622 toll-free any time for services such as:

- insurance claims mediation
- assistance with correcting billing errors
- answers to questions regarding medical terms, tests, medications, and treatments
- explanation of coverage and plan details, including Medicare
- assistance with eldercare issues
- help with serious or chronic conditions
- locating doctors and hospitals
- researching treatments for a medical condition
- securing second opinions
- scheduling appointments with hard-to-reach specialists

Learn more at [vlct.org/rms/verb/health-advocate](http://vlct.org/rms/verb/health-advocate). If you have further questions, or to request brochures or sign up for services, please contact Kelley Avery or Larry Smith at VLCT at 800-649-7915.

# Municipality Triviality - March 2019

Score another one for Google-free minutiae as no one knew the name of the composer who, on March 6, 1969, was honored by the Vermont Legislature with a resolution that noted “the stupendous dissonance” of one of his tunes – though two astute trivialogists nominated me. Hmm. I’ll take that as a compliment. No, the honoree was Carl Ruggles, late of Bennington, whose stupendously dissonant “Sun Treader” can still be enjoyed on YouTube. Enjoyed. Yes. That’s the word.

All righty, then: Who, when, where, why, and how was the first official execution in Vermont? Email your answers to [dgunn@vlct.org](mailto:dgunn@vlct.org) [4]. My answers, all of ‘em, will appear in the ably apostrophed April issue.

## Water Infrastructure Sponsorship Program

*Vermont’s Clean Water State Revolving Fund (CWSRF) is a federal-state program that provides communities with a permanent and independent source of low-cost financing for a wide range of water quality infrastructure projects. This is the third in a series of VLCT News articles tracing the evolution of the CWSRF, an outcome of Act 185, which became law last May. In January, we wrote about how the program has expanded to include private entities. Last month, we wrote about the program’s new flexibility to fund a broad range of projects with clean water benefits. This month, we explore the Water Infrastructure Sponsorship Program, which can provide financial resources for natural resource projects sponsored by municipalities.*

The Water Infrastructure Sponsorship Program, more familiarly known as WISPr, encourages pairing a municipal water pollution control project, such as a wastewater treatment facility upgrade or green stormwater infrastructure, with a natural resource project, such as a floodplain restoration or dam removal. Under WISPr, the same loan funds both the municipal project and the natural resource project. The cost of the natural resource project can be no more than 10 percent, or a 1:10 ratio of the cost of the sponsoring municipal project. A reduced administrative fee over the life of the loan will cover the total value of the sponsored natural resource project.

For example, a town could take out a \$1 million loan for a pipe replacement project and sponsor a conservation easement for \$100,000. The total cost of the projects would be \$1.1 million. Instead of paying back a loan at 2 percent interest per year for 20 years, the municipality would pay it back at 1 percent over 20 years. In other words, the municipality would still spend a total of \$1.1 million, but it would save \$100,000 worth of administrative fees over the life of the loan. This means that the sponsored natural resource project is, in practical terms, “free.” A municipality’s annual debt service payment would be the same for a \$1 million standard project (one without a sponsored natural resource project) as it would be for a \$1.1 million WISPr project.

WISPr is designed to provide a funding source for restoration and conservation projects that otherwise wouldn’t be pursued because of the hefty price tag. The CWSRF has traditionally focused on funding wastewater treatment facilities which account for a relatively small percentage of pollution in our surface

waters. The program is only available to municipalities and nonprofit organizations. The municipality provides the sponsorship funding mechanism and the municipality or nonprofit is responsible for the long-term control and maintenance of the natural resource project.

Act 185 is silent on whether there needs to be a geographic or watershed connection between the sponsoring municipal project and the natural resource project. Therefore, the natural resource project can be in different watersheds or parts of the state. The program leaves it up to the municipality to decide which natural resource projects to sponsor. The Vermont Department of Environmental Conservation maintains a “Match-ready List” (that is, natural resource projects ready for matching) as well a “Hopper List” (or natural resource projects still in the planning stage). As of this writing, these lists are a little spare, but as WISPr catches on, we expect that to change.

More on WISPr is posted at [dec.vermont.gov/facilities-engineering/water-financing/cwsrf/WISPr](http://dec.vermont.gov/facilities-engineering/water-financing/cwsrf/WISPr). Questions? Please contact WISPr Project Lead Ashley Lucht at 802-585-4904 or [anr.wispr@vermont.gov](mailto:anr.wispr@vermont.gov) [23].

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## Links

- [1] <mailto:mcarroll@vlct.org>
- [2] <mailto:info@vlct.org>
- [3] <mailto:marcher@vlct.org>
- [4] <mailto:dgunn@vlct.org>
- [5] <https://www.vlct.org/resource/vision-insurance-partner-resources>
- [6] <mailto:lsmith@vlct.org>
- [7] <mailto:kavery@vlct.org>
- [8] <https://www.vlct.org/rms/verb/health-advocate>
- [9] <https://www.vlct.org/loss-control-programs/pacif-grants-and-scholarships>
- [10] <http://bgs.vermont.gov/purchasing-contracting/contract-info/current%23Highway%20Materials%20and%20Equipment>
- [11] <mailto:adavis@vlct.org>
- [12] <https://extension.umn.edu/protecting-home-rain-and-ice/dealing-and-preventing-ice-dams>
- [13] <mailto:losscontrol@vlct.org>
- [14] [https://www.epa.gov/sites/production/files/2016-07/documents/overview\\_of\\_cwsrf\\_eligibilities\\_may\\_2016.pdf](https://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf)
- [15] <https://www.vlct.org/training-events>
- [16] <http://www.allearthrail.com/>
- [17] <http://www.vlct.org/rms/verb/unemployment-insurance>
- [18] <http://www.vlct.org/newsletters>
- [19] <http://www.vlct.org/econforum>
- [20] <http://www.sec.state.vt.us/elections/town-clerks-election-workers.aspx>
- [21] <http://www.vlct.org/municipal-assistance/municipal-topics/town-meeting>
- [22] <mailto:kelly.storm@equifax.com>
- [23] <mailto:anr.wispr@vermont.gov>