Town Fair 2017 is packed with 24 different training sessions, many of which were specifically requested by municipal officials. You’ll be able to hear updates on the state’s Municipal Roads General Permit, its Long-Range Transportation Plan, and a town’s vital records.

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Register Online at www.vlct.org/event/town-fair-2017

Keeping Track of Human Resources at Town Fair

Based on specific requests and feedback from our members, VLCT will offer a full day of human resources (HR) and employment-related topics at Town Fair this year. On Thursday, October 5, 2017, attendees may choose to experience the complete HR “track” or attend just one or two sessions. Here is what is in store:

Municipal Human Resources Meeting. Join your municipal colleagues for a session of HR news and networking. Whether you’re brand new to your role or a seasoned professional, or if you handle any aspect of human resources administration or management for your municipality, this casual yet informative session will be an excellent way to kick off your day. Get the latest HR news and legal updates, share information with peers, and pick up your VLCT human resources toolbox as an added bonus.

Jill Muhr, Human Resources Consultant, VLCT Municipal Assistance Center

(continued on page 20)
Vermont Communities Meet the Criteria of the Emergency Relief and Assistance Fund (ERAF)

Our so-far rainy summer coupled with the numerous flood disaster declarations in the works remind us that now is a good time to catch up on the status of community involvement in the Emergency Relief and Assistance Fund (ERAF) (http://floodready.vermont.gov/find_funding/emergency_relief_assistance).

Currently:

- 89% of Vermont communities participate in the National Flood Insurance Program;
- 93% of Vermont communities have local transportation codes and standards that meet or exceed the 2013 Agency of Transportation template;
- 64% of Vermont communities have up-to-date Local Emergency Operations Plans (LEOP) on file with Vermont Emergency Management. (Plan updates, due by May 1 every year, are still coming in, so this percentage is likely to increase. Get those LEOP updates submitted now!);
- 73% of Vermont communities have submitted Local Hazard Mitigation Plans; and
- 30% of Vermont communities have adopted River Corridor protection standards.

Taking all of the ERAF criteria into account, in case of a federally declared disaster:

- 54% of Vermont communities currently qualify for 7.5% state ERAF share;
- 31% of Vermont communities currently qualify for 12.5% state ERAF share; and
- 15% of Vermont communities currently qualify for 17.5% state ERAF share.

The FloodReady website (www.floodready.vt.gov) is up to date. If you’re interested in finding out your community’s ERAF status, look at the report for your community to see if you are missing any of the criteria to achieve a higher ERAF status. If you’re ready to go all the way, then check out the updated eligibility criteria to qualify for the 17.5% state share.

For more information, contact VLCT Water Resources Coordinator Milly Archer at marcher@vlct.org.

Meet the Capital needs of Vermont’s Municipalities since 1970

Come see us at the VLCT Town Fair
Killington Grand Hotel and Conference Center
Killington, Vermont
Thursday, October 5, 2017
Booth 20P

For more information contact the Bond Bank at:
20 Winooiski Falls Way, Suite 305
Winooiski, VT 05404
802-654-7377
Bond-bank@vtbondagency.org
www.vmbb.org
Who is digging in your town?

Dig Safe members know.

Demonstrate your commitment to the safety of your community by protecting your underground utilities from excavation accidents. Dig Safe is a streamlined communication process that notifies you of projects that could potentially damage sewer, water, drainage, fire alarm and traffic control facilities.

- Municipalities with under 100 miles of underground facilities (or street miles) pay only $1.00 per notification. Contact Dig Safe for an estimate.
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- Reduce notices with Dig Safe’s digital mapping system.
- 24/7 notification process.
- Electronic and voice-recorded data stored for your legal protection.
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- Dig Safe’s extensive advertising campaign raises awareness to call 811 before digging.
- Dig Safe’s detailed education program includes on-site safety seminars for excavators to learn damage prevention strategies and the requirements of the “Dig Safe” law.

Call 811 or visit digsafe.com to learn more about membership.
NEW MAC TOWN HIGHWAY MODEL ACCESS POLICY AND DRAINAGE MANAGEMENT STANDARDS

VLCT’s Municipal Assistance Center (MAC) has developed new model and best practice documents to help selectboards, road commissioners, and highway supervisors (road foremen) manage their town highway systems.

MODEL TOWN HIGHWAY ACCESS POLICY, GUIDANCE MEMO AND FORMS

The MAC Model Town Highway Access Policy and accompanying forms will help municipalities formalize the access permit process that is required by 19 V.S.A. § 1111. According to that statute, any individual or corporation seeking to occupy or alter any part of a municipal right of way must obtain a permit. Such permits are commonly referred to as “access,” “curb cut,” or “driveway” permits and are issued by the selectboard or its designee. It is essential that every municipality establish a permitting process, including rules and regulations that set forth any required construction standards and conditions that must be complied with before an access permit may be issued.

It is unlawful to “develop, construct, regrade or resurface any driveway, entrance or approach, or build a fence or building, or deposit material of any kind within, or to in any way affect the grade of a highway right of way, or obstruct a ditch, culvert or drainage course that drains a highway right of way, or fill or grade the land adjacent to a highway so as to divert the flow of water onto the highway right-of-way,” without a permit. 19 V.S.A. § 1111. Municipalities are specifically authorized to “make such rules to carry out the provisions of [19 V.S.A. § 1111] as will adequately protect and promote the safety of the traveling public, maintain reasonable levels of service on the existing highway system, and protect the public investment in the existing infrastructure…”

The Model Highway Access Policy includes legal requirements specified in Vermont law, but does not address specific technical issues such as safety, traffic volume, deceleration lanes, traffic impact studies, parking, loading, drainage, and other issues associated with various types of development. Towns may customize the policy to address these technical aspects of managing their highway system.

DRAINAGE MANAGEMENT STANDARDS FOR TOWN HIGHWAY ACCESS POLICIES

VLCT’s Water Resources Management Program has developed guidance on drainage/stormwater management best practices and sample standards for town highway access policies. These standards may be used to customize the VLCT Model Highway Access Policy. Addressing stormwater is very important because municipalities will soon need to comply with requirements of the Department of Environmental Conservation’s Municipal Road General Permit (MRGP).

The MRGP is scheduled to be finalized by December 31, 2017; applications and associated fees will be due in mid-2018. Under the MRGP, municipalities must implement customized, multi-year municipal plans to stabilize their road drainage systems. Road erosion inventories and implementation plans will be due in mid-2020 and revised every five years thereafter.

While many towns may have a highway access permit process in place through an existing policy or zoning regulations, MAC encourages selectboards, road commissioners, and road foremen to consider the MAC Model Policy and forms for language to amend current processes.

All of these documents are available on VLCT’s website, www.vlct.org.

MAC IS HERE TO HELP!

MAC’s attorneys and Water Resources Coordinator can help towns by providing:

• legal review of highway access policies and forms for compliance with state law; and/or

• technical review drainage/stormwater management standards for compliance with the MRGP.

Contact us at info@vlct.org or 800-649-7915 for more information.
USING ROBERT’S RULES OF ORDER

Robert’s Rules of Order is a reference guide of parliamentary procedure that is used by many organizations to govern the conduct of their meetings. Among other things, Robert’s Rules dictates the timing and form of motions, whether and how motions are amended and discussed, and how voting takes place. State law dictates that “Robert’s Rules or some other rules of order shall govern all municipal meetings, except in elections using the Australian ballot system.” 17 V.S.A. § 2658. As such, town meeting moderators use Robert’s Rules to direct annual and special town meetings where voting takes place from the floor. 

There is no state statute that requires the use of Robert’s Rules during meetings of a selectboard or other municipal bodies. In fact, the VLCT Municipal Assistance Center does not recommend its use by selectboards or other municipal bodies because Robert’s Rules is cumbersome (the 11th edition has more than 700 pages), complex, and is not well-suited to small boards.

Instead, we recommend that every municipal body adopt an abbreviated set of rules that can be easily digested and understood. Such rules should spell out how meetings are run, how agendas are assembled, etc. The adoption and use of a written set of procedural rules can help municipal bodies avoid logistical problems, confusion, and charges of inconsistent or arbitrary action. A set of written rules also provides a road map for meetings and reassures the public that there is an objective and standardized process for dealing with municipal issues. MAC has developed Model Rules of Procedure that municipal bodies can customize for their use. These rules are available on the VLCT website. Contact info@vlct.org for more information.

Sarah Jarvis, Staff Attorney II
VLCT Municipal Assistance Center

VLCT Municipal Assistance Center

Providing the resources municipal officials need to serve and strengthen their local governments.

PROFESSIONAL AND CONSULTING SERVICES
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- On-site land use training

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- Attorneys and professional staff available to answer VLCT members’ questions

ONLINE RESOURCES
- Available at www.vlct.org

PUBLICATIONS
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- Technical papers
- Newsletter articles
- Posters
- Survey reports

Help your local government be the best it can be.

Contact MAC today at 800-649-7915 or info@vlct.org.
Visit the Municipal Assistance Center page at www.vlct.org for more information.
U.S. Supreme Court upholds Wisconsin’s Lot Merger Rule against regulatory takings challenge

“The Fifth Amendment’s guarantee that private property shall not be taken for a public use without just compensation was designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.”


In *Murr v. Wisconsin*, 582 U.S. ___ (2017), a case that could have just as easily originated in Vermont, the U.S. Supreme Court held in a 5 to 3 decision written by Justice Kennedy that a Wisconsin law prohibiting the sale or development of adjacent nonconforming lots under common ownership did not affect a “taking” under the Fifth Amendment to the U.S. Constitution requiring just compensation. Such merger laws, the Court noted, are “a legitimate exercise of government power, as reflected by its constancy with a long history of state and local merger regulations that originated nearly a century ago.”

The decision in *Murr* affirms the constitutionality of merger regulations in Vermont, which are specifically authorized by 24 V.S.A. § 4412(2)(B). That statute provides that local zoning regulations may “provide that if an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot.”

The Takings Clause of the Fifth Amendment prohibits the government from taking private property for a public use without providing the property owner with just compensation. A “taking” can be obvious, such as when there has been “a direct government appropriation or physical invasion of private property.” These “per se” takings deprive property owners of the right to occupy and use their land. A taking may also take place indirectly as when a government regulation so interferes with private property as to deprive its owner of its utility or value. “[W]hile property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking.”

The Court stated there is no set formula for when a taking occurs, but rather that such a determination will turn on the circumstances of each case. Specifically, a regulation will have gone too far (i.e., become a “regulatory taking”) when it denies the property owner “all economically beneficial or productive use of land.” It may also be found despite falling short of depriving its owner of all reasonable value or use of his or her property depending upon a complex set of factors including “(1) the economic

Need a written legal opinion? Looking for expertise drafting a new ordinance? Need help updating that personnel policy?

VLCT’s attorneys can provide your municipality with legal assistance at highly competitive rates. Please call Abby Friedman for more information at 1-800-649-7915.

**Sample Projects:**
- Water & Sewer Ordinances
- Zoning Bylaws
- Municipal Charter Amendments
- Highway Ordinances

(continued on next page)
impact of the regulation on the claimant; (2) the extent to which the regulation has interfered with distinct investment-backed expectations; and (3) the character of the government action.”

At issue in this case was a 1976 Wisconsin regulation that treated the two lots the Murrs acquired from their parents in the 1990s as one merged lot. The Murrs alleged that the regulation constituted a regulatory taking because it prevented them from selling off one of the lots. The regulation at issue prohibited development on a lot with less than an acre of developable land. Though each of the Murrs’ lots was over an acre in size, their shared topography (waterline and steep terrain) rendered them undevelopable.

The question brought to the Court to decide was how to define the property subject to the Court’s takings analysis. Should the Court look at the Murrs’ property as one lot or two? The State of Wisconsin took the position that state law should answer this question pointing to its merger regulation in support of the conclusion that the parcel should be considered as a single whole lot. The Court’s three dissenting justices, led by Chief Justice Roberts, also favored this traditional approach which dictates that because property interests are created and their dimensions defined by state law, it should be state law that defines their boundaries. Those boundaries then, according to Chief Roberts, should, in all but the “most exceptional circumstances,” determine the parcel. The petitioners of course wanted the Court to adopt the presumption that lot lines define the boundaries of a parcel in all instances regardless of what state laws say on the matter.

The majority of the Court, rejecting the reasoning behind these approaches, opted instead for its own test looking at three factors: (1) the treatment of the land under state and local law; (2) the physical characteristics of the land; and (3) the prospective value of the regulated land. The purpose of this multifactor balancing test, the Court declared, is to “determine whether reasonable expectations about property would lead a landowner to anticipate that his holdings would be treated as one parcel, or, instead, as separate tracts.”

The Court held that each of the three factors of its new balancing test favored treating the property as one parcel. “Under the appropriate multifactor standard, it follows that for purposes of determining whether a regulatory taking has occurred here, petitioners’ property should be evaluated as a single parcel consisting of [the two lots] together.” To begin with, the lots were merged under reasonable state and local land use regulations for a legitimate purpose – the conservation of the river area where the lots were located. Secondly, the physical characteristics of the adjoining properties (their steep terrain and location abutting a river) limited their use as supported their treatment as one parcel. Finally, the value of the property’s value under the challenged regulation as a merged lot exceeded the summed value of the individual lots, evidencing their complimentary nature and further supporting their treatment as one parcel. Having determined that the Murrs’ lots should be treated as one parcel for purposes of its takings analysis, the Court then found that the lower court was correct in ruling that no taking had actually occurred because the Murrs had neither been deprived of all economical beneficial use of the property (they could still use if for residential purposes) nor was the economic impact of the regulation which merged their lots severe.

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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

Pick from these topics or develop your own!
Register for Town Fair Online: www.vlct.org/event/town-fair-2017

TOWN FAIR FREQUENTLY ASKED QUESTIONS

What is Town Fair?
Town Fair is VLCT’s annual conference. Attendees from across a broad spectrum of municipal positions come to network, attend training sessions, and see the latest municipally-themed products and services that exhibitors have to offer.

Why should I attend?
The conference is the year’s most important networking and training opportunity for local officials. We think that you’ll also have fun as you attend workshops and meet up with old colleagues.

What’s new at Town Fair?
This year, the exhibit hall will be in the Oscar Wilde Ballroom. This is the first time

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Town Fair
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that exhibitors and attendees will be in the Killington Grand Hotel. The closer proximity will allow attendees to more easily access the exhibit space.

When is the VLCT Annual Meeting? Who can attend?
The meeting will begin at approximately 1:30 p.m. on Wednesday, October 4. Anyone may attend, but you must be the Voting Delegate (one is permitted from each member city or town) to vote.

How do I register?
You can register online at VLCT’s new website, www.vlct.org! Registration is fast, easy, and is live now. We encourage you to pre-register online and receive the $10.00 early bird discount. Registrations will also be accepted at the door.

When does Town Fair begin?
Town Fair begins on Wednesday, October 4th, with the VLCT Annual Meeting. A free reception in the exhibit hall will follow. Arriving early? The Killington Grand Resort has lots of fun activities for Town Fair attendees Wednesday morning. Visit www.killington.com to learn more. The regular training programs begin on Thursday, October 5th, at 8:30 a.m.

Sustainable Energy Solutions for Vermont Communities

Encore Renewable Energy is dedicated to sustainably harvesting today’s renewable resources by bringing community-scale solar projects to underutilized municipal properties such as landfills, brownfields, and rooftops.

Deeply experienced in the development, financing, and construction of renewable energy projects in Vermont, Encore has developed a range of projects which have lowered electricity bills for towns, reduced the cost of electricity generation for municipal utilities and expanded the State’s clean energy portfolio.


www.EncoreRenewableEnergy.com

Town Fair 2017 by the Numbers

• Sixty-five exhibitors showcasing an array of products that target the workings of municipal government and offering great give-aways and raffle prizes.

• Twenty-four training sessions on topics that include economic development, town-specific human resources, the Open Meeting Law, social media, holding effective meetings, Vermont’s Long-Range Transportation Plan, and more. Check out “Spotlight on Town Fair Training” on page 1 or visit www.vlct.org to view a full listing and descriptions of the trainings.

• Four annual meetings – VLCT, PACIF, VERB, and the Police Chiefs – will take place.

• One 50th Anniversary Celebration (VLCT)!
As of press time (July 31), the following exhibitors are signed up to show their products and services at Town Fair.

Aldrich + Elliott, PC
Essex Junction, VT
Wayne Elliott
Welliot@aengineering.com
(802) 879-7733
www.AEengineers.com
Water resource engineers

Associated General Contractors of Vermont – Project RoadSafe
Montpelier, VT
(802) 223-2374
www.agcvt.org
Driver safety training

Brook Field Service
Northfield, VT
Jim Brochhausen
Jim@brookfieldservices.com
(802) 485-6567
www.brookfieldservices.com
Generators

CAI Technologies
Littleton, NH
Timothy Fountain
tfountain@cai-tech.com
(800) 322-4540
www.cai-tech.com
Precision mapping; desktop, web, and mobile GIS; AxisGIS; public works information management; infrastructure collection and integration

Casella Waste Systems, Inc.
Rutland, VT
Marc Okrant
marc.okrant@casella.com
(802) 772-2268
www.casella.com
Waste and recycling services

Citizens Bank
Manchester, NH
Christine Therrien
Christine.therrien@citizensbank.com
(603) 634-7174
www.citzensbank.com
Specializing in delivering products, services, and expertise to help municipalities manage their finances.

Community Bank N.A.
South Burlington, VT
Shelley Quinn
Shelley.quinn@communitybankna.com
(802) 865-1665
www.communitybankna.com
Banking

DuBois & King, Inc.
Randolph, VT
Melissa Stephen
mstephen@dubois-king.com
(802) 728-3376
www.Dubois-King.com
Full-service consulting engineering firm

Efficiency Vermont
Burlington, VT
Bob Murphy
bmurphy@veic.org
(802) 540-7718
www.efficiencyvermont.com
Energy efficiency programs

Empower Retirement
Montpelier, VT
Kay Kuzmik
(802) 229-2391
www.vermont457.com
Deferred compensation

FuelMaster/Syntech Systems
Tallahassee, FL
Blaine Jack
blaine.jack@myfuelmaster.com
(800) 888-9136
www.myfuelmaster.com
Automated fuel management systems

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Town Fair Exhibitors
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Hoyle, Tanner & Associates, Inc.
Burlington, VT
Jon Olin, PE
jolin@hoyletanner.com
(802) 860-1331
www.hoyletanner.com
Consulting engineers

ICMA RC
Hampden, MA
Michael Savage
msavage@icmarc.org
(888) 803-2721
www.icmarc.com/
Municipal retirement plans

Invest EAP
Burlington, VT
Connie Gavin
connieg@investeap.org
(802) 951-4032
www.investeap.org
Employee assistance programs

Lincoln Financial Group
Portland, ME
Tammy Dyer
(207) 791-5201
www.lfg.com
Employee benefits

Mascoma Savings Bank
White River Junction, VT
Sheila M. Jacobs
sheila.jacobs@mascomabank.com
(603) 442-4692
www.mascomabank.com
Municipal banking services

Municipal Leasing Consultants
Grand Isle, VT
Renee M. Piche
renee.piche@powerofleasing.com
(802) 372-8435
www.powerofleasing.com
Providing tax-exempt lease purchase financing for capital equipment as an alternative to bonding

MVP Health Care
Williston, VT
www.mvphealthcare.com
Health insurance

(continued on page 14)
On August 30th, seven municipalities will send selected employees to Barre to attend a PACIF Loss Control training on Permit-Required Confined Space (PRCS) safety. This classroom-based and hands-on training provides attendees with the practical knowledge they need to work in this type of space safely. A free perk of PACIF membership, this customized full-day workshop will help attendees understand the following PRCS concepts:

- potential hazards associated with PRCSs;
- VOSHA regulatory requirements and how to comply with them;
- atmospheric hazard assessment and potential risks; and
- the proper use of multigas meters, harnesses, and tripods.

The morning session will focus on building knowledge which attendees will reinforce in the afternoon through hands-on practice that involves entry into a simulated permit required confined space.

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Workers’ Comp Claim? Work with Us!

The PACIF Workers’ Compensation staff encourages all PACIF members to remember that when we are handling a claim for you, we are representing the municipality’s interests. In a very real way, PACIF and its members are on the same team, and we all have the same goal of addressing, investigating, and determining each claim promptly and fairly.

In order to do right by claimants as well as taxpayers, PACIF needs all members to participate readily with us throughout the claim process. Here are some examples of what this means.

File a claim as soon as you become aware of a workplace injury – or of an incident that could easily have caused an injury, such as a near miss or when the employee claims to feel fine despite seeming to have been in a truly painful situation. The Vermont Department of Labor requires reporting within 72 hours of learning of an injury, yet if you miss that deadline, you must file nonetheless, and the shorter the delay the better. The municipality won’t incur any additional cost for a claim that never results in treatment, and a near miss can become an excellent safety lesson. Employers who either delay filing a report when they know about an injury or who pay for medical treatment without letting the claim process proceed properly can unintentionally put themselves on the hook for much higher long-term expenses than anyone would have foreseen.

Provide information without unnecessary delay when the adjuster requests information. Learning the circumstances and facts of a situation is much easier when memories are fresh. Also, state laws limit the amount of time that the team – your municipality and PACIF – has to report and process each claim.

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Designated Employer Representative (DER) Training. 9:00 a.m. to 12:00 noon on either of the two days listed below. Every PACIF member that employs a commercial motor vehicle operator must assign a DER as the liaison for the FMCSA-required drug and alcohol testing program. This important training informs the DER on how the program works and the drug and alcohol testing requirements in general. Issues such as hiring new drivers, accuracy of driver rosters, communications, the collection process, and testing requirements will be addressed.

- Tuesday, August 8, NewsBank Conference Center, 352 Main Street, Chester
- Wednesday, August 23, Johnson Municipal Building, 293 Lower Main Street West, Johnson

Free of charge for PACIF members; others, $50 each. For more information, visit the Events and Training Calendar at vlct.org [www.vlct.org/training-events].

2017 Local Officials Golf Outing. 8:30 a.m. through lunch Wednesday, August 23, Green Mountain National Golf Course, Killington. This four-person scramble includes shared cart, morning snack, lunch, awards, and prizes for only $50 per municipal employee or official (or $65 each for others). If you want to participate but haven’t registered yet, please contact Pam Fecteau immediately at 800-649-7915 or pfecteau@vlct.org to inquire about last-minute openings. For more information, visit www.vlct.org/event/local-officials-golf-outing.

RMS at VLCT Town Fair. Wednesday and Thursday, October 4 and 5, Killington Grand Hotel and Conference Center, 4763 Killington Road, Killington. Listed below are only a few of the many activities. Please visit the Events and Training Calendar at vlct.org [www.vlct.org/training-events] for the full schedule and session descriptions. $60 per attendee.

Wednesday, October 4:
- **VLCT Annual Meeting:** Voting delegates will determine VLCT’s policy priorities for 2018.
- **Early Evening Reception in the Exhibit Hall:** All attendees are invited to enjoy delicious hors d’oeuvres while they peruse the exhibits and chat with VLCT staff. A cash bar will be available.

Thursday, October 5:
- **Municipal HR Group Meeting:** Jill Muhr will talk about the latest employment law updates, a town’s Human Resources responsibilities, and the tools and services VLCT offers to help make this complex role easier.
- **Future Trends Impacting Local Governments.** Keynote Speech by Matt Thornhill of The Institute for Tomorrow. (This is not specifically a Risk Management topic, but we invite you to attend anyway!)
- **PACIF and VERB Annual Meetings:** The 2016 finances and accomplishments of both Trusts will be reported.
- **Vermont Association of Chiefs of Police Annual Meeting:** After business is conducted there will be a presentation titled Emerging Trends in Law Enforcement.
- **Medicare:** Derek Obrey of Blue Cross Blue Shield of Vermont will explain employers’ responsibilities regarding Medicare and answer your questions.
- **Employment Practices Law:** A panel of Vermont attorneys who specialize in employment practices liability will give some eye-opening examples of what to do and what not to do with respect to litigation-prone employment activities.
- **Protecting Your Municipal Budget by Avoiding Costly Claims:** PACIF Underwriter Pam Fecteau and Loss Control Consultant Jeff Theis will explain several ways to reduce risk and help protect your municipality’s bottom line.

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Greg Edwards, PE
greg.edwards@stantec.com
(802) 864-0223
www.stantec.com
Engineering consulting firm serving communities for over 50 years with a wide range of transportation, environmental, and water resource services.

Stittel Page & Fletcher, PC
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Robert Fletcher
rfletcher@firmspf.com
(802) 660-2555
www.firmspf.com
Municipal legal services

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Montpelier, VT
John Weston
john.weston@td.com
(802) 223-0519
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Banking and financial services

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requirements, or attend refreshers on Vermont’s Open Meeting Law, Medicare, and conflicts of interest. Additionally, Town Fair will feature two different session tracks: Human Resources and Economic Development. You can attend a single session or the entire track. A full listing with descriptions is posted on our website, www.vlct.org, or refer to the attendee packet that we mailed to you.

Two workshops will focus on municipal communications. Keeping Up: Planning and Managing Social Media will show you how to develop and effectively use your social media accounts. Effective Public Communication will lead attendees through strategies to disseminate important municipal information to the public through traditional media outlets (print, TV, radio). Three sessions will focus on transportation issues: Speakers from the Department of Environmental Conservation will detail the Municipal Road General Permit, the new requirement from the Vermont Clean Water Act, and tell you what might trigger its implementation. Agency of Transportation reps will provide an update on Vermont’s Long-Range Transportation Plan. And, a presentation on VTrans’ Better Roads program discusses funding, implementation plans, and how best to mitigate road-related erosion problems.

The HR session track comprises four workshops: HR News and Networking, Multiple Generations in the Workplace, Maneuvering Medicare, and Employment Practices Dos and Don’ts, in which a panel of experts – including: Kerin Stackpole of Paul, Frank + Collins; Kaveh Shahi of Cleary Shahi & Aicher, PC; and Kelly Kindestin of VLCT PACIF – will provide an insider’s view of real Vermont municipal employment practice scenarios to help you reduce your legal risks.

Workshops and a roundtable discussion hosted by the Vermont Assessors and Listers Association and the Vermont Municipal Clerks’ and Treasurers’ Association will specifically target their members. Visit our website, www.vlct.org, for up-to-the-minute details.

The complete menu of workshop topics is listed below. Visit our website for complete descriptions of each topic and to register.

- Better Roads
- Computer Security 101
- Economic Development Success Stories
- Effective Public Communication
- Emerging Trends in Law Enforcement
- Employment Practices Dos and Don’ts
- Holding Effective and Legal Meetings
- HR News and Networking
- Keeping Up: Planning and Managing your Social Media
- Legislative Update
- Managing Conflicts of Interest
- Maneuvering Medicare
- Multiple Generations in the Workplace
- Municipal Road General Permit
- Protecting the Municipal Budget and Avoiding Claims
- Vermont’s Long-Range Transportation Plan
- Vermont’s Workforce Supply Gap: Can we fill it?
- Vermont Municipal Bond Bank: A Resource for Municipalities
- Vermont’s Open Meeting Law and Social Media
- Vital Records
- Young Professionals in Your Town
- plus two trainings from VALA (TBD)
This class is already fully enrolled and is currently not scheduled again this year. But the instructor, Fred Satink, said that if there is sufficient interest from members he will consider holding an additional half-day classroom-only PRCS training later this year. If you would like to send employees to such a class, email PACIF Loss Control staff at loss-control@vlct.org or call 800-649-7915 and speak with Adam Davis, Administrative Assistant for Loss Control. If enough members express a strong interest, PACIF Loss Control staff will do their best to provide an additional training.

**NEW DPD FOR VERB GROUP DENTAL**

Northeast Delta Dental has updated the Dental Plan Description (DPD) for the VLCT Employment Resource and Benefits Trust (VERB) group dental plan to include the improvements that were announced in these pages last month. Participating members can find the new DPD as a 35-page PDF file on the Dental page of VLCT’s new website, www.vlct.org/insurance/verb/dental-insurance, in the Resource named Group Dental Plans and Rates. (While you’re there, please explore this new page and note how its Resources are groupings of the files that were listed separately on our old website.) Please make the new DPD available to your employees, or at least notify them that they can find it online at www.vlct.org/sites/default/files/documents/Resource/DentGp-DPD_0.pdf.

Members participating in VERB’s group dental program also have access to their specific Outline of Benefits (OOB), which shows coverage specific to their group dental plan, at www.nedelta.com. The Outline of Benefits may be accessed by employers who log in to the Group Admin Portal and by individual subscribers who log in and use the Patient Benefit Lookup.

If you have any questions regarding the new DPD or your group’s Outline of Benefits, please contact Kelley Avery at kavery@vlct.org or Larry Smith at lsmith@vlct.org, or call either of them at 800-649-7915. And on October 4-5, please stop by Delta Dental’s booth at Town Fair to say hello and pick up a free toothbrush!

**LOCAL MATTERS (continued from page 12)**

Remember that adjusters rightfully have access to claimant information that relates to the claim. We won’t ask for anything inappropriate, yet every claim is different (so what we seek can vary greatly from one claim to the next). A large part of the adjuster’s job is obtaining and making sense of the relevant information, so having full information is a big help in handling claims accurately and fairly.

In the long run, cooperating with claim staff will make the best use of everyone’s time and taxpayer dollars. Consistently keeping your municipality’s claim costs low may help to mitigate your contributions over time, and responsible claim handling definitely helps keep the shared funds of all PACIF members working well for every member.

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**Workers’ Comp Claim? (continued from page 12)**

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This test was criticized by Chief Justice Roberts who said that it offered “little guidance” for identifying a property owner’s expectations and unnecessarily complicated the definition of “private property.” The Chief Justice stated that the majority’s new test lessens the protections offered by the Takings Clause because it incorporates the same types of factors the Court already has to consider in the second step of its takings analysis (i.e., the extent to which the regulation has interfered with distinct investment-backed expectations.) The consequence, according to the Chief Justice, is a “clear double counting to tip the scales in favor of the government”… which is exactly how the Court ruled.


Garrett Baxter, Senior Staff Attorney
VLCT Municipal Assistance Center

Superior Court rules electronic database records must be produced

The Rutland Superior Court recently ruled that a public agency must disclose public records if the agency possesses the discrete pieces of the records and those pieces are extractable from the agency’s computer database. Duffort v. Vermont Agency of Education, No. 380-7-16 Rdcv (Vt. Super. Ct. May 23, 2017) (Toor, H.). The court ruled that the records had to be produced even though the agency did not have an existing document containing the information that was requested.

The case originated from a Public Records Act request by plaintiff Lola Duffort, who was seeking information and materials related to reports of hazing, harassment, and bullying in Vermont schools. The Vermont Agency of Education is required to collect school bullying data and issue annual reports pursuant to 16 V.S.A. § 164(17). Schools must submit this data to the agency and the agency maintains the data in its Combined Incident Reporting Software or “CIRS.”

The plaintiff specifically sought “school by school reports” of the data for the years 2012-2015. The agency denied the request stating that the school bullying data is “not maintained at the state level on a school-by-school basis” and that “the information [Duffort] was seeking would require the creation of a public record that Defendants were unwilling to do.”

According to the Public Records Act, “any person may inspect or copy any public record of a public agency,” and “[a]n agency may, but is not required to … create a public record ….” 1 V.S.A. § 316(a), (i). (Emphasis added.) The agency relied on the latter provision in declining to create a new public record, i.e. the requested school-by-school report. The agency said that while it could query (i.e., search, organize, and produce a report) the CIRS database to respond to the plaintiff’s school-by-school request, no such record existed at the time of the request; therefore, the agency was not obligated to create such a record.

The court disagreed with the agency and ruled that querying the CIRS database did not amount to the creation of a new record because the agency possessed the CIRS database all the “discrete pieces of information” which the plaintiff sought and only needed to extract and compile the data. In this way, the CIRS database was likened to a physical file cabinet:

“[T]he electronic query [of the CIRS database] is akin to a manual search of file folders for the requested information, [and] the fact that the search is done electronically rather than manually cannot change the result. Thus, if the information exists in agency files, albeit electronic ones, and merely needs to be ‘pulled out’ of those files by a query as it would be by human hand from paper files, the information is not protected from disclosure.”

While the court ruled that querying the CIRS database was not tantamount to creating a new record, it was careful to avoid too broad of a ruling, acknowledging that “the distinction between searching and either performing research or creating records remains somewhat muddled.” (Citing Nat’l Sec. Counselors v. C.I.A., 898 F. Supp. 2d 233 (D.D.C. 2012). For the court, the “line is essentially between data the agency has collected for its own use, and data that a requester seeks that is not something the agency uses but can be created from that data.” In other words, public agencies are not obligated under the law to create new records that are essentially compilations, indexes, or aggregations of preexisting records – in such an instance, the requester must make a request of the existing records. (“[R]equests for information about information’ need not be answered.”)

As of this writing, the agency has not appealed the superior court’s ruling to the Vermont Supreme Court; therefore, the precedent effect of the case is limited to Rutland County. Nonetheless, the court’s reasoning may be influential in future Public Records Act requests. The full impact that this ruling has on the Public Records Act is unknown, and if this case is not appealed to the state’s highest court, it will likely take another case – one that does reach the Vermont Supreme Court – in order to settle the law.

Carl Andeer, Staff Attorney I
VLCT Municipal Assistance Center

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.

www.veda.org
802-828-JOBS
HELP WANTED

Road Foreman. The Town of Royalton, Vermont, is seeking a “working” foreman to operate under the general supervision of the selectboard. The full-time, “at will” Foreman supervises and carries out the day-to-day routine road maintenance needs of the Town of Royalton. She/he also oversees the responsible use of the highway budget and its development and updates the selectboard regarding any road, culvert, resurfacing, stock-pile replacement, garage work, brush cutting, road grading, bridge cleaning, or other pertinent town road information as needed. The Foreman must pass a background check as well as a drug test and maintain a valid Class 1 CDL. The full job description is posted at http://royaltonvt.com/employment/. To apply, please mail a resume to Town of Royalton, PO Box 680, South Royalton, VT 05068. (07-18)

Public Works Director. The city of Winooski seeks a dynamic leader for our Public Works team. The Public Works Director oversees the water, wastewater, stormwater, streets, building, grounds and parks of our growing and vibrant city. The Director plays a vital role on the City’s leadership team, provides staff support to the Public Works Commission, and serves as a liaison between operational staff and leadership. The successful candidate will possess an advanced understanding of multiple public works competencies, can build relationships across City functions and departments to accomplish shared goals, and will be a highly skilled communicator and team motivator with a demonstrated commitment to diversity, equity, and inclusion. A complete job description is posted at www.winooskivt.org. (07-18)

Truck Driver. The Town of Littleton, N.H., seeks a full-time (40+ hrs/week) Truck Driver. Work involves the operation of dump trucks, plow trucks, sanders, and other light equipment and hand tools. The Truck Driver must be available for call outs and emergencies. Work can vary seasonally and involve physical labor, plowing, road maintenance, highway construction, and sewer field operations. Qualifications: High school diploma or equivalent, valid N.H. driver’s license with a clean driving record, CDL B with endorsements, good attendance, good attitude, and a willingness to work in varying weather conditions. This is a strenuous physical job. Starting

(continued on page 21)
Maneuvering Medicare. Learn how to maneuver the complex world of Medicare and what steps you must take when employees or retirees become eligible for Medicare. Our presenter will thoroughly explain the three basic parts of Medicare – A, B, and D – and highlight what options are available in the group and individual markets.

Derek Obrey, Consumer and Business Support Services, BlueCross BlueShield of Vermont

Multiple Generations in the Workplace. Intergenerational differences are evidence that our culture is in transition. Differences between the five (gasp!) generations found in today’s workplace can be identified by factors such as norms, beliefs, values, and the historical influences that shaped each generation. In this session, we’ll examine the most commonly understood traits of each generation. More importantly, we’ll discuss how to attract and keep the talent we want in our municipalities without alienating the other generations.

Michael Kilfoyle, Principal/Senior Vice President, Hickok & Boardman HR Intelligence

Employment Practices “Dos and Don’ts”. Managing employees can be rewarding and challenging. Employment practices claims (such as unlawful termination, harassment, or discrimination) can be extremely expensive. Here is your opportunity to learn the “dos and don’ts” of employment practices from attorneys specializing in the field and a PACIF claims manager. While names and identifying details will be blurred to protect confidentiality, you will reap an insider’s view of real Vermont municipal employment practice scenarios and be provided with information that will help you manage and reduce your legal risks. Kerin Stackpole and Kaveh Shahi are seasoned attorneys who participate in VLCT PACIF’s Employment Practices Liability (EPL) Assistance Program. Kelly Kindestin has over 20 years of years of municipal claims management experience.

Kerin E. Stackpole, Director, Employment and Labor Law Group, Paul, Frank + Collins
Kaveh S. Shahi, Principal, Cleary Shahi & Aicher, PC
Kelly Kindestin, Manager, Property and Casualty Claims, VLCT PACIF

Please join us for this extraordinarily constructive day. Register for Town Fair at this link: www.vlct.org/event/town-fair-2017

GOLF with VLCT
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Killington
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info in email at vlct.org
Qs: Ask Pam F. at League pfecteau@vlct.org or 800-649-7915

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hourly salary for this union position is $14.05-15.13 with benefits. A job description is available upon request. The successful applicant is subject to a physical, a background check, and federal drug and alcohol testing. Work normally occurs Monday-Friday during the summer months unless there is an emergency. An employment application may be picked up at the Littleton Town Office (125 Main Street) or at the Littleton Highway Department (240 West Main Street). Drop off your completed application at either location or email it to Finance HR Director Karen Noyes at knoyes@townoflittleton.org. Position open until filled. E.O.E. (07-12)

**Municipal Groundskeeper.** The Town of Littleton, N.H., seeks a full-time Municipal Groundskeeper. The successful applicant must be willing to operate various types of equipment as needed in the maintenance of the Town’s various parks and playgrounds. Frequently used equipment includes riding mower, push mower, and trimmers. During winter, this position assists the Public Works Department in seasonal plowing as directed by the supervisor. Qualifications: High school diploma or equivalent; valid N.H. driver’s license; CDL-B with endorsements or be able to get one; be subject to a physical, a background check, drug and alcohol testing as required by federal law. Must be available for overtime during emergencies and seasonal needs. Starting hourly salary, $14.50 DOE plus benefits. A job description is available upon request. The successful applicant is subject to a physical, a background check, and federal drug and alcohol testing. Work normally occurs Monday-Friday during the summer months unless there is an emergency. An employment application may be picked up at the Littleton Town Office (125 Main Street) or at the Littleton Highway Department (240 West Main Street). Drop off your completed application at either location or email it to Finance HR Director Karen Noyes at knoyes@townoflittleton.org. Position open until filled. E.O.E. (07-12)

**Operator.** The North Branch Fire District #1, a wastewater treatment facility located in West Dover Vermont, seeks an Operator to perform skilled and semi-skilled work in the operation of the district’s wastewater facility, daily operation and monitoring of influent and effluent conditions. The full-time operator works under the supervision of the Chief Operator. Weekends are necessary. Duties include laboratory analysis; collection system maintenance and repairs; equipment maintenance; grounds care; performing daily pump runs; being responsible for collecting water quality samples as applicable; operating and maintaining plant equipment including pump control systems, alarm signals, chemical feed systems, and belt filter press; making adjustments in plant operations as needed due to seasonal changes, quality changes, maintenance schedules or special programs or circumstances; and performing other duties as assigned. Requirements: high school diploma or equivalent (GED); valid driver’s license; and the ability to read and write English. Benefits include health insurance, life insurance, short- and long-term disability insurance, vacation days, personnel days, holidays and participation in the Vermont Municipal Employee Retirement System. Pay compensatory with work experience. To apply, please send resume to North Branch Fire District #1, 78 Dorr Fitch Road, West Dover, VT 05356. (07-10)

**Police Officers.** The Shelburne Police Department is currently accepting applications for full- and part-time police officers. Successful candidates must demonstrate both a willingness to serve a diverse community and an eagerness to join the ranks of a professional police agency. Candidate must be a U.S. citizen, be at least 18 years of age, have a valid driver’s license and a high school diploma, be able to pass an extensive background and polygraph check, and...
be able to perform the essential functions of the position. All shifts, weekends, and holidays are a must when scheduled. Preference will be given to currently certified police officers with a Level IIE or Level III certification or equivalent. A complete job description and application are available at http://www.shelburnevt.org/237/Human-Resources or at the Shelburne Police Department (5420 Shelburne Road). Shelburne offers a competitive wage and benefits package. Email your completed application to Deputy Chief Aaron Noble at aaron.noble@vermont.gov, or submit to Deputy Chief Aaron Noble, Shelburne Police Department, PO Box 58, Shelburne, VT 05482. Applications accepted on a rolling basis; the positions will remain open until successful candidates are selected. Equal Opportunity Employer. (07-20)

Town Administrator. The Town of Dighton, Mass. (pop. 7,800), is seeking a qualified, innovative leader to be the community’s first Town Administrator. Governed by a three-member Board of Selectmen, Dighton operates under an open town meeting structure. The Town Administrator reports to the Board and is responsible for the day-to-day operations of the Town, including the hiring of personnel, preparing a Capital Budget Plan, economic development, procurement, and general oversight of town departments. The Town has 86 FTEs and an FY18 budget of $18,432,600, of which $9,773,360 is designated for the School District. Requirements: Bachelor’s degree in a related field (Master’s preferred); and at least seven years of progressive municipal management and leadership experience, or a relevant combination of experience and education. Candidates should also possess excellent verbal and writing skills; be proficient in Word, Excel, and Power Point software applications; and demonstrate a pro-active, collaborative, and effective leadership style. The Town of Dighton is primarily a residential community with a strong sense of pride in its rural heritage. Located just 45 miles from Boston and 20 miles from Providence, Dighton is within easy reach of all the educational, health, and cultural opportunities found in those cities. It’s also just a short drive to the tourist communities of Cape Cod. Salary range to $125k, commensurate with qualifications. Excellent benefits. For additional information related to the search, contact Alan Gould, President, Municipal Resources Inc., at 603-279-0352, x320. Additional information is posted at www.mrigov.com/career. Submit a resume and cover letter as pdf file attachments in confidence to recruitment@mrigov.com by Friday, September 8, 2017. EOE. (07-24)

Town Administrator. The Town of Thornton, N.H. (2,500-year-round residents), seeks an organized and experienced person to serve as its next Town Administrator. Working under the direction of a five-person Board of Selectmen, the Town Administrator coordinates the delivery of a full array of town services and manages the day-to-day affairs of the Town. With a 2017 total appropriation of just over $3 million, the Town has 16 full-time employees supplemented by a number of part-time employees. Thornton is located in the White Mountain/Waterville Valley Region, just minutes from New Hampshire’s Lakes Region. The area hosts tourists year-round for the many outdoor seasonal attractions. Thornton is just 45 minutes to Concord and an hour to Manchester and has easy access to Interstate 93. Requirements include a college degree, five years of relevant experience, preferably in municipal administration, or an equivalent combination of education and experience. Salary range to $70K. Starting salary commensurate with qualifications. Excellent benefits. To apply, please email a resume and cover letter, in confidence, as PDF file attachments by Monday, August 28, 2017, to recruitment@mrigov.com. For additional information, visit www.mrigov.com/career. EOE. (07-25)
Helping Vermonters outsmart winter since 2000

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Upcoming Events
Check out all of the upcoming MAC workshops online at www.vlct.org/training-events

GOLF with VLCT
Wed., Aug. 23
Killington

- $50/municipal player
  ($65 all others)
- info in email & at vlct.org
- Qs: Ask Pam F. at League
  pfeceteau@vlct.org
  or 800-649-7915

Vermont League of Cities & Towns
TOWNFAIR 2017
October 4-5, Killington Grand Hotel

New this year:
workshops and exhibitors
will be in the same building.

Questions? Visit www.vlct.org/training-events to register and for the most updated information and events.