

# VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

October 2015



## THE NO IDLING LAW IN VERMONT

In Vermont, as elsewhere, motor vehicles emit greenhouse gases and release other pollutants into the air that threaten our health and environment. The pollutants – which include volatile organic compounds, nitrogen oxides, and carbon monoxide – contribute to increased concentrations of ground-level ozone that can trigger asthma attacks, damage

a person's respiratory system, and lead to visibility-reducing haze. Carbon monoxide, an invisible and odorless gas, interferes with the delivery of oxygen to the human body's organs and tissues. Numerous other toxic compounds are known or suspected carcinogens. The Air Quality and Climate Division of Vermont's Department of Environmental Conservation is trying to curb these contaminants, and you can follow their efforts on its webpage, [www.anr.state.vt.us/air/MobileSources/index.htm](http://www.anr.state.vt.us/air/MobileSources/index.htm). According to the division, one of the easiest ways to tackle this problem is to eliminate unnecessary vehicle idling.

In 2013, Governor Peter Shumlin signed Act 57 into law which, among other amendments to motor vehicle laws, included a prohibition on idling. The law, which went into effect last year, limits the idling of all stationary motor vehicles to five minutes in any 60-minute period. The list of exceptions, however, is both long and specific and includes:

*(continued on next page)*

## THE BEGINNING OF ROADS

This article is a supplement to "The Role of Roads," from the July *VLCT News*.)

It's hard to imagine roads without cars, but there was a time when this was just so. Roads were well-worn walking paths or rutted wagon trails directed by simple convention and manners. In the past, road longevity was dictated by a "use it or lose it" mentality – what worked was kept and maintained and what didn't simply washed into the river below. Building a permanent road was an act of power, solidarity, and privilege. Think of the Romans in Europe, the Incas in South America, or perhaps a more relatable version, the Civilian Conservation Corps in America.

Without the backhoes and surface graders we use today, the legacy of the road began with simply a pick and a shovel. For the early settlers of Vermont, roads developed out of habit and necessity. Paths used to fetch winter ice or summer harvests turned into

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## TEMPLATE FOR GROUP NET METERING AGREEMENTS FOR VERMONT MUNICIPAL AND SCHOOL DISTRICT SOLAR PROJECTS

The Vermont League of Cities and Towns coordinated a collaborative effort by the Vermont School Boards Association, the Vermont Superintendents Association's School Energy Management Program, the Vermont Public Service Department, the Vermont Natural Resources Council, and others to draft a Template for Group Net Metering Agreements. This resource can help municipalities and school districts that have decided to "go solar" to identify, modify, and craft contract provisions that best suit their goals and financial needs. The template is posted on VLCT's website at

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## No IDLING LAW

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- military vehicles;
- ambulances, police, fire, and rescue or other vehicles used in a public safety or emergency capacity while conducting official operations;
- school buses in compliance with State Board of Education rules but generally not while waiting for children to board or exit the vehicle at a school;
- armored vehicles when they are being loaded or unloaded or while a guard remains inside;
- motor vehicles due to traffic, a traffic signal, or at the direction of a police officer;
- for the health and safety of the occupant to operate safety equipment such as windshield defrosters, to maintain passenger comfort in a bus, or, in the case of a pre-2018 vehicle or an occupied sleeper berth, for purposes of air-conditioning or heating during a rest or sleep period;

- the operation of work-related equipment;
- for maintenance, service, diagnostic purposes, or a state inspection; and
- at a motor vehicle dealership to maintain the premises of the business.

The Commissioner of Motor Vehicles and the Secretary of Natural Resources were authorized to adopt rules governing the times or circumstances when idling is reasonably required, but they have not found it necessary to be any more specific than the general statute.

Violations to the law can incur a fine of up to \$10.00 for a first offense, \$50.00 for a second, and \$100.00 for a third.

The law is detailed and potentially difficult to enforce, though enforcing idling limits is unlikely to be a high priority for law enforcement. The law does, however, establish a standard and provide a mechanism for dealing with repeat violators.

For years, the American Lung Association of the Northeast has advocated for state laws

*(continued on page 11)*



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Call **811**  or visit [digsafe.com](http://digsafe.com) to learn more about membership.



# ASK THE LEAGUE

## SOCIAL SERVICE APPROPRIATIONS; TOWN MEETING PREPARATIONS

### *How does a town handle social service appropriations?*

There are two ways for a social service appropriation article to appear on the town meeting warning: by voter-backed petition submitted in accordance with 17 V.S.A. § 2642, or by the selectboard's own motion. If the town receives a voter-backed petition asking for an article on the warning to appropriate funds to a social service agency, then the selectboard must put that exact appropriation on the ballot. Otherwise, the selectboard is free to decide how it will handle social service appropriations.

Some towns allow an agency to appear on the ballot if an appropriation to that agency was voted in the preceding year and the agency is requesting level-funding for the present year. Those same towns may require that the agency submit a voter-backed petition if there is an increase in the amount of funding requested. Other towns require a voter-backed petition every year, regardless of whether the agency has received an appropriation from the town in the past.

VLCT recommends that every town adopt a written policy about how it will handle social service agency appropriations and under what circumstances a voter-backed petition will be

required. Such a policy may be changed from year to year, but should be communicated to agencies well in advance of the annual town meeting date so that they will have time to get signatures on a petition if needed. VLCT has developed a model Social Service Appropriation Policy which can be used as a template. It is available at <http://www.vlct.org/assets/Resource/Models/Model-Social-Service-Agency-Appropriation-Policy-November-2014.pdf>.

The selectboard has general authority over how articles are warned on the ballot and therefore may warn social service appropriations as individual ballot articles or may lump all appropriations into the general fund budget. (Towns should be careful not to make a double appropriation to the same agency by inadvertently including an appropriation for that agency in both the general fund budget and as a stand-alone article on the ballot.) If the town votes its budget from the floor, then any part of that budget is subject to discussion, amendment, and division of the question, such that there could be a separate vote on any individual appropriation.

Once an appropriation is approved by the voters, the selectboard has no authority to alter the amount of that appropriation. However, pursuant to 24 V.S.A. § 2692, the selectboard may contract with a social service agency concerning the provision of services in the town and may include in this contract a schedule of installment payments and other reasonable conditions as a condition of receipt of the appropriation.

Social service appropriations may only be made for the provision of services to town residents. However, there is no requirement that the social service agency have programs or facilities located within the town; an agency is eligible for town funds if it provides services to that town's residents.

You can find more information about the

*(continued on next page)*

## VLCT Municipal Assistance Center

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**Contact MAC today at 800-649-7915 or [info@vlct.org](mailto:info@vlct.org).**

**Visit the Municipal Assistance Center page at [www.vlct.org](http://www.vlct.org) for more information.**



## ASK THE LEAGUE

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petition process and about town meeting articles in the Town Meeting Resource section of [www.vlct.org](http://www.vlct.org).

*Sarah Jarvis, Staff Attorney II  
Municipal Assistance Center*

### How can we best prepare for Town Meeting?

Vermont's 2016 annual town meeting day will be Tuesday, March 1st, and it is almost time to get the warning ready. The warning must be posted not less than 30 nor more than 40 days before the meeting, which means the first day to post the town meeting warning and notice will be Thursday, January 21, 2016; the last day will be Sunday, January 31. The warning must also be posted on the municipality's website if it is regularly updated.

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). The warning and notices must be posted in at least two public places in the municipality 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 and distributed in the same manner as the town auditors' report as provided in 24 V.S.A. § 1682, or published in a newspaper of general circulation at least five days before the meeting. Additionally, the warning must be posted on the municipality's website if that website is updated on a regular basis.

In drafting the warning, the selectboard should keep the following 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.
- 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 appropriation of money

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.

- Vermont law (17 V.S.A. § 2666) prohibits the inclusion of any opinion or comment by any town body or officer or other person on the matter to be voted on.
- 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 coordinate the timing of your meeting.
- 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 14, 2016. 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 is only legally obligated to warn a petitioned article when the purpose stated in the petition "sets forth a clear right which is within the province of the town meeting to grant or refuse through its vote." *Royalton Taxpayers' Protective Assn. v. Wassmansdorf*, 128 Vt. 153

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# LEGAL AND REGULATORY NOTES



## U.S. SUPREME COURT RULES TOWN'S SIGN CODE VIOLATES THE FIRST AMENDMENT

Early this summer, the U.S. Supreme Court issued a decision that significantly impacts many ordinances and zoning by-laws that regulate signage throughout Vermont and across the country. In *Reed v. Town of Gilbert*, 576 U.S. \_\_\_\_ (2015), the Court unanimously held that the Sign Code of the Town of Gilbert, Arizona – which treated various categories of signs differently based on the information they contained – violated the First Amendment

to the U.S. Constitution. In the wake of this decision, towns in Vermont with sign regulations are advised to review, and if necessary revise their regulations so that they comply with the Court's ruling in this case.

The case was brought by a church and its pastor, Clyde Reed, who used temporary directional signs to publicize the location of Sunday services because the church had no permanent building. The signs were

erected every Saturday morning and removed the next day after the morning service. The church was cited by the Town for exceeding the time limits for display of temporary directional signs, as set by the Town ordinance, and for failing to include an event date on the signs. The church claimed (among other things) that the Town's Sign Code violated the Free Speech Clause of the First Amendment, which ensures against governmental restriction of the right to free speech.

The Town of Gilbert's Sign Code prohibited the display of outdoor signs without a permit but exempted 23 categories of signs, three of which were relevant to this case:

- "Ideological Signs," defined as signs "communicating a message or idea" that do not fit in any other Sign Code category, may be up to 20 square feet and have no placement or time restrictions;
- "Political signs," defined as signs "designed to influence the outcome of an election," may be 32 square feet and may only be displayed during an election season; and
- "Temporary directional signs," defined as signs directing the public to a church or other "qualifying event," have even greater restrictions: There may be no more than four signs on a single property at any time, signs are limited to 6 square feet in size, and they may be displayed no more than 12 hours before the "qualifying event" and only one hour after.

### WHAT DO MORE AND MORE VERMONT MUNICIPALITIES HAVE IN COMMON?

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## LEGAL AND REG.

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Put simply, Gilbert's Sign Code treated temporary directional signs less favorably than political and ideological signs.

The first issue to be decided by the Supreme Court was the level of scrutiny to be applied to the Sign Code. Challenges based on a the right to free speech under the First Amendment are either given "intermediate scrutiny" or a more stringent "strict scrutiny." Under strict scrutiny review, content-based laws that target speech based on its communicative content are presumed to be unconstitutional unless the government proves that they are narrowly tailored to serve a compelling government interest.

The Town of Gilbert argued that its Sign Code was content-neutral regulation and therefore should be subject to only intermediate scrutiny. The church countered that the Sign Code was content-based and, therefore, subject to strict scrutiny.

The lower court applied only

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## KNOWLEDGE WAVE IS CHANGING

KnowledgeWave, a Microsoft Learning Partner located in South Burlington, has replaced its Log on to Learn program with the new KnowledgeWave Learning Site. VLCT, in partnership with KnowledgeWave, is launching this program that allows up to 10 named users per member access to the site for just \$50.00 for the year. (Registrations must be received by Thursday, October 8, to take advantage of the special \$50.00 rate. After October 8, registration fees will increase but will be prorated to the start of the following month.) The program year will run from July 1 to June 30. As a VLCT member, your organization has access to the wide range of training and application support services provided by KnowledgeWave.

The membership includes access to the online learning site so that you can learn at your own pace, monthly webinars, access to live classes, and more:

- Unlimited training access for up to ten named users to the KnowledgeWave learning site
- Monthly live instructor-led webinars on a range of Microsoft and Adobe applications

- VLCT private webinars focused on how members can best use Microsoft and Adobe applications
- Access to KnowledgeWave's traditional classroom based training at a reduced member rate of \$99.00 per class (one-day Microsoft popular productivity classes)
- The ability to take classes remotely, live from your desktop
- Private training and project assistance at a reduced member rate
- Soft-Skills and Professional Development classes at a reduced member rate

Visit <http://www.knowledgewave.com/> for details and to sign up. Please note that email addresses should be unique for each member. A registration form is also posted on our website at <http://www.vlct.org/assets/News/Current/09-01-15-vlct-knowledgewave-reg-form.docx>.

Please contact VLCT with any questions: Theresa Bachand ([tbachand@vlct.org](mailto:tbachand@vlct.org)) will be the League's primary contact for this program, or use our dedicated KnowledgeWave email address, [KLSAdmin@vlct.org](mailto:KLSAdmin@vlct.org).

Jessica Hill, Director

Human Resources and Administration

### Have you visited EAP's new website?



Check it out! It's mobile and tablet friendly.

Employees, officials and their household members can access information and resources at:

**[www.investeap.org](http://www.investeap.org)**

Create a Login. Your Organization Password is: **vlct**


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## “FIRST FILL” PRESCRIPTION PROGRAM

VLCT PACIF is pleased to announce a new program that will benefit injured workers. The PACIF Board of Directors recently decided to implement a pharmacy benefits management program and partnered with Express Scripts to provide this service to the membership and their injured workers. This program will help PACIF manage workers' compensation pharmaceutical costs and enhance the claim experience of injured employees. One specific benefit for injured workers of the new program will streamline the prescription process at the time of their initial medical treatment.

The Express Scripts “First-Fill” program automatically authorizes a short-term supply of certain medications based on the type of injury, with no out-of-pocket expense to the injured worker. This new process requires the employer to complete a First-Fill form when a new injury is reported and give it to the injured worker to take to a pharmacy with their prescription. The program became effective on July 1, 2015, and we encourage all PACIF members to begin implementing the new process immediately.

The First Fill form is posted on our website next to the First Report of Injury link on both the Report A Claim page ([www.vlct.org/rms/claim-reporting-and-insurance-forms/](http://www.vlct.org/rms/claim-reporting-and-insurance-forms/)) and the RMS PACIF Workers' Compensation page ([www.vlct.org/rms/pacif/workers-compensation/](http://www.vlct.org/rms/pacif/workers-compensation/)). We recommend that every department print several copies of the First Fill form so all supervisors can easily fill one in on short notice.

It is important to note that this new process does not apply to volunteer Fire and/or Rescue personnel who are covered by other carriers via the Vermont Assigned Risk Workers' Compensation Program. The First Fill form is to be used only for injured municipal employees who are covered by directly by PACIF. If you have any question as to the difference, please call 800-649-7915 and speak with a member of PACIF's Underwriting team.

For more information about the First Fill program specifically or the Express Scripts Pharmacy Benefits Program in general, contact Peggy Tucker, Manager, Workers' Compensation Claims, at [ptucker@vlct.org](mailto:ptucker@vlct.org) or 800-649-7915.

*Ken Canning, Director  
Risk Management Services*

## 2016 VHC PLANS AND FINAL RATES APPROVED

Kelley Avery has sent two emails to notify all VLCT members of the state-approved rates for 2016 Vermont Health Connect (VHC, or “Exchange”) health insurance plans: the first, in late August, conveyed BlueCross BlueShield of Vermont plan information, and the second, in early September, conveyed MVP Health Care plan information. We have also posted this information on our Health Insurance webpage, [www.vlct.org/rms/verb/health-insurance/](http://www.vlct.org/rms/verb/health-insurance/). When the state has updated its master chart of all 2016 Exchange plans, we expect that data to be posted at <http://info.health-connect.vermont.gov/healthplans>.

Here are some salient points about plans and group enrollment for 2016.

- Employers with 51 to 100 employees

must move to Exchange plan(s) for the January 1, 2016 effective date. Larry Smith is meeting with administrators and employees of the affected VLCT members to help smooth their transition into the Exchange.

- New for 2016 from each carrier is the Non-Standard Gold High Deductible Plan. Deductibles for this new plan vary slightly by carrier, so please check their documents carefully.
- Starting in 2016, MVP will have a national network of providers. In prior years, some groups considered only Blue Cross plans so their employees and dependents could have access to providers outside of Vermont.

- By mid-October, groups currently enrolled with either MVP or Blue Cross should receive a mailing from their carrier with renewal information and instructions.
  - We urge you to check your group's 2016 plan details carefully: both carriers are changing some of their deductibles and out-of-pocket limits.
  - If your group is not making any plan changes for 2016, no action is required: your plans will renew as is at the new rates for 2016.

If your group has questions about the plans or plan details, feel free to email Larry Smith ([lsmith@vlct.org](mailto:lsmith@vlct.org)) or Kelley Avery ([kavery@vlct.org](mailto:kavery@vlct.org)) or call 800-649-7915 and ask for Larry or Kelley. You can also contact the Exchange specialists at each carrier directly: BCBSVT Exchange (800-255-4550) and MVP Exchange (800-825-5687 or TALK-MVP).

# PACIF

Workers' Compensation, Property, Auto, Crime  
General, Law Enforcement, Public Officials, and Employment Practices Liability  
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## UI PROGRAM RENEWAL FOR 2016

Rates for 2016 membership in VLCT's Unemployment Insurance (UI) Program will be set officially by the VERB Trust Board of Directors at their October meeting (the day before Town Fair). At press time, we can't say for certain, but considering the way 2015 is progressing, we again expect good news for rates in 2016! UI Program members, please look for a mailing by mid-November which will include:

- the annual UI Renewal Memorandum;
- the annual UI renewal assessment and breakdown; and
- your first quarter invoice for payment due no later than January 1, 2016.

Details will be reported in the November VLCT News — as if you needed another reason to read the next issue!

## 2015 RMS CALENDAR

**PACIF and VLCT Employment Resource and Benefits (VERB) Trust Annual Meetings.** Thursday, October 8, 2015, 10:30 a.m. to 12:00 noon, Northstar Room 1, Killington Grand Hotel and Conference Center, Killington. All PACIF and VERB members are welcome to attend this feature of VLCT Town Fair.

**Highway Supervisors Track at VLCT Town Fair.** Thursday, October 8, 2015, Gateway Room 1, Killington Grand Hotel and Conference Center, Killington. Three Town Fair seminars are designed especially for Vermont's municipal Highway and Public Works departments and the governing boards that are concerned with this work.

- 9:00-10:00 a.m. The Cost of Backroads Erosion
- 10:30 a.m.-12:00 p.m. CMV/CDL Reasonable Suspicion Training, Part 1
- 2:00-3:30 p.m. CMV/CDL Reasonable Suspicion Training, Part 2

**Deadline for PACIF Members to submit completed Annual Renewal Applications.** Friday, October 9, 2015. Update all schedules and return your completed application to Vicky Abare by: scanning and emailing it to [vabare@vlct.org](mailto:vabare@vlct.org); or mailing it to VLCT Attn: Vicky Abare, 89 Main Street, Suite 4, Montpelier, VT 05602; or dropping it off at the VLCT Risk Management Services table at Town Fair. If you have any questions for a PACIF Underwriter, contact Vicky ([vabare@vlct.org](mailto:vabare@vlct.org) or 800-649-7915, ext. 1941) or Pam Fecteau ([pfecteau@vlct.org](mailto:pfecteau@vlct.org) or 800-649-7915, ext. 1934).

**Deadline for PACIF Member Volunteer Fire Departments (VFDs) to return completed Annual Assigned Risk Contact Form.** Tuesday, October 13, 2015. To return your completed form, scan and email it to [sbenoit@vlct.org](mailto:sbenoit@vlct.org); or mail it to Susan Benoit, VLCT, 89 Main Street, Suite 4, Montpelier, VT 05602; or fax it to Suzie's attention at 802-229-2211.

**The 76th Annual Training Institute of the New England Council on Crime and Delinquency (NECCD).** 3:00 p.m. Sunday, October 25 to 4:30 p.m. Wednesday, October 28, 2015, Hilton Conference Center, 60 Battery Street, Burlington. Three days of sessions on criminal justice and corrections taught by professionals from near and far. For details, contact NECCD president Al Cormier at 802-751-1405 or [alan.cormier@state.vt.us](mailto:alan.cormier@state.vt.us).

## EYEMED VISION CARE VIA VERB TRUST

This is an important reminder that groups may enroll in EyeMed Vision Care® vision coverage through the VLCT Employment Resource and Benefits (VERB) Trust at any time! The standard Vermont Health Connect Exchange plans include only minimal pediatric vision coverage and no routine adult vision coverage at all. Yet you could offer this vision coverage to your employees to complement your group's health insurance. What better way to encourage employees to seek optimum vision services? Now could be the perfect time to start!

Services provided by EyeMed Vision Care® include:

- continued access to employees' current independent providers;
- rich out-of-network benefits;
- access to national leading retail chains such as Lenscrafters, Pearle Vision, Target, Sears, and JC Penney Optical;
- 40 percent discounts off an additional pair of prescription eyewear with no same-day or same-doctor purchase required;
- contact lens fit and follow-ups are covered as a distinct benefit; and
- customer service seven days a week.

At [www.vlct.org/rms/verb/vision-coverage](http://www.vlct.org/rms/verb/vision-coverage), you will find an array of resources including a convenient comparison of the three vision plans that are available through VLCT. We look forward to continuing to provide you with the best value for you and your employees. Please contact Kelley Avery or Larry Smith at VLCT at 800-649-7915 if you have any questions regarding the EyeMed plans, coverage, or providers.



## THE BEGINNING OF ROADS

(continued from page 1)

trails, which grew into roads. Use was dictated by necessity, and it was considered “un-neighborly” to restrict fellow citizens’ travel over private land when natural resources were needed. The practice of land easements for public rights of way became commonplace in New England, as did the ensuing battles over land tenure. In 1781, the first Highway Act was passed in Vermont declaring that any road not surveyed and mapped would be deemed unlawful.

Over the next century and a half, road networks grew by leaps and bounds, often at the discretion of the private landowner, until the state legislature intervened again. The first Vermont highway map, created in 1931, responded to towns’ needs for state aid to

maintain this expanding network of roads. Lying in the depths of a Depression-era economy, the Agency of Transportation required towns to first make the hard call of deciding how many roads they were willing to maintain, alienating those who lived, farmed, or commuted on roads deemed too expensive to keep. Only those declared roads would be mapped, a move that would dictate town responsibilities for generations to come. In an informal but efficient way, many roads were “un-roaded,” either because no one lived along them anymore or because, quite simply, some places were just lousy locations to keep a road. Free from repeated cutting, grading, and shearing, these roads began to re-wild, growing birches in their ruts and blackberries along their banks, leaving only a depression, a survey post, or a story.

In Vermont, old roads are embracing new life. Act 178, passed in 2006, will wrap up its

mission statement on July 1 of this year, preserving public access to roads that have gone unused for centuries. Towns were given a 10-year opportunity to document their “ancient roads,” sparking interest in the character-rich maps of a Vermont now long gone. Ancient Road committees, primarily made up of retired lawyers and town clerks, matched landmarks from dusty map to muddy land, often relying on houses, barns, and even legacy trees to guide them to their posts. In other states, rights to roads that go unused and unmaintained for years are ultimately forfeited to the surrounding landowner. In Vermont, the reverse is true: any road remains public until formally discontinued by the town. Act 178 exists to clean up the loose ends of any ownership disputes, clarifying the status of roads and trails within each municipality. While some landowners are understandably irked to learn of public trails running right by their homes, the rest of us can walk along and enjoy the view, even if it doesn’t belong to us.

by Joanne Garton



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### VERMONT STATE INFRASTRUCTURE BANK (SIB) LOAN FUND

Jointly operated by VEDA and VTrans, the Vermont State Infrastructure Bank (SIB) 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, bridges, sidewalks and bike paths;
- Make safety improvements such as highway signing and pavement marking;
- Make operational improvements such as traffic control and signal systems;
- Construct rail freight and intermodal facilities, and public transit facilities; and
- In certain cases, electric vehicle charging stations and natural gas refueling stations that are available for public use.



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### TRIVIA

A hundred apologies! A malfunctioning compass rendered one of my directions in last month’s Trivia question wrong by one hundred and eighty degrees. Still, Bevan Quinn of Guilford anticipated the error while Trevor Lashua of Hinesburg ignored it, and both found their way correctly to the finish line in record time. In a nutshell, motorists were asked to start at a town in Vermont whose name is the same of a car company that once produced the Cranbrook (i.e., Plymouth). From there, a series of hither-and-thither directions led them on a 1,135½-mile scenic trek through these 13 other Vermont towns: Lincoln, Orange, Peru, Holland, Jamaica, Athens, Berlin, Halifax, Marlboro, Milton, Georgia, Washington, and Kirby. Rand McNally salutes you! (Wahoo’s Eatery in Wilmington and Jonathan’s Summer Place in Springfield were also named as the best creemee stands along the way.)

Meanwhile, a U.S. president once pardoned a Vermonter for falling asleep at his post during the Civil War. (C’mon, these things happen!) Eighty-four years later, Vermont named a highway in his honor. **What is the name of the road and where is it?** Email your best response, or even your second best one, to [dgunn@vlct.org](mailto:dgunn@vlct.org). The answer will appear somewhere among the pages of the nutritious November issue.



## ASK THE LEAGUE

(continued from page 5)

(1960). On the other hand, if a petitioned article does not cover a subject over which the voters have been given authority in statute, it is merely an advisory article and may be treated as such. Advisory articles may be included on the warning if the selectboard opts to include them; it is not legally obligated to do so. In exercising discretion over such articles, the selectboard can 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.

About half a billion dollars are appropriated by Vermont local government 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 amount, 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. § 2662, 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?

A more in-depth analysis of the social service appropriation process is set out in the accompanying *Ask The League* article. The Municipal Assistance Center will also be posting model language for Town Meeting warnings and articles as well as other useful information and training opportunities on the Town Meeting Resources page on [www.VLCT.org](http://www.VLCT.org).

As always, feel free to contact the Municipal Assistance Center with any questions you may have.

*Gwynn Zakov, Staff Attorney I  
VLCT Municipal Assistance Center*

## NO IDLING LAW

(continued from page 2)

– including in Vermont's – to eliminate the unnecessary idling of cars, trucks, and buses, especially school buses. When Vermont's law was enacted in 2013, every other state in the Northeast already had a no idling policy. Passage of this legislation ended more than 10 years of efforts to bring Vermont on board with the other New England states.

The American Lung Association in Vermont together with the University of Vermont and the Air Quality and Climate Program offer a free, self-paced online training called Idle-Free VT (<http://idlefreevt.org/>), which allows heavy-duty vehicle operators and fleet managers to learn about the deleterious effects of idling on the environment, the economy, and human health.

On a cold winter day, do you start your car and let it idle to warm it up? The American Lung Association recommends that you instead simply begin driving to warm up your car. It also suggests that you turn off the car's engine if you are stopping for more than 10 seconds. Educating Vermonters about how they can change their driving habits is one way to reduce the incidence of idling motor vehicles.

VLCT supported the statewide law addressing idling. A number of municipalities and school districts have enacted their own ordinances or guidelines that limit vehicle idling. Local officials should note that municipalities have discretion with respect to taking enforcement action under the provisions of either their own ordinance or the state statute.

*Karen Horn, Director  
Public Policy and Advocacy*



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## LEGAL AND REG.

(continued from page 6)

intermediate scrutiny because it determined that the Sign Code was content-neutral. This was based on the fact that the Town “did not adopt its regulation of speech [based on] disagreement with the message conveyed,” in those signs; its justification for regulating temporary directional signs was “unrelated to the content of the sign.” The court noted that the Sign Code “[did] not mention any idea or viewpoint, let alone single one out for differential treatment,” because the regulations did not depend on the identity of the candidate, the sponsor of the event, or the ideological perspective asserted in the signs. Finally,

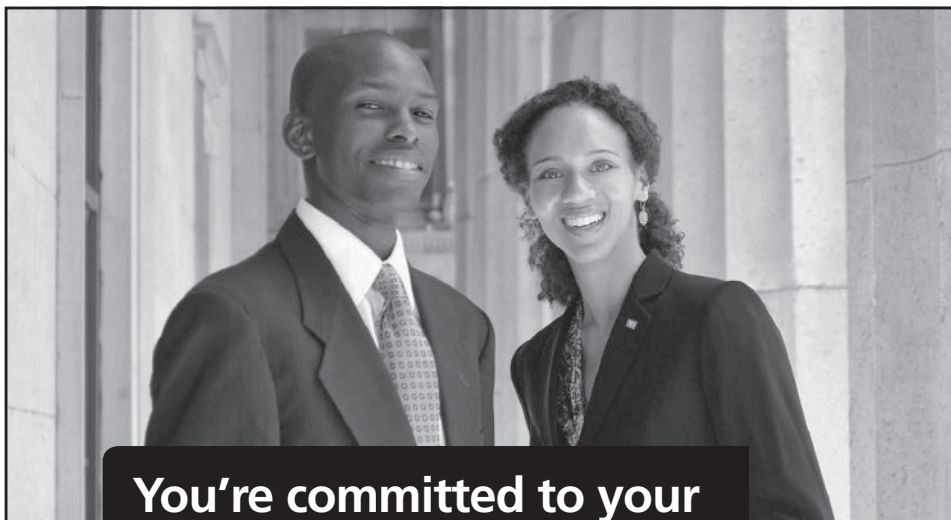
the court characterized the Sign Code as turning on “the content-neutral elements of who is speaking through the sign and whether and when an event is occurring.”

The Supreme Court, however, came to a different conclusion: it ruled the Sign Code was content-based “on its face” and therefore subject to strict scrutiny review. The Court noted that the regulations defined the categories of signs on the basis of their messages – temporary directional signs convey a message directing the public, political signs are designed to influence the outcome of an election, and ideological signs communicate a message or an idea – and subjected each category to a different restriction. Therefore, the Court found that by regulating the message, the Sign Code

regulated the “communicative content of the sign.” Even though the ordinance may have had a content-neutral justification, “innocent motives do not eliminate the danger of censorship presented by a facially content-neutral statute, as future government officials may one day wield such statutes to suppress disfavored speech.”

The Supreme Court’s next step was to determine whether the Sign Code could survive strict scrutiny, i.e., whether it was narrowly tailored to serve a compelling government interest. The Court found that the two interests asserted – preserving aesthetic and traffic safety – were “hopelessly underinclusive” and not adequate justifications to pass strict scrutiny review. It reasoned that temporary directional signs are “no greater an eyesore” and pose no greater a threat to public safety than ideological or political signs. Further, “[t]he Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town while at the same time allowing unlimited numbers of other types of signs that create the same problem.” With regard to traffic safety, “[t]he Town has offered no reason to believe that directional signs pose a greater threat to safety than do ideological or political signs. If anything, a sharply worded ideological sign seems more likely to distract a driver than a sign directing the public to a nearby church meeting.” Consequently, the Court ruled that the Town failed to meet its burden to prove that the Sign Code was narrowly tailored to serve a compelling government interest.

Although the ruling in the *Gilbert* case was unanimous, the justices’ opinions were varied, resulting in three justices joining the majority but offering their own explanatory concurrences and three others with separate concurring opinions. These fractured opinions make it difficult to discern the full scope of the decision and the true impact it will have on towns. However, it is clear from the majority opinion that the Court was aware of the impact the ruling could have on sign regulations across the country. In the majority opinion, Justice Thomas noted that the decision did not limit a town’s ability to regulate signage, so long as the regulation is content-neutral. For example, he explained signs that warn for hazards on private property and signs directing traffic and street numbers associated with



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(continued on page 15)



# CLASSIFIEDS

Please visit the VLCT website [www.vlct.org/marketplace/classifiedads/](http://www.vlct.org/marketplace/classifiedads/) to view more classified ads.

## VLCT NEWS Advertising Information

The *VLCT News* is published eleven times per year – the August and September issues are combined – and reaches readers no later than the first week of the month.

Two kinds of advertising are available in the *VLCT News*:

### CLASSIFIEDS

(Posted online and also placed in the printed VLCT News)

The *VLCT News* publishes classifieds 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.

While there is no deadline for posting classifieds online, the print advertisement deadline (below) applies to classifieds that run in the printed VLCT News.

Classifieds are generally limited to 200 words due to limited space in the newsletter, but they may be longer when posted online. The online version can also include hyperlinks to images or other websites.

For more information on placing classifieds, contact [classifieds@vlct.org](mailto:classifieds@vlct.org).

### DISPLAY ADS

(Placed in the printed VLCT News)

The deadline for submitting display advertisements is the first Friday of the month prior to the issue date.

Download a calendar of print deadlines and find information on print ad requirements, sizes, and prices at [www.vlct.org/advertising-information](http://www.vlct.org/advertising-information).

For answers to specific questions about print advertising, email [vlctnews@vlct.org](mailto:vlctnews@vlct.org).

Visit the VLCT website [www.vlct.org/marketplace/classifiedads/](http://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.

## HELP WANTED

**Town Administrator.** Alton, New Hampshire, is seeking an experienced, community-oriented leader to serve as its next Town Administrator. This desirable community, with a population that increases to 15,000 seasonally, is located on Lake Winnepesaukee and enjoys a high quality of life in a New England town. The Town employs 49 full-time and 20 part-time staff, has a Town Meeting form of government, and has an annual budget of \$8.3 million, excluding schools. The Town Administrator reports to a five-member Board of Selectmen. The successful candidate will have strong

experience in local government operations. Strong communication, interpersonal, listening, finance, human resources, and analytical skills are required. Experience working as a consensus builder is desirable. Bachelor's degree required, master's preferred, with 7-10 years of experience. Salary range \$78,700-\$96,800, DOQ. Additional information about the Town is posted at [www.alton.nh.gov](http://www.alton.nh.gov). To apply, send a resume, in confidence, by Thursday, October 1, 2015, to Town Administrator Search, Attn: E. Russell Bailey, 1 Monument Square, PO Box 659, Alton, NH 03809. The Town of

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## CLASSIFIEDS

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Alton is an equal opportunity employer. (08-27)

**Finance Clerk A/P.** The Town of Hartford, Vermont, seeks qualified candidates for the position of Finance Clerk A/P to perform a wide range of clerical and technical bookkeeping and accounting tasks. The most important tasks would be input and processing of the accounts payable every two weeks, input and processing of employee purchase card transactions, and billing for miscellaneous goods and services through accounts receivable. Minimum qualifications: a high school education plus 4-5 years of college-level training or work experience in accounting or bookkeeping, or a combination of education and experience from which comparable knowledge and skills are acquired; must be organized, able to work under pressure and meet deadlines; should be a team player, able to establish

and maintain excellent working relationships with employees, elected officials and the public. A combination of skills and experience demonstrating the above requirements may be considered. Salary level, mid 30s; competitive benefits. Email cover letter and resume to Randee Rule at [rrule@hartford-vt.org](mailto:rrule@hartford-vt.org), or submit to Randee Rule, Administrative Assistant, Town of Hartford, 171 Bridge Street, White River Junction, VT 05001. EOE. (09-02)

**Maintenance/Truck Driver.** The Town of Killington is seeking qualified applicants for a Maintenance/Truck Driver to start immediately. A job description is posted at [www.vlct.org/assets/Marketplace/Highway-Facilities-Maintenance-Worker.pdf](http://www.vlct.org/assets/Marketplace/Highway-Facilities-Maintenance-Worker.pdf). Application instructions are posted at [www.killingtontown.com](http://www.killingtontown.com) under Employment Opportunities. Please call 802-422-9821 with any questions. EOE. (09-03)

**Small Utility Electric System Engineer.** Barton Village seeks a full-time Small

Utility Electric System Engineer to oversee the technical aspects of operating a small electric utility. The engineer works closely with the linemen, office staff, and finance coordinator to schedule projects, maintain inventories, develop system reports, and maintain and improve high-tech components of the electric system. He or she will be hired by the Village trustees after an interview and reference checks. A complete job description is posted at [www.vlct.org/assets/Marketplace/Small-Utility-Electric-System-Engineer.pdf](http://www.vlct.org/assets/Marketplace/Small-Utility-Electric-System-Engineer.pdf). For more information, call 802-525-4747. Salary, \$55,000-\$65,000, plus benefits. To apply, mail a cover letter and resume to Village of Barton, PO Box 519, Barton, VT 05822. (09-04)

**Billing Clerk.** The Town of Waterbury seeks a qualified person to fill a full-time billing and clerical position at our main office in Waterbury. Duties include data entry and management for quarterly utility billing, utility account maintenance, tax collection and administration, and occasional payroll responsibilities. Other administrative duties may be assigned. Good computer skills necessary; familiarity with Microsoft Office helpful. The candidate should be able to work independently and will be responsible to interpret policy and make decisions based on policy. No supervisory duties. A background investigation will be required. For more information, call 802-244-7033 or email [accounting@waterburyvt.com](mailto:accounting@waterburyvt.com). Competitive wage and benefits offered. To apply, submit a resume and employment application (which you can download at [www.waterburyvt.com/departments/finance/](http://www.waterburyvt.com/departments/finance/) or pick up at the Municipal Offices at 51 South Main Street in Waterbury) to William Shepeluk, Manager, Town of Waterbury, 51 South Main Street, Waterbury, VT 05676. Position open until filled. EOE. (09-08)

**Water Operator.** The Village of Waterbury, Vt., is currently seeking a water operator to join its water department at the Earle P. Towne Water Treatment Facility. This is a full-time position with some overtime required. Duties include

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## CLASSIFIEDS

(continued from previous page)

the operation and maintenance of a municipal water purification plant and associated distribution system. Requirements: a basic understanding of mechanical, electrical, and construction systems; basic computer knowledge; valid driver's license; Vermont Class 4B water operator's license is preferred (license will be required within two years of date of hire); ability to pass a background investigation. Competitive wage and benefits package. For more information, call 802-244-7033 or email [bwoodruff@waterburyvt.com](mailto:bwoodruff@waterburyvt.com). To apply, submit employment application (which you can download at [www.waterburyvt.com/departments/finance/](http://www.waterburyvt.com/departments/finance/) or pick up at the current municipal office at 43 South Main Street in Waterbury) to William Woodruff, Supervisor, Waterbury Water Department, 51 South Main Street, Waterbury, VT 05676. Position open until filled. Equal Opportunity Employer. (09-08)

## LEGAL AND REG.

(continued from page 12)

private houses may be regulated without reference to a sign's message. Content-neutral regulations addressing safety and aesthetics concerns may still be regulated with regard to size, lighting, building materials, moving parts, and portability of signs. Further, he said that a town could even forbid the posting of signs on public property, "so long as it does so in an evenhanded, content-neutral manner."

It won't be until federal courts begin applying this decision to signage litigation in the future that we will understand the full scope of the case. In the meantime, towns must be very careful to regulate all signage in a manner that is very clearly content-neutral in order to fully comply with the *Gilbert* ruling. Currently, many municipal sign regulations distinguish between certain categories of signs based on content. Common examples are sign regulations that target political signs, garage sale signs, and real estate signs. We now know that such classifications are unconstitutional. Towns with

these types of distinctions will need to remove them from the regulations and address signs in a content-neutral manner. We strongly encourage towns to review – and, if necessary, revise – their current sign regulations or zoning bylaws. Contact your town attorney or the Municipal Assistance Center for assistance with this issue.

The *Gilbert* decision is achieved at [http://www.supremecourt.gov/opinions/14pdf/13-502\\_9olb.pdf](http://www.supremecourt.gov/opinions/14pdf/13-502_9olb.pdf).

Gwynn Zakov, Staff Attorney I  
VLCT Municipal Assistance Center

## GROUP NET METERING AGREEMENTS

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[www.vlct.org/league-resources/search-vlct-resources/](http://www.vlct.org/league-resources/search-vlct-resources/). For more information about the template, contact Abby Friedman at [afriedman@vlct.org](mailto:afriedman@vlct.org) or 802-229-9111. Additional resources for municipalities and schools are listed below:

- Vermont Public Service Department: Anne Margolis, Renewable Energy Development Manager at 802-828-3058 or [anne.margolis@state.vt.us](mailto:anne.margolis@state.vt.us). Website: [www.publicservice.vermont.gov/topics/renewable\\_energy](http://www.publicservice.vermont.gov/topics/renewable_energy)
- School Energy Management Program: Norm Etkind, Director, VSA, SEMP at [semp@vtvsa.org](mailto:semp@vtvsa.org) or 802-229-1017. Website: [www.vtvsa.org/school-energy-management-program.php](http://www.vtvsa.org/school-energy-management-program.php)
- Vermont Natural Resources Council and the Vermont Energy & Climate Action Network offer guidance on potential best options and strategies. Website: [www.vecan.net](http://www.vecan.net) or contact Johanna Miller, VNRC at [jmiller@vnrc.org](mailto:jmiller@vnrc.org) or 802-223-2328 ext. 112.
- Renewable Energy Vermont is the trade association of renewable energy businesses. Find potential solar installers/contractors at [www.revermont.org](http://www.revermont.org).
- Vermont Law School Energy Clinic, Institute for Energy and the Environment. Email: [energyclinic@vermont-law.edu](mailto:energyclinic@vermont-law.edu) or website: [www.vermontlaw.edu/academics/clinics-and-externships/energy-clinic](http://www.vermontlaw.edu/academics/clinics-and-externships/energy-clinic)
- Efficiency Vermont website: [www.encyvermont.com/index](http://www.encyvermont.com/index)



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# UPCOMING EVENTS

Questions? Visit [www.vlct.org/eventscalendar](http://www.vlct.org/eventscalendar) to register and for the most updated information and events.

## FALL PLANNING AND ZONING FORUM

*Wednesday, October 28, Capitol Plaza Hotel and Conference Center, Montpelier*

This workshop is designed for all local officials involved in the local planning and development review process. Zoning administrators, planning commissioners, DRB/ZBA members, town administrators and managers, municipal planners, and regional planning commission staff are all encouraged to attend.

## FALL AUDITORS WORKSHOP

*Wednesday, November 18, Capitol Plaza Hotel and Conference Center, Montpelier*

This workshop is designed for locally elected auditors, as well as treasurers, selectboard members, municipal managers and administrators, and finance directors who want to improve internal controls and the quality of financial reporting.

## MUNICIPAL ATTORNEYS FORUM

*Friday, December 4, Capitol Plaza Hotel and Conference Center, Montpelier*

This workshop is designed for municipal attorneys and the paralegals and staff who assist them. This year's Forum will provide an opportunity for both seasoned and new attorneys to learn about and discuss emerging issues in Vermont municipal law.

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