When planning parades, it is important that municipalities take reasonable steps to limit their potential for claims and liability. In addition to implementing the safety-related elements listed in “Top 12 Things to Include in Parade Safety Plans,” we encourage VLCT members to have the entities that sponsor or participate in parades (e.g., non-profits or associations) provide certificates of insurance that (a) list the municipality as an additional insured and (b) show proof of general liability coverage with limits of at least $1M per occurrence. For sponsors that don’t have coverage, PACIF underwriters can show you how to help them obtain it. In addition, all operators of motor vehicles should provide their own proof of coverage – ideally with limits that are greater than the statutorily required minimums.

Please reach out to your PACIF loss control consultant if you have questions regarding the event itself or to a PACIF underwriter if you have any questions related to coverage.

Parade Safety Guide

Parades are common events in most cities and towns across the United States. But because they have sometimes been marred by tragedies, local governments have begun to require organizations to write safety plans for them.

A four-year-old was riding on a parade float with his mother and two other children when he became restless. The child was allowed to get off the float and walk in the parade when he accidentally climbed under the float and was run over by one of its wheels. Despite the efforts of nearby police officers to revive him, he died.

“It was a very tragic incident and impacted our officers,” said Chief James Carmody, director of fire and police services in Wyoming, Michigan, where the misfortune occurred. “The accident caused us to activate a crisis counseling program for our staff.”

Following a 2012 highway-railroad grade crossing accident in Midland, Texas, the National Transportation Safety Board (NTSB)...

Safe Playgrounds

Play is critical for children – not just for their physical well-being but for their physical, mental, intellectual, and social development. That’s why our communities continue to support children’s playgrounds.

Over the past 20 years, significant improvements have been made in manufacturing and installing playground equipment. There is an increased understanding of the risks posed by equipment that is poorly designed, constructed, or installed. This has prompted changes to basic safety standards that render many older playgrounds obsolete and essentially unsafe. There is also an increased focus on usability by all children. As a result, handicap accessibility requirements now apply.

The Giant Stride is an unsafe playground apparatus that dates from the early 1900s.

(continued on page 14)
From the Executive Director

Welcome to April – a special time of year in the Green Mountain State as winter and spring vie for top billing on the weather forecast. Everyone looks forward to this transition from winter's chill to warmer weather. Maybe it is because I have worked with municipal government for so many years, but an annual transition that I find exciting recently took place – Town Meeting Day. When the first Tuesday in March rolls around, I love to watch residents gather in their town halls, auditoriums, and gymnasiums to discuss issues that matter to them and make decisions about how to move forward. Town Meeting is a powerful example of direct democracy in action, and few places carry out or value Town Meeting the same way we do in Vermont.

If you are receiving this newsletter for the first time as a newly elected municipal official, I want to thank you for your interest in getting involved in your municipal government. It is an incredible way to make a difference in your community, and you are to be congratulated on your election or appointment. For just over 50 years, VLCT has worked closely with hard-working women and men like yourself to support and strengthen the essential role that local government plays in every community across Vermont.

Addressing the needs of your residents, working alongside state officials on the issues facing your community, and ensuring that your community is a wonderful place to live, work, and play requires continual attention and dedication. Everyone here at VLCT is proud to be your partner in those efforts. Whether you are settling into a new role or are someone who has been active in local government for a long time, please remember that we are here to help.

As we go to press, we are about to hold the first of our Listening Sessions, which have been designed to provide member officials and employees with a forum to brainstorm, voice ideas, or raise concerns about the future of local government in Vermont. We are eager to have a conversation with our members about the opportunities, the challenges, and the questions you have concerning local government and its future. We expect these sessions to give us a wealth of useful insights, and we'll share them with you in future columns. I encourage all of you to attend a Listening Session and share your expertise with us. Our vision for the future, and the plan to implement it, will be stronger and more far-reaching if you are involved. A list of upcoming Listening Sessions can be found on the VLCT website (vlct.org).

I hope each of you looks forward to the renewed sense of purpose that spring often inspires.

Maura Carroll
Executive Director, VLCT

The VLCT News is published eleven times per year (the August and September issues are combined) by the Vermont League of Cities and Towns, a non-profit, non-partisan organization founded in 1967 to serve the needs and interests of Vermont municipalities. The VLCT News is distributed to all VLCT member towns. Please contact VLCT for subscription and advertising information.
The Bond Bank successfully completed its winter pool financing at the end of February when six loans for approximately $7.8 million closed. Guiding this past pool as well as every pool over the Bond Bank’s nearly 50-year history was a guiding mission to ensure both access to capital as well as cost-effective capital for its borrowers.

As the Bond Bank looks forward to the 2018 summer loan pool, fulfilling the mission increasingly means communicating the aggregate impacts of the Bond Bank’s financing partnerships with local communities. This is because of the growing demand from both bond investors and other infrastructure advocates for reporting on project outcomes.

In pursuit of lower costs for borrowers, the summer pool application was updated to include sections related to the above considerations. Please note that these parts of the application are for information purposes and will not be used as part of the Bond Bank’s formal credit review process.

- **Project(s) detail.** The narrative project description is updated to include metrics related to the project(s). Examples include linear feet of streetscape improvements, square feet of facilities renovated, or kWh saved for energy-efficiency projects.
- **Economic impact of project(s).** Project information is extended to include estimates of economic impact. The Bond Bank requests this information on a best efforts basis and includes categories for jobs, population served by project, and/or other investment leveraged by the loan.

The Bond Bank understands that an estimate may be all that is available for both of the above categories. Related guidance for applicants is included within the application.

In addition to impact, the revised applications will ask for clarification on financial data. For all applicants, a section was added to describe significant differences (if any) between the financial information provided within the application and the audit accompanying the application.

For enterprise or other self-supporting projects, the application includes a new section for projected revenues and expenses at the time the improvement is completed due to changes in user fees, efficiency, or production.

The Bond Bank staff are always available to discuss the application and related questions. Summer loan pool applications are due by the end of the day on Friday, May 4th. Contact information, applications, and other updates can be found on our website, www.vmbb.org.

Approved loans for the summer pool are anticipated to close immediately prior to or after Independence Day.

Michael Gaughan, Executive Director
Vermont Municipal Bond Bank

**Safe Playgrounds**
(continued from page 1)

Whether you already have a playground or are thinking of installing new play equipment, this article will help you by outlining some considerations to enhance safety for all users while also reducing the potential for adverse liability claims against your municipality. The Public Playground Safety Handbook, published by the Consumer Product Safety Commission (CPSC), is an excellent resource to help you understand many of the current requirements.

**Inspection and Maintenance of an Existing Playground**

**Grounds and Surfacing**

Children at play will fall sooner or later, and landing on a surface with some “give” helps protect children from many injuries. Hard surfaces such as pavement, dirt, and grass are not appropriate protective surface materials. The best protective surface material is engineered wood fiber as it both provides excellent protection and meets requirements for handicap accessibility. Engineered wood fiber is similar to wood chips, but has been impact-tested for playground use and meets those standards.

- A typical depth of surfacing material is nine to 12 inches, but the depth that is appropriate for a particular play area really depends on the fall height of the play equipment there.

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The Vermont Municipal Bond Bank is a quasi-governmental agency with a mission to provide cost effective capital to municipalities.

Please contact us to discuss your financing needs and learn more about our winter and summer bond pools.

**Check out our website to:**
- Access debt service schedules for prior loans
- Request an amortization schedule
- Download a financing application

20 Winooski Falls Way, Suite 301
Winooosi, VT 05404
T: (802) 864-7377
E: bond-bank@vtbondagency.org

www.vmbb.org
Ordinances and Policies

What is the difference between a municipal policy and an ordinance?

A policy is a course of action, guiding principle, procedure, or strategy that is adopted by a municipal public body (e.g., a selectboard or board of library trustees). Policies are executive in nature and are oriented inward to guide internal decision-making processes. Generally, policies apply to employees, town facilities or the public body itself. A policy is designed to influence and determine decisions in the course of conducting certain municipal affairs. Policies should establish clear-cut, orderly, and systematic methods for handling certain administrative duties and internal town operations. They should be flexible enough to meet changing situations and conditions, yet provide enough consistency and continuity in making decisions to ensure predictability. Although policies generally do not have regulatory enforcement authority as compared to ordinances, policies nevertheless are useful in that they clearly define a municipality’s standards and set reasonable expectations for the applicable municipal topic.

An ordinance is a legislative act by the legislative body of a municipality (selectboard, council, aldermen, trustees). Black’s Law Dictionary defines an ordinance as “[a]n authoritative law or decree; specifically, a municipal regulation, especially one that forbids or restricts an activity.” Black’s Law Dictionary (10th ed. 2014). In contrast to a policy which governs internal operations, an ordinance is “an expression of municipal will affecting the conduct of the inhabitants generally, or of a number of them under some general designation.” City of Barre v. Perry & Scribner, 82 Vt. 301 (1909). Municipal ordinances carry the state’s authority and have the same effect within the municipality’s limits as a state statute. Once adopted according to statutory process, they become legally enforceable local laws. A municipal ordinance is designated either as a civil or criminal offense and may carry a fine or penalty of up to $800. A civil ordinance is generally enforced in the Vermont Judicial Bureau, the court that has statewide jurisdiction over civil violations. Local control, however, exists in Vermont exclusively by permission from the Vermont.

(continued on next page)
General Assembly. Because Vermont is a Dillon’s Rule state, municipalities have only those powers and functions specifically authorized by the Vermont Legislature, and such additional functions as may be incident, subordinate, or necessary to the exercise thereof. Therefore, municipalities may only adopt ordinances and policies on matters that the legislature has authorized.

A statute giving authority for local control will either be self-executing or enabling. A self-executing statute confers upon municipalities the immediate authority to act without first adopting an ordinance. For example, under 24 V.S.A. § 2201(b), municipalities are given the power to issue penalties for certain solid waste violations whether or not an ordinance is first adopted. On the other hand, a statute granting only enabling authority means the municipality must first adopt an ordinance pursuant to 24 V.S.A. §§ 1972 et seq. before it can exercise control over the matter.

What are some common examples of policies and ordinances?

Municipal authority to make local law derives from state statute or municipal charter. The subjects of local legislation are varied and scattered throughout many different titles of the Vermont Statutes Annotated. The location of most municipal authority is located in Titles 19 and 23 that focus on highways and motor vehicles respectively are other locations within state law that offer options for municipal regulation.

Examples of municipal policies include a personnel policy authorized under 24 V.S.A. § 1121 that establishes provisions of employment, leave time, health benefits, and work conduct; a highway maintenance policy that articulates how and when class 4 highways are maintained or plowed; and a purchasing policy that sets standards for bidding on certain municipal expenditures.

What are the procedures for adopting a policy versus an ordinance?

Because a policy is administrative in nature rather than regulatory, it is relatively simple to adopt. Generally, all that is required for adoption is a majority vote by the legislative body of a municipality or other board in favor of the policy at a duly noticed meeting under the Open Meeting Law (1 V.S.A. §§ 310 et seq.).

Adopting an ordinance requires closely following the statutorily prescribed procedures.
In the case of Negotiations Committee of Caledonian Central Supervisory Union v. Caledonia Central Education Association, 2018 VT 18, the Vermont Supreme Court decided that Vermont’s Open Meeting Law does not apply to labor negotiations between a school district negotiating committee and a labor union. The Open Meeting Law applies to all “public bodies” whether school or municipal. 1 V.S.A. § 310(2). The court held that negotiations are not “meetings” under the Open Meeting Law and therefore not subject to its requirements for the simple reason that the legislature did not include the word “negotiating” within the law’s definition of a “meeting.” The court stated that “1 V.S.A. § 310(2) defines a ‘meeting’ as a gathering for the purpose of ‘discussing’; the Legislature did not include meetings for the purpose of ‘negotiating’ in the definition.”

Although the court’s decision in the case might seem like a departure from former decisions, the practical effect of the case is negligible. There has never been a requirement that a public body’s discussion of contracts or labor relations agreements with employees take place in public. In fact, before this case, it was widely believed that the Open Meeting Law already allowed such discussions to take place in private executive session. 1 V.S.A. § 313(a)(1). The only thing that changes after the Caledonia decision is that public bodies no longer have to vote as part of a duly warned public meeting to enter executive session to engage in private labor negotiations.

The Caledonia Central case is archived at https://www.vermontjudiciary.org/sites/default/files/documents/op17-142_1.pdf.

Garrett A. Baxter, Senior Staff Attorney
VLCT Municipal Assistance Center

Free Training for Listers and Boards of Civil Authority!

The Division of Property Valuation and Review of the Vermont Department of Taxes (PVR) is sponsoring VLCT MAC training for listers and members of Boards of Civil Authority. This generous support includes:

- Free registration for Effective Tax Appeals Workshops on May 1 and 8 (Register here https://www.vlct.org/training-events)
- Free onsite training for towns undergoing reappraisals (According to PVR, 18 towns will do town-wide reappraisals in 2018. MAC will coordinate with these towns to provide onsite training for groups of neighboring towns.)
- Town Fair training sessions for listers

This is the first year listers will receive training directly from organizations such as VLCT and the Vermont Assessors and Listers Association rather than being individually reimbursed for training they attend.

For more information, contact Abby Friedman 800-649-7915, ext. 1926, or afriedman@vlct.org.

Human Resources Webinars
FREE for VLCT PACIF members

Selectboard members, municipal managers and administrators, department heads, HR directors, and other municipal officials with supervisory and management responsibilities are encouraged to attend these sessions.

- Thursday, April 19, 12:00-1:00 PM: “You’re Hired!” – Now what?
- Thursday, June 21, 12:00-1:00 PM: Effective Performance Management

Register at www.vlct.org/events or contact hlaw@vlct.org for more information.
The VLCT Municipal Assistance Center (MAC) provides municipal officials and employees with the education, training, and professional assistance they need to fulfill their statutory duties. Through our Municipal Inquiry Service, MAC staff members can answer your questions about municipal law and process and provide you with best practice recommendations about a myriad of municipal issues. The MAC team consists of three attorneys with expertise in municipal law and four staff members with experience in public administration, human resources, water resources, and research methods.

Municipal issues must be handled according to applicable state and federal laws, which vary depending on the topic and circumstances. MAC’s Inquiry Service helps members understand legal requirements and how to apply them to day-to-day governance and operations. When a member official contacts us with a question, one of the MAC attorneys (or sometimes a staff member) will respond. The number of questions MAC answers per year averages 4,000.

How the Inquiry system works - Contact us between 8:30 a.m. and 4:30 p.m., Monday through Friday, at 800-649-7915 or info@vlct.org. The VLCT receptionist immediately forwards these messages to the MAC staff member on call at the time. When you leave a message, please provide your full name, your municipality, your position within the municipality, a brief description of your question, and the phone number or email address where you can be reached. Each day, two staff are assigned to answer inquiries to help manage the workload and expedite response times.

Our goal is to respond to all inquiries within 24 to 48 hours after we receive them. Response times vary depending on the volume of inquiries received or the complexity of the question(s) posed. Inquiries are prioritized based on when they are received, so please let us know if you have an urgent need or imminent deadline.

Note that there are some limitations to MAC’s Inquiry Service, which is governed by the Vermont Rules of Professional Conduct for attorneys and by the VLCT Municipal Assistance Center Inquiry Policy (https://www.vlct.org/resource/municipal-assistance-center-inquiry-policy). If you have questions about MAC’s Inquiry Service or municipal law and process, please contact us at 800-649-7915 or info@vlct.org.

Have a Question About Municipal Law and Process? Ask MAC!

Upcoming MAC Workshops and Training

Spring Town Health Officers Trainings
Tuesday, April 17: Langevin House, Vermont Technical College, Randolph
Friday, April 20: DoubleTree (formerly Sheraton), Burlington

This workshop serves as an overview and refresher for new and experienced town health officers, selectboard members, code enforcement officers, and town managers or administrators who deal with local public health hazards and rental housing code of enforcement. These are the third and fourth workshops of the 2017-2018 series.

Effective Property Tax Assessment Appeal Hearings
Tuesday, May 1, 2018, Holiday Inn, Rutland
Tuesday, May 8, 2018, DoubleTree (formerly Sheraton), Burlington

This popular workshop is designed for selectboard members, listers, justices of the peace, town treasurers and town clerks, and any officials who participate in or are affected by the appeals process. Come learn about the process and the various roles and responsibilities of boards and officials. Attendees will also be able to learn from others’ experiences.

Spring Planning and Zoning Forum
Wednesday, May 23, 2018, Franklin Conference Center, Rutland

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.

Save these Dates!

- Municipal Employment Law and Human Resources
  Tuesday, June 5, 2018, Capitol Plaza, Montpelier

- Leadership in Local Economic Development
  Thursday, June 14, 2018, Killington Grand Resort, Killington

- Delinquent Tax Collectors Workshop
  Wednesday, July 11, Capitol Plaza, Montpelier

More information on these and other upcoming VLCT training events is posted at www.vlct.org/events.
The VERB Trust always seeks to bring high quality products and services to VLCT members at affordable prices. Many VERB Trust members already offer group dental coverage to their employees through one of our most valued partners, Northeast Delta Dental (Delta). The majority of these groups are in a fiscal-year plan, so their renewal period is right around the corner: in May and early June for the July 1 effective date. Please check these pages next month for news regarding our 2018-2019 group dental rates.

Remember that anyone who can’t get dental coverage through their municipal group can obtain Delta’s individual direct coverage through VERB. These plans are completely bought and paid for by the individual. There are no payroll deductions because the relationship is directly between the subscriber and Delta.

Highlights of VERB’s individual direct dental plans include:

- Up to 100 percent coverage for diagnostic and preventive services
- Coverage for basic restorative services such as fillings, extractions, and periodontal maintenance
- Coverage for major restorative services such as root canals, crowns, dentures, and implants (select plans)
- High annual maximums up to $2,000 per person
- A one-time deductible
- Access to the nation’s largest dental provider networks
- A vision discount program (all plans)

Because individual direct dental plans have no minimum hourly requirements for eligibility, they can fill the gap for municipal workers who don’t qualify for group dental – part-time or temporary employees, volunteer firefighters, selectboard members, and office assistants. They can also be an option for retirees or an alternative to COBRA for people who have left municipal employment.

For more information on the VERB Trust’s dental coverage, please contact Larry Smith (lsmith@vlct.org) or Kelley Avery (kavery@vlct.org), or call 800-649-7915. They will be happy to help you.

**A Reminder for UI Groups**

The members of VERB’s UI Program who have already returned their 2017 UI Annual Wage Reports are the bees’ knees! If you haven’t done so, why wait? Don’t let the delaying become worse than the doing. You just need to open this year’s Microsoft Excel file (posted on the VLCT website at UI Program Seeks 2017 UI Wage Reports), save it to your computer, add your information, and attach it to an email to kavery@vlct.org. Kelley is looking forward to receiving the rest of these before Tuesday, May 1st.

**2018 RMS Calendar**

**PACIF’s Annual Workers’ Compensation Audits.** February to May 2018. Most PACIF members will get a visit from Larry Smith, Pam Fecteau, Vicky Abare, or Susan Benoit, and smaller members need to mail in their self-audits, all to provide 2017 pay records as the first step in reconciling 2017 contributions.

**Managing Underground Safety Training (MUST) Excavation Safety Seminar and Free Breakfast.** 7:30 a.m. to 11:00 a.m., Wednesday, April 4, Trader Dukes, 1117 Williston Road, South Burlington. Prepare your field crews for a safe excavation season ahead with this three-hour breakfast seminar. Presented by DigSafe. Free of charge but space is limited. For details and to preregister, go to www.must-ne.com/safety_training.php and click on the Vermont state emblem. For additional information, call David Attig at 802-951-0370.

**Deadline to Apply for PACIF Equipment Grant in Round 1 of 2018.** Monday, April 30. PACIF members can apply for 50/50 matching funds toward certain safety-oriented equipment. Some important details have changed since last year, so please visit www.vlct.org/resource/pacif-grants for this year’s guidelines and application. Note that most of the year’s allotted funds are typically awarded during this first round.

**Deadline for Unemployment Insurance Program members to submit their 2017 wage reports.** Tuesday, May 1, by email to kavery@vlct.org. Start with the correct Excel file, posted at www.vlct.org/rms/verb/unemployment-insurance. Questions? Call Kelley Avery at 800-649-7915.

**Vermont Municipal Highway Association’s Equipment Show and Field Day.** 7:30 a.m. to 3:00 p.m., Wednesday, May 9, Barre Civic Center, Barre. The annual field day for municipal road crews, with exhibits all day, the snow plow rally in the morning, a sit-down lunch, and the backhoe competition and awards in the afternoon. To register, call 802-223-2374 or email debbie@agcvt.org.

**One-Day Risk Management Workshops for Highway Supervisors and Road Foremen.** 8:00 a.m. to 3:30 p.m. at two locations:

- Thursday, May 24, Waterbury Town Office, 28 North Main Street, Waterbury
- Wednesday, May 30, Weathersfield’s Martin Memorial Hall, 5259 Route 5, Ascutney

Topics will include a VOSHA update (new silica standard, new penalty structure, and common citations); summary of significant public works and PACIF claims experience; specifics on developing procedures for hazardous energy control, trenching/excavation, and PPE assessments; a segment on what it takes to be a good supervisor; contracting and insurance requirements; and ergonomic hazards in public works construction. Lunch will be provided. Open and free of charge to all VLCT PACIF members. Preregistration is required: email losscontrol@vlct.org or call VLCT PACIF Loss Control at 1-802-649-7915.
Eleven Ways that PACIF Serves its Members

Editor's note: This is the first article in a series that distinguishes VLCT’s Property and Casualty Internunicipal Fund (PACIF) from the commercial insurance world. Articles in upcoming issues will more closely examine each of the numbered items listed here.

**Serving and Strengthening Vermont Municipal Governments**

VLCT PACIF has been providing Vermont municipalities with insurance coverage and risk management programs and training for over thirty years. In 1986, VLCT supported its members in creating PACIF because commercial insurance carriers all but abandoned the municipal insurance marketplace. While this was true nationwide, many Vermont municipalities were also affected: some found themselves without any coverage at all; others still able to obtain coverage found their limits reduced and their costs significantly increased. Another abandonment took place in 2002 when many Vermont municipalities were left high and dry after a large commercial insurance carrier was shut down by a state regulator. Fortunately, PACIF was ready to help them out. The lesson here is that the insurance market is naturally cyclical, and when things go bad, commercial carriers quickly look at municipalities as logical places to stop writing business, generally because of the scope of municipal operations.

Recently, some insurance brokers and carriers have re-entered the municipal insurance marketplace, claiming to provide the same coverages and a full menu of risk management services at a lower cost. While we understand the need for municipalities to make sure they are receiving the best coverage and services at the best price, we feel it is important for members to make “apples to apples” comparisons of coverages, programs, hands-on support, expertise, and operational control, in addition to cost. When a member calls PACIF with a question or problem, we help them find a solution, regardless of the issue. There is no substitute for this kind of one-stop service.

“The insurance market is naturally cyclical, and when things go bad, commercial carriers quickly look at municipalities as logical places to stop writing business.”

Following are eleven important differences between PACIF and commercial carriers.

1. **PACIF provides $10,000,000 per occurrence in flood coverage, at your standard deductible, with no flood zone restrictions.** In other words, we've got you covered, regardless of your building location. This proved to be a huge benefit to municipalities in the aftermath of Tropical Storm Irene. Commercial carriers frequently exclude structures completely from flood coverage if they are in Flood Zone A (the “100-year flood” zone) or higher hazard areas, or they may quote some low-value structures with coverage limits that are below the replacement cost of the building and with high deductibles.

2. **PACIF provides no-fault sewer backup coverage in addition to separate general liability coverage.** The advantage of the no-fault coverage is that it eliminates the need to determine fault when a sewer backup occurs. Members know this is tremendously valuable because, as you can imagine, anyone who has sewage back up into their home wants it addressed immediately, and does not want to wait while the insurer determines who has financial responsibility.

3. **With 30 years of experience working with municipalities, PACIF truly understands your exposures.** For example, our loss control staff have an average of 10+ years of experience working with municipalities. Some have served in their communities as volunteer firefighters or in other municipal roles. We understand your challenges as well as your operational risks and needs, which allows us to be better partners in working with you to reduce the potential for loss.

4. **PACIF is member-owned and member-governed.** Operations and services are solely geared to the needs of Vermont municipal members. Governance is performed by municipal officials who are committed to the PACIF mission of strengthening and serving local governments. Funds that are not spent on claims are returned to members in the form of program enhancements and contribution credits.

5. **PACIF exists to support, guide, and assist its members.** A great example of this is how our claims adjusters help members recover costs from a third party for damage to guardrails, fences, etc., that are not covered by your policy. We call this our “non-covered claims service.” In other words, we will help members recover monies even if we do not cover the loss. No commercial carrier does that!

6. **PACIF crime coverage includes clerks, treasurers, and other municipal officials.** Commercial quotes typically exclude

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What is the intended purpose and scope of the proposed rule?

What is the specific municipal topic or issue?

Is there enabling statute that would allow enactment of an ordinance?

What is the most effective and appropriate method of enforcing the rule or procedure?

The answer may be evident immediately—for example, if the conclusion is that there is no legislative authority given to your municipality to enact an ordinance on the topic.

Remember that policies generally do not have the authority to provide for penalties or fines. For this reason, policies are a better fit for when a municipality wants to explain an internal administrative process or direct the behavior of municipal officials.

On the other hand, if your goal is to “describe a permanent rule of conduct … [that] creates liability or affects the people of a municipality in an important or material way,” an ordinance should be adopted. *Herbert v. Mendon*, 159 Vt. 255 (1992).

If you have additional questions relating to ordinances and policies or would like a technical review of your municipality’s proposed ordinance or policy, please contact the Municipal Assistance Center at info@vlct.org or 1-800-649-7915.

Carl Andeer, Staff Attorney I
VLCT Municipal Assistance Center

*Repeal* that details all the statutorily required steps for adopting an ordinance. You can download the document at [https://www.vlct.org/resource/quick-guide-ordinance-adoption-amendment-or-repeal](https://www.vlct.org/resource/quick-guide-ordinance-adoption-amendment-or-repeal).
Safe Playgrounds
(continued from page 3)

- Surface material must extend at least six feet beyond the perimeter of all play equipment. Some equipment, such as slides and swings, will require a larger perimeter.

It is important to regularly monitor and maintain an adequate depth of surfacing material. One tip is to mark ideal surfacing depths on equipment posts. This is a convenient visual indicator of desired surfacing depth and can be used to trigger raking, redistribution, or replacement of material. As with any facility that is subject to regular use, proper maintenance is key to managing safety.

Completely cover in-ground hazards such as exposed concrete footings and other solid anchors with an appropriate depth of surfacing material. Ideally, concrete should be cut off or terminated below grade. For existing structures, it is important to inspect equipment and other footings as they are subject to frost heaves that push the once-submerged concrete above grade. Protruding concrete is a hazard that requires immediate attention.

Clear movable hazards from play surfaces and paths. Remove roots, stumps, rocks, trash, fallen branches, toys, etc.

Remove standing water. If the problem persists, drainage should be installed. This is particularly important to prevent them from falling on people and equipment.

Equipment
Routine inspections and proper maintenance of play equipment will prolong the life of the equipment. They are also critical in identifying loose pieces, screws, bolts and other objects that might cause injury.

- Ensure that all fasteners (screws, bolts, nuts, etc.) are tight. Replace missing fasteners immediately.
- Keep playgrounds free of any protruding objects that can entangle clothing and scrape or puncture a child’s skin.
- Replace broken, missing, or worn out components immediately. Be aware that moving parts tend to wear out faster. Pay close attention to chain links, hinges, fasteners, and seats on swings. It may be necessary to remove the component until a replacement part is obtained and properly installed.
- Inspect S-hooks on swings and close gaps greater than the thickness of a dime.

Remove all homemade or self-fabricated equipment. Only use playground equipment that is purchased from playground equipment manufacturers to improve safety and minimize liability. Play equipment designed for home use should not be allowed on public playgrounds.

Ropes should be fixed at both ends. No rope should have enough slack to be looped back on itself and create a loop with a perimeter of more than five inches. More slack than this poses an entrapment and strangulation hazard.

Some older equipment was made of pressure treated wood and contains harmful chemicals such as chromated copper arsenate (CCA). To minimize the risk of CCA exposure, apply an oil- or water-based stain to all wooden surfaces every year. If this is not feasible, we recommend removing the equipment, particularly since applying a coating does not eliminate the splinter hazard.

Some high-risk playground equipment is not recommended for use on public playgrounds and should be removed from the play area. They include:
- trampolines
- swinging gates
- giant strides

Trivia
My attempt at abstruseness last month failed to deter Heather Kent, Michael McCarthy, Julie Rohleder, Louise Luring, and Jackie Higgins of Clarendon, Georgia, Hyde Park, Saxtons River, and Williamstown, respectively, who knew somehow, that the Vermont Legislature picked (ha) red clover as the state flower effective February 1, 1895. That same day, by the way, South African President Paul Kruger designated Fountains Valley, Pretoria, as a nature reserve, now the oldest one in Africa, go figure.

Meanwhile, right around the time that the conflict known as Ttokowaru’s War was hotting up, a famous American poet and his daughter journeyed to Middlebury, where he was to deliver a commencement address. As the daughter later wrote, they found hotel accommodations wanting: “The way we were put off from our breakfast was detestable. ‘Tables full sir.’ Ready in 10 minutes sir.’ We waited 20. ‘Not quite ready sir, in ten minutes.’ We returned in ten. ‘Be ready directly sir.’ We retired to the parlor and were summoned after a while ... Time was precious to Father and he was disgusted at having an hour so wasted for him.” After the speech, The Middlebury Register reported that the poet “held the audience spellbound, though everyone was ready to affirm that they did not like him.” That afternoon, after the cranky couple visited Otter Creek, their cart broke down and it began to rain. Father and daughter walked along the muddy road until some “charitable people” helped them get back to town. “That short walk cured me of wishing to live in Vermont,” wrote Daughter Downer. “They have a clay soil. I never saw any before, and hope never to set foot on it, when wet, again. Father was equally disgusted.” Who was this guy, and what was the grumpy kid’s name?

Know the answer? Quick! Email it to dgunn@vlct.org. My answer, endorsed by the Vermont Clay Soil Enthusiasts Guild, will appear in the mysteriously mesmerizing May issue.
Safe Playgrounds
(continued from previous page)

• heavy metal swings (e.g., animal swings), because the heavy rigid metal framework presents a risk of impact injury
• multiple occupancy swings (other than tire swings), which have greater mass than single-user swings and present a risk of impact injury
• rope swings
• free-swinging ropes – they may fray or otherwise form a loop and are a strangulation hazard
• swinging dual exercise rings or trapeze bars (rings and trapeze bars on long chains) – they are generally considered to be athletic equipment and are not recommended for public playgrounds.

Planning a New Playground

Building a new playground can be a daunting task. It will be a considerable investment in time and money, and may even memorialize a generous community member. You’ll want to get it right. The considerations below can help ensure that the playground you design and build will not lead to unforeseen or regrettable consequences.

- When selecting a location for a new playground, consider the following:
  - What are the travel patterns of children to and from the playground? Are there hazards in the way?
  - Are there nearby hazards such as parking lots, roads with traffic, bodies of water, drop-offs, or cliffs? Do you need to include fencing in the project?
  - Is there shade available, or do you need to provide shade?
  - What is the slope of the land? Will loose-fill materials wash away in heavy rains? Is the proposed area located in (or does it contain) a depression that will require drainage?
  - Make sure that the equipment you buy meets the Standard Consumer Safety Performance Specification for Playground Equipment for Public Use (ASTM F1487).
  - All play equipment should be purchased from and installed by a qualified vendor. PACIF has had claims involving new playground equipment that had been installed by the municipality on its own. In one case, a sharp play surface was installed backwards, so it faced toward the equipment users. This incorrect installation resulted in a fairly serious leg laceration to a child.
  - In the scope of your project, include installation of suitable protective surfacing. Some vendors will not install protective surfacing; however, some landscapers are knowledgeable in playground surfacing and may be able to help.
  - Avoid using volunteers to install play equipment unless a qualified vendor is on-site and closely oversees the installation process.
  - Avoid taking donations of used play equipment. Most used play equipment does not meet the current safety standard. Even if it does, improper installation may lead to increased liability exposure, which could negate any manufacturer’s product liability coverage that might otherwise apply.
  - Be sure to post signage to display the age appropriateness of equipment, hours of operation, and other rules and guidelines.

Can doing all this prevent all injuries? Probably not. It’s a simple fact that children are risk-takers, and risk-taking will lead to injuries. Still, while taking risk is part of child development, hazards are not. Research has shown that if greater care is taken in the design, repair, and maintenance of playgrounds, a substantial number of playground accidents can be prevented, and the severity of injuries can be reduced. Having the right equipment, conducting regular inspections, and adhering to a good maintenance program are the best ways to accomplish those objectives.

If you would like a comprehensive safety inspection of your playground or have specific questions regarding municipal playgrounds, contact PACIF Loss Control at 800-649-7915 or losscontrol@vlct.org.

Jim Carrien, CPSI
Loss Control Consultant
Jeff Theis, CPSI
Senior Loss Control Consultant

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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now accepting applications for a Laborer/Equipment Operator. This job requires a valid Vermont driver’s license and a clean driving record. The hiring range is still to be determined and includes a generous benefits package. There are additional incentives for the right candidate. For a full job description and employment application, visit www.stalbansvt.com and click Employment Opportunities. To apply, please email a completed employment application to Allen Robtoy, Director of Public Works, at a.robtoy@stalbansvt.com, or mail to Allen Robtoy, Director of Public Works, City of St. Albans, PO Box 867, St. Albans, VT 05478. Application review begins on March 19, 2018. EOE. (03-05)

Property Superintendent. The Vermont State Housing Authority needs a top-notch, organized individual full time to handle maintenance and repair needs for residential properties in Middlebury, Brandon and/or Vergennes. The individual must be able to perform all necessary maintenance and repair work, respond at odd hours, work within budgets and time constraints, and maintain records. Requirements: high school diploma, at least three years of related experience, reliable transportation, required level of vehicle insurance, valid driver’s license, and a clean driving record, your own hand tools, the ability to move appliances and lift up to 100 pounds up or downstairs. For more details and a job description, visit www.vsha.org. To apply, submit a cover letter and resume to VSHA Human Resources, 1 Prospect Street, Montpelier, VT 05602-3556. EOE. (03-02)
**Classifieds**

(continued from previous page)

**Human-Resources.** Excellent pay and benefits. Email resume or completed employment application to Human Resource Coordinator Susan Cannizzaro at scanizzaro@shelburnevt.org or mail to Susan Cannizzaro, Human Resource Coordinator, Town of Shelburne, PO Box 88, Shelburne, VT 05482. Position open until filled, but the first review of applications begins the week of March 19, 2018. Equal Opportunity Employer. (03-01)

**Police Chief.** The Town of Royalton, Vt. (pop. 2,600; 36 square miles), is accepting resumes for the position of Chief of Police. This is a “working” chief, taking an active part in the law enforcement duties and patrols within Royalton, and working closely with residents, businesses, schools, emergency services/emergency management and other local law enforcement agencies, both state and municipal, as well as a department of officers. The Town’s vision is for a first-class community-oriented police force that is setting the standard for excellence through professionalism and training. The Town of Royalton offers a rich history, number recreational and cultural opportunities, and close proximity to Boston and Canada. Minimum requirements: At least 10 years of full-time law enforcement experience, be a high school graduate, or possess an Associate’s degree with at least 3-5 years of experience in a supervisory role in law enforcement; possession of excellent written and oral communication skills, exceptional moral character, and strong a work ethic; Level III Certification from the Vermont Criminal Justice Training Council (VCJTC) (out-of-state applicants must possess an acceptable course of training to comply with the VCJTC waiver process); no criminal history involving a felony arrest or crimes of moral turpitude; possession of a professional demeanor with an unblemished career record. The hiring process will include standard police testing (must meet the department’s and VCJTC’s entrance standards), an oral interview, medical exam, thorough background investigation, and a polygraph test. This position is salaried/exempt with medical insurance, paid vacation, sick leave and personal leave. Weekend and evening shifts are required. Pay rate is based on experience. A detailed job description is posted at http://royaltonvt.com/employment/. To apply, please email send a resume to rselectman@bluemoo.net or mail to Rose Hemond, Town Administrator, Town of Royalton, PO Box 680, South Royalton, VT 05068. (03-01)

**Parade Safety Guide**

(continued from page 1)

issued a report with recommendations for communities that host parades or other special events. After studying these recommendations, the International City/County Management Association (ICMA), the National Association of Counties, and the National League of Cities wrote a parade safety guide for municipal governments. The guide, *Top 12 Things to Include in Parade Safety Plans*, is available at [https://icma.org/sites/default/files/306319_Parade%20safety%20guide.pdf](https://icma.org/sites/default/files/306319_Parade%20safety%20guide.pdf).

The safety plan mentioned above should, at a minimum, address the following elements:

- Risk mitigation and contingency planning, with provisions for communication among event participants and other stakeholders
- Safety briefings for event participants and other stakeholders
- Driver and vehicle screening
- Safe float operation
- Notification of railroads or other entities with control over possible hazards.

The accident in Midland occurred when a freight train collided with a parade float, resulting in four fatalities and 12 injuries. The NTSB determined that the probable cause of this collision was the failure of the city of Midland

(continued on next page)

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Staff News

New Claims Representative and Vermont native Susan Rowell grew up in Calais and now calls Barre home. Before coming to VLCT, she worked at Vermont Mutual for 13 years in a variety of insurance-themed roles, including sailing the claims seas for five years. These days, she volunteers for Kinder Connection, an organization where newly diagnosed cancer patients can connect with someone who has gone through the same kind of illness. Susan also enjoys live country music and being outside when the weather turns nice (that is, when hurricanes, earthquakes, and clouds of miscievous black flies are elsewhere). Although she checked Yes to “Do you have a 14-year old son?” on her personnel questionnaire, she somehow left unanswered (17) Have you ever ridden on a camel? and (18) What is your favorite color for a picnic table? (Editor’s note: An anagram of “camel and picnic table” is Placid Cent Imbalance. You’re welcome.) Anyway, I believe that again makes VLCT a fully staffed full-service organization, so that’s good, really good, as is, of course, Susan’s timely arrival. With or without the picnic table.

David Gunn
Editor, VLCT News
Check out all of the upcoming MAC workshops online at www.vlct.org/training-events

Upcoming Events

Town Health Officers
Randolph – Tuesday, April 17
Langevin House, Vermont Technical College

South Burlington – Friday, April 20
DoubleTree Hotel (formerly Sheraton)

Effective Property Tax Appeals
Rutland – Tuesday, May 1
Holiday Inn

Burlington – Tuesday, May 8
DoubleTree Hotel (formerly Sheraton)

Planning and Zoning Forum
Wednesday, May 23
Franklin Conference Center, Rutland

HR/Employment Law
Tuesday, June 5
Capitol Plaza and Conference Center, Montpelier

Economic Development Symposium
Thursday, June 14
Killington Grand Resort Hotel, Killington

Delinquent Tax Collectors
Wednesday, July 11
Capitol Plaza and Conference Center, Montpelier

Additional Upcoming Training
Visit our website, https://www.vlct.org/training-events, for the most up to date training calendar.