Local Government Day

Despite the threatening weather, dozens of intrepid local officials trekked to the State House on Thursday, Local Government Day, to discuss with their legislators some of the issues of the 2020 session that will affect their capacity to govern effectively.

This year’s event was co-sponsored by the Green Mountain Water and Environment Association, the Vermont Municipal Clerks’ and Treasurers’ Association, and the Vermont Assessors and Listers Association. Representatives from the U.S. Census Bureau were present to impress upon local officials the importance of a complete count for cities and towns in Vermont in 2020.

At the morning presentation, Jared Duval, Executive Director of the Energy Action Network, discussed Vermont’s current energy profile and what it will take to achieve the state goal of 90 percent renewable energy by 2050. He also refuted some of the misconceptions about the cost to local governments and individuals as we make that transition from a fossil fuel-based economy to one based on efficiency and renewables. Much of his information replicated earlier testimony (see resource on page 2) before the House Energy and Technology Committee.

Later in the morning, several local officials spoke before a meeting of the House Energy and Technology Committee: Miro Weinberger, Mayor of Burlington and VLCT President, described his city’s move toward a net zero energy community; Jeremy Hanson, Berlin selectperson and CV Fiber Executive Committee Chair, described the progress of CV Fiber in moving toward deployment of high-speed internet to 18 central Vermont towns; and Colchester Town Manager and PACIF Board member Aaron Frank discussed cyber security issues at the local and state level and how they can best interface with each other.

At lunch, VLCT Executive Director Maura Carroll paid tribute (see page 6) to some recent successes that municipalities have had to grow their economies and spark innovation in their towns. And Mayor Weinberg urged members to contact legislators in support of tax increment financing; H.286, a bill that takes an incentive-based approach to spurring housing development, self-governance legislation; and the two percent local option sales tax authority for retail cannabis establishments.
In the afternoon, the House and Senate Government Operations committees met in the Senate Chamber. Of major importance to local officials was the move in the Ways and Means Committee to eliminate the two percent local option sales tax for municipalities that might host retail cannabis enterprises, and passage of S.106, the local self-governance pilot program bill that has been bottled up in House Government Operations since last April. You may recall that the Senate passed both that bill as well as a two percent local option sales tax for cannabis and during the 2019 session.

Local officials were unanimous in their position that local voters and their government should be allowed to govern themselves on issues that affect only their community. Likewise, VLCT and our members fail to understand why the legislature would prohibit a municipality hosting a retail cannabis establishment from assessing a local option tax on that business in order to address the many issues that come with that business.

Discussions in the Government Operations committees also included the crisis of insufficient emergency medical services in our rural areas and the potential for regionalization of law enforcement services. Several bills that address those issues are currently in both committees.

Local officials made their presence felt under the golden dome yesterday. The next important legislative date is March 13, Crossover, when bills – other than money bills – need to be out of committee. As the 2020 session moves toward this halfway mark and the Town Meeting Day recess, it is more important than ever for local officials to stay in touch with your legislators. Continue to reinforce the importance of their working with municipalities to address common problems such as affordable housing development, the recreational cannabis marketplace, water quality, climate adaptation, and transportation needs. Local governments have long been innovators and do not shy away from tackling difficult problems unique to their communities. When municipal officials are given authority over local affairs commensurate with their responsibility, they can devise solutions to difficult problems that tend to evade state legislatures.

Resource
• Where We Stand Now and What It Will Take to Get Where We Want to Go

Local Transportation Issues

In what has become an annual tradition, the Senate and House Transportation committees held a joint hearing during Local Government Day to hear first-hand from local officials regarding transportation issues they are experiencing.

All told, the committee heard from selectboard members, town managers and administrators, public works directors, a town clerk, and a mayor. Several officials discussed the continued pressures on local budgets as funding to towns and cities remains anemic. These pressures mount every year as projects and general maintenance costs increase, as clean water mandates for transportation infrastructure take effect, and as the frequency of harsh weather events increase, damaging local roads, culverts, bridges, and other transportation infrastructure. Officials expressed frustration with the timing of funding going to projects, explain that projects cannot be done properly because money must be spent promptly, otherwise the funds may be forfeited. Therefore, projects such as paving typically take place immediately to use those available dollars, while other important infrastructure projects like utility upgrades underneath roads are left untouched. Years later, those paving projects are torn up as funding for under-road infrastructure eventually comes are made available. It’s a system that is frustrating and wastes taxpayer’s money.

Public works officials discussed the centralized overweight permitting system, proposed in the Senate’s miscellaneous Department of Motor Vehicles committee bill, and the Agency of Transportation’s (VTrans) use of master license agreements. While one public works director expressed his overall support for a centralized permitting system for overweight vehicles on state and local roads, he was very clear that the devil will be in the
details. Municipalities need to retain the right to adjust weight limits on local roads as their conditions change and remain mindful that aged under-road infrastructure must be regularly monitored to ensure its safety. Additionally, vehicles travelling over local roads must be properly insured so municipalities are protected from liability. Another public works commissioner expressed disappointment over a recent VTrans study of master license agreements, saying it did not adequately address many issues it was supposed to cover. These include whether municipalities can secure sufficient insurance coverage when they enter into these agreements, whether alternatives can be used, and the content of past and current master license agreements between municipalities and the agency. VLCT’s concerns were included as an appendix to the report.

It was not all negative feedback, however. Numerous local officials thanked the committees and VTrans for their excellent work in teaming up with municipalities on many issues. Local officials along the Lamoille Valley Rail Trail expressed support for the continued funding and investment to complete the trail, as it will continue to be a huge economic driver in those communities. Municipal officials likewise praised the support they receive from VTrans maintenance districts personnel, and the technical assistance they receive to support engineering, safety, and maintenance work at the local level. Municipal officials, particularly those in smaller or more rural communities, depend greatly on the work done by Vermont’s Local Technical Assistance Program (LTAP). This program, though modest, is instrumental in helping municipal highway departments and local governments improve roads by providing training and technical assistance. VLCT joins them in thanking VTrans for the excellent work LTAP does for all of our communities.

As usual, we appreciate the time that the committees gave to local officials throughout Local Government Day, and we hope committee members will remember the thoughtful information our members provided that gave them a better understanding of needs at the local level.

Vermont’s Historic Land Use Law Moves On

On Thursday, after nearly two years of work, the House Committee on Natural Resources, Fish, and Wildlife voted 6-3 to refer its bill (H.926) to the House Ways and Means Committee. The bill proposes to “modernize” Act 250 with across-the-board changes to basic constructs that have been in place since the law was passed in 1970. The revisions would amend the public interests that guide where and how development should occur.

Last year, the bill stalled in House Natural Resources, which provoked the Vermont Natural Resource Council, a statewide environmental group, and officials from the Agency of Natural Resources to draft a compromise that originally called for the elimination of regionally based district commissions. The committee ultimately decided to amend the Act 250 permit process by giving a five-member professional Natural Resource Board the sole power to issue major permits. The board would consist of three new full-time commissioners plus two commissioners from the affected region of the proposed project. Local district commissions comprising citizens named by the governor would still preside over minor Act 250 permits that are typically less controversial. The committee bill increases protections to forest blocks and connecting habitat, makes projects above 2,000 feet subject to Act 250 review, and adds criteria related to climate adaptation and environmental justice. The bill would also exempt designated downtowns and neighborhood areas from Act 250 review, a provision supported by VLCT. Needless to say, proposed changes to the 50-year old law represent compromises that won’t please everyone. (See testimony below for VLCT’s specific concerns and concurrences with the proposal.) Now that there is a bill voted out of committee, all interested parties will evaluate whether the legislation meets their needs.

The bill will be reviewed by at least two other house committees before heading to the Senate. In anticipation, this week the Senate Natural Resources and Energy Committee reviewed the history of Vermont land use planning starting in 2010 and ending with an overview of how things work right now, before any changes are adopted. Peg Elmer Hough, a retired planner, and Peter Gregory, Executive Director of the Two Rivers–Ottawaquechee Regional Commission, presented their perspectives on land use planning and citizen participation in the framework of Act 250. Diane Snelling and Greg Boulbol from the Natural Resource Board testified on Act 250’s jurisdiction, criteria,
and review process. Evaluating the changes proposed in the House committee bill in the context of this summary will make for an interesting exercise that the committees which subsequently mark up this bill will need to take into account. VLCT will closely monitor any changes to Act 250 as they occur and how they may affect local government.

References:
• VLCT testimony on Act 250, January 29, 2020
• VLCT testimony on downtown issues, February 13, 2020
• Current Act 250 Summary, February 13, 2020
• Act 250 bill as passed out of House Natural Resources, February 13, 2020

Cannabis and the Local Option Tax

Last week, the House Ways and Means Committee took up S.54, the retail cannabis bill, and voted to delete the two percent local option sales tax that a municipality could assess on retail cannabis establishments. On Wednesday, the committee adopted language that would enable the new State Cannabis Board to collect fees and civil penalties – including local fees – and deposit them into a Cannabis Regulation Fund. After deducting costs of administration and collection, the board would pay local fees on a quarterly basis to the municipality in which the fees were collected. By next January, the board would need to recommend fees to the legislature, including local fees to be charged and collected that help defray the costs incurred by municipalities in which cannabis establishments are located.

The model for the cannabis license fee is liquor licensing fees. A first-class liquor license applicant (who may sell malt and vinous beverages for consumption only on the premises where the beverage is sold) pays $115 to the Division of Liquor Control and $115 to the town or city. A second-class retail license applicant (who may sell malt and vinous beverages for consumption off the premises) pays $70 to the division and $70 to the town or city. Therefore, if a town hosted as many as five cannabis enterprises, its total revenue to address the multitude of issues that might arise would be $575. Such a paltry amount will do nothing to help towns take new prevention measures and address regulatory or enforcement issues that unfold on Main Street and not under the golden dome.

Contact your representatives. Tell them it is unacceptable to leave cities and towns that invite retail establishments into town with no funding to address the issues that accompany such businesses. Urge them to support the two percent local option sales tax on retail cannabis establishments.

Ways and Means Committee members who voted to support the amendment are representatives Janet Ancel (Calais), Peter Anthony (Barre City), Scott Beck (St. Johnsbury), Patrick Brennan (Colchester), Cynthia Browning (Arlington), William Canfield (Fair Haven), Johanna Donovan (Burlington), James Masland (Thetford), Robin Scheu (Middlebury), and George Till (Jericho).

Student Weighting Study

For decades, the Agency of Education has assigned statutory weights to different categories of students including economically disadvantaged students (weight of 1.25), English language learners (1.20), pre-kindergarten students (0.46) and secondary level students (1.13). The weights are applied to actual pupils in the education system. The count of “equalized pupils” is determined by applying those calculations to actual pupils and is the basis for education fund payments to school districts once voters approve their school budgets.

In 2018, Act 173 directed the to
• study the current weights for students in the education funding formula for pre-K-12 education;
• make recommendations for new cost factors and weights that may need to be incorporated into the equalized pupil calculation; and
evaluate whether special education grants should be adjusted.

Last month, a minor bombshell was dropped in the State House in the form of the release of that study: the Pupil Weighting Factors Report, submitted by Secretary of Education Daniel M. French.

The study found that the student weights, particularly for economically disadvantaged and English language learners, predate Act 60 and no evidence exists that they were ever empirically derived. As a result, Vermont has for years funded schools based on faulty assumptions about what it costs to deliver equitable education services.

According to the report, students come to school with dissimilar learning needs and socio-economic backgrounds that may require different types of educational supports to achieve common outcomes. As well, schools in different contexts may require different levels of resources to provide equal educational opportunities. The report identified four categories of factors that affect educational costs and are outside the school district control:

- Individual student risk (students may need specific programs or interventions)
- Social context of the schooling such as concentration of poverty
- Scale and sparsity including enrollment size, population sparsity and “rurality” which affects the cost of providing specialized services
- Geographic variation in prices such as employee wages, contracted services, fuel, equipment and supplies.

The study also addressed the system of special education funding and small schools grants.

| Table E.1. Recommended Weights for Vermont’s School Funding Formula |
|-----------------------------|------------------|------------------|------------------|
| **Cost Factor**             | **Measure**      | **Existing Weight** | **New Weight Derived from Models Without Controls for SWDs** | **New Weight Derived from Models With Controls for SWDs** |
| Student Needs               | Poverty Rate (AOE) | 0.25             | 3.14             | 2.97             |
|                             | % of ELLs         | 0.20             | 0.57             | 1.58             |
| Context                     | Enrollment        | <100 Students    | 0.24             | 0.26             |
|                             | 101-250           | 0.12             | 0.12             |
|                             | Population Density| <50 Persons per Square Mile | 0.23 | 0.23 |
|                             | 50 to <55         | 0.17             | 0.17             |
|                             | 55 to <100        | 0.11             | 0.11             |
| Grade Range                 | 6% Middle Grades Enrollment | 1.23             | 1.23             |
|                             | 6% Secondary Grades Enrollment | 1.13             | 1.13             |
|                             | Pre-kindergarten  | 0.46             |                   |

Note: Grade range weights were set to a base value of 1.00. Grade range weights and poverty weights are multiplicative, meaning that the poverty weight is applied to the grade range weighted enrollment. Therefore, the poverty weight has a larger effect in grade ranges with a larger weight. The remaining weights are additive, meaning the effect of the weights does not vary with the strengths of other weights. Enrollment weights apply to school size. Evaluating the existing weight used for PK students was not included in the scope of this study.

The report recommends incorporating new cost factors and weights in Vermont’s education funding formula. Existing weights for economically disadvantage and English language learners fall far short of appropriately adjusting the cost of educating such students to standards. New cost factors for school size and population density could replace the existing small schools grant programs. Refining the secondary school weight to include middle and secondary level adjustments better aligns weights with educational policy and practice. New sources of categorical state aid for student mental health and trauma-based instruction are needed.

This session, no fewer than four bills – H.909, H.910, H.911, and H.912 – have been introduced in the House that would amend weighting factors in the education funding formula. In light of the study’s findings, the Senate Education Committee is also taking up the issue of revising the state’s education funding system and phasing in those changes to address the inevitable shifts amongst school districts in funding to which they would be entitled.
If the report’s recommendations are implemented, the funding that individual school districts receive may change substantially to reflect high versus low needs around the state. Therefore, local officials should expect some robust conversations about how those changes will affect their districts in the future.

Resource
- Pupil Weighting Factors Report, December 24, 2019

**The State of Vermont Municipalities**

VLCT Executive Director Maura Carroll celebrated local government achievements at Local Government Day lunch on Thursday. Portions of her speech are reprinted here.

Municipalities are critical to the health and vibrancy of Vermont, providing a strong foundation for the state, offering unique and dynamic places to reside and establish businesses.

Local government in Vermont predates the establishment of the state constitution in 1777. More than 6000 individuals now serve on selectboards, councils, boards of aldermen, boards of trustees, and in other elected and appointed positions.

Local government has become more complex, so municipalities must and are doing a number of things to address the increasing complexity of local duties. These include hiring municipal administrators and managers. There are currently 98 of these professionals in Vermont, up from 65 in 2010.

Almost 50 communities have created economic development committees or downtown development offices or have hired professional assistance to help grow their communities in a planned and thoughtful way. There are also more energy committees – 130 now – and others focused on climate adaptation issues. Seventy percent of municipalities use some form of IT managed services to enhance cybersecurity, protect against threats, and identify best practices and implement them.

And 23 percent of the people who serve in local government are women, up from 21% in 2015.

Twenty-three Vermont communities have designated downtowns. These communities seek to develop and maintain downtowns as thriving, growing areas of commerce, housing and gathering places. Six communities also have designated neighborhood development areas.

After Tropical Storm Irene, the Bethel Revitalization Initiative created “Bethel University,” a temporary community school that pops up every March. Anyone can teach on any topic, and anyone can take courses for free. Now every year more than a thousand people, from across Vermont and beyond, gather and learn – in public spaces, businesses, and homes throughout town.

Fair Haven, in the process of making its downtown more walkable, transformed an unused thirty-by-forty-foot paved area into a more accessible public space, cordoned the area off with planters, and added benches, tables and umbrellas to encourage socialization. Putney helped revitalize the general store and keep it open after two fires destroyed the business. And Albany and Calais are also working to revive their general stores. We all know what an important gathering place and anchor a general store is.

Wilmington, in collaboration with Dover, has a bi-town housing committee, coming together to create a master housing plan for the region. Kingdom Fiber is working with 22 towns to bring high-speed internet to their communities in northeastern Vermont, and CV Fiber is working with 18 central Vermont towns to provide high-speed internet.
With the help of municipal planning grants, Berlin is preparing a master plan for a new town center at the Berlin Mall. St. Johnsbury and Waterford are evaluating regional opportunities, including the consolidation of fire protection and prevention services. Randolph is assessing regional child-care needs and evaluating whether a municipal property can be redeveloped as a child care center. Building on the success of Kingdom Trails, Burke is creating an economic development plan to identify redevelopment and business opportunities for West Burke Village.

When left to their own devices, and with the proper tools, people working at the local level get things done. They focus on the needs of residents and work in collaboration with other towns that share common interests. Based on what we see, the state of municipalities in Vermont is strong, innovation is a hallmark, and implementation of creative ideas a daily reality.

Yet, municipalities do not accomplish all of these innovations in a vacuum. Many organizations and other government officials work with local officials and residents to make things happen. Much work remains, and we have seen the enthusiasm with which so many of you have approached these programs, projects, and strategies. To continue to be the innovators in Vermont in so many ways, cities and towns throughout the state need authority, simplified regulations, and continued funding and support to proceed – to in fact, lead the way.

### New Bills

<table>
<thead>
<tr>
<th>BILL NUMBER</th>
<th>SUMMARY OF NEW BILLS</th>
<th>CURRENT LOCATION</th>
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<tbody>
<tr>
<td>H.925</td>
<td>Would require the Commissioner of Motor Vehicles to issue and revoke for cause permits for sirens and red or red and white signal lamps to vehicles owned or leased by nonresidents who volunteer as firefighters and rescue squad members in the state in the same way as residents who volunteer as firefighters and rescue squad members.</td>
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<td>House Transportation</td>
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<td>H.926</td>
<td>Would make revisions to the State land use law known as Act 250, including amending the Capability and Development Plan Findings; reorganizing the air and water pollution criteria; amending the transportation, energy conservation, and public investment criteria; and amending the criteria to address ecosystem protection through protecting forest blocks and connecting habitat. Would also increase the program's ability to protect ecosystems on ridgelines by reducing the elevation threshold from 2,500 to 2,000 feet.</td>
<td>House Ways and Means</td>
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