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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 [1].

If you have any questions, please contact VLCT Water Resources Coordinator Milly Archer at marcher@vlct.org [2] 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> ^[3]

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 [4] 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/ [5]), 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 [6]. 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 [7]. 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 [8].

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 [8] 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

Links

[1] https://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf

[2] <mailto:marcher@vlct.org>

[3] <https://www.vlct.org/training-events>

[4] <mailto:info@vlct.org>

[5] <http://www.allearthrail.com/>

[6] <mailto:dgunn@vlct.org>

[7] <http://www.vlct.org/rms/verb/unemployment-insurance>

[8] <mailto:kavery@vlct.org>