THE OPEN WORLD PROGRAM

Since 1999, the Vermont Council on World Affairs's Open World program has brought more than 17,000 young leaders to the United States from the countries of Eurasia. Through Open World, mayors, legislators, judges, civil servants, educators and entrepreneurs from across the former Soviet Union have come to know the real America. And whether the ideas they take home are practical—such as publishing city council meeting times in the local paper—or more abstract—understanding the importance of judicial impartiality to the rule of law—the net effect is to strengthen the democratic process in their countries.

Open World delegations consist of committed leaders (average age 38) who experience in-depth programming in themes of interest to Congress and of transnational impact, including human-trafficking prevention, government and court transparency, nuclear nonproliferation, and environmental protection. Most Open World hosting programs examine the role that legislative bodies play in these issues and in democracies.

The focus of a group from Kazakhstan last month was accountable governance, with the sub-topic of strengthening local governance. The program explores constituent outreach, public response, anti-corruption and democracy in action. They have met with Mayor

Kazakhstanis meet with Jonathan Williams and Karen Horn of VLCT's Public Policy and Advocacy Department to learn about Vermont local government.

VMERS GROUPS B AND C EMPLOYER CONTRIBUTION RATES TO RISE JULY 1

Municipalities that are members of the Vermont Municipal Employees Retirement System (VMERS) Groups B and C will see their employer contributions rise by one-quarter of one percent of payroll effective July 1, 2013. Group B rates will increase from 5 percent of payroll to 5.25 percent and Group C rates will go from 6.5 percent to 6.75 percent. Group B rates have been unchanged since 1999 when they were lowered from 5.6 percent to 5 percent. Group C rates were increased from 6 percent to 6.5 percent in 2010. The employer rates for Group A (4 percent) and D (9.5 percent) will remain unchanged at least for another year. (See Table 1 on page 14.)

(continued on page 14)
VLCT BOARD SEEKS CANDIDATES FOR VLCT REPRESENTATIVE ON THE DOWNTOWN DEVELOPMENT BOARD

The Vermont League of Cities and Towns Board of Directors is seeking a local government official to serve as its representative on the Vermont Downtown Development Board. The VLCT representative is one of 13 voting members of the board. Municipal planning and development officials are specifically represented on the board from other groups. The board prefers its representative to be a member of a municipal legislative body, mayor, or manager/administrator and also to be from a designated municipality. The current VLCT representative is a municipal manager who wishes to step down from this responsibility after 13 years of service.

The Downtown Development Board is charged with designating downtown development districts, village centers, new town development center districts, growth centers, and Vermont neighborhoods for eligibility for state development incentives and benefits.

A recent meeting agenda can be found at http://accd.vermont.gov/strong_communities/opportunities/revitalization/downtownboardreview.

Municipal officials who want to be considered for the position should email a letter of interest and resume to sjeffrey@vlct.org with “VLCT Downtown Development Board Representative” in the subject line. You may also send it via US Mail to Steven Jeffrey, VLCT, 89 Main Street, Suite 4, Montpelier, VT 05602. The deadline for applications is Friday, January 4, 2013.
The pressure has never been greater for municipalities and public sector entities to reduce their expenditures without sacrificing the services they provide. TD Bank has a long track record of providing solutions to meet your operational needs while making the most of taxpayer dollars.

- Dedicated and experienced local Government Banking team
- Specialized products designed to meet the needs of municipalities and public sector entities
- Premier banking platforms that make managing your accounts easier

Put TD Bank to work for you.
To speak with a Government Banker in your area, call 1-888-751-9000 or visit www.tdbank.com.

TD Bank
America’s Most Convenient Bank®
Our municipality used to have to pay the burial expenses for residents with no assets. Is that still the case?

Municipalities are no longer responsible for the burial of individuals who at the time of their death had no assets to pay for their burial. Under prior law, a municipality shared this responsibility with the state. The state paid for the cost of burial if the person was a veteran, received state or federal assistance, or was an inmate of a state institution and had no assets. A municipality was responsible for arranging and paying for burial of all other residents not covered by the state. This responsibility frequently surprised municipal officials and led to confusion about the process for arranging for burial and what expenses the municipality was required to cover at a very emotional time for a family.

Act 162 of 2012 amended Title 33, Chapter 23, Burial at Public Expense, and removed all municipal responsibility for arranging and paying for burial of those individuals who had no assets to pay for their own burial. 33 V.S.A. § 2301(c). Effective July 1, 2012, the State of Vermont will now pay to bury these individuals. Town officials should direct families to the Department for Children and Families (http://dcf.vermont.gov/) in the Agency of Human Services for more information.

Stephanie Smith, AICP, Senior Associate
VLCT Municipal Assistance Center

Preparing for Town Meeting 2013

Vermont’s 2013 annual town meeting day will be Tuesday, March 5th. Now is the time to get the warning ready. The first day to post the town meeting warning and notice will be Thursday, January 24, 2013; the last day will be Sunday, February 3, 2013.

The warning must be accompanied by a notice that includes information on voter registration, early or absentee voting where applicable, and other appropriate information. 17 V.S.A. § 2642(b). Sample notices are available from the Vermont Secretary of State at http://vermont-elections.org/elections1/townmeetingwarn.html. The warning and notice must be posted in at least two public places in the town and in or near the town clerk’s office. 17 V.S.A. § 2641(a).

The warning (but not the notice) must also be published in the town report or distributed in written form to all town or city postal patrons by Saturday, February 23, 2013. Alternatively, the warning may be published in a newspaper of general circulation in the municipality no later than Thursday, February 28, 2013. 17 V.S.A. § 2641(b).

In drafting the warning, the selectboard should keep these points in mind:

- Do not rely on last year’s warning! Many selectboards have an unfortunate habit of simply copying the warning from last year’s meeting. This often results in the inclusion of unnecessary articles and the repeat of previous errors and mistakes. The warning should be carefully reviewed and updated each year.

(continued on next page)
ASK THE LEAGUE
(continued from previous page)

• Each article should be written to express the intent of the drafters as precisely as possible. Avoid unnecessary words and strive to be clear. If a statute prescribes language for an article, that language must be used. If a statute doesn’t prescribe language, it is often helpful to track the applicable statutory language as closely as possible and make reference to the statute.

• State each article dealing with a public question or money vote in the form of a question that can be answered “yes” or “no.” This is a requirement for public questions voted by Australian ballot and is a good practice for floor voting.

• Do not add comments such as “by petition,” “advisory,” or “nonbinding.” Statute prohibits the warning from including any opinion or comment by any town body or officer or other person on the matter to be voted on. 17 V.S.A. § 2666.

• Consult with the town clerk and moderator as they may have suggestions for the warning that can help the meeting go smoothly. Check with the school district board of directors to make sure that the timing of your meetings has been coordinated.

• Check, double check, and then triple check the warning before it is posted. Each year the Municipal Assistance Center receives questions about how to fix errors in the town meeting warning after it has already been posted. Most of these are minor problems but some have led to significant difficulty. The warning is an important document. Please take the time to review it carefully. Mistakes need not happen.

The voters’ deadline for submission of petitioned articles is Thursday, January 24, 2013. A petition must be signed by at least five percent of the voters of the municipality and filed with the municipal clerk. 17 V.S.A. § 2642(a). Keep in mind that the selectboard can warn petitioned advisory articles but is not legally obligated to do so. This discretion allows the selectboard to balance the efficient transaction of town business with the provision of a local forum for discussing state and national issues. Clift v. City of South Burlington, 2007 VT 3. The selectboard is only legally obligated to warn a petitioned article when the purpose stated in the petition “sets forth a

(continued on page 11)

UPCOMING MUNICIPAL ASSISTANCE CENTER WORKSHOPS

TOWN MEETING TUNE-UP
Thursday, February 28, Capitol Plaza Hotel and Conference Center, Montpelier
A parliamentarian’s paradise, this annual workshop is designed for moderators and selectboard members, both seasoned and new. It focuses on the statutory requirements for town meeting, Robert’s Rules of Order, recent pertinent court cases, and best practices for making it through Town Meeting unscathed.

TREASURERS WORKSHOP I
Tuesday, March 19, Middlebury Inn, Middlebury
Thursday, March 21, Lake Morey Resort, Fairlee
This workshop provides basic guidance for treasurers to perform their jobs on a daily basis. It will include a review of the duties and responsibilities of the treasurer, a discussion of financial policies and internal controls for the finance office, an introduction to basic financial reporting for governments, and suggestions on ways to manage your daily operations, including processing revenues and expenditures, preparing payroll, and managing cash.

TREASURERS WORKSHOP II
Tuesday, April 23, Lake Morey Resort, Fairlee and
Thursday, April 25, Middlebury Inn, Middlebury
This advanced workshop is designed for treasurers and finance officials who wish to move beyond performing basic recordkeeping.

SELECTBOARD INSTITUTE I
Saturday, March 23, Capitol Plaza Hotel and Conference Center, Montpelier
The Selectboard Institute provides Vermont selectboard members with the skills they need to manage the affairs of their town, focusing on the fundamentals of municipal governance and current issues facing selectboards in towns small and large. Topics may include understanding the municipal organization, essentials of municipal law, running effective meetings, managing the town budget, and how to reduce liability risks. The agenda will be available in January.

SELECTBOARD INSTITUTE II
Saturday, April 13, Holiday Inn, Rutland
See description above.

For registration, agendas and other information, please visit www.vlct.org/events/calendar/upcomingevents/, call 800-649-7915, or email info@vlct.org.
In October 2008, doctors Eitan and Vered Sobel bought a residential property in Rutland City with the intention of tearing down the house and developing a medical practice building on the lot. Thereafter they contacted the Rutland City Tax Assessor by telephone and followed up with a series of emails, asking for property tax estimates for various buildings they proposed to construct. Based on representations made by the doctors, the Assessor provided some rough estimates of the appraised value of the proposed buildings and the doctors' potential property tax liability.

The doctors went ahead with construction. The final cost of construction was approximately $700,000. After the building was completed, the Assessor inspected and assessed the plaintiffs' property at $649,100. In June 2010, the Assessor received an email from the doctors stating that they were "surprised to receive your letter of appraisal valuing the building as $649,100" because it was "2½ times more than [the] original estimate."

The Assessor treated this email as a grievance and declined to adjust his appraisal. The doctors appealed the Assessor's denial to the City Board of Civil Authority (BCA), citing their communications with the Assessor as the basis of their disputed valuation. The BCA upheld the $649,100 assessment. On appeal to the Director of Property Valuation and Review, the State Appraiser decided the value of the building was $516,700.

The doctors then brought suit against the City, alleging negligent misrepresentation and equitable estoppel by the Assessor. The doctors complained that they relied to their detriment on the Assessor's email estimate, which was a major factor in their decision on the type and size of the building constructed on the lot. The superior court granted summary judgment for the City, holding that the City was protected against suit by municipal

(continued on next page)
immunity because the Assessor’s estimates arose from the City’s governmental function of assessment and collection of taxes. The court further held that the doctors could not meet the elements of equitable estoppel.

On appeal to the Vermont Supreme Court, the superior court’s decision was affirmed, with the Supreme Court holding that the Assessor’s tax estimates were protected by municipal sovereign immunity. Municipal immunity protects municipalities from tort liability where a municipality exercises powers and functions specifically authorized by the legislature, as well as those functions that may be fairly and necessarily implied or that are incident or subordinate to the express powers. The estimates given by the Assessor were governmental functions reasonably related to his duties and the City’s taxing authority. Even if the Assessor wasn’t under a legal duty to provide estimates to the doctors, it did not reduce it to an unprotected, proprietary activity.

Estoppel is an equitable remedy intended to prevent harm to a party from when it had relied on another’s representation to its detriment. Under their estoppel claim, the doctors were required to establish four elements: (1) the party to be estopped must know the facts; (2) the party being estopped must intend that its conduct be acted upon; (3) the party asserting estoppel must be ignorant of the true facts; and (4) the party asserting the estoppel must rely on the conduct of the party to

PACIF Scholarships for MAC Workshops

PACIF members get a nearly 50 percent discount for on-site workshops presented by VLCT’s Municipal Assistance Center (MAC) on topics related to reducing liability risks. Moreover, as a PACIF member you can be reimbursed for the remaining $415 if you apply for a PACIF group scholarship and make a convincing case for how the training will decrease your municipality’s risk of property and liability claims.

MAC staff members regularly conduct on-site workshops (see the list in the box on this page), and they can also develop a training to meet your municipality’s own risk-related needs. A PACIF scholarship could even be awarded for financial management consulting services such as a fraud risk assessment, helping to develop internal financial controls, or helping to adopt financial policies. Please call 800-649-7915 and speak with Fred Satink in Loss Control Services to see if your need fits the scholarship requirements.

ON-SITE WORKSHOPS
Let the VLCT MAC Staff Travel to You!

Since 2005, VLCT Municipal Assistance Center staff have been conducting customized on-site workshops in municipal offices across the state.

Each workshop costs $825, though VLCT PACIF members are eligible for a reduced rate of $415 for many of the topics listed below (except for land use). PACIF members may also be eligible for a PACIF scholarship, which can cover the cost of the training. Please call PACIF Loss Control at 800-649-7915, or visit www.vlct.org/rms/pacif/pacif-scholarships/ for more information on the program. In addition, MAC can develop custom workshops upon request. To discuss or schedule a workshop, please contact Abigail Friedman or call 800-649-7915.

ON-SITE WORKSHOP PROGRAM OFFERINGS:

- Improving the Relationship Between Independent Officers and the Selectboard
- Roles and Responsibilities of Town Officers
- Conducting Effective Selectboard Meetings
- Conducting Effective Tax Appeal Grievances and Hearings
- A Field Guide to the Open Meeting Law and Executive Session
- How to Write a Good Hearing Decision
- The Role of the Manager and the Role of the Selectboard
- An Orientation to Local Government for New Selectboard Members
- How to Respond to a Public Records Request
- Developing and Managing the Town Budget
- Financial Management, Internal Controls, Fraud Risk Assessment
- Inter-local Agreements
- Municipal Charter Adoption and Amendment
- Many specific topics for local land use boards

6 Market Place, Suite 2
Essex Jct., VT 05452
802.879.7733
www.AEengineers.com
PACIF Scholarship and Grant Programs Renewed

The VLCT Loss Control team is pleased to announce the return of two popular perks of PACIF membership: Scholarships and Equipment Grants. These programs are in their third and fourth years, respectively, of helping municipalities reduce risk and losses by reimbursing pre-approved costs for certain types of training and equipment.

The PACIF Scholarship Program is virtually unchanged from previous years.
- Scholarships can be applied for and received on a rolling basis throughout the year. Apply at least 45 days before the requested training and receive notification within 30 days.
- Individuals can apply for up to $500 per class, with a maximum of two individuals per member per year.
- A municipality can apply for reimbursement of one onsite group training up to $2,500 per year; in all cases, each member is eligible to receive a total of no more than $2,500 for any combination of group and individual awards per calendar year.
- Details and application are posted at www.vlct.org/rms/pacif/pacif-scholarships/.

The PACIF Equipment Grant Program is substantially the same as in the past.
- Members apply for 50-50 matching funds of up to $5,000 per year to buy qualifying equipment.
- Each PACIF member may only submit one application a year, so requests from two or more departments must be combined in one application.
- Applications are accepted in two specific periods every year and considered on their own merit.
- Winners have up to one year to show proof of purchase and receive reimbursing funds.

For 2013, some restrictions have been added to the Equipment Grant program, and the guidelines document has been honed to minimize the risk of submitting an incomplete application. To summarize what’s new:
- All applicants must either have no outstanding (uncompleted) level “A” VLCT Loss Control recommendations from 2011-2013 or submit an application for systems and/or equipment that corrects those outstanding recommendations.
- This year’s list of eligible equipment includes rear-view back-up cameras for vehicles.

PACIF Grants Work!

A portable traffic signal is one thing a PACIF Equipment Grant can be used to pay for.

Bill Bryant, Bristol Town Administrator, said after his town purchased one with a grant: “Safety in the work zone is enhanced, as well as the productivity of the crew.”

These 50/50 matching grants help PACIF members buy big-ticket equipment that is likely to increase safety and thereby reduce claims.

Time to Apply for a Governor’s Safety Award

Applications are now being accepted from qualified employers for The Governor’s Award for Outstanding Workplace Safety. Now in its ninth year, this program recognizes Vermont employers who have demonstrated both a high level of commitment to workplace safety and success in reducing workplace injuries.

“In the past, few municipalities have applied for these awards, although I think some PACIF members were valid candidates,” says Fred Satink, VLCT Loss Control Specialist. “This year, all municipalities that meet the application criteria are strongly encouraged to put themselves in the running for this significant recognition.”

Key application criteria include:
- Workers’ compensation experience modification rate of .9 or less
- No workplace fatalities or catastrophic injuries
- Effective Safety Committee in operation
- Written Safety and Health policy
- Good fleet safety record
- Distracted Driving policy

Applicants will also be required to describe their safety philosophy, management commitment, and safety achievements, including some demonstrable results such as reductions in OSHA 300 reportable injuries or illnesses. Documentation that illustrates employee involvement in safety, injury reduction accomplishments, and adherence to workers’ compensation best practices (e.g., use of a medical gatekeeper or an early Return To Work program) should support the application. Awards are categorized by employer size, so all PACIF members that meet the application criteria have a chance of winning.

At press time, the 2013 application and official announcement from the Vermont Department of Labor have not been released. Members that wish to apply or obtain additional information will find a link to it on the VLCT home page or at www.vlct.org/rms/pacif. You may also contact Fred Satink, fsatink@vlct.org or 802-262-1948, for more information.

PACIF

(continued on page 15)

VLCT Property and Casualty Intermunicipal Fund
Health insurance carriers attribute up to three percent of their 2013 rate increases to unfunded federal and state mandates. Following is a list of these health insurance-related mandates and a brief explanation of each.

**Vermont Autism Mandate.** Covers the treatment of autism for children 18 months to 6 years old (or until entrance to first grade, whichever is first).

**Vermont Early Childhood Developmental Disorder Mandate.** This expansion of the autism mandate covers the treatment of a broad spectrum of early childhood developmental disorders from birth to age 21.

**Vermont Blueprint for Health.** This program began in July of 2008 and has been expanding since then. The charge includes the costs incurred under the current Blueprint for Health program (which are not included in the claims) and the projected future costs for expansion to additional practices.

**Vermont Vaccine Purchasing Program.** In this bulk purchasing program, funded through assessments on insurers (based on their market share), vaccines are supplied at no cost to participating providers. The claims associated with the vaccinations are submitted for a $0.00 or $0.01 charge, and the amount attributable to the group is imputed from their actual vaccination claim history.

**Vermont Information Technology Leaders (VITL).** Established in 2008, this is a 0.199% assessment on all claims and capitations to fund the adoption and networking of electronic health records in Vermont.

**Vermont Health Care Claims Assessment (HCC).** Beginning October 1, 2011, this is a fee per average member during the policy year. For the first year, the fee is $1 PMPY. In the second year of the program, the fee goes up to $2 PMPY. Thereafter, it will increase by the percentage increase in the projected per capita amount of the National Health Expenditures most recently released by the Department of Health and Human Services before the beginning of the fiscal year.

**Federal Women’s Preventive Services Mandate.** This mandate expands the services to be covered with no cost share by the Affordable Care Act to include well-woman visits, screening for gestational diabetes, HPV testing, counseling for STIs and HIV, contraception, lactation support and supplies, and screening and counseling for domestic violence.

**Federal Insurer Fee.** This fee is intended to fund the health exchanges. Beginning January 1, 2014, it will be assessed on the premiums for all insurers. For the first year of the program, a total of $8 billion will be collected. This amount will increase annually to $14.8 billion in 2018 and by an indexed amount thereafter.

**Federal Transitional Reinsurance Fee.** As of January 1, 2014, this per capita rate will be charged on all plans to fund high-cost claimants in non-grandfathered individual plans. A total of $12 billion will be collected by the federal government in 2014, and the federal total will drop to $5 billion in 2016. However, individual states may decide to collect more. The charge will be based on premiums and premium equivalents.

### 2013 RMS Calendar

**Deadlines for PACIF members with fire departments to submit 2012 Firefighter Rosters.** Monday, December 31, 2012, for departments whose personnel are all volunteers (i.e., if they are paid on a per-call, per-training, or stipend basis) or Friday, January 4, 2013, for departments with any personnel who receive regular pay. Return completed rosters or pose questions to Susan Benoit at sbenoit@vlct.org.

**Health Trust Wellness Initiatives Workshops.** 8:00 a.m. to 1:00 p.m. on dates and at locations listed below. Although the deadline to pre-order pedometer materials for pickup at the workshops was in December, attendees may still register online at the VLCT Event Calendar, [www.vlct.org/events-news-blogs/event-calendar/](http://www.vlct.org/events-news-blogs/event-calendar/).

- **Thursday, January 17**
  - Montpelier
  - VLCT Offices

- **Wednesday, January 23**
  - Brattleboro
  - Holiday Inn

- **Thursday, January 24**
  - Rutland
  - Holiday Inn

- **Wednesday, January 30**
  - Colchester
  - Hampton Inn

- **Thursday, January 31**
  - St. Johnsbury
  - Comfort Inn

2013 Vermont Worksite Wellness Conference and Governor’s Wellness Awards. Wednesday, March 27, 2013, 8:00 a.m. to 4:00 p.m., Sheraton Hotel and Conference Center Burlington. The keynote speaker, Dr. Bill Hettler, co-founder of the National Wellness Institute, has defined the wellness concept as it has emerged in the past 30 years. He will discuss the six dimensions of wellness and how they help individuals and organizations strive for optimal health. The conference will also have workshops, exhibitors, and the handing out of the 2013 Governor’s Awards on Worksite Wellness. Sponsored by the Governor’s Council on Physical Fitness and Sports. For more information, visit [http://vermontfitness.org/](http://vermontfitness.org/).
HMGP ROUND 4
(continued from page 1)

Homeland Security (VEMHS) will accept applications from towns on behalf of private businesses that incurred flood damage and other losses. If these businesses were not substantially damaged or are not located in the designated floodway, you’ll need to provide a benefit cost analysis (BCA) documenting at least two to three prior losses.

- Does your town have potential mitigation projects but is challenged by the complexity of the HMGP application process? VEMHS has numerous individuals who can assist with applications, determine eligibility, and conduct BCAs using the approved FEMA format.

- Structures that were knocked off their foundations during flooding events may be eligible for an HMGP grant for acquisition.

- VEMHS is not only looking for buyouts. Flood-damaged structures could also be elevated in place or relocated to more flood resistant areas.

- In some cases, projects involving dry or wet flood-proofing of non-residential structures and residential historic structures are eligible. If you have a potential flood-proofing project under consideration, contact VEMHS and discuss the details of eligibility.

- Other examples of potential projects include stream bank reinforcement (rip rap); culvert upgrades; drainage improvements for flood-prone roadways; flood-proofing of municipal buildings at the town level; mitigation planning that results in a FEMA-approved local mitigation plan; mitigation outreach; and workshops or other educational activities.

- Does your town have a drainage area or section of road that is subject to chronic flooding or erosion? Has this area overtopped or failed multiple times in the past and cost your town or nearby homeowners money? Does your town or region have repetitive loss properties such as elevation, relocation, flood-proofing, or an infrastructure project that would benefit from a buyout? If you’re not sure, ask VEMHS about properties on the FEMA repetitive loss list. Properties subject to repeated flooding but are not on the NFIP repetitive loss list may also be eligible for HMGP funding.

Questions? Email ray.doherty@state.vt.us.

The deadline for the 4th round of HMGP applications is February 1, 2013. Submit your Letter of Intent – including a brief description of your proposal and the total estimated cost – by January 18, 2013, to:

Ray Doherty, State Hazard Mitigation Officer
Vermont Division of Emergency Management and Homeland Security
103 South Main Street
Waterbury, VT 05671

BENEFIT-COST ANALYSIS WORKSHOP

The Division of Emergency Management and Homeland Security will conduct a free comprehensive workshop for benefit-cost analysis (BCA) on January 17 and 18, 2013, at the State Emergency Operations Center (EOC) offices in Waterbury. Training sessions start at 8:30 a.m. on both days. Lunch will be provided. EMHS urges you to attend this BCA training if you intend to submit future mitigation grant applications. The training will be useful for those with limited experience in doing BCAs as well as for those who may need a refresher course.

The goal of the course is to educate participants on the software and information needed to perform a BCA for a potential mitigation project. The course will help participants develop quality Benefit-Cost Ratios (BCRs) to use when developing grant applications under the Unified Hazard Mitigation Assistance (HMA) grants, including the Hazard Mitigation Grant Program (HMGP), Pre-Disaster Mitigation (PDM) and the Flood Mitigation Assistance (FMA) grant programs. EMHS will be using the latest FEMA BCA software, version 4.8, and will concentrate on the BCA flood module considering the preponderance and severity of flooding events throughout Vermont. Laptop computers will be available; alternatively, you may download the software in advance on your personal laptop at www.bchelpline.com. EMHS will provide attendees with a printed copy of the student guide. You may also access additional information at www.fema.gov/government/grant/bca.shtm.

Pre-registration is required. If you plan to attend the workshop, please email your confirmation by January 4, 2013, to Ray Doherty, State Hazard Mitigation Officer, at ray.doherty@state.vt.us.

SHADES OF WINTER:
white snow black ice gray slush

All employees of VLCT PACIF members have FREE 24/7 access to PACIF Online University including this month’s featured course:

WINTER DRIVING SAFETY

Visit www.vlct.org/rms/pacif/pacif-online-university or call Jim Carrien at 800-645-47915 for help getting started.

Train Any Time, Any Place, Any Pace!
clear right which is within the province of the town meeting to grant or refuse through its vote.” Royalton Taxpayers’ Protective Ass’n v. Wasmundorf, 128 Vt. 153 (1960).

Petitioners occasionally make mistakes in drafting warning articles. If a petition is submitted on time, has the minimum number of signatures, and requests an article that the selectboard has no discretion to refuse, we recommend that you accept the petition and work with the petitioners to redraft the article using the correct language. Contact the VLCT Municipal Assistance Center if you have any questions about your obligation to warn a petitioned article.

About a half billion dollars are appropriated by Vermont local governments each year on the basis of the words, “A town shall vote such sums of money as it deems necessary for the interest of its inhabitants and for the prosecution and defense of the common rights.” 17 V.S.A. § 2664. There is no statutory guidance apart from the mandate that a municipality “express in its vote the specific amounts, or the rate on a dollar of the grand list, to be appropriated for laying out and repairing highways and for other necessary town expenses.” Id. As a result, municipal budget articles have become incredibly varied.

On the basis of the categories in 17 V.S.A. § 2664, some towns vote separate general fund and highway budgets. VLCT doesn’t believe two separate budget articles are legally necessary, so long as highway funds are accurately accounted for within the general fund. VLCT recommends this form for the budget article:

| Shall the voters approve total general fund expenditures of $______, of which $______ shall be raised by taxes and $______ by non-tax revenues? |

This is an optional highway fund article for towns that vote separate general and highway fund budgets:

| Shall the voters approve total highway fund expenditures of $______, of which $______ shall be raised by taxes and $______ by non-tax revenues? |

Tough economic times bring closer attention to social service agency appropriations. The authority to vote on these appropriations is found at 24 V.S.A. § 2691. There are two ways for a social service appropriation article to appear on the warning: with a petition submitted in accordance with 17 V.S.A. § 2642 or by the selectboard’s own motion. Some selectboards will not include any social service agency appropriation article that is not supported by a petition. Other selectboards will allow some non-petitioned articles, but not others.

Regardless of your approach, every selectboard should have a written policy to manage social service agency requests. A model social service agency appropriation policy is available at www.vlct.org/assets/Resource/Models/Model_Social_Service_Agency_Appropriation_Policy_07-11.pdf Keep in mind that an agency receiving an appropriation does not have to be physically located in the town, so long as it provides services to town residents. Addison County Community Action Group v. City of Vergennes, 152 Vt. 161 (1989).

Jim Barlow, Senior Staff Attorney
VLCT Municipal Assistance Center

LEGAL AND REG.
(continued from page 7)

be enjoined to its detriment. The Supreme Court found that the doctors did not show that the Assessor intended his estimates to be relied upon or that their reliance on the estimates was reasonable.

The Assessor’s response to the doctors’ initial inquiry explicitly disclaimed the accuracy and finality of his estimates, emphasizing that they were made “without having detailed plans,” and that the estimates were “vague” and “could change.” Since all of the Assessor’s subsequent estimates were given in this context, and since no evidence supported the notion that the Assessor intended for the doctors to rely on the hypothetical valuations, then in the face of the Assessor’s disclaimer the defendants could not prove that their claimed reliance on the Assessor’s estimates was reasonable. Sobel v. City of Rutland, 2012 VT 84.

The Sobel decision is a very favorable one for local government, upheld the doctrine of municipal sovereign immunity and recognizing that municipalities should not be liable when local officials step outside the strict definitions of their legal duties to assist citizens. Often local officials provide assistance and advice to residents — because the assistance sought is reasonably related to the official’s area of responsibility and helping out is the right thing to do. If municipalities were only afforded protection under the sovereign immunity doctrine when officials are acting within the strict letter of their duties, then concern for legal liability would undoubtedly deter some measure of the helpfulness and responsiveness that citizens rightfully expect local government to provide.

Nevertheless, local officials should heed some of the important details in this case. The Rutland City Assessor was very careful to communicate that the assessment estimates he provided to the doctors were just estimates and could change, depending on a variety of circumstances. This effort largely saved the day for the City, as it prevented the doctors from establishing that they had relied on the Assessor’s projected assessment figures to their financial detriment.

Disclaimers and warnings are so ubiquitous that sometimes it seems we don’t even notice them anymore. But disclaimers, both formal and informal, can play an important role in mitigating some of the risk arising from offering a helping hand. Simple qualifying statements such as, “this is only a rough estimate,” “we can’t be certain of the outcome,” and “I am glad to help if I can, but you really ought to speak with your own real estate appraiser (or attorney, engineer, etc.)” can walk the line between providing assistance and avoiding liability if things do not turn out as anticipated. The Sobel decision is archived at http://info.libraries.vermont.gov/supct/current/op2011-436.html.

Jim Barlow, Senior Staff Attorney
VLCT Municipal Assistance Center

COMMUNITY SOLUTIONS

Stormwater Management
Wastewater Collection and Treatment System Design
Water Supply Treatment and Distribution Design
Decentralized Community Wastewater Solutions
Mechanical Engineering
Flood Repairs
Road and Street Upgrading

Best Wishes for the New Year
from the Phelps Team

79 Court Street PO. Box 367
Middlebury, VT 05753
(802) 388-7829
info@phelpsel.com www.phelpsel.com
WHAT DO MORE AND MORE VERMONT MUNICIPALITIES HAVE IN COMMON?

US.

Vermont’s Number One Team for Government Banking.

In Vermont, every municipality is unique. So it takes an experienced banking team to understand and meet the ever-changing financial demands of Vermont’s municipalities. At Merchants Bank, our Vermont-based team has over 50 years of combined experience helping municipalities be successful. Please contact us today and we will show you how local experience and local commitment can benefit your municipality.

CALL OR EMAIL US TODAY.

Jeanie: 802-775-3348, jkelly@mbvt.com
Stacey: 802-773-4627, styler@mbvt.com
Shelley: 802-865-1644, squne@mbvt.com
Anita: 802-865-1641, abourgeois@mbvt.com

Member FDIC
Please visit the VLCT website www.vlct.org/marketplace/classifiedads/ to view more classified ads. You may also submit your ad via an email link on this page of the site.

**VLCT NEWS**

**ADVERTISING POLICY**

The **VLCT News** welcomes classified advertisements from municipal entities, public agencies, businesses and individuals. This service is free for VLCT members (regular, contributing and associate); the non-member rate is $41 per ad.

Classified ads are generally limited to 200 words and run for one issue. These ads are also placed on the VLCT website for up to one month.

The **VLCT News** is published eleven times per year (the August and September issues are combined) and reaches readers during the first week of the month.

The deadline for submitting advertisements is the first Friday of the month prior to the issue date. Space is sometimes available for late additions; please feel free to check with the editor for availability.

For more information on placing classified ads in the **VLCT News**, contact classifieds@vlct.org. For details on display advertising, email vlctnews@vlct.org. Information on ad requirements may also be downloaded at www.vlct.org/events-news-blogs/newsletter-archive/advertising-information/.

**HELP WANTED**

**Administrative Officer.** The Town of Richmond, Vt., is recruiting for a part-time (up to 20 hours per week) Administrative Officer. Duties include issuing zoning permits; answering questions and providing information to the public regarding zoning and land use; investigating complaints and violations; recommending corrective action as necessary to resolve complaints and violations; and acting as the Town’s Administrative Officer as required under Title 24 Chapter 117. May be appointed to serve as the E911 Coordinator. The AO must enjoy working in a small office and assisting the public and Town boards with excellent follow-through and attention to detail. Ideal candidates will have experience working with attorneys, engineers, and land development professionals. Excellent writing skills and proficiency in MS Word and Excel with basic GIS ArcView capability are expected. A full job description is at www.richmondvt.com under “Documents”. Direct questions to Geoffrey Urbanik, Town Manager, at 802-434-5170. Salary, $14.28 to $22.83, dependent upon qualifications and experience. To apply, email cover letter, resume, and three current references by **January 11, 2013**, to townadministrator@gmavt.net, or send to Administrative Officer Search, PO Box 285, Richmond, VT 05477. Position open until filled. EOE. (12-11)

**Parking and Transportation Division Director.** The city of Portsmouth, New Hampshire, is seeking an innovative manager to partner with the Public Works Director. This is a highly responsible managerial and administrative position in the Transportation, Traffic and Parking Department for the City of Portsmouth. Work involves assisting the director with the day-to-day activities of the department, which includes professional, technical, customer service and managing parking enforcement and parking garage operations. The Director will have direct responsibility for all on-street parking regulations, including all aspects of parking enforcement, revenue generation and collection, adjudication of disputes, and direct supervision of parking enforcement officers working on multiple shifts over a seven day week. Qualifications: graduation from an accredited four-year college/university, with major course work in business or public administration, political science, management, or a related field or equivalent experience; thorough knowledge of principles and practices of employee selection, performance management, discipline, supervision, public administration/management, contract administration, finance, management of multiple projects, and federal, state, and local laws and regulations related to local public administration; demonstrated ability for excellent written and verbal communications skills, customer service focus, adjusting priorities, evaluating alternatives and developing pro-active solutions, and consistently applying the principles of fairness, tolerance, and honesty in applications of policies and procedures. Apply directly at www.cityofportsmouth.com/hr/employment.htm. Position open until filled. (12-10)

**Pickup Truck Plow Driver.** The Town of Underhill is seeking a qualified part-time pickup truck plow driver. Requirements: must be available on short notice and early morning hours; should have experience with plowing and sanding; must be able to operate a loader. CDL not required but preferred. Please apply in person at the Underhill Town Hall, 12 Pleasant Valley Road in Underhill Center, or mail a resume to Town of Underhill, Attn: Human Resources, PO Box 32, Underhill, VT 05489. (12-10)

**Chief of Police.** The Town of Weathersfield, Vermont (pop. 2,842), is seeking qualified applicants for the full-time position of Police Chief. Employment is anticipated to begin in February 2013. Department staffing currently includes the Chief, two part-time patrol officers working a total of 30 hours per week, and a part-time clerk. A complete job description and application for employment are available from the Town Manager. Salary range, $48,000-$54,000, depending on qualifications and experience, with excellent benefits, including health care and retirement. To apply, email a letter of interest, resume, and employment application to Weathersfield Town Manager Jim Mullens at townmgr@weathersfield.org. (Note: It is acceptable to answer questions on the employment application by saying “see resume.”) Position open until filled. (12-05)
VMERS
(continued from page 1)

The increases have been necessitated due to a recent erosion of the VMERS funding status. Like almost every other public pension plan in the country, VMERS saw its ratio of funding need to funds available decline substantially during the current economic downturn. Funding status is determined by subtracting the present value of the investments of the system ($417,443,451) from the present and future prospective benefits for members ($605,707,322), leaving $188,263,871 to be raised somehow. Under current law rates, employees are projected to contribute $73,131,500, leaving $115,132,371 to be paid. To pay for the retirement benefits to be earned by active members going forward will cost employers $44,004,074. That leaves an “actuarial shortfall” of $71,128,297 to be paid by June 30, 2038, the date set by the legislature to retire any such shortfall.

This means that VMERS’ funding ratio is 85.4 percent, where “fully funded” would be 100 percent. For perspective, the system’s ratio was 101.5 percent on June 30, 2008, just before the start of the Great Recession. In the past year, that ratio fell from 92.3 percent, mainly because the system expected to earn 6.25 percent on its investments during the period July 1, 2011, through June 30, 2012, and it only earned 2.12 percent. VMERS’ assets are invested along with those of the Vermont State Employees Retirement System (VSERS), the Vermont State Teachers Retirement System (VSTRS), and the retirement system of the City of Burlington by the Vermont Pension Investment Committee (VPIC). The combined $3.6 billion is invested in stocks, bonds, real estate, and other diversified vehicles.

VMERS has always had the best funding ratio of any of the state retirement systems and only dipped under 100 percent funding status. Like almost every other public pension system in the country, VMERS saw its ratio of funding before the start of the Great Recession. The lowered rates shown above have remained in existence with one exception. The actuarial report for June 30, 2009, showed that for Group C to achieve full-funding status by 2038, total contributions would need to rise to 16.17 percent of payroll from its current combined rate of 15 percent (nine percent for employees and six percent for employers). The VMERS Board raised the employer rate effective July 1, 2010, to 6.5 percent and asked the legislature to raise the employee rate by the same one-half percent to 9.5 percent. At least one union group objected to meeting that shared obligation and the legislature “compromised” by increasing the employee rate by only one-quarter percent.

Make oral health a priority.

Dental insurance programs prompt health conscious lifestyle behaviors and, by design, emphasize diagnostic and preventive services. Seeking care early is encouraged, which often helps minor problems from escalating.

Through your membership in the Vermont League of Cities and Towns, you have access to Northeast Delta Dental’s dental plans designed with you and your employees in mind.

For more information, contact the VLCT Member Relations staff, or Kelley Avery at 1-800-649-7915, or Northeast Delta Dental at 1-800-329-2011.

www.nedental.com

(continued on next page)
Due in part to this smaller employee contribution rate and to the general impact of the performance of the VMERS’ investments, the actuarial report for June 30, 2012, shows the combined rate necessary for Group C employees’ benefits to be fully funded has now risen to 16.82 percent. The rate needed for Group B to attain a timely fully funded status rose .85 percent in just the past year and is now very close to what is now being charged. The rates for Group A and Group D participants seem to be adequate for the time being.

The VMERS Board believes that the time to act is now, before things get out of control. Public pension funds across the country are in dire straits due to expansion of benefits and inadequate contributions being made to them. Legislators, governors, mayors, and city councils are attempting to diminish benefits and increase employee contributions with mixed success, with legal battles and political fights abounding. Even in Vermont, the teachers’ system is only 61.6 percent funded and the state employees’ system 77.7 percent. That is why the VMERS Board voted to raise the employer rates on Groups B and C. Some on the board felt we should take additionally recommend to the legislature that it increase the employee rates for B and C members by imposing an equal one-quarter percent of payroll on the employers. That motion failed on a 2-3 vote. The state treasurer – a member of the board – suggested that she and another board representative discuss that proposal with employee unions before going to the legislature.

Unless the VPIC assets can begin to consistently outperform our rather high expectations for returns in the various investments, the only other source of revenue to pay for the benefits retirees expect to be there for them is from contributions by employees and employers. Given that employers (municipal and school governments) don’t actually have any money, that portion will instead come from property taxpayers. Providing for retirement security must be a shared responsibility with both employers and employees paying their fair share. Since rates for both decreased in the good times in 1999, when the rates need to go up, that burden should be equally borne as well.

VLCT will keep you apprised of any changes in employee contributions if and when they develop. For more information on VMERS groups and the actuarial reports, visit the VMERS website at www.vermonttreasurer.gov/retirement/municipal-vmers.

TRIVIA

The Triviaosphere was quiet last month as no one sussed the location of Selby. (“Beyond Adversary Democracy,” by Jane Mansbridge, explores the theory of democracy and its problems of consensus in part by scrutinizing Town Meeting in Selby, Vermont.) In fact, no one even hazarded a guess. Here’s what Ms. Mansbridge wrote: “The Town of Selby, which carries here both a fictional name and some fictional details, lies north-northeast of Montpelier, Vermont.” In a footnote to the book, she added, “I have taken some care to disguise and alter details about the town and the individuals described here, and I urge the reader to collaborate with me in this endeavor. It would not be useful to anyone, and could cause pain for some, to invest energy in penetrating these disguises.” Bottom line: we may never know.

Ooo, don’t you just hate trick questions? Here’s one without a smidgen of duplicity: A Vermonter is reputed to have been the first motorist to drive across the continental U.S. Who was he (or she), when did she (or he) do it, and who was Bud?

If you know the answer, email it to dgunn@vlct.org or surface-mail it c/o Selby, Vt. The Oracle of Trivia should divine the answer in time for the fabled February issue.

PACIF Programs

(continued from page 8)

- Requested equipment must meet all applicable and current safety standards. For example, eye wash stations must comply with ANSI Z-358.1-2009.
- A new “Quotes” section of the guidelines helps make sure that applicants plan to use grant money as efficiently as possible, so more members have access to the available funds.
- Applications will not be considered from any member that was awarded a 2012 grant and has not either submitted satisfactory proof of purchase or waived the award in writing.
- Examples of “senior municipal official” are municipal administrator, municipal manager, mayor, or board member. Someone of this level must approve and sign each application.

Another thing hasn’t changed: we are here to help! If you have any questions or concerns, feel free to contact your Loss Control Consultant – Chris LaBerge, Wade Masure, or Fred Satink – or Jim Carrien at VLCT. Jim’s email is jcarrien@vlct.org, and his phone is 800-649-7915, ext. 1946.

Returning Health Trust Members

Braintree Town, effective 11/1/12, with Blue Cross and Blue Shield of Vermont
Fairfield Town, effective 11/1/12, with Blue Cross and Blue Shield of Vermont
Rutland City, effective 11/1/13, with Northeast Delta Dental

New Health Trust Member

Rupert Town, effective 11/1/13, with MVP Vermont

Vermont State Infrastructure Bank Loan Funds Are Available Through VEDA

Jointly operated by VEDA and VTrans, the Vermont State Infrastructure Bank has low-interest loan funds available for transportation-related projects that enhance economic opportunity and help create jobs. Municipalities, RDCs, and certain private sector companies may qualify for financing to construct or reconstruct roads and bridges, make safety improvements such as highway signing and pavement marking, make operational improvements such as traffic control and signal systems, and construct rail freight and intermodal facilities.

LEARN MORE AT WWW.VEDA.ORG OR BY CALLING 802-828-5627.
Weinberger of Burlington, former Governor Douglas, the offices of Senators Sanders (in Washington, D.C.) and Leahy (in Burlington), many local legislators, business organizations, non-profits, city commissions, high schools, and town managers.

The Kazakhstanis also met with Vermont League of Cities and Towns’ Public Policy and Advocacy staff, who discussed local government in Vermont and how VLCT – created and owned by member cities and towns – speaks with a strong voice to state government and to the legislature.

Visit www.vlct.org/events-news-blogs/event-calendar/ for the most up to date list of events.