CITY OF MONTPELIER MONTPELIER, VERMONT

Agenda for City Council Meeting
Wednesday, April 14, 2010
07:00 P.M.

1) Call to Order by the Mayor

2) 10-086. General Business and Appearances

3) 10-087. Consideration of the Consent Agenda:

   A) Consideration of the minutes from the City Council's March 10th & March 24th, 2010 Regular Meetings.

   B) Summary Budget Report by Department for General Fund and Detailed Budget Status Reports for General Fund, Water Fund, Sewer Fund, Cemetery Fund, Parks Fund, Parking Fund and Senior Center Fund for a eight-month period beginning July 1, 2009, and ending February 28, 2010.

   C) Consideration of awarding the FY10-FY12 Audit Services contract to Love, Cody & Co., CPA's proposal and authorizing the city Manager to sign a contract for these services.

   D) Consideration of a "Petition & Order For Pole & Wire Locations" submitted by Fair Point Communications seeking permission to replace and relocate a utility pole within the Kent Street highway right-of-way at #25 Kent Street. The purpose of the replacement is to meet service requirements and maintenance needs originating from a customer (owner of 25 Kent Street) via Green Mountain Power. The subject pole to be replaced is currently positioned within the public sidewalk and is in poor condition. The new pole location will be 23' southerly of the existing pole and placed in the lawn about 1' from the back edge of the sidewalk. The Department of Public Works reviewed the petition and supports approval in the interest of removing the pole from the public sidewalk. The adjacent property owner was contacted by Public Works and obtained confirmation of approval of the proposed new pole location.

E) Consideration to accept the proposal submitted by LiveView GPS Inc . of Valencia,California, thirty (30) GPS vehicle trackers and including the monthly subscription fee for the Public Works Department, and to authorize the City Manager to make this purchase in the amount of $11,968.50.

F) Consideration of authorizing and approving the submittal of two grant applications for financial assistance from the Vermont Agency of Transportation through the "Town Highway Class 2 Roadway and the "Town Highway Structures' grant programs.

G) Consideration of becoming the Liquor Control Commission for the purpose of acting on the following:

a. Ratification of the issuance of a Catering Permit to Yebba, Inc., d/b/a The Abbey Pub & Restaurant, for a Cocktail Reception held on Thursday, March 8th, 2010, from 3:00 to 7:00 P.M. at the State House.

b. Application for a Catering Permit from Royal Dragon, Inc., d/b/a The Royal Orchid Thai Restaurant, in order for them to serve alcohol on their front deck at 38 Elm Street (12' x 14' with seating capacity of 8-10 only).

c. Application for an Outside Consumption and Catering Permits from Scott Connor and Wes Hamilton of the Three Penny Tap Room for an event they hope to hold under a tent in the lot between the back of their business and Andrew Brewer's building (on Langdon Street) on Saturday, May 1st, from approximately 1:00 to 8:30 P.M. There will be music which will end at 8:30 P.M.; the main entrance for the fenced-in area will be from Langdon Street, leaving the alleyway open for emergency vehicles, etc. The organizers have notified neighboring tenants and business owners, as a courtesy, and they will be in attendance this evening to answer any further questions that City Council Members have. Also, attached to this agenda are comments from the Police Chief, Fire Chief and Public Works Director.

d. Annual renewal of Liquor Licenses. (City Clerk will distribute list of applications at the meeting.)

e. Annual renewal of Tobacco Licenses. (City Clerk will distribute list of applications at the meeting.)

H) Approval of Payroll and Bills

4) <u>10-088. Consideration of appointments to Montpelier's Tree Board.</u>

A) All terms on this board are 3-year terms; John Snell's and Carole Naquin's both expire this month.

B) Staff advertised and as of the deadline, noon on April 8th, had only received e-mails from John and Carole who would both like to be reappointed.

C) Recommendation: Appoint John Snell and Carole Naquin to another 3-year term.

5) <u>10-089. Discussion of possible ANR enforcement action regarding Wastewater Treatment Plant.</u>

A) In fall of 2008, ultraviolet lights at the WWTP briefly flickered off resulting in some discharge of treated but not finally disinfected wastewater.

B) Due to an internal error, this discharge was not immediately reported to the state. A similar error had been made in June of the same year.

C) The city has corrected both the operations discharge problem and the internal communications system. No further problems have occurred.

D) The State of Vermont Agency of Natural Resources has initiated an enforcement action and proposed fines. The City Manager and Attorney have been in negotiation with ANR since spring of 2009 about this matter. The issue has not been resolved.

E) Attorney Steve Stitzel will be present to brief the council on the issue and outline the choices for the council.

F) Recommendation. Review issues with Attorney Stitzel, provide direction.

6) <u>10-090. First public hearing to consider proposed amendments to the City's Vendor Ordinance.</u>

A) City Council first began discussing these proposed amendments at their March 10th meeting; they'd received a memo from Montpelier Alive Executive Director Suzanne Eikenberry, outlining some changes they'd like to see incorporated before the 2010 summer vending season.

B) This subject was revisited at the Council's March 24th meeting. At that time, Council instructed staff to invite a group of interested vendors and business owners to meet and discuss their concerns and suggestions; the City Manager held this meeting on April 7th and will outline what resulted from that discussion.

C) Recommendation: Conduct the first public hearing; possible further direction to staff; set the date of the second public hearing for April 28th, with or without further amendments.

7) <u>10-091. Update from 58 Barre St. working group and consideration of proposed development option.</u>

A) The City Council directed a working group which included the Montpelier Housing Authority, Central Vermont Community Land Trust and the City Planning & Development Department to prepare a plan for the renovation and use of 58 Barre St.

B) The group has developed a plan which is outlined in a proposed development option.

C) The group will review their work to date and summarize the proposal.

D) Recommendation. Approve the proposed option agreement between the City of Montpelier and the Capital City Housing Foundation, Inc.

9) <u>10-093. District Heat/Energy Update.</u>

A) Planning Director Gwendolyn Hallsmith will provide an update on the District Heat/Energy project.

B) Council Members have been provided with a feasibility study and work summary.

C) Recommendation. Discussion and direction to staff as necessary.

8) <u>10-092. Carr Lot Update.</u>

A) Planning Director Gwendolyn Hallsmith will provide an update on the Carr Lot project.

B) Recommendation. Discussion and direction to staff as necessary.

10) <u>10-094. Consideration of an application for a Municipal Planning Grant.</u>

A) The Planning Commission unanimously approved the following motion: "to apply for a planning grant to do a study of our boundaries, the growth center boundaries, the potential TIF District boundaries and our current zoning boundaries with an eye toward correcting any mistakes in the growth center boundaries, identifying potential areas for a TIF District and answering the question of whether we want to continue with Euclidian [boundary based] zoning or move into a new form."

B) Recommendation. Approve the application as requested by the Planning Commission.

11) <u>10-095. Consideration of the City's continued participation in the "Regional Shared Services" process.</u>

A) Several City Council Members and Assistant City Manager Bev Hill attended a "Public Safety Committee" Meeting held at the Central Vermont Chamber of Commerce Office Building on March 18th.

B) A report from that meeting was previously shared with the City Council.

C) Each community was asked to review the report and indicate whether they wished to continue working on the process.

D) Recommendation. Discussion and direction to staff.

12) 10-097 Consideration of recent court decision in Cheney vs. Montpelier concerning damages resulting from broken water line.

A) A city water line broke resulting in damages to a private property.

B) The matter was forwarded to the VLCT Property & Casualty Insurance Fund (PACIF) who denied the claim based on long standing practice and precedent.

C) The individual brought the matter to court, where the decision was that the city and/or PACIF was liable for the damages which opens a new area of financial exposure for municipalities.

D) The PACIF Board has authorized an appeal of this matter.

E) Recommendation. Support PACIF's recommendation to appeal on behalf of the city.

12) 10-097 Consideration of recent court decision in Cheney vs. Montpelier concerning damages resulting from broken water line.

13) 10-096. Reports by City Council

14) 10-097. Mayor's Report

15) 10-098. Report by City Clerk-Treasurer

16) 10-099. Status Reports by the City Manager

17) 10-100. Agenda Reports by the City Manager

Adjournment

58 Barre Street Development Proposal Outline & Feasibility Report

The plan is to develop the property as a condominium with the City owning the MSAC portion and the housing being owned by a separate entity. The Montpelier Housing Authority using its non-profit entity Capital City Housing Foundation (CCHF) has proposed to be the developer of the housing portion of the project which would be designated to seniors and the disabled. The Central Vermont Community Land Trust agrees MHA would be a good choice and Eileen Peltier the Executive Director has agreed to continue in an advisory role with the building committee and with the MSAC development committee.

To continue the feasibility and application process for the housing development it is necessary to enter into an option agreement with CCHF which is attached for consideration by the Council. The agreement outlines the benchmarks for review of the housing development financing status by the Council. It is proposed that the project will continue if these benchmarks are met or satisfactory alternatives are presented to the Council by these dates. It is important to have Council agreement that the portion of the building to be used for the housing will be donated by the City. The contribution serves to make the housing portion of the project financially feasible and also will contribute greatly to the scoring of the project with the funding entities, specifically USDA Rural Development a pivotal portion of the funding being pursued. The donation of the site is recommended not only to increase the likelihood of success but also because of the financial and community benefit to the City. It also should be noted that there has been no competing interest in purchasing all or any portion of the building from the multiple RFP processes the City has undertaken.

The housing portion will be owned by a for-profit entity that will pay property taxes though it will be subject to current State Statute, Act 75, which bases value on cash flow for subsidized or restricted income rental property. Loans by the various City RLF funds will be considered to pay for accessibility modifications and financing for the housing portion which will be repayable to the City on terms recommended by the loan committee and approved by the Council.

Also attached is a draft financial sources and uses outlining the expected sources of funding and the projected expenses. This draft is preliminary as information on the costs is still being developed but a conservative approach has been taken and any major variations that change the outlook would be brought to the City Council's attention. The draft architectural plans are being developed and it is expected that a professional cost estimate will be available by the 21st of April. A project like this has many variables, from the conflicts between Historic Preservation, fire/ safety code and energy efficiency to the variety of costs for finishes, to the requirements of the various funding sources that are negotiated throughout the project. Due to these variables only major variations that could jeopardize the feasibility of the project would be brought to the building committee for review and possible referral to the City Council for consideration.

Funding for the MSAC has an estimate for the insurance payment but that has not been finalized. The MSAC also is undertaking an extensive review of the facility needs for its present and future use which will also have an impact on the costs. Options for expansion to meet future demand and foster community partnerships which could expand scope will be evaluated and could affect the final plans for the Center. The intent is to work within the proposed budget. The gap in funding for the MSAC portion is projected to be closed from a capital fundraising effort, other funding options that are presently being sourced and a City contribution. The exact determination of these sources of funds is also something that would be reviewed during the MSAC operational facilities review and development.

It is expected that applications for funding will be made to City ADA loan fund, the RLF dedicated to economic development and affordable housing, and the Housing Trust Fund (referenced in the attached financial sources and uses pro forma as MCDA). Other sources of grant funding are being or will be pursued.

Presently the predevelopment process is continuing with the Title Search and Survey complete. The Environmental Review 1 is close to completion. The as- built drawings have been completed and Gossen Bachman is working on the housing and site plans at this time. Consultation at a site review with the Chris Cochran from State Historic Preservation Dept. and Liz Pritchet a Historic Preservation consultant working with us on the project clarified some of the issues with the redevelopment design. There is a scheduled review of the building and the project by USAD RD set for the 15th of April. Staff continues to work to satisfy the grant conditions for the Vermont Community Development Program Planning Grant and a submission to the Vermont Housing and Conservation Board has been made for their feasibility funding grant program.

Another factor is City staff time involving the Assistant City Manager, MSAC staff, and Planning Department staff which will be significant. Such time will be tracked as completely as possible as in kind match for any funding sources requiring such.

DRAFT

SENIOR HOUSING USES OF FUNDS	Budget	Per Unit	Per s.f.
ACQUISITION	Total		
Land	0	0	0.00
Buildings	0	0	0.00
Property Appraisal	0	0	0.00
Legal - Title and Recording	7,000	500	0.47
Subtotal - Acquisition	7,000	500	0.47
CONSTRUCTION HARD COSTS			
Construction	2,145,000	153,214	142.62
Construction Contingency	150,000	10,714	9.97
Lead abatement	15,000	1,071	1.00
Hazardous Mat Abatement	8,000	571	0.53
Asbestos Abatement & Testing	15,000	1,071	1.00
Solar Hot water	25,000	1,786	1.66
Furnishings, Fixtures, & Equipment	16,500	1,179	1.10
Subtotal - Hard Costs	2,374,500	169,607	157.88
SOFT COSTS			
Architectural	150,000	10,714	9.97
Testing	6,500	464	0.43
Legal/Accounting	18,000	1,286	1.20
Cost Certification	6,500	464	0.00
Civil Engineer	25,000	1,786	1.66
Environmental Assessment	0	0	0.00
Survey / Topo	0	0	0.00
Permits/Fees	21,500	1,536	1.43
Market Study	3,200	229	0.21
Construction Period Insurance	15,000	1,071	1.00
Construction Interest	60,000	4,286	3.99
Loan Origination Fee	0	0	0.00
Taxes During Construction	0	0	0.00
Clerk of the Works	12,000	857	0.80
Marketing	1,500	107	0.10
VHFA Tax Credit Fees	6,000	429	0.40
Inspection Fees	6,500	464	0.43
Soft Cost Contingency	10,000	714	0.66
Permanent Loan Origination Fee	0	0	0.00
Lenders Counsel's Fee	6,500	464	0.43
Historic Consultant & Fees	3,000	214	0.20
Other (_CNA_)	2,500	179	0.17
SYNDICATION COSTS			
LP Legal	1,500	107	0.10
Bridge Loan Fees and Expenses	12,000	857	0.80
Syndication Consultant	2,500	179	0.17
Tax Opinion	0	0	0.00
FEES			
Developer's Fees	200,000	13,214	12.30
Other Partnership	35,000	3,571	3.32
Consultant Fees	92,000	6,571	6.12
RESERVES			
Operating Rerserve	30,000	2,143	1.99
Rent-up (Deficit Escrow) Reserve	15,000	1,071	1.00
Other Operating Reserves	0	0	0.00
Sinking Fund	0	0	0.00
Replacement Reserves	10,000	714	0.66
Subtotal - Soft Costs	751,700	53,693	49.98
TOTAL DEVELOPMENT COST	**3,133,200**	223,800	208.32

SOURCES	
Rural Development 515 Loan	950,000
VHCB deferred loan	350,000
VHCB ARRA	35,000
HOME deferred loan	367,700
CVCAC weatherization	35,000
MHA deferred fee loan	35,000
VHCB Feasiblity	10,000
City RLF / Housing Trust	90,000
MCDA ARRA grant	30,000
Efficiency VT	8,500
Historic tax credit equity	570,000
Tax Credit Equity (LP Cap Contrib)	652,000
TOTAL SOURCES	**3,133,200**

SENIOR CENTER USES OF FUNDS	Budget	Per Unit	Per s.f.
ACQUISITION	Total		
Land			
Buildings			
Property Appraisal			
Legal - Title and Recording	1,000		
Subtotal - Acquisition	1,000		
CONSTRUCTION HARD COSTS			
Construction	1,420,000		142.00
Construction Contingency	150,000		15.00
Lead abatement			0.00
Hazardous Mat Abatement	8,000		0.80
Asbestos Abatement & Testing	15,000		1.50
Solar hot water	20,000		2.00
Furnishings, Fixtures, & Equipment	65,000		6.50
			0.00
Subtotal - Hard Costs	1,678,000		167.80
SOFT COSTS			
Architectural	113,600		11.36
Testing	4,500		0.45
Legal/Accounting	8,000		0.80
Civil Engineering	20,000		2.00
Relocation			0.00
Environmental Assessment	2,000		0.20
Survey / Topo			0.00
Permits/Fees	10,200		1.02
Market Study			0.00
Construction Period Insurance	7,500		0.75
Construction Interest			0.00
Loan Origination Fee			0.00
Taxes During Construction			0.00
Clerk of the Works	10,000		1.00
Marketing			0.00
			0.00
Inspection Fees			0.00
Soft Cost Contingency	10,000		1.00
Permanent Loan Origination Fee			0.00
Lenders Counsel's Fee			0.00
Historic Consultant & Fees	500		0.05
			0.00
RESERVES			
Operating Rerserve			0.00
Rent-up (Deficit Escrow) Reserve			0.00
Other Operating Reserves			0.00
Sinking Fund			0.00
Replacement Reserves			0.00
Subtotal - Soft Costs	186,300		18.63
TOTAL DEVELOPMENT COST	**1,865,300**		186.53

SOURCES	
Insurance (estimate)	800,000
MSAC Fund	200,000
VCDP	475,000
MCDA / City ADA	75,000
Capital Campaign/ City contribution	290,300
Other	
ARRA Funds	25,000
Total	**1,865,300**
Gap	0

Note: Does not include City Feasibility funds and VCDP Planning Grant

OPTION AGREEMENT

This option agreement is entered into by and between the City of Montpelier, a municipal corporation in Washington County, Vermont (the "City"), and Capital City Housing Foundation, Inc., a Vermont nonprofit corporation of said Montpelier ("CCHF"). In consideration of the premises and the agreements hereinafter set forth, the parties agree as follows.

PREMISES

1. The City is the owner of certain real property (the "Property") located at 58 Barre Street in Montpelier. The Property is all and the same land and premises that were conveyed to the City by warranty deed from the Roman Catholic Diocese of Burlington, Vermont dated October 6, 1972 and recorded in Book 133 at Page 123 of the Montpelier land records.

2. The Property includes the lot of land at 58 Barre Street, a three story former school building known as St. Michael's School (the "Building"), a playground and parking areas.

3. The City most recently used the Building as a center for its senior citizens.

4. The Building was damaged by fire on December 14, 2010 and has been unused and vacant since that date.

5. CCHF was formed, among other purposes, to foster the development of affordable housing for low- and moderate-income households in Montpelier.

6. The City and CCHF have agreed to the redevelopment of the Property to provide up to 14 apartments of affordable housing, the restoration of the center for senior citizens and the preservation of the playground. CCHF will be responsible for the development of up to 14 apartments of affordable housing, and will cooperate with the City on the redevelopment of the center for senior citizens and the preservation of the playground.

AGREEMENTS

7. The City will cause the Property to be subjected to a condominium regime pursuant to the Vermont Uniform Common Interest Ownership Act, Title 27A of the Vermont Statutes Annotated.

8. The Condominium will consist of two or more Units as defined in 27A V.S.A. § 1-103(30). One Unit (the "CCHF Unit") will consist of the entire third floor of the Building and that portion of the second floor containing six one bedroom apartments as shown on the "Second Level Plan" by Gossens Bachman Architects attached hereto. The recitation of the number of apartments is intended solely to identify the portion of the second floor of the Building that will make up the CCHF Unit, and not to bind the City, CCHF or any other entity to create precisely six apartments as shown on the Second Level Plan. The portion of the second floor labeled "Senior Center" will not be a part of

the CCHF Unit.

9. The CCHF Unit will also include the Unit's proportionate share of all of the Common Elements in the Common Interest Community, rights of unobstructed access to and from the Unit by way of stairways, elevators and ramps, full access for utility services, and such Limited Common Elements that are necessary or desirable to satisfy Federal, state and local permit and financing requirements.

10. Immediately after the execution of this agreement, CCHF will apply to the Vermont Housing and Conservation Board or other government agency or agencies for funds to undertake a market and architectural study to determine the feasibility of creating affordable housing apartments in the Building.

11. The term of this Agreement (the "Term") is approximately one year, commencing on the date it has been executed by both of CCHF and the City, and terminating on April 30, 2011.

12. CCHF may at its option, prior to the expiration of the Term, purchase the CCHF Unit for Ten Dollars. To exercise this Option, CCHF shall give the City written notice not less than thirty days prior to the expiration of the term that it has elected to do so. The Closing shall take place 60 days after the date the written notice is delivered to the City at the City's offices in Montpelier, or at such other time and place and CCHF and the City may agree.

13. Subject to the City's right to extend the following target dates, this Agreement may be terminated by the City before the expiration of the term if:

    a. CCHF fails to provide the City by May 30, 2010 with a credible report (the "Feasibility Study"), reasonably acceptable to the City, demonstrating the feasibility of developing the CCHF Unit as affordable housing; or

    b. if CCHF fails to demonstrate to the city's reasonable satisfaction by October 1, 2010 that CCHF:

        i. has obtained a firm commitment for a portion of the financing necessary to develop the CCHF Unit; and

        ii. it reasonably expects to complete obtaining the rest of the financing necessary to develop the CCHF Unit in accordance with the Feasibility Study.

14. CCHF undertakes to use its best efforts to develop the CCHF Unit in accordance with the Feasibility Study, and to assist the City with the development of the remaining portion of the Property.

15. This is the only agreement between CCHF and the City relating subject matter hereof,

and supercedes all other agreements whether oral or in writing. The City acknowledges that CCHF may assign this Agreement or the CCHF Unit to a subsidiary, or a limited partnership, or a limited liability company, and consents to the assignment upon the condition that CCHF retains a material management role in the entity that owns and operates the CCHF Unit.

EXECUTED this April __, 2010.

THE CITY OF MONTPELIER
by its City Council

CAPITAL CITY HOUSING
FOUNDATION, INC.

____
T. Andrew Hooper, Councillor

by: ______________________________
JoAnn Troiano
Authorized Agent

____
Sarah Jarvis, Councillor

____
Alan H. Weiss, Councillor

____
Thomas Golonka, Councillor

____
Nancy Sherman, Councillor

____
James Sheridan, Councillor

STATE OF VERMONT
WASHINGTON COUNTY, ss.

At Montpelier in said County and State T. Andrew Hooper, Sarah Jarvis, Alan H. Weiss, Thomas Golonka, Nancy Sherman and James Sheridan, Montpelier City Councillors, personally appeared this April __, 2010 and acknowledged that their execution of the foregoing Option Agreement was their free acts and deeds and the free act and deed of the City of Montpelier,

before me, ______________________________
Notary Public
my commission expires February 10, 2011

STATE OF VERMONT

WASHINGTON COUNTY, ss.

At Montpelier in said County and JoAnn Troiano personally appeared this April __, 2010 and acknowledged that her execution of the foregoing Option Agreement was her free act and deed and the free act and deed of Capital City Housing Foundation, Inc.,

before me, ___________________________
Notary Public
my commission expires February 10, 2011

City of Montpelier, Vermont
"The Smallest Capital City in the United States"

DATE: April 8, 2010

TO: Mayor and City Council

FROM: William J. Fraser, City Manager
Andy Hooper, City Council Member
Sandra J. Gallup, Finance Director

SUBJECT: Recommendation for Audit Services Contract FY10-FY12

The City advertised and sent out 25 requests for proposals for audit services for the fiscal years 2010-2012. Three accounting firms submitted proposals.

Their proposal's not-to-exceed prices (assuming a Single Audit with one Major Program is required) are as follows:

	FY 2010	FY 2011	FY 2012
Love, Cody & Co CPA Bennington VT	$26,500	$27,400	$28,400
Cota CPA, PC Williston VT	$32,000	$33,500	$35,500
A.M. Peisch Company LLP St. Albans	$33,000	$34,500	$36,200

Note: A major program is a federal grant that exceeds $300,000.

We interviewed Love, Cody & Co and Cota CPA, the two lowest bidders. **Based on these interviews and the firms' qualifications, references and comparable experience, we recommend accepting Love, Cody & Co. CPA's proposal for the fiscal years 2010-2012.** (Note: Council member Weiss attended the bid opening but was out of town during the week of the interviews and recommendation decision.)

Budget note: Sullivan Powers & Co. performed the City's audit from FY 2004 to FY 2009 and declined to provide audit services in 2010. We have $30,900 in the FY2010 budget for the audit and financial statement preparation services. When we factor in the cost of the financial statement preparation (Fothergill Segale Valley will prepare) and take out the single audit fee (which we will charge to the major program directly) the low bid will be $5,600 over our budgeted amount. The final Audit Report will be completed by December 15th of each contract year.

For Consideration of the April 14, 2010 Consent Agenda: Consideration of awarding the FY10-FY12 Audit Services Contract to Love, Cody & Co., CPA's proposal and authorizing the City Manager to sign a contract for these services

MEMO

TO: City Council
FROM: Gwendolyn Hallsmith
RE: Municipal Planning Grant Application
DATE: April 9, 2010

The next round of municipal planning grants are due April 30, 2010. I would like to propose that we apply for a planning grant to help us bring our zoning into compliance with the new Master Plan. At the last Planning Commission meeting, they voted unanimously on the following motion:

"to apply for a planning grant to do a study of our boundaries, the growth center boundaries, the potential TIF District boundaries and our current zoning boundaries with an eye toward correcting any mistakes in the growth center boundaries, identifying potential areas for a TIF District and answering the question of whether we want to continue with Euclidian [boundary based] zoning or move into a new form."

I have attached a few documents that relate to this question:

1) The Municipal Planning Grant application materials,
2) A description of the TIF application requirements, and
3) A sample timeline for TIF application and implementation.

Jane Aldrighetti

From: Jane Aldrighetti
Sent: Friday, April 09, 2010 1:23 PM
To: Jane Aldrighetti
Subject: FW: City Council Agenda for April 14th ...

From: Tom McArdle
Sent: Thursday, April 08, 2010 4:17 PM
To: William Fraser; Beverlee Hill
Cc: Sandy Pitonyak; Todd Law
Subject: RE: City Council Agenda for April 14th ...

Here is the other consent agenda item for the CC meeting on the 14th:

Consideration of authorizing and approving the submittal of two grant applications for financial assistance from the Vermont Agency of Transportation through the "Town Highway Class 2 Roadway" and the "Town Highway Structures" grant programs.

The Department of Public Works is preparing the respective grant applications and seeks approval to submit them by the early submittal deadline of April 15th. The maximum grant award amount available for each of the grants is $175,000. If awarded, the City of Montpelier will be committed to expend the minimum matching share of 20% for the Town Highway grant and 10% for the Structures grant ($43,750 & $19,444 respectively assuming the maximum grant award for each). The city will have two years from the date of approval to fund and construct the projects. The local matching share for the projects will be obtained from the Capital Improvement Program (CIP)

The projects being considered for the grant applications are:

Town Highway Roadway grant: Berlin Street resurfacing (travel lanes only: River Street – Berlin / Montpelier corporate boundary). Total project cost estimated @ $250,000.

Town Highway Structures grant: Towne Hill Road culvert replacement to increase capacity for flood prevention. Total project cost estimated @ $65,000.

Recommendation: authorization of staff to submit the applications to include a commitment of the local matching share and designation of the City Manager as the City of Montpelier's duly authorized agent to execute the grant agreements and other related documents.

Thomas J. McArdle
Assistant Director of Public Works
39 Main Street - City Hall
Montpelier, Vermont 05602
802-223-9508
tmcardle@montpelier-vt.org

City of Montpelier, Vermont
"The Smallest Capital City in the United States"

DATE: March 30, 2010

TO: Mayor and City Council Members

FROM: Sandra Gallup, Finance Director

SUBJECT: SUMMARY BUDGET REPORT BY DEPARMENT FOR GENERAL FUND AND DETAILED BUDGET STATUS REPORTS FOR GENERAL FUND, WATER FUND, SEWER FUND, CEMETERY FUND, PARKS FUND, PARKING FUND AND SENIOR CENTER FUND FOR A EIGHT MONTH PERIOD BEGINNING JULY 1, 2009 AND ENDING FEBRUARY 28, 2010.

Enclosed please find budget reports for the above reference funds.
For the General Fund, please note that 100.5% of revenues budgeted have been received (compared to 98% last fiscal year) and 75% of expenditures budgeted have been expensed for this time period (compared to 78% last year). This represents 67% of the budget year completed.

GENERAL FUND NOTES AND PROJECTIONS:
Revenue: Early estimates for variances in year-end revenues are:
Ambulance fees +$100,000, State PILOT +$47,000, Interest Income -$50,000, Property Taxes -$30,000, Building Permits/Code Fees -$30,000, Police Fines -$10,000
Overall revenues are projected to be $30,000 higher than budgeted.

Expenditures: Projections of variances for expenditures are:
City Council Purchased Services (Survey, appraisal) +$10,000, City Council Equipment (Projector/Cameras) +$10,000, Legal Fees +$50,000, City Manager Equipment (Video) +$10,000, Finance Professional Services (CPA) +$8000, Web Site Maint. +$8000, Fire/EMS Overtime (Ambulance Fee related) +30,000. **These overages should be offset with savings in DPW Streets (if the spring-like weather continues), 58 Barre St Heat expenditures and employee health insurance costs.**

At this time, I am projecting that the General Fund should be able to end the year with a positive financial position.

SENIOR CENTER FUND:
It is difficult compare this year's Senior Center financial activity to the FY10 budget. There are so many variances from the budgeted amounts due to the fire in December, the changes in the food program and the pass-thru donation.

But, most importantly, the Center has settled into its new location and is resuming activities. With four months left in the fiscal year there is a surplus of $105,000. It appears the disruption caused by the fire will not have a negative financial impact on the Senior Center.

WATER AND SEWER FUNDS: The Water and Sewer Rate Committee will be meeting in April to review the current year's financial information and propose rates for FY11.

The Budget Reports are scheduled for the City Council Consent Agenda for April, 14, 2010.

On Wednesday evening, March 10, 2010, the City Council Members met in the Council Chamber.

Present: Mayor Hooper; Council Members Jarvis, Golonka, Hooper; Sheridan, Weiss and Sherman; also City Manager Fraser.

Review of Vouchers

Call to Order by the Mayor

Mayor Hooper called the meeting to order at 7:00 P.M.

10-055. Opportunity for the Mayor and three City Councilors to be sworn in by the City Clerk if they haven't already done so prior to this meeting.

Mayor Hooper administer the oath of office to the re-elected council members.
Council Members Sherman, Weiss and Hooper.

10-056. Election of President, Vice President and Parliamentarian of City Council.

Motion was made by Council member Sheridan, seconded by Council Member Sherman to elected Council Member Jarvis as President of the Council, Council Member Hooper as Vice President of the Council and Council Member Weiss as Parliamentarian. The vote was 6-0, motion carried unanimously.

10-057. Re-adoption of City Council's Ethics Policy.

Motion was made by Council Member Weiss, seconded by Council Member Jarvis to re-adopt the City Council's Ethics Policy. The vote was 6-0, motion carried unanimously.

10-058. Re-adoption of City Council Rules of Procedure.

Motion was made by Council Member Sheridan, seconded by Council Member Hooper to re-adopt the City Council Rules of Procedure. The vote was 6-0, motion carried unanimously.

10-059. General Business and Appearances.

None.

10-060. Consideration of the Consent Agenda:

a) Consideration of adopting and executing the ***Refunding Resolution Amendment for the Pension Liability Funding General Obligation Bond***. The City's auditors request that the City amend the 2008 Pension Liability Funding General Obligation Bond in order to more accurately reflect the pension funding liability of the City of Montpelier and the Montpelier School System due to the transfer of Senior Center employees to the City.

b) Consideration and adoption of a ***Resolution of Thanks: The Valentine Phantom***. City Councilor Nancy Sherman prepared this resolution to recognize and thank the mystery person(s) who have decorated the downtown with hearts every Valentine's Day for the last 10 years.

c) Acceptance of the Lease between the City of Montpelier and the Capital City Farmers Market, Inc. (The City's attorney prepared the document, Farmers Market officials offered comments, and the comments have been incorporated.)

d) Consideration of becoming the Liquor Control Commission for the purpose of acting on the following:

1) Ratification of the issuance of Catering Permits to the following:

Yebba, Inc., d/b/a The Abbey Pub & Restaurant for a Cocktail Reception held on Wednesday, February 24th, from 4:00 to 8:00 P.M. in the Cedar Creek Room of the State House.

Vermont Hospitality Management, Inc., d/b/a New England Culinary Institute, for a Reception and Dinner held on Friday, February 26th, from 6:00 P.M. to midnight at Alumni Hall, Vermont College of Fine Arts; and for a Reception held on Saturday, February 27th, from 4:30 to 7:30 P.M. at the T.W. Wood Art Gallery, Vermont College of Fine Arts.

10 Gems, LLC, d/b/a The Black Door Bar & Bistro, for a *Fletcher Allen Health Care* Function held at the Wood Art Gallery on Vermont College of Fine Arts' Campus on Monday, March 1st, from 5:00 to 10:00 P.M.

10 Gems, LLC, d/b/a The Black Door Bar & Bistro, for a ***Haitian Relief Benefit Dance*** held at Montpelier City Hall on Friday, March 5th, from 6:00 to 11:00 P.M.

A. Yebba, Inc., d/b/a The Abbey's Pub & Restaurant, for Cocktail Receptions on Wednesday, March 10th, ***and*** Thursday, March 11th, from 3:00 to 7:00 P.M. in the Cedar Creek Room of the State House.

Vermont Hospitality Management, d/b/a New England Culinary Institute, for a Reception and Dinner on Thursday, March 11th, from 3:30 to 11:00 P.M. at the Chapel on the Vermont College of Fine Arts' Campus.

Application for a Catering Permit from Langdon Street Pub Company, d/b/a McGillicuddy's Irish Pub, for a Legislative Open House to be held on Thursday, March 18th, from 4:00 P.M. to 1:00 A.M. at 14 Court Street.

Annual renewal of Liquor Licenses. (City Clerk will distribute list of applications at the meeting.)

Annual renewal of Tobacco Licenses. (City Clerk will distribute list of applications at the meeting.)

Approval of Payroll and Bills

General Fund Warrant dated March 10, 2010, in the amount of $193,318.55 and $156.00.
Payroll Warrant dated March 18, 2010 in the amount of $106,010.08 and $26,114.34.

Motion was made by Council Member Sheridan, seconded by Council Sherman to approve the consent agenda. The vote was 6-0, except Council Member Golonka recused himself from voting on the Bashara & Company, LLC Liquor license as his wife is a member of the LLC.

10-061. Appointment to the City's Planning Commission.

a) Staff advertised in December, 2009, to fill the vacancy created by the resignation of Anne Campbell. One application was received, but the applicant had to withdraw at the last minute.

b) Staff has attempted to "recruit" and recently received a letters of interest, via e-mail, from the following individuals:

1) Diadel Ortiz, 184 Barre Street
2) Cornelius R. Murphy, 6 Foster Street

Tina Ruth had also submitted a letter of interest late Friday afternoon after the agenda had been prepared.

Recommendation: Opportunity to meet the applicants; possible Executive Session in accordance with Title I, Section 313, Subsection (a) for the purpose of discussing this appointment; return to public session; announce appointment to fill the unexpired 2-year term; said term which will expire in September, 2011.

Cornelius Murphy, Diadel Ortiz and Tina Ruth spoke to the council of their interest in serving on the Planning Commission.

Motion was made by Council Member Jarvis, seconded by Council Member Hooper to go into executive session at 7:25 P.M. in accordance with Title I, Section 313, Subsection (a) for the purpose of discussing the appointment to the Planning Commission to fill the unexpired 2 year term. Also to request Gwen Hallsmith, Planning & Development Director to attend the executive session. The vote was 6-0, motion carried unanimously.

Present: Mayor Hooper, Council Member Sherman, Weiss, Sheridan, Hooper, Golonka and Jarvis; also City Manager Fraser and Planning & Development Director Hallsmith.

After motion duly made and seconded by Council Members Jarvis and Hooper the council came out of executive session at 7:32 P.M., in accordance with Title I, Section 313, Subsection (a) where they had discussed the appointment to the Planning Commission to fill the unexpired 2 year term. The vote was 6-0, motion carried unanimously.

Motion was made by Council Member Sherman, seconded by Council Member Jarvis to appoint Tina Ruth to fill the unexpired 2 year term on the Planning Commission. The vote was 6-0, motion carried unanimously.

Mayor Hooper thanked the participants for applying.

10-062. Appointment of the City's Town Service Officer.

The City has been notified by the State of Vermont's Agency of Human Services Division that the term of its present Town Service Officer expires on April 14th. Staff contacted the present Town Service Officer, Rick DeAngelis, and he is willing to serve another term.

Recommendation: Reappoint Rick DeAngelis to another one-year term as the City's Town Service Officer; term runs from April 15th to April 14th of each year.

Motion was made by Council Member Sheridan, seconded by Council Member Weiss to reappoint Rick DeAngelis to a one-year term as the City's Town Service Office. The vote was 6-0, motion carried unanimously.

10-063. Berlin Pond Protection Update – City Attorney Paul Giuliani will brief Council on water supply protection recommendations and enforcement measures. (He does not think any action needs to be taken by Council at this point; he just wants to give the Council the larger historical picture, explain the City's responsibilities under state and federal law, and recommend adoption of a couple of ordinances.)

City Attorney Paul Giuliani said several years ago the subject about Berlin Pond protection came up and with the current developments City Manager Fraser asked him to meet with the Council and discuss where the city is, what the city's responsibilities are, and the nature of those responsibilities. He is going to recommend to the Council some action he thinks should be taken. The Council's information packets included an analysis they put together several years ago. He furnished that to Council Members as a matter of information to reacquaint them to the relationship between the City of Montpelier and Berlin Pond and also to emphasize the responsibilities that are placed by law on the Council and on the City.

If you go back to the beginning when the Legislature chartered the City of Montpelier, and we have subsequently amended the charter many times over the years, on each amendment to the charter or comprehensive revision Berlin Pond always received very special attention from the General Assembly. The General Assembly since 1894 has specifically authorized the City, and mandated the City, to protect Berlin Pond as a source of drinking water. It has enabled and directed the City of Montpelier to adopt ordinances and regulations for its protection and to maintain its purity and integrity. That worked well for many, many years. In the mid 80's Congress enacted the Federal Drinking Water Act and charged the Environmental Protection Agency with enforcing drinking water standards throughout the United States. The Vermont Agency of Natural Resources enforces the federal drinking water standards in the state of Vermont.

In that continuum from the beginning through today Berlin Pond has been recognized specifically by the General Assembly as the source of drinking water for the city of Montpelier. Back in the 60's and 70's and into the 80's with the comprehensive amendment to the Water Resources Protection Act, Berlin Pond has been classified Class A-1 waters in the state of Vermont. There is no higher classification. A-1 water can be used only for public drinking water supply. That's the reality. The City of Montpelier has been given Berlin Pond in trust to be used to furnish drinking water not just to citizens of Montpelier but to parts of Berlin. Approximately 20,000 plus people a day drinks their water from Berlin Pond so you can see this is not some trifle enterprise but a very serious undertaking.

Both the federal law and the state law require that owners and operators of public drinking water systems and supplies must take affirmative action to protect those supplies, sources and systems. This is not something that can be left to chance. There are civil and criminal penalties attached to noncompliance and to willful negligent with respect to taking care of public drinking water supplies. If anybody thinks that is an idle threat from the federal or state government, all he would do is suggest they look a few miles down the road to Barre Town where eight or nine years ago the federal government brought criminal charges against two officers of a fire district in Barre for negligently maintaining records and taking tests of their water systems. These were criminal charges and they were both convicted. Fortunately, Judge Billings was quite compassionate and they were fined $1 each. Needless to say it was a very wrenching exercise.

What makes this discussion germane and important today are new threats to the integrity of the pond. The City of Montpelier has filed an action in Superior Court to enjoin any repeated trespasses on the pond, any action involving Berlin Pond water, and any entry on to city property to get on to the pond. That will play itself out in court and in due course that will be resolved he hopes sooner rather than later.

That brings him to where he is at tonight. He would like to make a recommendation to the Council. In the materials circulated with their agenda there were two measures he would respectfully request the Council to give some serious consideration to adopting. One is pretty straight forward. It is an amendment to Chapter 13 which clarifies and modernizes our trespass ordinances as it relates to city property. What he is proposing in this new Section 13-3 is designed to deal with trespasses or entry upon Berlin Pond specifically. The city has the authority to adopt and enforce this ordinance both under its general ordinance enacting authority and specifically under its charter with respect to Berlin Pond.

The second measure he would solicit their consideration and approval of is a little different. Under the charter and under the health orders to protect Berlin Pond the city has exclusive jurisdiction over the pond itself and an area of varying width and dimensions all around the pond in addition to the land it already owns. This jurisdiction is broad enough for the city to control and regulate the uses on this property within the Town of Berlin, and elsewhere within the water shed, that might cause degradation or contamination of Berlin Pond. It appears there are no commercial or industrial activities within these areas. If there are, they are almost like ancillary uses to somebody's house. The big concerns are septic systems and failed septic systems. Most of these systems are far enough way from the pond that the likelihood of contamination is much less than if these dwellings were located closer to the pond. What he is suggesting in this new Article 6 is something that builds on the source protection plan that the City Council approved in 2001 and has been approved by the Agency of Natural Resources. This is not a confiscatory ordinance. It is not designed to prevent anyone from developing or improving his or her property on the pond. It does not mandate the demolition or the removal of anything. All this ordinance does is establishes once and for all that any activity within the area described in this ordinance that might pose a health hazard to the City of Montpelier by virtue it obstructs any of the pond can be controlled and can be abated by the City Council. In his opinion this ordinance goes hand in hand with the source protection plan that was prepared back in 2001. He doesn't expect any action tonight. He urged the Council to go through these two proposals.

He said he couldn't emphasize enough how serious the responsibility is that is placed upon the Council and upon the city in protecting Berlin Pond. This is not an exercise that can be taken lightly. The statutes are very clear that the city is responsible for protecting the pond and protecting its water source. They have taken steps to abate and enjoin an impending use of the pond that could create some problems. He isn't going to comment on that litigation because it is pending and it wouldn't be proper for him to do so other than to let the Council know it has been filed. It is a matter of public record.

He feels he has to address two points that have appeared in recent press accounts. One is that by virtue of the new filtration plant the city's concerns over Berlin Pond are somehow abated or diminished. That is not the law. The existence of that filtration plant is totally irrelevant as to the Council's responsibilities with respect to the use of the pond. The filtration plant is good. It has provided a remarkable facility for clean drinking water in the city, but you have to understand that there are certain contaminants - a whole range of contaminants - that filtration does not touch. Things could go into that water in Berlin Pond that would go straight through the filtration plant and into our water system and they would never even register. That is point number one.

Secondly, there is some discussion that Berlin Pond is public water. Therefore, within the public trust doctrine and therefore open to the public. He doesn't for a second dispute the public trust doctrine as applied here. But you have to understand that the beneficiary of that public trust is the City of Montpelier and the users of the water system. No individual member of the public has the right to go on to the pond. That precept has been settled by the Supreme Court twice in the last hundred years specifically with respect to Berlin Pond. The city's responsibility is very clear under the statute. As long as Berlin Pond is part of our water system we have an affirmative duty and obligation to make sure it is maintained and kept safe. He commends the Council and their predecessors for having done it over the last 125 to 130 years, and collectively they should be very proud of what they have done. That water supply is one of the best protected in the state of Vermont.

In conclusion he would ask Council Members to take a look at these proposals.

Mayor Hooper asked Attorney Giuliani to explain the updates to the city's trespass policy.

City Attorney Paul Giuliani said in the Code of Ordinances there is Chapter 13 that has Section 13.1 that talks in very general terms about trespassing upon public buildings, squares, commons, cemeteries, fountains, statutes or other public property or resources owned by or under the control by the City of Montpelier. If they are focusing on the protection of Berlin Pond his recommendation would be to add a section in Chapter 13 that specifically identifies Berlin Pond as having the benefit of this trespass ordinance. It would make the enforcement a lot easier.

Mayor Hooper said she would presume that the Pond would be called out in this nature given the level of protection the city should provide.

Council Member Hooper asked if the Council had the authority to establish criminal penalties.

City Attorney Giuliani replied yes.

Mayor Hooper said if he was representing another community in which Community A proposed to manage or control property within the other community, can he tell the Council what would happen.

City Attorney Giuliani said if you look at the history of the public water systems in Vermont at the turn of the previous century, when municipal water systems were being created by and large throughout the state the Legislature in those days would charter a village and endow it with all kinds of powers. Among them would be the power to own and operate and control reservoirs, public water supplies, etc. An example would be the Village of Essex Junction or the Village of Lyndonville where the villages themselves have the authority to own a water system and to develop a water system, and to take land for that water system by condemnation. As a matter of geography these villages are really quite small so all of their water systems and reservoirs invariably are located outside of town. Historically, these villages have acquired water supplies elsewhere in adjoining or surrounding towns, treated them as village assets, and controlled them as village assets. That is what happened in Montpelier in 1894 when Montpelier was still a village and the Legislature ceded authority to the city to use Berlin Pond and to acquire Berlin Pond for a water supply. The statutes go on to recognize that the property outside of that hypothetical village would be located in another town and would be taxed by the other town. There are special provisions in the statute for dealing with that. The exercise of dominion and control and regulatory authority over these extra territorial bodies of water has been part of the landscape forever. There may be a perception of Community A sticking its nose into Community B; that is going to happen. If you look at the statutory scheme of the Legislature they are charging Village A with running a municipal water system and they are going to give them the tools to protect it. The exercise of those powers outside of the only community has to be exercised with reason, discretion and judgment. You can't just annex or take over a territory in an adjoining town although the power of eminent domain does extend beyond the city limits. He is not aware of any situation where the community in which the water supply is located hasn't cooperated with the community that owns the water system. They are both in business for the common good. The analysis really comes down to, what did the Legislature grant to the City of Montpelier? Grant not just the prerogative to run a public water systems but it granted the responsibility and the authority to make sure that it is protected forever and forever. He is sure there are examples in Vermont where there may have been friction but he has never seen nuclear war over it.

Mayor Hooper thanked City Attorney Giuliani for his presentation.

She reported that the House Government Operations Committee had taken up the Berlin charter changes.

10-064. Discussion regarding suggested amendments to the City's Vendor Ordinance.

City Council Members received a copy of a memo from Suzanne Eikenberry, ***Montpelier Alive*** Executive Director, outlining some changes they'd like incorporated before the 2010 summer vending season.

Recommendation: Discussion; if staff is directed to move forward with these proposed amendments set the date for the first public hearing … possibly the next meeting which is March 24th.

Mayor Hooper said what the Council is learning today is what is being proposed. If the City Council chooses to respond to the proposal then they will conduct two public hearings. This is an informational opportunity, but if they change their ordinance they are required by the charter to conduct two public hearings. They are just looking for an overview this evening of why this is being proposed and to understand what the issues are out there so they can make an informed decision.

Suzanne Eikenberry, Executive Director of Montpelier Alive, said she wanted to give their background on what their philosophy was and have specific questions answered. Willa Murray was part of the committee who put the proposal together. Montpelier Alive was asked by the Mayor to take this up. There were a number of issues that came up last summer around vendors when all of a sudden our vendor population skyrocketed from one vendor to five vendors. They talked to vendors, restaurant owners, the City Clerk whose office gives out the licenses, the City Manager, the Mayor, and community members. What they were aiming to do was to create a set of changes that would result in fewer conflicts this upcoming summer that created some compromise positions between divergent opinions about what should happen with vendors and create greater clarity in the ordinance. Some of what became apparent last summer was the way the ordinance was written there were some real foggy areas in it. They also looked at what was realistically enforceable. There are some examples from other communities that have vendor ordinances that we looked at which they don't think will work here.

Council Member Sherman said this applies to food vendors.

Ms. Eikenberry said it would apply to any vendors. We don't happen to have any vendors currently in Montpelier that aren't food vendors.

Mayor Hooper said their general interest here is because of the change in the vending population and the concerns raised by pedestrians in terms of access and passage through our public rights of way. They have certainly heard from some property owners who were concerned about vending taking place on their private property or people who were taking advantage of the vending possibilities being on private property and interfering with some private uses. There were those concerns while at the same time there was a very real recognition of the value that the vendors bring to our community during the summer times. This absolutely adds to the liveliness of the city and the fun of the street which draws folks into our community as a benefit for everybody. This is the sort of balance they are seeking to achieve and feels like it was skewed last year. They are trying to find out if the ordinance needs to be changed and how to change it in a way that accomplishes that goal of balancing those competing interests.

Council Member Sherman said she wonders where the five designated appropriate spaces are.

Ms. Eikenberry said they would really like the city to decide where those are. If you look at what exists already in the vendor ordinance and the criteria for where vendors can situate themselves you have to leave at least a four foot passage on the sidewalks which means the sidewalk has to be 8 feet wide. You can't be within 5 feet of a fire hydrant or crosswalk. You can't be within 50 feet of a similar business and they suggested some language changes to make it very clear what a similar business was. Where could you situate a cart downtown? They came up with two spaces in City Hall Plaza, a space in front of the Washington County Court House where the bulb out is, a space in the Christ Church Pocket Park and a space at the intersection of Main and School Street on the Bethany Church corner. They really looked hard at the Capitol Complex to see where a vendor could be located on that part of town, and the sidewalks are so narrow throughout the whole area that they couldn't find a spot that would still allow four foot of sidewalk passage, except for one spot which is state owned property and the state told them they wouldn't allow a vendor on their property. They would like it open so the City Manager could add spaces that met those criteria in the future. They did identify two spots that could be used for non-food vendors but not food vendors. The Rialto Bridge has enough room and the intersection of Elm and State Street in front of the Jacobs building, but because it is so close to so many restaurants it's not eligible for a food vendor.

Willa Murray said she wanted to reinforce what the Mayor said about their enthusiasm for the vendors. Their intention with the committee was to make some recommendations to the regulations to insure an orderly continuance of this contribution to the downtown vitality. Understanding that was their intention they really came up with some ideas that would improve or eliminate the need for the certain kinds of enforcement they have had in the past. By having designated spaces, for example, there is no discussion about whether or not you are in an approved space. That eliminates one level of enforcement that created some problems in the past. There are other suggestions, all of them made in the spirit of improving the life in the downtown with respect to the vendors.

Council Member Golonka said with regards to the $500 fee how did they arrive at that?

Ms. Eikenberry said the low end was $250 and the high end was Burlington that charges food carts between $1,800 and $2,400.

Council Member Golonka said outside the designated downtown it seems they become much more restrictive. This looks like it is trying to expand regulations outside.

Ms. Eikenberry said they are actually going to be less restrictive outside of the downtown. They realize this ordinance doesn't just apply to the downtown although most of the carts have been downtown. What would make a spot eligible outside of the downtown? It has to be safe so the sidewalk passage may not be the key criteria. It may be something about highway safety. She really can't imagine where people are going to locate outside of the downtown. The ordinance has to also apply to outside of downtown so she didn't want to try to figure out where designated spots outside of downtown would be. They left it that it could be anywhere outside of downtown. They just need to get a safety approval and a landowner approval. The safety approval would come from the Police Chief and the Parks Commissioner would be the person if the land they are looking at is parks. They knew the ordinance would have to apply to vendors not only in the downtown area.

Planning Director Hallsmith added that vendors looking for permits come to the Planning Office as well even though Planning doesn't have jurisdiction. There have been vendors who have applied at Agway and Tractor Supply as well as the Toy Town area. If we start to limit them in the downtown area they will probably see more people try to locate elsewhere.

Mayor Hooper said there are several people interested in commenting on this.

George Estes, a local contractor, vendor and own a catering business in Montpelier since 1977, appeared before the Council. There was a three year lapse when he closed his hot dog business and reopened it. How many people in this room were here in the 70's? Augie's Doggie's Hot Dog Cart was a vending cart in downtown Montpelier. He was a teenager and worked on that cart. He worked for three years and there were three different carts in the city of Montpelier at that time. There were also two other vendors, Italian Ice and the Pretzel guy who used to own Julio's building. He is a vendor now and his son wants to take over the business. He has been established in the city of Montpelier for years and had a license for years. He was down in front of Christ Church. He had permits and permission from the city. He went through all of the insurance and other business it entails to get a vending license and permits. He was there for seven years. Condoscenti's had a vending cart which sold pizza right beside his hot dog cart during the same time so there was no conflict. Last year the only time he saw a conflict was with Paul, the vendor down in front of Christ Church. At that time people come from 133 Baldwin Street all the way down to Barre Street. He talked with the church and made a deal with Reverend Hall to clean up and redo the benches to maintain the park. They allowed his Cub Scouts and Boy Scouts use the building. There has always been more than one vendor or two vendors in Montpelier forever. Last year he saw there was a problem because they all congregated. Paul came down and told him he couldn't be at that location. Then, the Italian sandwich came in. In the 70's there was a cart in front of the Pavilion Office building. The sidewalk in front of the Pavilion is 9 feet wide. There is almost 5 feet from the sidewalk to the curb, which is grass, and that is where he set his cart up after he started having problems with Paul because he didn't want it to become an issue with the Council. Immediately the Sergeant at Arms came out and told him he couldn't be here because it wasn't city property. City property is 25 feet from the center of the road, which is the opposite side of the sidewalk. He was between the sidewalk and the curb. In 1975, 1976 and 1977 there was a double ended hot dog cart down in front of the Pavilion that sold 300 hot dogs a day. The volume of food and people in the 70's is the same flow. At that time there was a cafeteria in the Capitol and a cafeteria in the basement of the Motor Vehicle building.

Now he sees the city is proposing changes such as the permit fees going from $250 to $500 and he needs somebody to describe to him why it jumped twice the amount when there are other vendors who come into the city on Saturdays with the Farmer's Market and they pay a certain fee because they are affiliated. They don't pay individual fees. They have individual vendors that sell different food. They don't have permits or catering licenses or any proof of insurance on any of the vendors there. He is proposing to the city that if they are going to change rules and regulations on vendors it should affect vendors at the Mountaineers, Farmer's Market and vendors that want to be out selling food and other merchandise on the street because it is for the better of Montpelier. He has received a lot of good feedback over the years. He agrees with some of the changes in the ordinance, but the fees and designation of spots he doesn't agree with. They are here to make a living and when they are in a designated spot that is a low traffic area or low people volume area they aren't going to make it. The Christ Church is the prime spot. It is the Church's property and not the City of Montpelier's property. When Paul jumped in and said he was going to give a donation to the church, he didn't follow through and they were pretty upset with him. Designating spots is like telling them if they want to open a restaurant at the other end of town like Ariel's the traffic flow is not the place to have a restaurant.

Suzanne Eikenberry said she wanted to clarify designated spaces. What their vision of designated spaces was is there would be a set list that the City Manager would maintain and when vendors went in to get their license they would choose their spot. It's not that their spot would be assigned to them, but first come first serve and something for the Council to consider should there be a right of first refusal for people so they can keep their same spot year after year. It was never the intention that they would assign spots. These were the five spots they found that could be designated, but if somebody found a spot that met the basic criteria they wanted to leave it open for the City Manager to add a spot. It was never their intention to force people into certain spots.

Darla Morrissette said she was going to send in her vendor's application and then she read it may go up to $500. She can't pay $500 for the vendor's license plus $290 for her insurance. She has tried other ways. She has tried to be in the Farmer's Market and they won't let her in. This is her only venue which is to get a vendor's license and pick a spot in Montpelier on Saturdays. She knows this is coming from other business owners, many of them restaurant owners because the food vendors are taking business away from them. On Saturday at the Farmer's Market there are probably 6 to 8 food vendors there and there is nothing said about them. Why don't they need a vendor's license? Yes, they are paying. This is the first year that the Farmer's Market will be paying a fee and that has only come about because of them putting her out and the question being raised. If they are going to charge vendors $500, then every vendor in the market should pay $500 also. Regarding designated spaces they should be able to pick the spot they want as long as they leave 4 feet of sidewalk. She doesn't want to be driven out. She loves selling her stuff. She does make a profit and thinks they add something to the city. Things are getting too restricted. She can't afford $500 and doesn't think the rest of the vendors can, either.

Timothy Azarian said he was a first time vendor last year. His wife and he were doing the Thai food cart down in front of the Court House. He thinks there has been a big over reaction in the community for proposing these changes. When he started last spring there was Paul doing the hot dog stand and his cart? They had been planning on doing business for a long time and have always wanted to do a street food business. Half way through the summer some other vendors popped in. It seemed like a good idea because the economy was hurting and it's an easy way to get started as opposed to starting a restaurant. You lose all of the benefits of having a restaurant. At the maximum there were five vendors downtown. The sandwich person was there for about a month and back to four by the end of the summer. The ordinance that has already been written up by the City of Montpelier covers everything. He doesn't see anything here that seems vague. It clearly states you can't be on private property. You still need to be 50 feet from another vendor and you need to be 50 feet from another establishment that has the same type of food. These are simple things to enforce. If there was a problem last year between George and Paul being close to each other, they worked it out. If you write up a whole bunch of proposed changes those things still will need to be enforced. Writing new rules isn't going to change enforcement. It will just squeeze the vendors a little more. It feels like they are being singled out. There was a study done by Montpelier Alive to see how everything could benefit from this situation, but everything that has been proposed is really not for the benefit of the vendors but the benefit of other people who complain. The vendors don't have any representation and the restaurant owners do have representation. They work closely with Montpelier Alive, and that's fine, but it does feel really one-sided. Earlier they were bumped out by the Farmer's Market. There was a wall designated for vendors to have on Saturdays. He read in the paper that the wall is being eliminated for vendors because they did not join the Farmer's Market. It's not about joining; they were all rejected. Now because there are other complaints they are going to be really restricted, and they just started their business a year ago. He showed the Council the State Health Department regulations they need to follow. They have to get insurance and then go through the City of Montpelier to operate. It just seems because a few extra vendors popped up last year that whatever they do is really thought out for both sides before decisions are made.

Paul Sudhoff, a one year vendor in Montpelier, said this is something he has always wanted to do. This is going to be a hardship. They should look a little harder at the fees. For example, Barre charges $33 a year for a peddler's license. Barre Town charges nothing. He is unemployed and has been unemployed. He borrowed money to buy a cart and set up a business. What can he do? He can't afford to stay to sell hot dogs. He tried. He likes the people and that is why he wants to do it again. Thank you.

Mayor Hooper said they have a letter from a property owner. Steve Ribolini submitted a letter for the record.

City Manager Fraser said this is the first time the City Council has officially seen this proposal. It wasn't something that was directed by the city other than people have raised concerns and asked if this was something we could look at. The next step is for this group to decide what they want to do. This isn't even the first public hearing required with an ordinance adoption. There is a formal ordinance adoption process. He has a question for the vendors. It strikes him that the location they have is very important. He understood that part of what this was trying to accomplish was they could be certain to have that location. How do they manage themselves? Is this an honor system?

Mr. Estes replied it is an honor system. That's why he moved to the other end of town because it was starting to become an issue. Paul physically threatened him. He went to the Police Department and said he had his sign out in front of the Information Booth and he moved it. Even Pinky asked what was he doing. He has heard from different people that in front of the State Capital there is a 30 foot right-of-way of water lines that cross in front of the Capital Building. At first he was down at Christ Church, and, yes, that is the money maker because of that area, the concerts and people can come and sit. There is a small pocket park down in front of the Chittenden Bank but there is no sun in there at noon time.

Mr. Azarian said he isn't against all of the proposals because some don't affect him that much.

Mayor Hooper asked if the rationale of the designated spaces that they had heard from people in Burlington that they liked knowing where they go, what they do and their area and it is clearly established so there isn't this jockeying.

Suzanne Eikenberry said there were some very particular areas they felt were not crystal clear in the ordinance. One that a lot of people brought up is this 50 feet. Vendor stands shall not locate within 50 feet of any other vendor or business establishment offering for sale goods or merchandise of substantially the same type as that being offered for sale by the licensed vendor. They couldn't see why vendors couldn't cluster just like restaurants might cluster so they are suggesting to get rid of that. It worked fairly well last summer that there were four vendors that were in the same area so they didn't see why vendors couldn't cluster. The issue of substantially the same type was very tricky. Is a restaurant that sells luncheon food substantially the same type as a food vending cart, or is a restaurant that sells hot dogs the same as a food vending cart selling hot dogs? What if the vending cart sells sausage? Is that now the same thing as hot dogs? That needs to be clarified. Part of the idea with the designated spaces was that there would be some communal understanding about how to interpret this. They are suggesting that run through the City Manager. Where there were issues last year it was hard to enforce.

A question they had never contemplated was that when they looked in front of the State House it never occurred to her that the city would want people on their grass and have to reseed the grass after it was compacted. You may ask whether or not you want a hot dog cart in front of your major tourist attraction. There were complaints from tourists about their photo opportunities last summer.

Mayor Hooper said the Council is in the process of trying to figure this out and wanting to understand what community members' thoughts are. She asked City Clerk Charlotte Hoyt if she issued licenses on a certain day.

City Clerk-Treasurer Hoyt said the ordinance says all city licenses expire on March 31st. The ordinance wouldn't take effect until it is changed so anybody who applies now would fall under the old license fee.

Mayor Hooper said they aren't driven by the date when the licenses expire. The fee is what it is until they change the ordinance.

Tim Azarian spoke about the designated spots and said the problem is that it shuts other people out. It shuts out future people who might come in to get in on the town scene to do their vending business. The 50 foot rule works. It just has to be enforced.

Mayor Hooper said an issue for her is how full our trash cans are and the city pays to empty the cans. The trash is coming from the carts. To her that is one of the reasons for increasing the cost. With Darla's headbands she doesn't have any trash. Other people have significant amounts of trash that right now the City of Montpelier is paying to move away, and it is unsightly and nasty. That is an issue we need to deal with.

Ms. Eikenberry said the Burlington vendor fees are graduated. For FY'10 if you are located on the City Hall block of Church Street and you are a food cart it is $2,400; if you are on any other block on Church Street the fee is $1,800 for a food cart; if you are a retail cart south of 25 Church Street it is $1,500; if it is an artisan cart it is $750; and any cart north of 25 Church Street is only $600. They have looked at a fee schedule that takes into account that the food carts have a little more wear and tear and they really want to encourage artisans.

Jeremy Silanski, the General Manager of the Skinny Pancake, said they are very familiar with vending carts. They started in 2003 on the Church Street Marketplace with a vending cart they had made out of an old boat trailer and they continue to operate that vending cart on the Church Street Marketplace. The Church Street Marketplace does assign specific spots. They have been doing it now for almost 7 years and as a vendor they have had no issues with businesses that sell like items. The city really takes a look at where they put these particular vendors. The problem for them is not vendors specifically but the management of the existing rules. The grey area is the 50 feet from their property, which is their patio border, then where existing vendors are setting up that is about 26 feet. Also, what is a similar product? Yes, lunch is lunch. A hot dog is a protein wrapped in a carbohydrate, and they sell proteins wrapped in carbohydrates. It really exacerbated the problem for them when they had people so close using our patio and sit down to eat goods that were purchased at a vendor cart just steps away. When they had half of a party in the restaurant who was eating in a restaurant and the other half of their party brought in food that was purchased from an outside vendor just steps away brings up questions about whether they might have tried their products. They are just asking for some grey areas to be ironed out, and once they are for the rules to be enforced.

Mayor Hooper asked if all of the vendors were represented here. Paul is in Florida and Dave Cousins has decided not to come back this summer.

Council Member Hooper said he likes the idea of valuing the spots. There are clearly places where food vendors want to be and someone who wants a prime spot pays a prime price for it.

Council Member Sheridan said they do their parking that way. If you are more in the middle of downtown and you have a permit it is more there than for a less prime parking spot.

Mayor Hooper said she is really concerned with enforcement issues. She is a little alarmed about people jockeying for spots and the potential for conflict. She wants to make sure we don't create something that is difficult for the city to manage. She is also concerned about trash and private property not being encroached upon by these activities.

Council Member Sheridan said he knows his committee is obviously concerned about access for disabled people. Sometimes it isn't necessarily the food cart but if you have a big crowd around eating and standing in line a wheelchair cannot make it through there.

Mayor Hooper said this is actually where this conversation began. It was around the sign boards and crowds on the street and people having access.

Council Member Jarvis said she liked the idea of doing a two-tiered fee schedule to deal with the trash issue and food vendors should pay more because inevitably they are producing what is going to end up as trash. With regard to the designated location, what if you have someone like Darla who only sets up on Saturdays? Is that location used up, or can someone else have it the other six days of the week? The fees should be different as well.

Ms. Eikenberry said they did not consider Saturday only as an option. There is a special exemption for a special event permit so if you are there only one day you can buy a $25 permit. For example, July 3rd vendors get this one day special permit. It is in the existing ordinance; they didn't change a word of that. You could add something pretty similar for a Saturday only.

Mayor Hooper said there are some ideas on the table for proposed changes.

City Manager Fraser said if they have designated spots you create a limit so somebody new can't come in. Once they are full, they are gone. If the spots have to meet a certain criteria, Suzanne said there were only four or five spots that meet the criteria. Aren't there really a limited amount of spots? Aren't there geographically a limited amount of spaces? Doesn't that by default restrict people once those are full?

Tim Azarian said first of all they are operating on the premise that there are only four or five spots. It says 4 feet or half of the sidewalk, whichever is less. All the way up to the Coffee Corner that is a huge wide sidewalk. You could definitely fit your operation in there, especially if it is a small operation. They aren't ideal spaces, and you don't want to be in front of someone's restaurant.

Anthony Otis, residing at 28 Sibley Avenue, a public policy attorney and Chair of the Montpelier Historic Preservation Commission and acting president of the Montpelier Heritage Group. He said he had a couple of concerns he would like to express. He worries about congregate areas. Cityscape is designed to attract people to the downtown and to give people the opportunity to move freely through the commercial area. To the degree that congregate spaces such as the Rialto Bridge where people tend to hang out and in front of City Center if those spots are used by street vendors he is concerned where there is space for people to congregate downtown. That is one of his concerns.

Mayor Hooper said there should be sufficient congregate area for folks who aren't enjoying the food.

Mr. Otis said he was concerned last year about some food waste that landed in certain areas, not because of the patrons but because of the equipment being used by the particular vendor. It stained some granite pieces in front of the Court House and he spoke with the Assistant Judge about that. He would want to make sure that any ordinance would have a provision that would prohibit and penalize someone who spoils the infrastructure, whether it is granite or cement. He said they do want to make the city appealing. We do have a lot of food vendors already.

Paul Sudhoff said with the spot on the ground the Health Department requires you to have a rug; that is one of their stipulations. Secondly, two days in a row where he was sitting the garbage can was over flowing. For two days trash was not picked up. Anything that comes off his cart usually goes in his can. Many years ago they used to allow vendors to use parking spaces. If there are not enough good spaces make designated parking spaces available.

Council Member Hooper said he doesn't think there is anything preventing the use of parking spaces.

Mr. Estes said it is stated in the permit. You can't vend food from a public parking space. That is in the ordinance. The ordinance is very clear and to the point.

Council Member Weiss said a number of meetings back the Mayor raised a very legitimate concern about newsstands. Newsstands are covered in this particular ordinance. Therefore, he would request they also take a hard look at newsstands as it pertains to the ordinance and open that up so they can look at two things at once.

Mayor Hooper said in terms of people's interest in this they can certainly communicate with the City Manager's Office or Suzanne with Montpelier Alive. She guesses they will come up with a draft ordinance and have another discussion. In the meantime the existing ordinance is what applies and we expect people to comply with the rules and the city will be enforcing them to the best of its ability.

Mr. Estes asked if last year were there any reports or complaints at the time the vendors were out there from other vendors that should have been brought forth.

Mayor Hooper said you indicated you went to the police about one.

Mr. Estes said he did.

Mayor Hooper said she received a complaint from a property owner about encroachment on private property at City Center in October.

City Manager said a working group would be establish of people that were yet to be determined.

Suzanne Eikenberry from Montpelier Alive said she feels that now it is up to the Council to say they would prefer to have a graduated fee structure. The committee reviewed so many different fee possibilities.

Mayor Hooper said the Council liked the graduated fee structure, an inclusion of a fee for trash and liked the idea of designated spaces and a different valuation of different spaces. They should also include newsstands.

City Manager Fraser reminded interested vendors that this is just a proposal. Before an ordinance can be approved there has to be at least two public readings and this isn't even one of them just a discussion. We could take a closer look this season at how it works and then revisit it at the end of the season. He isn't sure who in the city would enforce it. It certainly isn't good use of the Police Department. Is it going to the zoning administrator or building inspector? Who is going to do this? He doesn't see a huge urgency to getting this done this season.

Suzanne Eikenberry said even they decided to wait another summer she would urge the Council to at a minimum decide what a similar business was because many of the complaints she received last summer had to do with that wording in the ordinance.

Tim Azarian said if someone complained they would complain to the City Council. In the ordinance it clearly states that your license can be revoked if you break these rules.

Paul Sudhoff said he was on private property but only because he was instructed where the property line was from the city. We should table this for a year, see if there are any problems and let us take care of our own community, the vendors themselves.

10-065. Mayor Hooper said she wanted to be clear that the existing ordinance is in effect. Annual review of the ***Summary of Open Meeting Law Requirements*** (prepared by the City's legal counsel); ***A Guide to Open Meetings;*** and ***A Matter of Public Record*** (the latter two documents provided by the Vermont Secretary of State's Office). The City Council feels it is beneficial to review these documents each year as a reminder of what is expected of a legislative body when dealing with the Right to Know laws, including those related to open meetings and public records.

City Manager Fraser said as in years past they have put the Open Meeting Law and Public Records Law summary in the Council Members' packets. The Council recently had a work session on these two laws but he thought it was important that it be in the minutes that the Council had received them and acknowledged them and they were understood. He doesn't think they need to review them in great detail unless there are specific issues people would like to clarify. He found an exemption in the law that says this document is exempt due to a section. He wanted to give an opportunity for the public and the Council or anybody else to discuss this and for the Council to acknowledge in the minutes that they have them and understand them.

Mayor Hooper said not only did they receive them in their packet and had an opportunity to review and acknowledge, but we had a rather extensive session with three of the leading experts in the state reviewing the standards. It was suggested in the Citizens' Audit of the Scott Construction overpayment that we receive training in the Open Meeting Law. She asked the Council if they feel the need for additional training that the League of Cities and Towns is having a session on March 27th at Lake Morey. That would be an opportunity for any of the Council members to participate. She feels they have been adequately briefed in the recent past.

Council Member Weiss said he is absolutely convinced that each member of this Council, including the Mayor, is far more aware now of the implications and the meanings of Executive Session and we need no further training.

10-066. Discussion of securing an auditing firm for the City's FY 2011 audit.

a) Auditing firm Sullivan, Powers and Co. has informed the City that they no longer wish to perform the annual audit.

b) In order to secure an auditing firm for the FY '11 audit, preparations must begin reasonably soon (drafting RFP, review of proposals, selection).

c) The Citizen's Financial Review Committee, led by State Auditor Thomas Salmon, recommended establishment of an Audit Committee. This committee would participate in the selection of the audit firm and work with the auditor and City staff in reviewing financial statements.

Recommendation: Discussion if whether to form the Audit Committee; further discussion of whether to proceed with preparation of an RFP for audit services or wait until the Committee meets; direction to staff.

City Manager Fraser reported the reason they put it on the agenda was that in prior years under normal circumstances either when the work agreement had run out we would just put out an RFP and mailed it to firms around the state. They would have received bids, reviewed them and brought them to the Council for approval. One of the key recommendations of the Citizens' Financial Review Committee is that we create an audit committee and that include three Council members. That audit committee should be involved in the review of proposals for an audit and be engaged with the auditing firm and the RFP process. Should they also be involved in drafting the RFP? We did that with the reappraisal and it was great having them involved. They had some good input into the RFP and involved in the interview and selection process. Time is of the essence. When the Council talked about it in February they said they would wait until this election and decide what to do about the audit committee. There are various options. They can still issue the RFP and inform the committee so they can review the responses to it. One of the pluses of having another group, whether it is the Council or a larger committee, one of the concerns people have with auditors is that even though they are the independent auditors they work with us as staff. Some people raise questions about whether they were too cozy with staff. One of the pluses of having another group look at the proposals is that it isn't Sandy and he recommending to the Council who should be auditor but somebody else.

Mayor Hooper said she would recommend they appoint an Audit Committee that would help develop an RFP as well as to work throughout the process. She would like to have some member of City Council be a member on that committee, but she would also suggest they also have non-Council members.

Council Member Jarvis said her fear is that if they wait another month it will set us back.

Council Member Sherman said what if they proceed with the RFP and appoint the committee simultaneously and they review the responses.

Council Member Jarvis said if there are things the Council didn't ask for and they felt should have been asked that could still happen after they have started the process. They could go back to the Citizens' Committee and ask one or two of them to participate with one or two Council Members.

Council Member Golonka said he thinks they should start with three members of the Council and possibly expand the role of the opportunities of the committee to outside members. What we are talking about here is just securing an auditing firm. It is entirely appropriate to have three Council Members perform that role.

Mayor Hooper said the notion is to appoint three Council Members and advertise for people to participate with the three Councilors.

Council Member Weiss said he fully supports the suggestion right now of perhaps two or three Council Members working with Mr. Fraser to develop and follow through with the RFP process. What he isn't comfortable with at all of what is included in the Citizens' Report. At a minimum the committee could participate in interviews but most importantly could improve communication to help insure management follows up to resolve audit findings or issues stated periodically. They can review interior control policies and procedures. He isn't willing at this point to designate that to a committee. While he would fully support right now the opportunity for a number of Councilors to work with these folks on the RFP process but not get into the rest of it.

Council Member Golonka said he agrees with Alan. He said he doesn't think they are adopting the report.

Council Member Weiss moved that the Mayor appoint two or three members of the Council to serve on a specified committee to work with the Finance Officer and City Manager on the development of the RFP and submit a recommendation to the Council. Council Member Sherman seconded the motion. The vote was 6-0, motion carried unanimously.

Council Members Weiss and Hooper were appointed by Mayor Hooper to work with the city staff to develop an RFP.

10-067. Update on railroad issues.

a. On December 2, 2009, the City Council held a special meeting to discuss proposed increases in rail use on the Montpelier rail corridor.

b. That meeting was attended by State Transportation Officials and a railroad representative.

c. Parties at that meeting agreed to communicate with each other with regard to issues of concern.

d. Within the last month, the City and other private parties received lease cancellation notices from the State for use of properties in the rail right-of-way. These notices were sent with no advance communication from the State or railroad with the involved parties.

e. The Regional Planning Commission convened a meeting on Thursday, the 4th, with area municipalities to discuss the impacts on bike path projects resulting from the increased rail use and lease cancellations.

f. City Officials also met on the 4th with some private property owners who received cancellation notices.

Recommendation: Discussion of issue; update from Mayor and City Manager if applicable.

City Manager Fraser gave the city council members and update on the railroad issue. The last time the Council talked about railroad issues was at the special meeting on December 2nd. This was shortly after we first heard about the proposal to upgrade the rail lines for expanded rail traffic. They held a special meeting at that point and various state and rail officials were present and we discussed what we knew about the proposals. The only real agreement that came out of that meeting was we would try to communicate with one another. We understood the rail would happen and it was good for commerce. Then somewhere around February 17th the city received a notice of lease cancellation. The city has a small lease for land near M&M Beverage to cross over to get to the parking lot. There was no prior communication from anyone or no heads up just that the lease is cancelled as of August. Similarly, there were two other parties in Montpelier that received the cancellation notices, one was Pomerleau Real Estate who owns Citizens Bank and their drive through and the other was Ibey's further down on Barre Street. As a result Pomerleau and his representatives contacted the city and said they were concerned what the city was going to do about it. Specifically a letter was prepared asking the state that the cancellations be rescinded and we have time to work on issues, and that letter is being delivered either today or tomorrow. Last week there was a meeting of municipal officials with VTrans people over the impacts on all of the various regional bike paths as to whether it might displace bike paths or prevent them from happening. As a follow up to that meeting, there is a meeting here tomorrow morning in Montpelier with VTrans and the operator of the railroad. He believes many of the private interests will be present at the downtown sites of M&M and the Citizens Bank. They are meeting with us tomorrow to walk the sites and talk about what options there are and give us an update. The city has asked them to please communicate and work with us.

Mayor Hooper said the meeting of the bike path representatives was precipitated by a Regional Planning Commission meeting in which there was a discussion about the bike path progress. The Agency of Transportation rapidly pulled together a meeting of the bike path representatives so they could as a group considers some of these issues. As has been reported to us in the past, all of our planning for the bike path has ceased because of this issue and because of the uncertainties associated with this. She believes that is effectively true of the other communities. At that meeting there was this continued discussion about the railroad operator's interest in other parcels of land that affect all of the communities along the 13 miles of the railroad. While it is hugely frustrating for us in trying to get sound solid factual information about what is going to happen because there is a planning process that is happening. They can't tell us what is going on. We need to be careful not to be alarmed by some of the speculations, that there continues to be a discussion about the possibility of a railroad siting in front of Sabin's Pasture along the whole length of that parcel. There continues to be a discussion of a railroad siting on Stone Cutters Way. It was suggested that given that federal highway money paid for a portion of some of the construction of Stone Cutters Way that in fact if that lease we have for that length of the property were taken back that we might be obligated to repay the Federal Highway Administration for the cost they invested in Stone Cutters Way. It was also equally speculated that we are obligated if we stop planning and implementing the bike path to repay those funds. In fact, that is a question that is out there. It is her belief that one individual who is trying to develop the last undeveloped parcel of land on Stone Cutters Way still has not been able to thread his way through that. We continue to lose that grand list development opportunity as a result of this. It continues to be a very large question mark that is very troubling, and certainly for property owners. There are at least two businesses, one we heard from could close their business and they assume for the other that is the fact. At the suggestion of people who have been trying to figure out how to get there we have been seeking a meeting with the railroad operator just to ask what their plans are and what their interests are, and how can we work with the operator to meet the laudable public good that is going to be served but also to take into account Montpelier's interests. Despite many attempts made by Bev Hill that meeting has not happened.

Mayor Hooper said she heard through the grapevine that somehow it has become our duty to negotiate with the operator to find a siting so that Stone Cutters Way won't be shut down. It's frustrating because they can't have that face to face conversation and figure out what is going on.

Anthony Otis said he has a 22-year stint with the Railroad Association and its member companies as well as doing policy work. Because of attorney/client privilege he would find himself not being able to get very far into this. He continues to be interested and informed about what is going on.

Mayor Hooper asked if there were other people they should be speaking with or other contacts they should be making.

Council Member Golonka said at the last meeting they had asked Trini Brassard what our options were and who was above them to just get a seat at the table. At that time she indicated the Surface Transportation Board. He went on their web site to see what they are about and they have appointed some good members from President Obama and some of their statements sounded encouraging in terms of transparency and openness. He really believes they should pursue as a Council in a letter expressing our concerns too that Board. They aren't going to listen to us at the local level and maybe we need to go to the level that they would listen to us. As a body collectively we are looking out for the best interests of the city of Montpelier. We understand the interests of the railroad. We just want to have our concerns raised. If there are issues here of millions of dollars investment in Stone Cutters Way and bike path funds, we have a duty and an obligation to explore all options so that something doesn't come down really hard two years from. He doesn't want to be an alarmist, but we don't know any of the facts. If you read the web site it looks like a great organization that is looking out for all communities in this one great big happy railroad world. He would hope that if they receive a letter from the community expressing the seriousness of our concerns and questions of transparency in today's age they would be very concerned and alarmed. He would hope that they would investigate it. He thinks they need to explore their options either through a lawyer or through their field process and get a seat at the table. He thinks the city has serious concerns. They raised them before in terms of safety, impact to the downtown in terms of our investment in the community. He has raised issues of infrastructure and how this will affect our aging water and sewer facilities that criss-cross that area. All of these issues need to be addressed. It just looks like they are looking to see if their tracks can hold that amount of weight and really ignoring the issues we brought up three months ago.

Mayor Hooper said she believes one of the reasons they haven't heard anything from them is because they don't know what to tell us, but she doesn't think that excuses a lack of communication. The discussion with the bike path people was an attempt to understand how increased traffic on the line would be accomplished. Some interesting things came up. The railroad operators are paid $21,000 a month by the State of Vermont to operate this 13 mile piece of track because evidently it is in our interest to have them there doing that operation. One of the reasons they are looking at Sabin's Pasture and other places to do the siting for the building of the trains is because of the cost of the infrastructure repairs they may need to make. They are looking at the entire infrastructure and the bridges have significant issues for which there will have to be funding. The State of Vermont is obligated by its lease arrangement with the railroad operator to make track and bridge improvements. In order to accomplish that they will need a legislative appropriation. The other venue for the City of Montpelier and all of the communities that are concerned about this is the legislative process. She would suggest there are two things we could ask for. One, we could ask in the transportation bill that there be a requirement to hold public hearings on what is proposed. Not to say not to do it or do it, but to create a public forum in which answers would have to be given. She was also reminded that they were having a conversation about a particular property owner on Stone Cutters Way and Senators Phil Scott and Dick Mazza who are helping to find a solution to this. Senator Mazza, who is the Chair of the Transportation Committee, asked her very directly does the city have a position on this. She told him we didn't; we have concerns. If she could express something more directly to him about the need to have this addressed that would also be useful.

Council Member Weiss said he agreed with the suggestion Council Member Golonka raised about a letter going to the Surface Transportation Board and he would suggest they submit a copy to each one of our three Congressional delegation members and a copy to Senator Mazza.

Council Member Sheridan inquired if they should do this alone. There are other communities near us and it might have more weight if they have concerns and want to go to the board.

Mayor Hooper said they could certainly ask their neighbors if they would like to join in.

Council Member Weiss said we should do it now and if anybody wants to join us, fine, but let's move on this now.

Council Member Sherman said it seems the project is contingent on bridge inspections. It would be good to know the results of the evaluation of the bridges.

City Manager Fraser said it also actually relates to the need for various rail sitings.

10-68. Reports by City Council

Council Member Weiss said the Council has developed a goal which talks about intergovernmental cooperation and coordination. He would remind the group that on Thursday, March 18th at 6:30 P.M., Mr. Golonka, Mr. Sheridan and himself will be appearing before four boards, Montpelier, Barre City, Barre Town and Berlin, to receive the first report of this committee dealing with public safety issues. Mr. Golonka is going to make a learned presentation at the hearing on the March 18th. That is going to be held at the Chamber of Commerce office.

Council Member Sherman said she wanted to thank the voters of District 2 for reelecting her. It was a great race, and she thanks her opponents who also ran hard races. District 2 residents had a great opportunity. She has received a call from a constituent about parking on College Street. She thinks it is NECI students. She noticed there was a lot of parking on College Street during the Farmer's Market but it blocks visibility where Arsenal Drive comes into College Street. She has been to the Police Department.

Council Member Sheridan reported there was a meeting of the ADA Committee yesterday. Alan graciously attended representing the Mountaineers. Arnie came from the Recreation Department. They are still moving forward to make their first project a handicapped bathroom at the ball field. It can be under the stands. Bill is going to find somebody to do a design for us so we can get a price. There is a tight timeframe to do this in, but want to get something done with that this year. He said he had to make a disclosure to the Council. A week ago today he received a letter confirming that he won his case for disability because of his spinal disease and is now declared fully disabled. Obviously, that changes his status. The City Manager agreed that he should talk to the Council about whether anybody has the concerns of his being a chair of a committee that deals with disabilities. If the Council feels he should step down, there will be no hard feelings on his part. The Council needs to make that decision tonight because there is a short timeframe for the handicapped bathroom.

Council Member Sherman asked if there were opportunities for financial gain for him or someone in his family.

Council Member Sheridan replied not that he knew of.

Council Member Sherman said she didn't believe there is a conflict of interest.

Mayor Hooper told him she thought it was very important he raised that issue and allow the Council Members to affirm whether he should continue in the Chair's role. She suggests they specifically look for people with disabilities to serve on this committee because it provides insight.

10-069. Mayor's Report

Mayor Hooper said as she mentioned when Paul Giuliani was present the House Government Operations Committee is looking at the proposed charter change if it were approved by the Legislature would finalize the voters decision in 2002 to complete the consolidation of the Berlin Fire District No. 1 into the Montpelier Water system. We do everything for them already and have served in that function in every way except for the final legal part of it. She isn't sure this is going to go anywhere because it was suggested there was much more of a story in terms of the issues that need to be addressed here. She talked with the Town Administrator of Berlin to make sure Berlin knew about this and he indicated that the Berlin Select Board opposes this. She found it interesting that there was a proclamation from the Town of Berlin stating their objection. One of their objections is that they will lose the potential of providing water to those water users in that district and that would harm their interest in building a water district themselves. She made sure the committee knew if Montpelier lost that water user it would do significant damage to our existing water system. She provided some background about how long we had been serving Berlin with our water treatment plant and had made significant decisions based on that. The person she suspects will be the Chair of the Berlin Select Board was there and they just want to know the results of the testing they are doing and wanted us to wait a little bit before asking the committee to act on this. We've waited seven years and it is very important to us. She wasn't aware of how important this group of customers is to us.

Mayor Hooper referred to a memo received from City Clerk Hoyt about handling of catering permits. It was suggested that the council could delegate that responsibility and suggested that it be put on a future agenda to create a process.

10-070. Report by the City Clerk-Treasurer

a) Discussion and possible direction to staff, regarding the processing of Catering Permits when action is needed prior to the next Council Meeting, or shortly thereafter.

City Clerk-Treasurer Hoyt thanked everyone for their help at election time. Everything went well. There were quite a few people who used the phone for voting.

Council Member Sheridan said he was wondering if she would summarize it and send the Council a report on how it went and list any concerns.

10-071. Status Reports by the City Manager

Agenda Reports by the City Manager:

10-72. Review and discuss the ***City Council Overview*** prepared by the City Manager. This will give City Councilors an opportunity to propose any change in practices that they see fit at this time.

The City Manager had presented the council with an overview of everything we do with our procedures and processes.

Council Member Weiss said he thinks this is a very important document. He moves that the Council receive the report. Council Member Hooper seconded the motion. The vote was 6-0, motion carried unanimously.

City Manager Fraser said he will have a more comprehensive memo to Council Members on Friday but we are obliged to bargain with the Police Union. There is an initial meeting scheduled with them for March 16th. If there is a desire from the Council to talk about who and how the city is represented and whether it would make sense for him to continue to be the lead person or should somebody else do it. This is a decision the Council ought to be making pretty soon. We have been keeping abreast on the Agency of Natural Resources enforcement issues and not getting very far. Steve Stitzel may be here to brief us on what our choices are in terms of whether we fight or settle.

10-073. Setting of the date, time and location for the City Council's Annual Goals Setting Session.

Mayor Hooper said they also need to talk about how they want to conduct it.

Council Member Weiss said he hopes this Council will consider changing one word. Please change the word from goal to "objective." Let's have a session dealing with objectives and not goals. During the review we also talked about our own reactions. Do we want to do those in separate sessions? What other sources do we want to get information about? Do we want to involve department heads? The draft goals have always been discussed in public meetings. The question might be how do we take that survey and use that as a tool for goals.

Mayor Hooper said they could bring in the directors first and then create our goals around them. The date of Monday, April 5th early was chosen.

Adjournment:

After motion duly made and seconded by Council Members Sheridan and Jarvis the Council Meeting adjourned at 10:33 P.M.

Transcribed by Joan Clack

Attest: ______________________________

Charlotte L. Hoyt, City Clerk

VERMONT

VERMONT ECONOMIC PROGRESS COUNCIL

TAX INCREMENT FINANCING DISTRICTS IN VERMONT

The following is an outline of the full process to create a Tax Increment Financing District in Vermont and to apply for authority from the state to utilize incremental Education Tax revenue to finance public infrastructure improvements to ensure the development or redevelopment of the District. Steps that are required by statute cite the section of statute containing that requirement. Other steps are for guidance purposes only. Note that a municipality may have additional requirements that must be followed to comply with other state or local law.

1. INITIATE THE ESTABLISHMENT OF A TIF DISTRICT

a. **Determine project feasibility:** The potential feasibility of utilizing the TIF District financing tool should be initiated by the municipality, a private sector developer or a non-profit agency interested in the development or redevelopment of a specific geographic area within a municipality. TIF can be considered when adequate financing is not available from other public and private sector sources and a substantial amount of public infrastructure is required in order for the development or redevelopment to occur. The decision to utilize the TIF District financing tool should include consideration of the following factors:
   - Is there a need for substantial development or redevelopment to improve the economic viability of a defined area with the municipality?
   - Are substantial new public infrastructure improvements or public infrastructure improvements required to ensure that the development/redevelopment occurs?
   - Are the normal and available financing mechanisms not available or are they insufficient to ensure the public infrastructure is built or improved?
   - Are there parties interested in developing the District if the infrastructure is built/improved?
   - Will the potential development/redevelopment generate incremental property taxes sufficient to help finance the debt incurred to build/improve the infrastructure?
   - Is there a commitment by the municipality to champion the project through the approval processes.

b. **Involve decision-makers**: The specific project should be discussed by public and private sector decision-makers addressing several development issues:
   - Eligibility of the project area
   - Needs of the community
   - Financial feasibility
   - Expected economic benefits
   - Expected non-economic benefits and public good
   - Interest in project by private sector developers and potential for private-public partnerships

- Impact on the area in and around district
- If required by municipality, consider and involve an eligible agency to act as “coordinating agency” for the TIF District.

2. FORMULATE A PLAN

a. **Create a redevelopment plan**: Utilizing land development planning and project financing, generate a redevelopment plan. The plan will serve many purposes, but primarily it should be a planning tool that sets forth the objectives and project timetable, and forms the written basis for communicating these matters to stakeholders and approval bodies, including the taxpayers, the municipal legislative body and the state entity approving use of incremental education funds for TIF financing. The plan should state clear objectives of the redevelopment plan and should reflect the interests, goals, and objectives of existing plans of the community and region. The plan should also discuss any special features pertinent to overall TIF District creation policies of the municipality, region, and the state, such as environmental protections, affordable housing requirements, neighborhood impact statements, transportation improvements, and any legal and practical guidance on land takings and negotiating and executing contracts with private firms. Refer to statute (24 VSA §1898(e) and 32 VSA §5404a(h)) and other sections of this guide for required elements of a TIF District Plan.

b. **Determine the geographical boundaries of the TIF District:** Determine which properties will be involved in the TIF. The area of the TIF District may be larger than the actual area of new construction. Generally, if a surrounding area will receive an economic benefit from the TIF project, it should be included. However, municipalities should be cautious about drawing the lines too broadly and negatively impacting the success of approval or adversely impacting the financial viability of the TIF District. Stakeholders and representatives of the affected and adjacent properties should be involved early in the process.

c. **Estimate project timeline and costs:** Based on the properties included in the District and the projected properties to be developed, estimate the project timeline including TIF District approvals (local and state), bonding approvals, infrastructure improvement schedule, development and/or redevelopment build out schedules, and debt financing schedules. Estimates should also be made of all costs, including debt and project costs other then debt servicing. Detailed cost estimates of the infrastructure to be built should also be developed.

d. **Estimate tax base and revenue increment and establish debt financing policies:** Estimate the tax base within the District and the increment to be produced by any development. Establish and put in place any debt financing policies such as the amount of debt to be issued, the authority to issue debt, and any limitations on the amount of debt and/or maximum allowable debt service payments. Begin process to get these policies approved by the municipality. Begin process to gain approval for any required local, regional, or state land use policy changes or exemptions (takings, ordinances, zoning, permitting).

e. **Establish evaluation requirements and termination date: D**evelop criteria that will be used to measure success and set benchmarks for evaluating those criteria throughout and at the end of the project. Determine local and state reporting requirements and incorporate tracking of reporting requirements in a benchmarking plan (State reporting requirements are contained in 32 VSA §5404a (i and j) and may be supplemented by requirements of VEPC and/or the Department of Taxes). Set a date for termination of the TIF District. In Vermont, a TIF District exists until all TIF District debt is paid (24 VSA §1894(a)(3)).

3. ADOPTION OF TIF PLAN

a. **Local Approval of TIF Plan**:

i. The municipality, through its appropriate legislative body, enacts any ordinance, zoning or other changes required to implement the TIF District improvements.

ii. The municipality, through its legislative body (defined by 24 VSA §1891(3)):

1. Develops, provides evidence to support, and passes a finding that establishing a TIF District and incurring indebtedness will serve the public purpose of a TIF as stated in statute (see below). (24 VSA §1892)

24 VSA § 1893. PURPOSE

The purpose of tax increment financing districts is to provide revenues for improvements that serve the district and related costs, which will stimulate development or redevelopment within the district, provide for employment opportunities, improve and broaden the tax base, or enhance the general economic vitality of the municipality, the region, or the state.

2. Describes the TIF District by its boundaries and properties therein and shows the district in a plan entitled "Proposed Tax Increment Financing District (municipality name), Vermont." (24 VSA §1892)
3. Provides public notice of one or more public hearings on the proposed TIF District plan. (24 VSA §1892). (See also information below for what must be included in the plan to meet subsequent State requirements).
4. Holds one or more public hearings on the proposed TIF District plan (24 VSA §1892).
5. Adopts the TIF District plan through a vote of municipality's legislative body in accordance with municipality's ordinance and/or resolution (24 VSA §1892).
6. Records the TIF District plan with municipal clerk and lister or assessor (24 VSA §1892).
7. Designates a coordinating agency, if desired, to administer the TIF District and ensure compliance with statutory or other requirements for TIF Districts (24 VSA §1898(e) permits designation, but does not require it).

b. State Approval of TIF Plan: If seeking approval for utilization of Education Fund Revenue for TIF District debt (32 VSA §5404a (f, g, h, and i)).

i. In accordance with the rules and procedures established by the Vermont Economic Progress Council, including the requirement to submit an "Intent to Apply" notice prior to submitting an application, submit an application to the Vermont Economic Progress Council for consideration (After April 2009, the Economic Incentive Review Board).

ii. The Council must determine if the application meets statutory approval criteria based on need (But For), process, location, project goals, and nexus and proportionality and must approve a TIF Financial Plan:

1. **But For** (32 VSA §5404a(h)(1)): Unless the TIF District is located within a designated growth center under 24 VSA §2793c, VEPC

must determine that the new real property development would not have occurred or would have occurred in a significantly different and less desirable manner but for the proposed utilization of the incremental property tax revenues. If the TIF District is located or will be located within a designated growth center under 24 VSA §2793c, it is deemed to have complied with the But For requirement. The But For review must take into account:

   a. The amount of additional time, if any, needed to complete the proposed development within the District and the amount of additional cost that might be incurred if the project were to proceed without TIF District debt financed with incremental property tax revenues.
   b. How the proposed development components and size would differ, if at all, without TIF District debt financed with incremental property tax revenues.
   c. The amount of additional property tax revenue expected to be generated as a result of the proposed development; the percentage of that revenue that will be paid into the education fund, the percentage that shall be paid to the municipality, and the percentage of that revenue paid to the municipality that will be used to pay financing of TIF District infrastructure debt.

2. **Process requirements** (32 VSA §5404a(h)(2)): VEPC must determine that each applicant meets **ALL** the following requirements:
   a. The municipality has held public hearings and established a TIF District in accordance with 24 VSA §§ 1891- 1900;
   b. The municipality has developed a TIF District plan that includes:
      i. Project description;
      ii. All information required for local approval (24 VSA §1892 and §1898(e). (See requirements above);
      iii. An infrastructure development financing plan;
      iv. A pro forma projection of expected costs (including "related costs");
      v. A projection of revenues;
      vi. A statement and demonstration that the project meets the But For;
      vii. Evidence that the municipality is actively seeking or has obtained other sources of funding and investment in the project;
      viii. A development schedule including a list, cost estimate, and schedule of public improvements and projected private development that will occur as a result of the TIF District improvements; and
      ix. The amount of additional revenue expected to be generated as a result of the proposed development; the percentage of that revenue that will be paid into the education fund, the percentage that shall be paid to the municipality, and the percentage of that

revenue paid to the municipality that will be used to pay infrastructure debt.

c. The municipality has approved or pledged incremental municipal tax revenues for TIF purposes in the same proportion as education tax revenues; and
d. The proposed infrastructure improvements and the projected development or redevelopment are compatible with approved municipal and regional development plans and the project has clear local and regional significance for employment, housing, and transportation improvements.

3. **Location criteria** (32 VSA §5404a(h)(3)): VEPC must determine that each applicant meets **ONE** of the following requirements**:**
   a. The development or redevelopment is compact, high density, and located in or near existing industrial areas;
   b. The proposed District is within an approved growth center (as defined by 24 VSA §2793c), designated downtown, designated village center, or new town center (as defined by 24 VSA, Chapter 76A, §2793a);
   c. The development will occur in an area that is economically distressed, which means the area has experienced patterns of increasing unemployment, a drop in average wages, or a decline in real property values; or
   d. The development or redevelopment is compact, high density, and located in or near existing commercial or residential areas. ***(Note: This criterion is repealed effective July 1, 2009 and therefore the ability to meet the location criteria through this criterion is eliminated on that date.)***
4. **Project criteria** (32 VSA §5404a(h)(4)): VEPC must determine that each applicant meets **THREE** of the following requirements:
   a. The development within the District clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.
   b. The development includes housing that is affordable (as defined by 10 VSA §6001(29)) to the majority of the residents living within the municipality and is developed at a higher density than at the time of application.
   c. The project will affect the mitigation and redevelopment of a brownfield located within the District. "Brownfield" is defined as an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.
   d. The development will include at least one entirely new business or business operation or expansion of an existing business within the District, and the business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the Vermont Department of Labor.
   e. The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

5. **Nexus and Proportionality**: VEPC must determine that the proposed infrastructure and related costs directly serve the District and that the portion of the infrastructure and related costs that will be paid for with the incremental state and municipal property taxes generated from within the District are proportionate to the degree by which the infrastructure and related costs serve the District (24 VSA §1897(a)).
6. **TIF District Financing Plan**: A TIF District Financing Plan must either be submitted for approval by VEPC concurrent with the TIF Plan or at a later date, but prior to local voter approval on the TIF Financing Plan (24 VSA §1894(c)).
   a. The TIF Financing Plan must contain (24 VSA §1898(e)):
      i. A statement of costs and sources of revenue;
      ii. Estimates of assessed values within the district;
      iii. The portion of those assessed values to be applied to the proposed improvements;
      iv. The resulting tax increments in each year of the financial plan;
      v. The amount of bonded indebtedness or other financing to be incurred;
      vi. Other sources of financing and anticipated revenues; and
      vii. The duration of the financial plan.
   b. The council will:
      i. Assure that the TIF financing plan is consistent with the TIF plan previously approved or approved concurrently (24 VSA §1894(c)).
      ii. If the plan includes financing other than bonded debt, the Council will also assure the viability and reasonableness of the financing plan (24 VSA §1894(c)).

iii. **Approval**: If approved by the Vermont Economic Progress Council, the Council will provide the municipality with an approval document including findings of fact and opinion in regards to the approval criteria and a document containing the requirements to maintain the authority to utilize incremental education tax revenue for TIF District financing.

iv. **Denial**: If not approved by the Vermont Economic Progress Council, the Council will provide the municipality with an explanation for the denial, including findings of fact and opinion in regards to the approval criteria.

v. **Limitation**: VEPC may approve no more than six (6) TIF Districts between July 1, 2008 and June 30, 2013, with no more than one newly created TIF District to be approved for any municipality (Act 190 (2008) §67).

4. IMPLEMENTATION OF TIF DISTRICT

a. **Seek state and voter approval to incur debt for TIF District infrastructure improvements:**

i. **State Approval**: If a TIF Financing Plan was not approved by VEPC concurrent with the TIF Plan, in accordance with the rules and procedures established by the Vermont Economic Progress Council, provide the Council with all information related to the proposed TIF infrastructure debt in a TIF Financing Plan (24 VSA §1894(c)).

1. The TIF Financing Plan must contain(24 VSA §1898(e)):
    a. A statement of costs and sources of revenue;
    b. Estimates of assessed values within the district;
    c. The portion of those assessed values to be applied to the proposed improvements;
    d. The resulting tax increments in each year of the financial plan;
    e. The amount of bonded indebtedness or other financing to be incurred;
    f. Other sources of financing and anticipated revenues; and
    g. The duration of the financial plan.
2. The council will:
    a. Assure that the TIF financing plan is consistent with the TIF plan previously approved (24 VSA §1894(c)).
    b. If the plan includes financing other than bonded debt, the Council will also assure the viability and reasonableness of the financing (24 VSA §1894(c)).

ii. **Local Approval**: Seek authorization by the legal voters of the municipality to pledge the credit of the municipality for the purposes of TIF District Debt:

1. Provide public notice of one or more public hearings on the proposed TIF Financing Plan (24 VSA §1898(e)).
2. Hold one or more public hearings on the proposed TIF Financing Plan (24 VSA §1898(e)).
3. Bonds may only be issued if the legal voters of the municipality, by a majority vote of all voters present and voting on the question at a special or annual municipal meeting duly warned for the purpose, give authority to the legislative body to pledge the credit of the municipality for these purposes (24 VSA §1897(a)).
4. Notwithstanding any provision in any municipal charter, regardless of the type of debt to be incurred, the legal voters of the municipality, by a single vote, must authorize the municipal legislative body to pledge the credit of the municipality up to a specified maximum dollar amount for all debt obligations to be financed with the incremental state property tax revenues to be generated within the TIF District (24 VSA §1897(a)).
5. The municipality's pledge of credit for financing TIF District infrastructure debt must include notice that if the tax increment received by the municipality from any property tax source is insufficient to pay the principal and interest on the debt in any year, for whatever reason, including a decrease in property value or repeal of a state property tax source, unless determined otherwise at the time of such repeal, the municipality shall remain liable for full payment of the ~~bond~~ principal and interest for the term of indebtedness (24 VSA §1897(b)).

b. **Statutory limitations and requirements for TIFs and TIF debt:**

i. **General rules**:

1. The municipal legislative body may pledge and appropriate in equal proportion any part or all of the state and municipal tax increments received from properties contained within the tax increment financing district for the financing for improvements

and for related costs in the same proportion by which the infrastructure or related costs directly serve the district at the time of approval of the project financing by the Council (24 VSA §1897(a)).

2. No more than 75 percent of the state property tax increment and no less than an equal percent of the municipal tax increment may be used to service this debt. (24 VSA §1897(a)).
3. Any utilization of TIF increment is in addition to any payments to the municipality under Title 16, Chapter 133 (education block grants) (32 VSA §5404a(g)).
4. TIF District approval affects the grand list beginning April 1 the year following approval and revenues remain available to the municipality for the full period authorized and are restricted only to the extent that the real property development giving rise to the increased value to the grand list fail to occur within the authorized period (32 VSA §5404a(g)).

ii. **Bonded debt rules (refer to statute for further provisions)**:

1. Bonds issued for TIF District purposes are declared to be for an essential public and governmental purpose (24 VSA §1898).
2. Bonds issued for TIF District purposes may be subject to further limitations established through resolution or ordinance of the municipality (24 VSA §1898).
3. Bonds may be sold at not less than par at public or private sales held after published notice prior to the sale in a newspaper having circulation in the area of the municipality, or may be on the basis of par (24 VSA §1898).
4. Signatures of municipal officials on the bonds issued for TIF District purposes remain valid even after such officials are no longer in office (24 VSA §1898).
5. Bonds issued for TIF District purposes are fully negotiable regardless of other law to the contrary (24 VSA §1898).
6. Bonds issued for the purposes of TIF District improvements that recite that the bond has been issued by the municipality for TIF District purposes shall be conclusively deemed to have been issued for such purposes in case of any suit, action, or proceeding involving the validity or enforceability of any such bond (24 VSA §1898).
7. Certain investment bodies (as listed in 24VSA, §1899) may legally invest any sinking funds, moneys, or other funds in any bonds or other obligations issued by a municipality for TIF District purposes.

c. Manage Project and TIF Finances

i. **Life of a TIF District and borrowing period**:

1. A TIF District continues until the date and hour that all indebtedness, incurred for the purposes of developing and redeveloping public infrastructure, is retired (24 VSA §1894(a)(3)).
2. If, as described above, a TIF Plan is approved by VEPC and the TIF Financing Plan is approved by VEPC and by a local vote, the municipality can incur debt against anticipated property tax revenues of the TIF District at any time during the 20 year period

following the creation of the TIF District by the municipality. The 20-year period during which debt may be incurred commences at 12:01 am on the April 1 of the year the TIF District creation is voted by the municipal legislative body (24 VSA §1894(a)(1)).

3. Any indebtedness incurred during this 20 year period can be retired over any period authorized by the municipal legislative body (24 VSA §1894(a)(1)).
4. If no debt is incurred within the first five years after creation of the TIF District, the municipality must seek re-approval of the TIF Plan and TIF Financing Plan from VEPC before any debt may be incurred (24 VSA § 1894(a)(2)).
5. For any debt incurred within the first five years after creation of the district by the municipal legislative body, or within the first five years after re-approval by VEPC, but for no other debt, the education tax increment may be retained for up to 20 years beginning with the initial date of the first debt incurred within the first five years. (In other words, the first debt that is incurred within five years of being approved triggers the 20 year period during which 75% of the incremental property tax revenues may be retained to pay for any TIF District debt incurred during that first five year period) (24 VSA § 1894(a)(2)).

ii. **Original Taxable Value:** Lister/Assessor Establishes and Certifies Original Taxable Value and certifies annual increase or decrease:

1. By 12:01 am on April 1 of the first year after the TIF is approved by the municipal legislative body, the lister/assessor certifies the valuation of all taxable real property within the TIF District, setting the "original taxable value." (24 VSA §1895).
2. Each subsequent year during the life of the TIF District, the lister/assessor certifies the amount by which the original taxable value has increased or decreased and the proportion which the increase or decrease bears to the total assessed value of the real property for that year (24 VSA §1895).

iii. **Calculating the tax increments generated by the increases in the original taxable value** (24 VSA §1896(a)):

1. In each subsequent year, the listers or assessor include no more than the ***original taxable value*** of the real property in the assessed valuation upon which the listers or assessor computes the rates of all taxes levied by the municipality, the school district, and every other taxing district in which the Tax Increment Financing District is situated.
2. But the listers or assessor extend all rates so determined against the entire assessed valuation of real property for that year. In each year for which the assessed valuation exceeds the original taxable value, the municipality treasurer must hold apart, rather than remit to the taxing districts, that proportion of all taxes paid that year on the real property in the district which the excess valuation bears to the total assessed valuation. The amount held apart each year is the "tax increment" for that year. So much of the tax increments received with respect to the district and for the payment for financing for improvements and related costs, but not more than 75% of the education property tax revenues and an equal

proportion of the municipal property taxes, must be segregated by the municipality in a special account on its official books and records until all capital indebtedness of the district has been fully paid.

3. The final payment must be reported to the lister or assessor, who shall thereafter include the entire assessed valuation of the district in the assessed valuations upon which tax rates are computed and extended and taxes are remitted to all taxing districts.

iv. **Reappraisal** (24 VSA §1896(b)):

1. If there occurs a reappraisal of 20% or more of all parcels in a municipality that has a TIF District, the value of the original taxable property in the district must be changed by a multiplier, the denominator of which is the municipality's education property tax grand list for the property within the district in the year prior to the reappraisal or partial reappraisal and the numerator of which shall be the municipality's reappraised or partially reappraised education property tax grand list for the property within the district.
2. The state education property tax revenues for the district in the first year following a town-wide reappraisal or partial town-wide reappraisal must not be less than the dollar amount of the state education property tax revenues in the prior year.

v. **Distribution of excess revenues** (24 VSA §1900):

1. Of the municipal and education property tax increments received in any tax year that exceed the amounts pledged for the payment of the financing of public infrastructure improvements and related costs in a TIF District, an equal portion of each increment may be used for prepayment of principal and interest on the financing, placed in escrow for financing payment, or otherwise used for defeasance of the financing.
2. Any remaining portion of the excess municipal tax increment shall be distributed to the city, town, or village budget, in proportion that each budget bears to the combined total of the budgets unless otherwise negotiated by the city, town, or village.
3. Any remaining portion of the excess education tax increment shall be distributed to the education fund.

5. BUILD PUBLIC INFRASTRUCTURE AND MANAGE REDEVELOPMENT OF TIF DISTRICT

a. Obtain land
b. Prepare site
c. Build infrastructure
d. Implement private-public partnerships to accomplish real property redevelopment
e. Post-construction TIF financing management

6. EVALUATION. REPORTING AND TERMINATION

a. **Evaluation:** Evaluate TIF District project based on criteria established in TIF District plan and required by municipality.
b. **Reporting** (24 VSA §1901 and 32 VSA 5404a(i)):

i. Track and report annually to VEPC and the Vermont Department of Taxes, on a form provided by VEPC, the following:

1. Details of actual public infrastructure and real property development that has occurred;
2. Current value of original taxable property;

3. Tax increment generated each year;
4. Amount of tax increment generated, utilized for TIF District debt, and submitted to the taxing authorities each year; and
5. Any other information required by VEPC or the Department of Taxes in annual reports.

ii. Track and report to VEPC according to the municipal audit cycle (24 VSA §1681):

1. Actual investments in public infrastructure;
2. Debt repayments;
3. Escrow status; and
4. Related costs, including payments to a coordinating agency.

c. Termination

i. Make final payments on debt.

ii. When the final payment on the debt is made, it must be reported to the lister/assessor, who then includes the entire assessed valuation of the District in the assessed valuations upon which tax rates are computed and taxes are remitted to all taxing authorities (24 VSA §1896).

iii. Through municipal legislative body, dissolve TIF District

Bill,

You have asked that I summarize the history and relevant facts of a pending environmental enforcement matter involving the City. By letter dated December 9, 2008, the Agency of Natural Resources notified the City that it was preparing to commence enforcement proceeding for claimed unlawful discharges of waste water from the City's waste water treatment facility (WWTF). In a subsequent meeting with Agency personnel, the City was provided notice of three specific violations of its waste water discharge permit, along with calculated penalties to be paid by the City. The violations are:

Violation 1: In May and September of 2008 for brief periods (minutes, not hours) low flow conditions at the WWTF shut down the UV disinfection system [1] allowing discharges of undisinfected waste water. (Categorized as a Class I violation with an initial penalty amount of $7,500, enhanced by a fine of $5,000 for "deterrent effect" for a total fine of $12,500)

Violation 2: Failure to report the discharge in a timely manner in May of 2008. (Categorized as a Class I violation with a penalty amount of $7,500)

Violation 3: Failure to report the discharge in a timely manner in September of 2008. (Categorized as a Class II violation with a penalty amount of $3,000)

Through further discussion and exchange of information with agency personnel, ANR has agreed to reduce its total fine request of $23,000 by 25% to $17,250. ANR has provided the City an Assurance of Discontinuance that will conclude this enforcement matter if the City agrees to payment of the proposed fine. If the City objects, ANR has stated that it will pursue enforcement and seek payment of the full fine.

From the outset, the City has acknowledged occurrence of the claimed discharges and that the events in May were not reported within the required 24 hour period. The events in September, it appears, were reported in a timely manner but not in the permit-required manner. The matter has remained open because of City

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[1] In this disinfection system, waste water flows through a field of UV bulbs that expose micro-organisms to UV light. The UV bulbs are controlled by ultrasonic level control sensors. When flow in a channel drops below a pre-set level, the sensor shuts off the bulbs.

objection to the payment of the requested fines.

The undisinfected discharges that underlie this matter are attributable to an operational problem in the WWTF's ultra-violet (UV) disinfection system discovered in May of 2008.[2] As originally installed, the UV system automatically shut down if waste water flow through the system decreased so that the UV bulbs were not immersed.[3]

The UV system has two flow channels, each with a capacity of up to six million gallons per day. When flows increase beyond the capacity of a single channel, the system is designed with sluice gates to direct influent to both channels.[4] When the flow decreases, it is redirected to a single channel to prevent low flow conditions from occurring in both channels. This is one type of low flow condition. A second type of low flow condition occurs when total influent flow to the UV channels is insufficient to provide minimum flow to a single channel.

It is this second condition, which was noticed by plant operators in May of 2008[5] that resulted in discovery by the operators and Calgon that the system design did not adequately accommodate the speed with which flow volumes at the plant could change. In both low flow conditions, the system design provided for immediate shut off of the UV bulbs even though the flow of undisinfected waste water would continue.

Promptly following identification of this operational issue, the City, working with Calgon and its design engineer, Stantec, sought remedies. The City thereafter received recommendations for several possible corrective actions to address both types of low flow conditions.

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[2] The UV disinfection system was first placed into service in the Spring of 2007.

[3] The UV system manufacturer, ("Calgon"), set up the system to handle waste water flows in the 1.1 to 4.8 MGD range, as determined from flows during a two year period that ended in December 2004.

[4] The sluice gates also allow redirection of flow from one channel to the other to take a channel out of operation for required maintenance.

[5] During the last week of May in 2008, flows dropped to lows of approximately .8 MGD with a low of .75 MGD. In September of 2008, flows dropped to .59 MGD.

First on the list was increasing the time from identification of a low flow condition to bulb shutdown. This was addressed in 2008 by installation of timer controls at a cost of $6,900 to delay bulb shutdown.[6] The timers have, since installation, provided for a delay of twenty (20) minutes.[7] Installation of the timer and override controls have eliminated low flow UV bulb shut downs during channel switching operations. Additionally, the City believes that there has not been a UV system shut down during any period of low flow since installation of the timer system.

To further address the first type of low flow condition, Stantec recommended installation of electric actuators for the influent sluice gates to reduce the time required to redirect influent flow.[8] The City has made these system improvements at a cost of $23,960. In the near future, further improvements will be installed at a cost of $12,900 so that the sluice gate actuators are directly programmed into the plant's computerized control system.

For the reasons explained above, the undisinfected discharge in May, though unfortunate, was not a result of operator error, failure to maintain equipment or lack of operator training. It occurred as a result of a change in flow conditions at the treatment plant that necessitated a change in the UV system equipment operating parameters. This was promptly determined and addressed.

As changes were being made to the UV system, representatives of Calgon visited the WWTF to observe the system's operation. During a visit to the WWTF in September of 2008, a Calgon representative modified a change to the system that City personnel had made earlier. Information concerning this change was not shared with the WWTF's chief operator and a further

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[6] This included the cost of the timers and installation of an override control to allow activation the UV bulbs prior to introduction of influent into a channel to ensure they reach necessary intensity when influent first enters the channel.

[7] This time can be increased if it is determined such is appropriate.

[8] This improvement also addresses a potential problem created by high flows when only a single channel is in use. High flows can reduce the effectiveness of UV disinfection. The remedy for a high flow condition is prompt redirection of a portion of the flow to the other treatment channel.

undisinfected discharge of waste water occurred. This discharge was the result of poor coordination between Calgon and personnel at the treatment plant. There could have been better exchange of information. However, the fact that it did not occur does not document improper or wrongful conduct.

Regarding the discharge violations, the Agency has classified two of the violations as Class I violations. For these violations, ANR claims they had a "moderate actual impact or major potential impact" on public health.

There is no evidence of any "actual" impact to public health and a claim of "major potential impact" is speculative, at best. A flow of 1.14 MGD (the average for May 2008), equates to a discharge of approximately 1.76 cubic feet per second. In May of 2008, USGS data reports Winooski River flow generally in excess of 400 cubic feet per second creating a dilution factor of 227 to 1. Data from prior testing conducted by the City indicates that the City's treatment facility achieves e-coli concentrations in the range of 20,000 colonies per 100/ml upstream of its disinfection system. This results in a concentration after discharge and mixing of approximately 88 colonies per 100/ml, a minor exceedence of water quality standards.[9]

The penalty calculations further indicate that there is clear evidence that the City knew a violation existed. As explained above, the discharges occurred because of flow changes at the plant. There is no evidence that City personnel understood that such flow changes would result in shut down of the UV system prior to May of 2008. When the problem was discovered in May, it was promptly addressed. It only reoccurred in September of 2008 because of changes made to the system without the knowledge of the chief operator.

The penalty calculations for the failure to report the discharge violations distinguish between the May and September violations based on the health risk posed. The May violation is treated more seriously because of the greater possibility of recreation activity. However, as is evident from the flow data discussed above, there is little likelihood that the City's undisinfected discharge resulted in exceedence of water quality standards for most of May. If there was an exceedence, it was most likely very minor.

Finally, the penalty calculations include a deterrent assessment of $5,000 based on a claim that the City failed to

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[9] The water quality standard is 77 colonies per 100/ml.

ensure that the plant operated within permit limits and, after having knowledge of such non-compliance, failed to address it. This is not a situation involving a failure to maintain equipment when it is known that failure to do so may result in equipment malfunction. In such cases an additional penalty amount may have a positive, deterrent effect. This case involves knowledge (or lack thereof) of certain design parameters for newly-installed treatment equipment at the facility and their relationship to set-up and operation of the facility. When problems occur with such equipment, what is important is that operators recognize such occurrence and promptly respond to address it. That is what happened in this case.

To conclude, the Agency has proposed that the City pay a penalty totaling $17,250. For the reasons explained above, the City has basis to argue that the requested penalty is excessive. At the same time, other factors should be weighed to determine whether opposing the penalty is in the City's best interest. One is the potential cost to the City of pursuing litigation with ANR. A second is that the City can use the penalty payment to fund supplemental environmental projects. I have attached ANR's policy on such projects.

VERMONT AGENCY OF NATURAL RESOURCES

SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP) POLICY

1. BACKGROUND AND AUTHORITY

Title 10, section 8007(b)(2) of Vermont Statutes Annotated authorizes the Agency of Natural Resources and the Land Use Panel to settle administrative enforcement actions through an Assurance of Discontinuance which may include "contribution toward other projects related to the violation, which the respondent and the Secretary or the Land Use Panel agree will enhance the natural resources of the area affected by the violation, or their use and enjoyment." Such contribution projects are referred to in this policy as "Supplemental Environmental Projects" (SEP). A SEP is defined as: a project that primarily benefits public health or the environment and that persons charged with a violation are not otherwise obligated or likely to perform. A respondent charged with a violation may voluntarily agree to perform a SEP as part of resolving an enforcement action. This policy outlines the practices the Agency will follow in implementing the law.

2. AGENCY DISCRETION

Acceptance of a SEP proposed by a respondent as part of settling an enforcement action is solely within the Agency's discretion. Even though a proposed SEP may otherwise satisfy the provisions of this policy, the Agency may decide that the SEP is not appropriate. In exercising its discretion, the Agency may take action that varies from the practices contained in this policy, if such action is appropriate in a specific case.

3. SEP CATEGORIES

The Agency will only consider proposals meeting the SEP definition in at least one of the following six categories.

A. Pollution Prevention Projects. A pollution prevention project must eliminate all or a significant portion of pollutants at the point of generation. For example, this elimination or reduction may result from: (1) input substitution and product reformulation, such as replacing a toxic substance or raw material with a nontoxic or significantly less toxic substance; (2) redesigning or modernizing operations and equipment; or (3) improving operation and maintenance controls. The appropriate penalty reduction will be scrutinized when this category is proposed because economic benefits commonly accrue to a facility as a result of implementing a pollution prevention project. A clear community or public health benefit must be demonstrated in order for pollution prevention projects to be considered (i.e., reduced public exposure to pollutants).

B. Pollution Reduction Projects. A pollution reduction project must significantly decrease the release of pollutants to the environment. Pollution reduction reduces the level of pollutants at the point of discharge through pollution control technologies and methods. A pollution reduction SEP must bring a facility significantly beyond compliance with environmental requirements, for example, by substantially reducing the amount of pollution that would otherwise be legally discharged to the environment. A clear community or public health benefit must be demonstrated in order for pollution reduction projects to be considered (i.e., reduced public exposure to pollutants).

C. **Environmental Enhancement Projects**. An environmental enhancement project enhances the natural environment in the geographic area of the violation for the use or enjoyment of the general public and includes natural resource preservation and protection projects.

D. **Environmental Education and Awareness Projects**. An environmental awareness project provides training, publications, or technical support to the regulated community or the public at-large for the purpose of achieving compliance with environmental requirements, reducing the generation, release, or disposal of pollutants beyond legal requirements, or educating the public about environmental protection and resource conservation. All such projects should be substantially related to the types of violations which are the subject of the administrative enforcement action. These projects are typically conducted by an outside or third party expert or consultant. Any materials made available must contain a statement that the project has been undertaken by the person or entity charged with a violation as part of settling an environmental enforcement action brought by the Agency.

E. **Scientific Research, Monitoring and Data Collection Projects**. A scientific research, monitoring and/or data collection project furthers an understanding of the environmental condition of a natural resource or the methods than can be employed to restore the resource. This category includes public health projects that evaluate human health impacts where pollution has been released into the environment.

F. **Emergency Planning and Preparedness Projects**. These projects enable local communities in the geographic area of the violation to plan for and effectively respond to any qualifying event that threatens public health, safety, or the environment. Projects can include public outreach and education on associated environmental risks in the community.

4. LIMITATIONS AND EXCLUSIONS ON SEP PROPOSALS

A. **Repeat Violators**. Respondents who have been the subject of an enforcement action within the past five years of the current action are, without good cause shown otherwise, ineligible for a SEP.

B. **Violator as Primary Benefactor**. A SEP is not permissible where the project primarily benefits the violator.

C. **Willful, Deliberate or Reckless Violations**. Except in specific cases where the Agency exercises its discretion under Section 2, the resolution of willful, deliberate, or reckless violations will not include a SEP.

D. Required Actions. A SEP will not be accepted for activities that are required by law, likely to be required by law in the near future, or reasonably associated with the respondent's usual course of conduct or business.

E. Previously Planned Actions. A SEP will not be accepted for activities which the respondent has planned, budgeted for, initiated, or completed prior to or during the current enforcement action.

F. Economic Benefit. A SEP cannot include that part of the penalty calculated as the economic benefit of noncompliance.

5. THRESHOLD QUALIFICATIONS AND REQUIREMENTS

A. A SEP must have a nexus (relationship) to the violation. A nexus exists where there is an appropriate connection between the nature of the violation and the environmental benefit that would result from the project.

B. The respondent may conduct a SEP project or provide funds to a SEP recipient for the purposes of conducting a specific project.

C. A SEP must be a specific project which is described in reasonable written detail. (See Section 6).

D. The Agency must be satisfied that the respondent or SEP recipient is capable of conducting the proposed SEP.

E. Although the Agency may suggest potential SEPs for the respondent to consider, the respondent is responsible for developing the SEP proposal. The Agency may also maintain on its web site a list of SEP proposals submitted by potential SEP implementers or third parties that may be appropriate in the settlement of a case. Inclusion of a proposal on the web site does not mean that the proposal is pre-approved. Consideration of a SEP proposal will occur in connection with a specific proposal by the respondent.

F. Under no circumstance shall SEP funds be received or retained by the Agency. Nor may the SEP benefit the Agency, except where the violation directly harmed Agency property, such as an illegal dumping on state lands.

G. The respondent must agree in the Assurance of Discontinuance that whenever it publicizes a SEP or the results of the SEP, it will state in a prominent manner that the project has been undertaken as part of the settlement of an enforcement action with the Agency.

6. SEP PROPOSALS: CONTENT, REPORTING, AND AGENCY REVIEW

A. **Required Elements of a SEP Proposal.** A SEP proposal, whether submitted by the respondent or a third party on behalf of the respondent, should include the following information to the extent applicable to the project:

(1) **Project Implementer.** Provide the name and contact information for the project's manager and the person responsible for submitting any required status reports, if different from the project manager.

(2) **Geographic Area to Benefit from the Project.** Identify the municipalities, counties, watersheds, and other entities, areas, or interests benefiting from the project.

(3) **Project Description and Budget.** Provide a narrative description of the project in sufficient detail that addresses expected project benefits (see 4 below); identify tasks to be accomplished; provide a project schedule, including timelines for completion of tasks; and identify deliverables in the project. A project budget shall be provided which identifies project expenditures by expenditure category, including personnel costs, equipment, travel, supplies, contractual, other, and indirect (overhead) costs.

(4) **Expected Project Benefits.** Explain the expected project benefits and how the benefits can be quantified. For pollution prevention and reduction projects, identify the media (air, water, land) affected and estimate the amount of each pollutant that will be reduced beyond that required for environmental compliance. For any other type of project, quantify the number of participants, programs offered, land or water area affected or improved, etc.

(5) **Certification.** If respondent is the SEP implementer, provide a certification that the proposed SEP is not the result of substantive planning that occurred prior to or during the enforcement action.

B. **Reporting Requirements**. The following reporting requirements apply to the respondent and a third party SEP recipient as specified below:

(1) **Receipt of SEP Funds By Third Parties**. Third parties must verify the receipt of SEP funds by providing the Agency a confirming letter and a copy of the SEP check from the respondent. When SEP funds are paid in periodic installments, the recipient must send a confirmation letter and a copy of the check for each installment.

(2) **Interim and Final Reports.** Projects of short duration (a year or less) will require a project summary report upon completion of the SEP with a confirmation letter that the project, as approved, was completed. More complex projects and those projects of longer duration (multi-year) will require periodic progress reports as determined on a case-by-case basis.

(3) **Required Content of Reports.** All required reports, both interim and final reports, shall provide adequate detail describing tasks accomplished and deliverables met, adherence to project schedule and timeline, and any problems encountered in achieving deliverables. All final reports shall also include a description of how the project benefits described in (A)(4) above were achieved.

(4) **Certification.** A third party recipient of SEP funds and a respondent that conducts a SEP must provide a signed certification with the final project report indicating that SEP funds were used as intended.

C. **Review and Approval of the SEP Proposal.** Review of a SEP proposal will be conducted by the point person assigned in the involved regulatory program(s), in conjunction with the assigned Enforcement Division attorney.

(1) For SEPs under $10,000 in value, approval by the regulatory program point person and the Enforcement Division attorney is required. It will be the responsibility of the regulatory program to notify the Commissioner of these approved SEPs.

(2) For SEPs over $10,000 in value, approval by the Commissioner and the Enforcement Director is required prior to acceptance. It will be the responsibility of the Enforcement Division to obtain final approval of the Commissioner for these SEPs.

7. DETERMINATION OF FINAL SEP AMOUNT

A. In the event of a penalty assessment in an enforcement settlement, up to 75 percent of the penalty, other than that portion of the penalty addressing economic benefit, may be included in a SEP.

B. Except for SEPs related to pollution prevention and pollution reduction, all SEPs greater than $10,000 will have a penalty offset ratio of 1.2:1, meaning that $1 of the penalty will be offset for each $1.20 expended. For example, in a $20,000 SEP settlement, the respondent will be required to expend $24,000.

C. Pollution prevention and pollution reduction SEPs will have a penalty offset ratio of at least 1.5:1, meaning that $1 of the penalty will be offset for each $1.50 expended on the SEP.

D. Where the respondent is the SEP implementer and has failed to fulfill all or part of the SEP as originally agreed, the SEP dollar value will be converted to the original penalty amount in a pro rata manner and deemed immediately due and payable to the state.

8. SPECIAL CONSIDERATIONS FOR GOVERNMENTAL ENTITIES

A. "Governmental entity" means a state or federal agency or department; a district, authority, municipality or other political subdivision of the state; or a public utility owned by a governmental entity.

B. Governmental entities may be eligible for up to 100% assessed penalty as a SEP, contrary to subsections 4(F), 7(A) – (C), on a case-by-case basis.

C. Consistent with Section 2, the Agency may deviate from this SEP Policy for governmental entities on a case-by-case basis to maximize the public benefit of a SEP.

This policy is in effect on the date of signing.

Canute E. Dalmasse   9/1/06

Canute E. Dalmasse, Acting Secretary
Vermont Agency of Natural Resources

Date

City Of Montpelier
Department of Public Works
Memorandum

To: **William J. Fraser, City Manager**

From: **Todd C. Law, PE, Director**

Date: **April 1, 2010**

Subject: **GPS vehicle tracking systems**

As part of the fleet management and sustainability initiatives for the Public Works Department, we have begun to evaluate GPS vehicle tracking systems as a cost savings measure. Eric Ladd, Equipment Division Supervisor, spent a significant amount of researching and evaluating various systems to determine how each would fit our fleet and how we could utilize these systems to obtain the best cost savings, improve efficiency and reduce our carbon footprint.

The GPS tracking systems would provide cost savings through various changes in common practices such as limiting idle time, validate response time to calls from customers, make for more efficient dispatching, improve efficiency of salt/ plow routes, monitor the applications of salt/ sand throughout storms, etc. The initial costs and annual subscription costs are anticipated to be repaid within the first year or two of implementation with subsequent years providing savings to the budget through reduction in fuel consumption (anti-idling) and salt/ sand reduction through route optimization. Additional benefit of the GPS tracking system would be to validate or disprove damage claims by City vehicles and to justify the expenditures of funds

We request that this item be placed on the Consent Agenda for the upcoming Council meeting. Suggested wording for the Agenda follows:

To accept the proposal submitted by LiveView GPS Inc. of Valencia, California, thirty (30) GPS vehicle trackers and including the monthly subscription fee for the Public Works Department, and to authorize the City Manager to make this purchase in the amount of ***$11,968.50.***

If you would like further information, or if you would like to review the file on this proposal, please feel free to contact my office or call Eric Ladd.

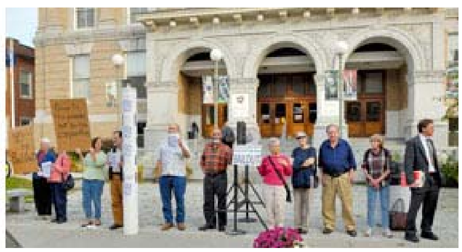
Attachment
C: Eric Ladd, Equipment Supervisor

FEASIBILITY STUDY

for the

CITY OF MONTPELIER
DISTRICT ENERGY CHP SYSTEM

Prepared for:


The City of Montpelier

April 7, 2010

Prepared and Submitted by:

Veolia Energy

99 Summer Street
Boston, MA 02210

EXECUTIVE SUMMARY

Vermont's Capital City, Montpelier, is deeply committed to leading the nation in implementing replicable strategies to deploy renewable energy technologies and reduce its carbon footprint.

The City has committed to a goal of reducing greenhouse gas emissions and fossil fuel consumption by the City, its citizens, and its business community by at least 80% by 2030. A major component to reach these goals is the development of a biomass fueled district energy system. This forward thinking project was awarded an $8 million grant by the U.S. Department of Energy.

> *"This award is yet another example of how Vermont continues to be a national leader when it comes to generating green energy. Not only will this spur new investments in renewable energy, it will create the green jobs that will help revive Vermont's economy."*
>
> *Senator Patrick Leahy - January 21, 2010*

The projects will promote investment in clean energy systems, create jobs, help communities provide long-term renewable energy, and save consumers money. They also will serve as models for other local governments, colleges and small utilities.

City of Montpelier Needs

In support of the City of Montpelier's strategic direction, Department of Planning and Community Development formally requested a proposal seeking an experienced partner to develop the first stage of a city-wide wood-fired district energy system. The Montpelier Community Energy System had been studied extensively, resulting in a strong commitment to construct the system on the part of the Montpelier City Council.

Veolia Energy Approach

Veolia Energy brings to Montpelier the deep experience in the engineering design, cost estimation, organization, finance, construction and operation of district energy systems for Montpelier.

Veolia Energy has performed a feasibility study and has worked closely with the City to evaluate and refine various technical and commercial options to best serve the City, State and its citizens and achieve its goals of developing this exciting project.

Project Benefits

- Local jobs in construction, engineering and operations
- Stimulation of the local economy
- Montpelier becomes a national showcase as a sustainable community
- Green energy to City buildings
- Green energy to State Office Complex
- Green energy option to downtown community
- Reduction in reliance of foreign fuel
- State of Vermont utilizes its own local renewable energy fuel resource (wood chips)
- "State of the Art" system that can be used as a learning tool
- Designed for expansion to include future growth
- Unique City, State and Veolia partnership that utilizes best resources and core competencies to execute a sophisticated project
- CEAD program allows non-downtown community to benefit from $8 million DOE grant
- Creation of a more reliable system that is currently in place

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Introduction

Project Background

Veolia Energy North America (VENA) was selected as a development partner by the City of Montpelier, VT to develop the Montpelier Biomass District Energy CHP System. The intent of the new proposed system would be to meet the complete heating needs of the State of Vermont Capitol District Office Complex as well as select City of Montpelier and other commercial buildings in the downtown Montpelier area. The proposed system would also generate electrical power through a Combined Heat and Power (CHP) application.

Veolia Energy led a team of professional experts to execute the project. R.G. Vanderweil Engineers, LLP (RGV) has been retained by VENA to develop a feasibility study to support the development of the proposed system. Epsilon Associates, Inc. (EAI) has been retained to assist with the evaluation of potential regulatory and permitting issues for the proposed plant. Thermal Systems, Inc. (TSI) has been retained to assist with the evaluation of biomass heating and wood chip material handling systems. Innovative Natural Resource Solutions, LLC (INRS) has been retained to provide analysis of biomass fuel availability and pricing information.

Previous Studies

The City of Montpelier, the State of Vermont, and the Biomass Energy Resource Center (BERC) have been investigating and assessing the applicability of a central biomass district heating system to serve the downtown Montpelier area for over ten years. Over this span of time, several studies have been performed on the viability of a biomass heating system to serve different portions of the downtown Montpelier area, most notably studies performed by the Biomass Energy Resource Center (BERC-2008), Rist-Frost-Shumway Engineering (RFS-2006), and Community Renewable Energy (CORE-2001). This feasibility study expands upon preliminary work and data that was collected and presented in these previous studies, as well as evaluating the new proposed system's goals and requirements.

Project Scope

The scope of this feasibility study would include the following:

- Indentify proposed buildings in the downtown Montpelier area for inclusion of the new system and develop heating load profiles based on available historic data from end users.
- Perform due diligence verification of existing State Complex boiler plant to evaluate existing infrastructure and feasibility of constructing a new plant in the same general location.
- Research and develop recommendations for Combined Heat and Power (CHP) generation of electricity.
- Review and identify potential regulatory and permitting requirements, including air emissions, floodplain and floodway issues, historical structures, etc.
- Develop conceptual level plans for the new district energy system including process flow diagrams, plant general arrangement drawings and proposed piping distribution runs.

Assumptions

This study is based on the following assumptions/givens to meet the goals of the project.

1. Due to a number of factors that are listed later in the report, the preferred location for the proposed plant is the site of the existing state plant at 122 State Street.

2. The total capacity of the biomass boiler plant is to be 41 MMBTUH (1200 BHP).

3. The Combined Heat and Power (CHP) generation of electricity analysis is to be based on a back-pressure turbine size of 400 kW.

Existing Conditions

Existing State Capitol Complex Boiler Plant

The site of the existing state boiler plant has been identified as the preferred location for the new centrally located biomass district heating plant, and the heating loads that are being served by the existing plant will be served by the new proposed plant.

The existing state boiler plant is located at 122 State Street in downtown Montpelier, VT and supplies steam heating for 17 buildings totaling approximately 545,000 square feet of the State Capitol Complex. Based on information previously compiled by Lane Associates for the State of Vermont, the peak heating loads of the systems served by the existing boiler plant totals approximately 25 MMBTUH, and is used for building heating, humidification, and snow melt systems.

The existing boiler plant system currently consists of three (3) boilers totaling approximately 720 BHP and is located in the basement of the existing facility. Boilers #1 and #2 were installed in 1946 and were originally coal-fired boilers. Boiler #1 (167 BHP) has since been retrofitted to burn wood chips, and Boiler #2 (151 BHP) has been retrofitted to burn #6 oil. At 64 years old, both Boilers #1 and #2 have exceeded their expected life-expectancy and are in need of replacement. Boiler #3 (400 BHP) was installed in 2005 and also burns #6 oil. At 5 years old, Boiler #3 is in good working condition and is expected to be relocated and re-used for back-up capacity under the proposed scope of work for the new district heating plant.

Existing State Capitol Complex Boiler Plant - Heating Load

There is no existing metering or building management control system that tracks boiler run-time hours, heating load, or fuel usage, but monthly fuel usage records have been provided by the state for use in this study. Based on the information provided, an analysis was done on the existing fuel records and monthly heating profiles were created. In order to create the heating profiles we used the heating records for the latest three years of records provided (2006 - 2008) and using heating content of 9.02 MMBTU/ton (assuming heating value of GHV-DS of 8,200 btu/lb and 45% moisture content) for wood chips and 153,000 BTU/gallon for #6 oil. Figure 1 shows the blended fuel input load (woodchips and oil) for a three year period for the existing plant.

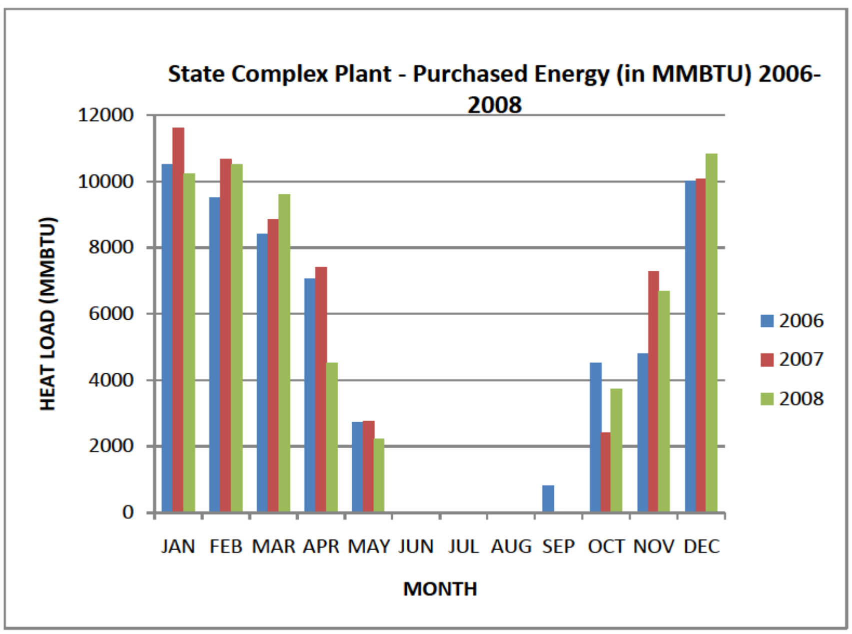


Figure 1 - Purchased Energy for 3-year period for Existing Plant (input in MMBTU)

Figure 2 shows the average of the three year period for the fuel usage of the existing plant.

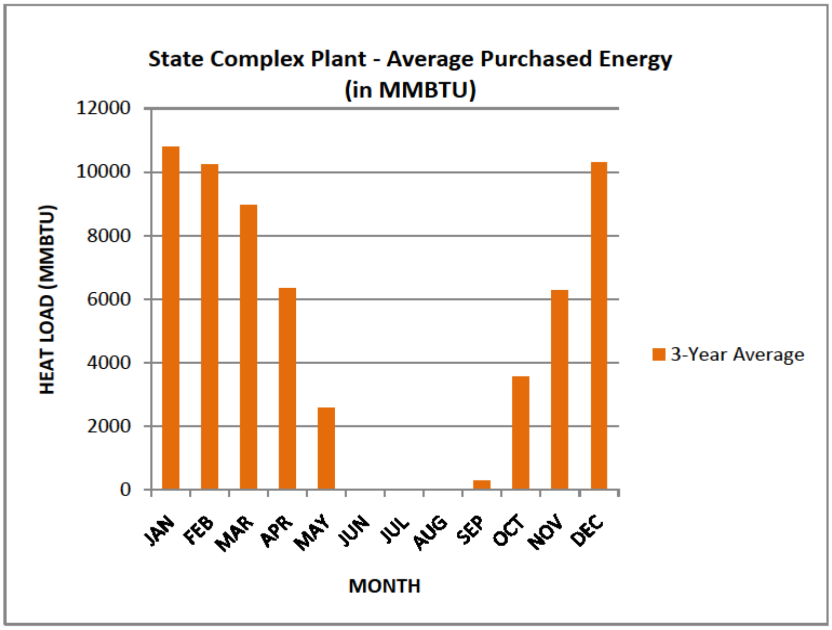


Figure 2 - Purchased Energy Average for Existing Plant (input in MMBTU)

As can be seen from the fuel usage profiles, the existing plant is typically operational for 8 months of the year, and not in use for a 4-month period from June through September. For the 3-year period analyzed, the heating load of the existing plant is evenly served by both the wood chip and oil-fired systems with approximately 48% of the load being served by wood chips and the remaining 52% being served by #6 oil. The calculated yearly input heating load for the existing plant is approximately 59,300 MMBTU. Assuming estimated efficiencies of 55% for the existing wood-burning boiler and 80% for the existing oil-burning boilers, the calculated yearly output heating load for the existing buildings being served is 40,280 MMBTU.

Permitting and Environmental Review Considerations

Background

This document supports the Veolia Energy Feasibility Study for the Montpelier District Energy combined heat and power (CHP) district energy system (the Project). The Project description, context, and funding sources are as described in the Feasibility Study.

The purpose of this document is to identify applicable review processes and permits, discuss approximate timeframes, and highlight potential issues that could delay or halt the Project.

Summary

Based on information reviewed to-date, there are no critical environmental permitting issues that would prevent the construction of the Project. The Project is subject to: the National Environmental Policy Act; Section 106 of the National Historic Preservation Act; the Vermont Public Service Board Act 248; Capitol Complex Commission review; Vermont Department of Environmental Conservation Air Pollution Control Permit review; and City flood plain approval. The longest timeframe is associated with the Act 248 process; that schedule is very dependent on whether parties intervene against the project.

Land Use/ Siting Review Processes

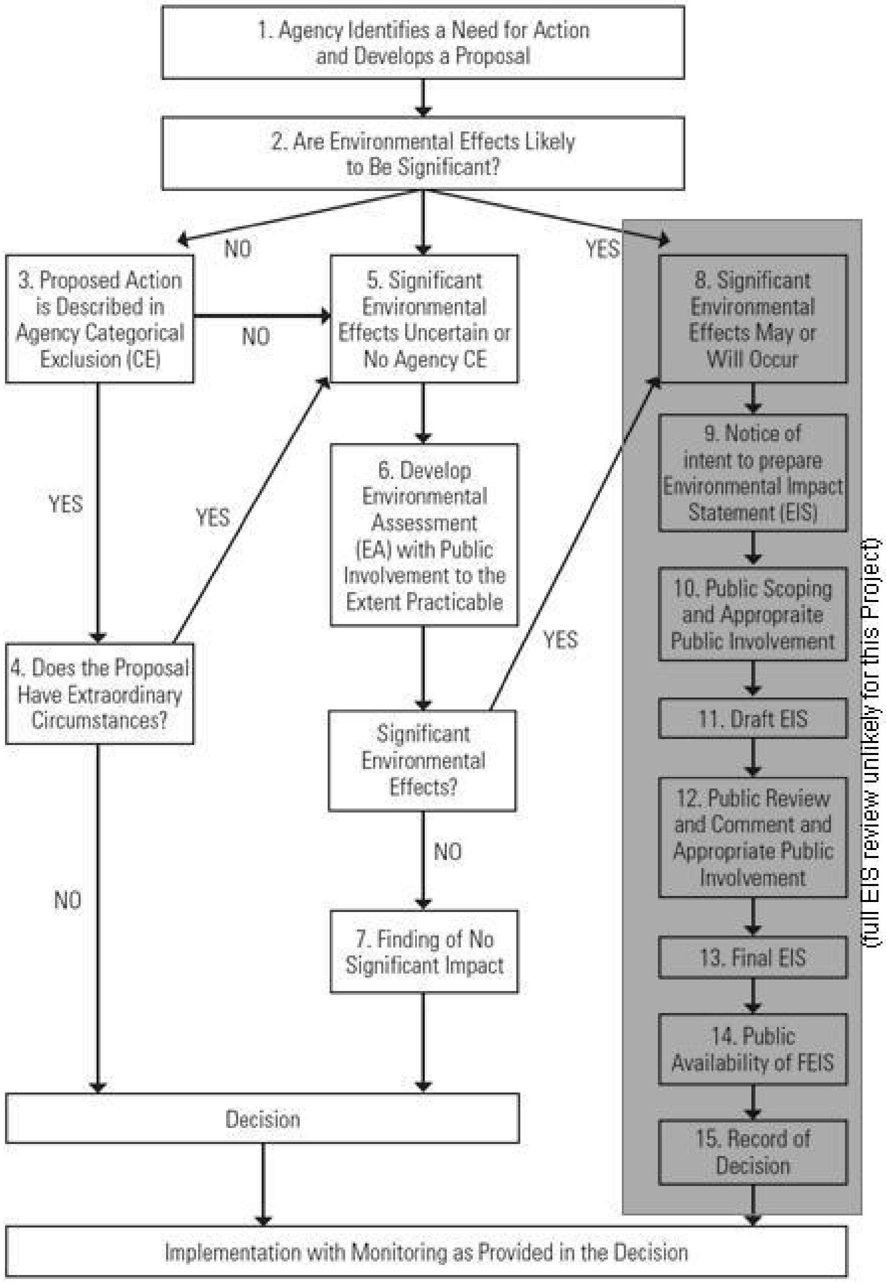
National Environmental Policy Act (NEPA)

On January 21, 2010, the U.S. Department of Energy (DOE) selected the Project to receive $8.0 million from the American Recovery and Reinvestment Act. The use of those DOE funds constitutes a federal action, making the Project subject to National Environmental Policy Act (NEPA) regulation. The DOE would be the lead federal agency managing the NEPA process.

The NEPA process can be broadly broken into three categories, with corresponding levels of effort required. The simplest would be to obtain a Categorical Exclusion, if one is available. More complicated is the preparation of an Environmental Assessment. The most lengthy and complicated process is the Environmental Impact Statement process. The decision tree for the NEPA process is shown below[1]:

[1] A Citizen's Guide to the NEPA, Council on Environmental Quality, December 2007

The NEPA Process



Availability of a Categorical Exclusion:

The DOE has promulgated its list of Categorical Exclusions as Appendix A to Subpart D of Part 1021. Based on a review of that list, the Categorical Exclusion that has the best chance of applying to the Project is B5.1, "Actions to conserve energy." That exclusion applies to:

Actions to conserve energy, demonstrate potential energy conservation, and <u>promote energy-efficiency</u> that does not increase the indoor concentrations of potentially harmful substances. <u>These actions may involve financial and technical assistance to individuals (such as builders, owners, consultants, designers), organizations (such as utilities), and state and local governments.</u> Covered actions include, but are not limited to: programmed lowering of thermostat settings, placement of timers on hot water heaters, installation of solar hot water systems, installation of efficient lighting, improvements in generator efficiency and appliance efficiency ratings, development of energy-efficient manufacturing or industrial practices, and small-scale conservation and renewable energy research and development and pilot projects. <u>The actions could involve building renovations or new structures in commercial, residential, agricultural, or industrial sectors.</u> [emphasis added]

Use of the Categorical Exclusions would require that the Project not:

- Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health;
- Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities;
- Disturb hazardous substances; or
- Adversely affect environmentally sensitive resources, including historic resources, threatened/endangered species habitat, or wetlands.

If the Categorical Exclusion is not available, the Project will need to prepare an Environmental Assessment, to determine the significance of the environmental effects and to look at "alternative means to achieve the agency's objectives." A properly-designed Project should qualify for a Finding of No Significant Impact ("FONSI") at the conclusion of the review of the Environmental Assessment. A full Environmental Impact Statement should not be required for the Project.

The decision to seek a Categorical Exclusion will depend on direction received from the DOE, which in turn will depend on whether similar projects funded by the American Recovery and Reinvestment Act are seeking Categorical Exclusions.

An additional issue associated with the NEPA Process relates to possible upcoming directives limiting construction in floodplains. The White House has drafted but not issued an Executive Order (Version: 0510/2009V1) that would restrict federal funding for power plants in the 500-year floodplain. Specifically, under the conditions in the draft Executive Order the DOE would need to determine whether the Project is a "critical action" ("power generation and other utilities" is given as an example). If the Project is a "critical action," the DOE must look at alternatives outside the 500-year floodplain, including the no-action alternative. If the DOE concludes the alternatives are not practicable, the Project can move forward at the existing site, but: the Project must minimize impacts to the floodplain, and; the DOE must provide additional public notice. If the Executive Order is issued, the Project can still receive federal funding, but the NEPA process will become more involved and DOE may require additional steps to protect the floodplain.

Act 248

Vermont statute 30 V.S.A § 248 requires that electric generation facilities obtain a Certificate of Public Good from the Vermont Public Service Board (PSB). A statutory exemption is provided for "electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities." While the intent of the Project is to provide power for use in Montpelier by Project owners, based on the current Project design some electricity will be sold to the grid and therefore the Project will not qualify for the exemption.

Per the statute, to obtain a Certificate of Public Good the PSB must determine that the project:

- will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality;

- is required to meet the need for present and future demand for service which could not otherwise be provided in a more cost effective manner through energy conservation programs and measures and energy-efficiency and load management measures;
- will not adversely affect system stability and reliability;
- will result in an economic benefit to the state and its residents;
- will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment and the public health and safety;
- with respect to purchases, investments, or construction by a company, is consistent with the principles for resource selection expressed in that company's approved least cost integrated plan;
- is in compliance with the electric energy plan approved by the department under section 202 of this title, or that there exists good cause to permit the proposed action;
- does not involve a facility affecting or located on any segment of the waters of the state that has been designated as outstanding resource waters;
- with respect to a waste to energy facility, is included in a solid waste management plan adopted pursuant to 24 V.S.A. § 2202a; and
- can be served economically by existing or planned transmission facilities without undue adverse effect on Vermont utilities or customers.

Of the ten criteria above, #6 and #9 are not applicable to the Project. The PSB rules expand on the specific requirements needed to satisfy the statutory criteria.

The Act 248 review process is an adjudicatory process, and the Project should be represented by counsel for the process. The process should take about six to twelve months. The Project as designed should meet all the criteria for approval. The process allows for public intervention, and because that intervention can cause review delays, the Act 248 process adds significant schedule uncertainty.

Act 250

The Land Use Panel of the Natural Resources Board governs Vermont's Land Use and Development Law, called the Act 250 program, which is "a public, quasi-judicial process for reviewing and managing the environmental, social and fiscal consequences of major subdivisions and developments in Vermont." Assuming that the Project is subject to Act 248 and is governed by the PSB, it is automatically exempted from Act 250 jurisdiction.

Absent Act 248 (should power not be sold to the grid), because the Project does not propose any major development or subdivisions as defined in the Act 250 program (generally commercial or industrial development on more than 10 acres, construction of improvements to commercial, industrial or residential uses above 2,500 feet in elevation, or more than 10 housing units, among other triggers), the Act 250 program still does not apply.

Section 106 of the National Historic Preservation Act/ Capitol Complex Commission

Use of DOE funding triggers review under Section 106 of the National Historic Preservation Act. The lead federal agency (in this case the DOE) is responsible for initiating Section 106 review, gathering information to decide which properties in the project area are listed in or eligible for the National Register of Historic Places; determining how historic properties might be affected; exploring alternatives to avoid or reduce harm to historic properties; and reaching agreement with the State Historic Preservation Officer (SHPO) and any affected tribes on measures to deal with any adverse effects. As a practical matter the Project proponents will need to perform many of these tasks on behalf of the DOE.

To avoid affecting nearby historic properties, new above-grade structures should be architecturally similar to the existing nearby structures. Also, project layouts that significantly block views of the capitol dome should be avoided. The hot water pipe route through back-lots where possible, will limit historic impact; however it is possible that archaeological investigations will be required for trenching in certain areas.

In addition to the review of cultural resources under Section 106, the Capitol Complex Commission ("CCC")has authority under Title 29, Chapter 6, § 181 *et. seq.* to review and approve plans for construction in the Capitol Complex historic district, including the boiler plant site. The statute establishes a 60-day time frame to approve plans "or suggest alterations or modifications." Commission review includes size, setback, parking requirements, landscaping, and design continuity with other structures in the capitol complex. CCC review is essentially a design review process that focuses on compatibility of proposed developments with the architectural character of the district, which may include consideration of above-grade (visible) segments of pipe crossing bridges.

Air Quality Review

Estimated Project Emissions

A recent approval for a project using a similar-sized wood-fired boiler is the 2007 Massachusetts approval for a "Hurst Boiler Super 600" high pressure water tube boiler at Seaman Paper (approval copy attached). That approval required the use of a multiclone, fabric filter baghouse, and flue gas recirculation for emissions control. Emissions limits for that project are:

Nitrogen Oxides (NOx)	0.22 pounds per million British Thermal Units (lb/MMBtu)
Particulate Matter (PM)	0.01 lb/MMBtu*
Sulfur Dioxide (SO2)	0.03 lb/MMBtu
Carbon Monoxide (CO)	0.45 lb/MMBtu
Volatile Organic Compounds (VOC)	0.03 lb/MMBtu

The Seaman Paper approval has a particulate matter limit of 0.01 lb/MMBtu, but that includes filterable particulate only. The limit should be about 0.02 lb/MMBtu if filterable and condensable particulate is included. Federal and Vermont regulators are transitioning to include condensable PM. Both particulate matter less than 10 microns (PM10) and particulate matter less than 2.5 microns (PM2.5) will be regulated. Most recent approvals have similar limits for PM10 and PM2.5.

Thresholds

If permitted for full-load, year-round operation, the Project will exceed Vermont's major source thresholds (50 tons per year of any pollutant). That triggers a public meeting and a longer review "clock" (175 days). The Project may be able to take an annual operating restriction to limit potential emissions below Vermont's major source thresholds. Restricting full-load equivalent hours to 3,500 hours per year will keep potential emissions below major source thresholds.

The project would not be subject to U.S. EPA permitting requirements under the Prevention of Significant Deterioration (PSD) program as the potential emissions are expected to be less than PSD thresholds. Similarly, the project would not be a major non-attainment New Source Review source for NOx or VOC (requiring offsets) since the potential emissions are less than 100 tpy and 50 tpy, respectively. Although not subject to EPA PSD requirements, Vermont includes PSD modeling requirements in its permitting program.

Control Technology

Control equipment for the Seaman Paper project includes flue gas recirculation, multiclones, and a fabric filter baghouse. Use of a fabric filter baghouse is recommended because US EPA is due to issue revised National Emission Standards for Hazardous Air Pollutants (NESHAPs) for boilers, and EPA presentations have indicated the agency is considering requirements for require fabric filtration. Regarding the backup boilers, recent Vermont approvals have required the use of Number 6 fuel oil with no more than 0.5% sulfur.

A Most Stringent Emission Rate (MSER) analysis will be required for each pollutant over the significant threshold of 50 tons per year potential emissions. MSER is similar to Best Available Control Technology (BACT) requirements applied by U.S. EPA and several states. Since Vermont MSER is comparable to Massachusetts BACT, the Seaman Paper emission rates presented above can be considered an example of emission rates that would meet MSER requirements.

Vermont has Hazardous Ambient Air Standards (HAAS) for several pollutants that can be emitted from wood and Number 6 fuel oil combustion. Many of the hazardous emissions are likely to exceed Action Levels and would thus require application of the Hazardous Most Stringent Emission Rate (HMSER). Those below the action levels do not need HMSER or any air modeling. The heavy metals and some condensable organics would be limited by the particulate control measures (e.g. fabric filtration), while the lighter molecular weight organics would be controlled by good combustion. CO could be a surrogate monitoring parameter for these compounds.

Modeling

In the Vermont air construction permit application process, the Project will need to document that emissions will not cause or significantly contribute to any violation of National Ambient Air Quality Standards (NAAQS). This is done using computer modeling, which accounts for stack parameters, weather conditions, and terrain. Modeling is also required to assess compliance with HAAS, there are special standards and procedures in-place for certain federal wilderness areas and Vermont state sensitive areas, and Vermont uses some EPA PSD modeling requirements even for projects that are not subject to the EPA PSD rule (like the Project). Following the Vermont DEC guidance in *Technical Manual – Air Quality Impact Evaluation Guidelines* (last updated in 2002), a modeling protocol should be submitted to clarify exactly how modeling will be conducted; this is especially important because EPA guidance for modeling PM2.5 and nitrogen dioxide is currently in transition.

Local terrain (e.g. residences on high hills on the north side of the city) could make compliance more difficult. Use of the tall existing stack will improve dispersion over any alternative that includes a shorter stack. The use of fabric filters on the wood boilers will limit PM2.5 and metals impacts. Also, if the Project can commit to not running the backup boilers at the same time as the main boilers that could limit the chance of a predicted violation of ambient air standards.

Vermont Village Green Renewable Pilot Program

This financial incentive program states "If, during 2009, the U.S. Environmental Protection Agency proposes updated emissions standards applicable to wood-fueled boilers to be used in connection with the project, the project shall comply with such proposed standards." The Vermont Legislature was probably referring to the revised NESHAP rules that were due to be proposed in 2009 and are now due April 2010.

Floodplain/ Floodway/ Wetlands

The entire steam plant site, and indeed much of downtown Montpelier, lies within the 100-year floodplain. The City of Montpelier regulates construction in the floodplain through their Zoning and Subdivision regulations (Article 3, Section 309, as authorized by 24 V.S.A. 4424). Approval is required by the Administrative Officer. The schedule for approval includes a 30-day waiting period for VT DEC to provide comments. There is a procedure for appeal to the Environmental Court.

Applications to the City for flood plain approval must include plans and descriptions of flood proofing measures. Standards for compliance are listed in Section 716.B. below.

New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied...

All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- The bottom of all openings shall be no higher than one foot above grade.
- Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater

In addition, work in the floodway is prohibited unless "certification by a professional registered engineer or architect is provided demonstrating that encroachment shall not result in any increase in flood levels during occurrence of the base flood discharge." The Project would probably have to provide compensatory storage to avoid an increase in flood levels. This could be done by lowering the ground level elsewhere in the floodway to make up for volume lost to Project construction in the floodway.

Both the floodplain maps and the floodplain regulations are under review, and may be modified before the Project submits applications. The City has provided the draft new floodplain maps; on those maps the floodway reaches the edge of the existing steam plant. The attached figure shows the City-provided floodplain and floodway data layered onto publicly-available parcel and orthophoto data.

Comments that Vermont DEC has made on the Montpelier regulations include:

- a suggestion that Montpelier require that new construction occur one or two feet above the Base Flood Elevation;
- a suggestion that Montpelier require that electrical, heating, ventilation, plumbing & air conditioning equipment be designed or located to prevent water from entering; and
- a suggestion that Montpelier more specifically require that work in the floodway create no increase in flood levels, no risk to surrounding properties, and that underground utilities are protected from scour.

The Project could be required to keep equipment one or two feet above the 100-year floodplain elevation, and keep work out of the floodway. These requirements could come as part of a revision to City of Montpelier regulations, or through review of environmental impacts in the NEPA or Act 248 processes.

Work will also trigger Army Corps of Engineers (ACOE) permitting under its Programmatic General Permit (PGP) program for Vermont (most likely PGP A, which is non-reporting). The proposed hot water pipe route along the railway bridge might trigger a Conditional Use Permit for crossing of the Winooski River, but this may be avoidable by limiting earthwork to areas well removed from the river banks, and use of an existing structure (i.e., the railroad bridge) to cross the river. No significant issues with respect to wetlands and floodway issues are anticipated.

Other

Water use and wastewater discharge should be similar to the existing plant, and will probably not trigger any new requirements.

Use of the existing stack will avoid the need for Federal Aviation Administration (FAA) approval for any structures with the possible exception of construction cranes. The Project is sufficiently far from any runway that FAA obstruction approval will not be an issue.

Based on site location, and discussion with state plant personnel, construction may encounter subsurface contamination.

The use of indoor material storage will minimize operational storm water contamination concerns, and regulatory requirements.

Oil storage will trigger federal Spill Prevention Containment and Countermeasures (SPCC) plan requirements.

Obtaining permission to locate on Central Vermont Railroad right-of-way may be a lengthy process.

System Sizing Considerations

Thermal Sizing of Proposed Heating System

On January 21, 2010, the U.S. Department of Energy (DOE) had selected the proposed Montpelier district heating and CHP project to receive $8M from the American Recovery and Reinvestment Act. The federal funds were the result of a grant application that was submitted by the City of Montpelier. In the grant application, the thermal sizing of the new proposed biomass heating system was stated to be 41 MMBTUH (approximately 1200 BHP) and was based on previous studies and evaluations that were performed for the district heating plant.

Based on the proposed sizing of the grant application and the subsequent award of these funds, we have assumed that the 41 MMBTUH sizing would be the minimum plant size considered for the basis of the new plant.

We have preliminarily identified 23 buildings (including 17 that are currently served by the State Complex Boiler Plant) that we would recommend be included on the system for the initial build-out phase of the system (Phase 1). For this initial phase we have identified buildings that were owned by the City of Montpelier or the State of Vermont and were close to proposed piping runs to minimize initial distribution costs. The buildings that we have identified in this first phase would constitute approximately 80% of the total final 41 MMBTUH capacity of the biomass district heating system and include the following buildings:

Building Owner	Building Location	Building Area (sq. ft.)	Est. Heat Load (MMBTUH)
State of Vermont	State House	68,700	4.95
State of Vermont	Supreme Court	42,000	1.48
State of Vermont	120 State St.	76,500	2.61
State of Vermont	133 State St.	104,700	5.00
State of Vermont	6 Baldwin St.	32,750	0.82
State of Vermont	116 State St.	2,500	0.40
State of Vermont	110 State St.	11,675	1.00
State of Vermont	109 State St.	124,880	5.73
State of Vermont	128 State St.	9,250	0.22
State of Vermont	126 State St.	5,900	0.15
State of Vermont	132 State St.	3,950	0.12
State of Vermont	118 State St.	4,400	0.13
State of Vermont	4 Aiken Place	5,700	0.20
State of Vermont	2 Western St.	9,500	0.31
State of Vermont	136 State St.	3,525	0.24
State of Vermont	134 State St.	3,000	0.19
State of Vermont	112 State St.	35,172	1.50
City of Montpelier	City Hall/Fire Dept.	42,450	0.80
City of Montpelier	Police Station	3,000	0.08
City of Montpelier	Union Elem. School	58,000	3.00
City of Montpelier	East State School	25,600	0.65
City of Montpelier	Montpelier High School	89,174	3.00
Phase 1 Totals		**762,326**	**32.58**

Buildings for the remainder of the biomass district heating load, or approximately 8.4 MMBTUH, would be identified as suitable public and commercial users are identified.

Proposed Distribution Piping Layout

The proposed piping distribution piping layout for the initial phase of the plant would consist of two (2) separate hot water piping runs, to the east and to the west of the new proposed plant as shown on drawing M-04 in Appendix C.

The east piping run would be 6” hot water supply and return lines which would run east from the new plant and would parallel the existing railroad tracks, crossing the Winooski River at the existing railroad bridge. The piping run would extend across Main Street, and turn north, run behind the Montpelier City Hall building, continuing and eventually terminating at the Union Elementary School. The routing of the east piping run was located to minimize disruption to the downtown area, and also pick up larger city and state buildings to the east of the plant. Take-offs would be located on the piping runs at approximately every city block in order to allow future connections to buildings as new customers are identified.

The west piping run would be 4” hot water supply and return lines which would extend to the west and would parallel the Winooski River, also crossing at an existing railroad bridge. The piping run would primarily target the Montpelier High School, and also pick up additional loads where feasible.

The low-temperature hot water (LTHW) system is proposed to operate at 240°F supply temperature and 180°F return temperature utilizing a thin-wall, European-style piping system. The stainless steel lines are enclosed in a closed-cell urethane insulation with a high density polyethylene (HDPE) outer jacket. This system has been used on other projects in New England including a large installation at the Massachusetts Institute of Technology (MIT) in Cambridge, MA. Thermal losses with this type of system are extremely low. A glycol solution is proposed to provide freeze protection for the hot water distribution system.

An evaluation of the existing state complex steam piping system was performed. Veolia Energy walked the exposed portions of the system and building conditions. The system was found to be extremely well maintained and in good condition. A steam trap rehabilitation program has recently been completed. We do not recommend conversion of the existing state distribution system to LTHW at this time. Under the proposed scope of this report, the existing state complex heating load requirements would be re-fed with 50 psig steam from the new boiler plant.

Proposed Plant Layout

General Plant Considerations

The proposed plant would be located in the same general location as the existing boiler plant serving the State Capitol Complex located at 122 State Street. (See Appendix C for proposed layout drawings.)

The location of the new proposed plant would be restricted by the line of the floodway area on the south and by the adjacent 120 State Street building on the north. The layout and configuration of the new facility has been arranged such that the existing chimney can be re-used for both the new oil- and wood-burning boilers. Additionally, the taller portions of the new facility which would house the wood chip storage silos have been located such that they would be behind the 120 State Street building (when observing from State Street), which is a 5-story structure.

The new plant would be separated into two separate buildings, one for the biomass boilers and wood chip storage and material handling, and one for the oil burning boilers. We would recommend the separation of the two facilities in order to allow redundancy in the event of one or the other facilities being out of operation for any extended period of time. A control room that would be used to monitor both oil- and wood-burning operations would be located in between the oil and biomass facilities in order to give the operator easy access to either facility.

The new oil building would be built prior to the demolition of the existing state building in order to perform the overall construction of the new facility without an interruption in heating service to the existing state complex buildings.

The electrical equipment for both the oil and biomass buildings, as well as distribution equipment for to existing and district heating loads would be located in the oil building. This has the advantage of allowing the existing boiler plant electrical transformer to have its loads disconnected and re-fed prior to the demolition of the existing boiler plant. Electrical service to buildings located at 120, 126, and 128 State Street (currently fed from existing boiler house transformer) could continue to supply building power in the event of a fire in the biomass building. A reconfiguration of electrical feeders in the area of the existing power plant will be required to relocate some of the utility poles and overhead power lines out of the way of the new plant buildings.

The proposed configuration utilizes 400 psig steam to drive a back-pressure steam turbine which exhausts steam at 50 psig. The back-pressure exhaust steam would be reconnected to the state complex steam distribution piping, and also converted to hot water for district heating distribution.

Biomass Plant Configuration

The biomass plant building would be an approximately 11,500 sq.ft. structure that would house the biomass boiler systems as well as the wood chip storage and material handling systems. The height of the building would be two levels, with the height of the boiler side approximately 40 feet, and the height of the wood storage side approximately 65 feet.

The biomass boiler system would consist of two (2) 600-HP wood chip burning boilers. The basis of design for the biomass boilers for the feasibility study is Hurst hybrid boilers. Each boiler would be equipped with reciprocating grate stokers, wet ash system, metering bin, combustion air pre-heater, mechanical collector with reinjection, economizer, flue gas recirculation, and PLC controls.

While reviewing the plant layout, the following configurations were considered:

One 1200 HP biomass fired boiler, two 400 HP biomass fired boilers, two 600 HP biomass boilers and two 800 HP biomass boilers. At the request of the City of Montpelier, we were asked to determine the largest output plant for the area available adjacent to the existing State plant. The single 1200 HP boiler could not be used optimally as the turndown would not be sufficient for the shoulder months.

In the case of the 400 HP boilers, the units were too small to carry the load. The 800 HP units were too large for the site and turned out to increase the cost too much as the units would require greater fuel storage for the site, thus increasing the overall footprint by 15%.

For emissions control, each biomass boiler system would be equipped with a pulse-jet fabric filter baghouse which would tie into the existing chimney stack.

The proposed total size of the wood chip storage for the new biomass boiler system is 600 tons. The proposed wood storage would allow for full plant output for a 5 day period between combined wood and oil storage capacity. The silo arrangement would be for two (2) 300-ton silos, each measuring approximately 32 feet in diameter by 60 feet tall. Schematic arrangement would be for each silo to have a bucket elevator style loader, and each individual silo would have a “Flying Dutchman” type unloader. The wood chips would be delivered via self-unloading truck to a loading dock located on the north side of the facility. From the truck, the chips would be loaded into a receiving bin, and from the receiving bin the wood chips would be transported via automated conveyor system to the storage silos and from the storage silos to the metering bins of the biomass boilers. The conveyor system feeding the biomass boilers would be arranged such that any silo would be able to feed wood chips to either boiler.

All new fuel handling and ash removal systems for the new biomass plant will be automated via PLC controls which will simplify overall plant operation.

Oil Plant Configuration

The oil plant building would be an approximately 5,500 sq.ft. structure that would house the oil-burning boiler systems and the hot water distribution systems. The height of the building would be approximately 30 feet.

The oil burning boiler system would consist of two (2) 400-HP #6 oil-fired boilers. One (1) 400-HP oil-burning boiler would be relocated from the existing state boiler plant facility; one (1) 400-HP oil boiler would be new. The basis of design for the new oil-burning boiler for the feasibility study is Hurst (Series500) four-pass, #6 oil-fired boiler.

The boiler breeching for the new and relocated oil boilers would tie into the existing chimney stack.

Boiler system ancillary equipment such as condensate storage tank, condensate pumps, deaerator and storage tank, and boiler feed pumps would be located in the oil plant building.

The hot water conversion and distribution systems would also be located in the oil plant building. The steam to hot water conversion system would consist of (2) shell-and-tube heat exchangers that would each be sized for approximately 75% of the proposed hot water load. The hot water distribution pumps would be base-mounted, end-suction style pumps and each would be sized for 100% of the hot water load (N+1 redundancy). The hot water system would also consist of ancillary equipment such as air separators, expansion tanks, etc. that would also be located in the oil plant building.

A new electrical room which will house electrical distribution equipment including new transformers, switchgear, etc. will be located in the oil building.

Two (2) new 20,000 gallon, double-wall fuel oil storage tanks will be located under the existing parking lot to the west of the oil plant building. The existing fuel 20,000 gallon fuel oil tank for the state plant is approximately 20 years old, and is not anticipated to be re-used for the new plant. Fuel oil system ancillary equipment such as day tanks and fuel transfer pumps will be located in the oil plant building.

A new 650 KW standby power generator will be located to the north of the new oil building and will provide back-up power to the biomass and oil building operations in the event of an electrical power failure. The boiler plant will be capable of operating stand-alone in the event of a loss of utility power.

Construction Phasing

The new oil building would be built in the first phase of construction to the west of the existing state boiler house and existing chimney stack. Some existing utility power poles and lines will need to be relocated in this first phase in order to allow the new oil building to be built. The existing power house transformer which also supplies power to buildings at 120, 126, and 128 State Street will remain in place during this phase in order to perform the construction without interruption to the existing heating or electrical services. A new electrical room to be built in the oil building will supply power to new proposed boiler plant and will also include a transformer to back feed the building fed from the existing electrical transformer. Depending on the project schedule, a temporary 400-HP oil boiler may need to be rented to enable full capacity for the state complex heating loads during construction. If the oil plant is constructed in the non-heating season, the existing 400-HP oil burner may be relocated without requiring a rented replacement

Once the new oil plant is built and operational it will allow for the existing state boiler plant to be demolished and the new biomass building to be built in its place. Included in this second phase of construction will be a scheduled electrical shutdown of the electrical power for the buildings at 120, 126, and 128 State Street in order to re-feed the loads from the new transformer. Some existing utility power poles and lines will also need to be relocated in the second phase of construction in order to allow the new biomass building to be built.

Financial and Schedule Considerations

Construction Cost Estimate

An estimate of probable construction costs for the proposed district heating project based on preliminary plant sizing and schematic system configurations was performed on the mechanical and electrical systems in the new plant.

Based on the preliminary cost analysis performed, the projected construction costs for the preliminary Phase 1 build-out of the plant would be approximately $21,395,362. Phase 1 of the construction would include the complete construction of both the new oil plant and biomass plant, hot water conversion and distribution systems, steam piping and connection to exiting state building complex, and new hot water piping and connection to six (6) additional City of Montpelier and State of Vermont buildings as identified previously in report. Revenue metering would be performed at each building and via a central steam meter for the existing state house complex.

The full build out of the plant would consist of additional connections to future customers in order to bring the plant up to full peak heating load connected capacity of 41 MMBTUH. Based on survey data provided in the CORE report, the average building size of potential system customers is approximately 13,000 sq.ft. Assuming an average of 25 BTUH/sq.ft. for peak building heating loads, it is estimated that the remaining capacity of the plant can include approximately an additional 26 buildings based on this average area and heating load estimate. The connection costs, including metering and energy transfer stations (ETSs) for each additional building is estimated at approximately $69,000/building, which for an additional 26 buildings would bring increase the total construction cost approximately $1,800,000, or $23,239,500 total.

The numbers above do not include the cost of the proposed CHP back-pressure turbine option for electrical power generation. It is estimated that the CHP option would increase the estimated construction costs by approximately $1,400,000.

A summary of the estimated construction costs are as follows:

	Phase 1 Construction (w/o CHP Option)	Phase 1 Construction (with CHP Option)	Full Build out Construction (w/o CHP Option)
Cost Estimate	$21,395,362	$22,825,362	$23,239,500

See Appendix E for detailed cost estimate breakdown.

Wood Chip Fuel Costs

The price of wood chips for use in biomass heating systems is currently in the range of $40 - $60 per ton.

The State of Vermont currently pays a rate of $66/ton for wood chips used in the biomass boiler in the existing state plant. It is believed that the price paid for the current plant usage is inflated due to the fact that there is limited wood chip storage capacity for the existing plant and the wood chip supplier is required to leave the trailer that the wood chips are delivered in on site. The current means of delivery and storage causes the supplier to uncouple and couple trailers at each visit and leave one trailer on site for unloading. The additional time and labor increases fuel cost.

Based on the increased fuel requirement and storage capacity of the new proposed plant, lower wood chip costs may be negotiated than the current costs paid by the state.

Innovative Natural Resources, LLC was contracted to perform a biomass fuel availability analysis as part of the scope of this feasibility study. Timber growth within 30 miles of Montpelier exceed harvest levels by 650,000 green tons per year with all current and historic markets. The region also has a number of existing major markets for low-grade wood, the closest being large-scale biomass electric plants in

Burlington and Ryegate. Based on the analysis performed it is estimated that the price of wood chips will fall within the range $ 40- 60/ ton estimated, and will increase annually at a rate of approximately 3.5%.

See Appendix F for full analysis of biomass fuel availability.

Financial Analysis on Thermal Heating Plant

The following financial models are representative of the different options analyzed in the study.

An analysis has been performed to look at the existing cost for the State and City buildings as a benchmark model to evaluate with the possible future energy costs from the new plant.

Analyses were performed for the heating plant based on the estimated construction costs for Phase 1 and final build-out of the plant. Wood fuel costs were estimated at @ $50/ton based upon the fuel study. The analysis takes into account the estimated construction costs for the new systems, and includes scenario's that have credits for the awarded DOE grant, State of Vermont grant, State providing a 15% Capital Contribution, City of Montpelier Bond and the Village Green Renewable Pilot Grant. The analysis assumes that operations and maintenance costs for the proposed and existing state facility are approximately equal, and does not predict future escalation of fuel costs.

The various models include analysis of:

1) Existing Case for the City and State Thermal Energy Supply
2) Phase 1 includes City and State Buildings Connections with the City owning the system
3) Phase 1 plus CHP includes City and State Connections with the City owning the system
4) Full Build includes City, State and Private Business Connections with the City owning the system
5) Full Build plus CHP includes City, State and Private Business Connections with the City owning the system
6) Impact of the State making a 15% capital contribution to the project
7) Same analysis as above with 3rd Party Finance

For the purpose of this analysis it is assumed that wood chip and fuel oil costs will escalate at approximately the same rate over the life of the plant. The following tables summarize the findings of the calculations for the thermal plant.

Assumptions					
Cost of Water & Chemicals	$/Mlb		0.20		
Manager Base Salary	$		1	50,000	
Operator Base Salary	$		3	35,000	
Fringe & benefits	%		40%		
Total Labor Costs	$			217,000	
Total R&M Costs				350,000	
Electric Cost		$0.13			
Electric Export Rate		$0.125			
DOE Grant		$000	8,000		
State of Vermont Grant		$000	0		
City Bond - Approved 2003		$000	100		originally $250K
Village Green Renewable Pilot Grant		$000	200		

CURRENT CASE - STATE AND CITY ENERGY COST ANALYSIS

State Expansion

Fuel			
Site Steam	Mlb		40,280
Future Fuel Consumption	MMBtu		62,372
Future Fuel Costs	$/MMBtu		5.5
Future Fuel Costs	$		**345,744**
O&M			
Heating Load	Mlb		40,280
Cost of Water & Chemicals	$/Mlb		0.20
Cost of Water & Chemicals			8,056
Manager Base Salary	$		50,000
Operator Base Salary	$	3	35,000
Fringe & benefits	%	40%	
Total Labor Costs			217,000
Total R&M Costs			350,000
Total O&M Costs			575,056
		0%	0
Total O&M Costs			575,056
Capital Expense			
Planned Plant Overhaul	$	*	18,547,000
Available Funding	$		
Adjusted Capex	$		18,547,000
State Cost of Capital	%	4%	
Period Amortization	Years	20	
Annual Amortization	$		1,364,721
Total Cost			
Total Cost	$		**2,285,521**
Heat Unit Cost			
Fuel Cost	$/MLb		8.58
O&M Cost	$/MLb		14.28
Capital Cost	$/MLb		33.88
Total	$/MLb		56.74

City Existing Cost

Fuel			
Site Steam	MMBtu		16,436
City Fuel Consumption	MMBtu		20,544
City Fuel Costs (Oil)	$/MMBtu		16.3
Future Fuel Costs	$		**335,694**
O&M			
Heating Load	MMBtu		16,436
Cost of Water & Chemicals	$/MMBtu		0.20
Cost of Water & Chemicals			3,287
Manager Base Salary	$		0
Operator Base Salary	$	1	0
Fringe & benefits	%	40%	
Total Labor Costs			0
Total R&M Costs			24,000
Total O&M Costs			27,287
		0%	0
Total O&M Costs			27,287
Capital Expense			
Planned Plant Overhaul	$	**	100,000
Available Funding	$		
Adjusted Capex	$		100,000
State Cost of Capital	%	4%	
Period Amortization	Years	20	
Annual Amortization	$		7,358
Total Cost			
Total Cost	$		**370,340**
Heat Unit Cost			
Fuel Cost	$/MMBtu		20.42
O&M Cost	$/MMBtu		1.66
Capital Cost	$/MMBtu		0.45
Total	$/MMBtu		22.53

*State capital cost estimated from New Plant design minus the distribution system and additional boiler capacity.

Fuel Assumptions
$50 Ton Wood Chips
$2.50 gallon #6 oil

** Estimated Capital Replacement cost over next twenty years

This State Expansion analysis includes the capital required to build a new plant due to the age and existing condition of the current plant.

PROJECT FINANCIAL ANALYSIS - CITY OWNED

			Phase 1	Phase 1 + CHP	Full Build	Full Built + CHP
Capital Expense						
Project Cost	$000		21,395	22,825	23,239	24,639
Available Funding for Project	$000		8,300	8,300	8,300	8,300
Net Adjusted Capex	$000		13,095	14,525	14,939	16,339
Financing Period	Years	20				
Financing Interest Rate	%	3.00%				
Annual Financing	**$000**		**880**	**976**	**1,004**	**1,098**
Physicals						
Steam Sales State	MMBtu		40,280	40,280	40,280	40,280
Hot Water Sales City	MMBtu		16,436	16,436	16,436	16,436
Hot Water Sales Other	MMBtu		-	-	12,565	12,565
Energy Sales	**MMBtu**		**56,716**	**56,716**	**69,281**	**69,281**
Electric Sales	MWh		-	1,112	-	1,358
Fuel Consumption	MMBtu		87,822	90,130	107,279	110,098
Parasitic Load (power required to run plant)	MWh		463	463	743	743
Revenue						
Electric Revenue	**$000**		**-**	**139**	**-**	**170**
Steam Sales to the State	MMBtu		40,280	40,280	40,280	40,280
Fuel Rate	$/MMBtu	8.6	346	346	346	346
O&M Charge	$/MMBtu	11.3	453	453	453	453
Capacity Charge	$000	100%	1,365	1,365	1,365	1,365
Total State Steam Sale			**2,164**	**2,164**	**2,164**	**2,164**
Total Rate ($/MMBtu)			*53.72*	*53.72*	*53.72*	*53.72*
Compare with State Alternative ($/MMBtu)			*55.78*	*55.78*	*55.78*	*55.78*
Hot Water Sales to the City	MMBtu		16,436	16,436	16,436	16,436
Fuel Charge	$000		141	141	141	141
O&M Charge	$000		185	185	185	185
Capacity Charge	$000	0%	-	-	-	-
Total City Steam Sale			**326**	**326**	**326**	**326**
Total Rate ($/MMBtu)			19.8	19.8	19.8	19.8
Compare with Existing			22.5	22.5	22.5	22.5
Hot Water Sales to the Other Customers	MMBtu		-	-	12,565	12,565
Fuel Charge	$000		-	-	108	108
O&M Charge	$000		-	-	141	141
Capacity Charge	$000	18%	-	-	182	199
Total Others Steam Sale			**-**	**-**	**431**	**449**
Total Rate ($/MMBtu)			-	-	34.3	35.7
Costs						
Fuel Costs	$000		487	500	595	610
Electricity Costs	$000		60	60	97	97
Cost of Water & Chemicals	$000		11	11	14	14
Labor Costs	$000		217	217	217	217
Repair & Maintenance	$000		350	350	350	350
Costs	**$000**		**1,125**	**1,138**	**1,272**	**1,288**
Project Economics						
Revenue	$000		**2,490**	**2,629**	**2,921**	**3,108**
Costs	$000		(1,125)	(1,138)	(1,272)	(1,288)
Financing	$000		(880)	(976)	(1,004)	(1,098)
Soft Cost	$000	-200	(200)	(200)	(200)	(200)
Net Cash	$000		285	315	445	522
IF STATE CONTRIBUTES 15% OF CAPITAL TO THE PROJECT						
State Contribution						
State Contribution		15% of Capital Cost				
State Contribution	$000		3,209	3,424	3,486	3,696
Avoided Capacity payment from State	$000		216	230	234	248
Reduction in State Rate	$/MMBtu		5.36	5.71	5.82	6.17
New State Rate			48.37	48.01	47.91	47.55

PROJECT FINANCIAL ANALYSIS - 3RD PARTY FINANCED

			Phase 1	Phase 1 + CHP	Full Build	Full Built + CHP
Capital Expense						
Project Cost	$000		21,395	22,825	23,239	24,639
Available Funding for Project	$000		8,300	8,300	8,300	8,300
Net Adjusted Capex	$000		13,095	14,525	14,939	16,339
Financing Period	Years	20				
Financing Interest Rate	%	10.00%				
Annual Financing	**$000**		**1,538**	**1,706**	**1,755**	**1,919**
Physicals						
Steam Sales State	MMBtu		40,280	40,280	40,280	40,280
Hot Water Sales City	MMBtu		16,436	16,436	16,436	16,436
Hot Water Sales Other	MMBtu		-	-	12,565	12,565
Energy Sales	**MMBtu**		**56,716**	**56,716**	**69,281**	**69,281**
Electric Sales	MWh		-	1,112	-	1,358
Fuel Consumption	MMBtu		87,822	90,130	107,279	110,098
Parasitic Load (power required to run plant)	MWh		463	463	743	743
Revenue						
Electric Revenue	**$000**		**-**	**139**	**-**	**170**
Steam Sales to the State	MMBtu		40,280	40,280	40,280	40,280
Fuel Rate	$/MMBtu	8.6	346	346	346	346
O&M Charge	$/MMBtu	11.3	453	453	453	453
Capacity Charge	$000	100%	1,365	1,365	1,365	1,365
Total State Steam Sale			**2,164**	**2,164**	**2,164**	**2,164**
Total Rate ($/MMBtu)			*53.72*	*53.72*	*53.72*	*53.72*
Compare with State Alternative ($/MMBtu)			*55.78*	*55.78*	*55.78*	*55.78*
Hot Water Sales to the City	MMBtu		16,436	16,436	16,436	16,436
Fuel Charge	$000		141	141	141	141
O&M Charge	$000		185	185	185	185
Capacity Charge	$000	0%	-	-	-	-
Total City Steam Sale			**326**	**326**	**326**	**326**
Total Rate ($/MMBtu)			19.8	19.8	19.8	19.8
Compare with Existing			22.5	22.5	22.5	22.5
Hot Water Sales to the Other Customers	MMBtu		-	-	12,565	12,565
Fuel Charge	$000		-	-	108	108
O&M Charge	$000		-	-	141	141
Capacity Charge	$000	18%	-	-	318	348
Total Others Steam Sale			**-**	**-**	**568**	**597**
Total Rate ($/MMBtu)			-	-	45.2	47.5
Costs						
Fuel Costs	$000		487	500	595	610
Electricity Costs	$000		60	60	97	97
Cost of Water & Chemicals	$000		11	11	14	14
Labor Costs	$000		217	217	217	217
Repair & Maintenance	$000		350	350	350	350
Costs	**$000**		**1,125**	**1,138**	**1,272**	**1,288**
Project Economics						
Revenue	$000		**2,490**	**2,629**	**3,058**	**3,257**
Costs	$000		(1,125)	(1,138)	(1,272)	(1,288)
Financing	$000		(1,538)	(1,706)	(1,755)	(1,919)
Soft Cost	$000	-200	(200)	(200)	(200)	(200)
Net Cash	$000		(373)	(415)	(169)	(150)
IF STATE CONTRIBUTES 15% OF CAPITAL TO THE PROJECT						
State Contribution						
State Contribution		15% of Capital Cost				
State Contribution	$000		3,209	3,424	3,486	3,696
Avoided Capacity payment from State	$000		377	402	409	434
Reduction in State Rate	$/MMBtu		9.36	9.98	10.16	10.78
New State Rate			44.36	43.74	43.56	42.94

Project Implementation Schedule

A project implementation schedule for the proposed plant has been developed and is included in Appendix F. Based on preliminary estimates, it is estimated that if the decision to move forward and detailed design were to begin on June of 2010, then final completion of the plant would be in the spring of 2012. The construction phase of the project is estimated to be approximately 16 - 18 months. Permitting requirements and the pre-purchasing of long lead-time equipment such as the biomass boilers and material handling and storage systems would be critical path items in the overall project implementation schedule.

Electrical Generation and Distribution

In the DOE grant application, the electrical generation sizing of the new proposed Combined Heating and Power (CHP) was stated to be 1.8 million kWh. From our analysis, based on evaluating a 400 kW steam turbine and the hours of operation for the thermal plant, it appears that approximately 1.1 million kWh is a reasonable estimate for the Phase 1 portion of the construction. Since there is no summer steam load for the connected systems, the CHP portion of the project sized at 400 kW steam turbine backpressure generator that would operate approximately 8 months of the year in order to attain the proposed 1.1 million kWh load. For the final build-out of the plant with the system fully subscribed, the estimated annual electrical generation would increase to approximately 1.35 million kWh with the 400 kW turbine sizing.

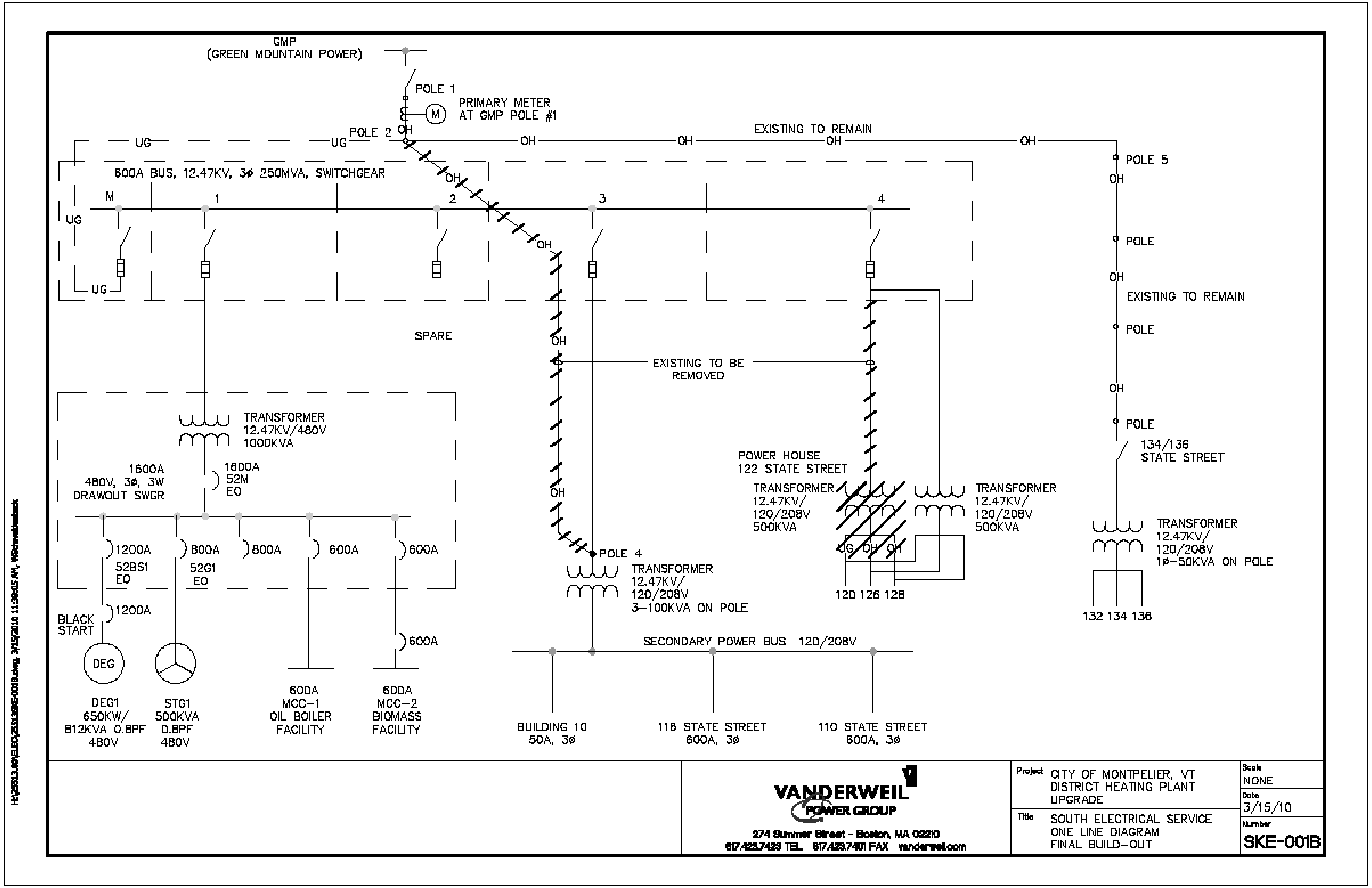
We have evaluated hourly interval data provided by the utility provider (Green Mountain Power) for the south electrical service that is closest to the proposed power plant location, and have determined that the base electrical loading on the south service is insufficient to use the full 400 kW proposed load. Therefore, the electrical power generated from the CHP system would be fed back onto the utility side of the meter. See SKE-001B on following page (and in Appendix B) for proposed one line diagram of the electrical systems including the proposed CHP system integration.

Based on information published from the State of Vermont Public Service Board, the interim standard offer price for Sustainably Priced Energy Enterprise Development (“SPEED”) resources as of September 15, 2009 for biomass resources was $0.125/kwh. The standard offer price was updated on January 15, 2010 and remained the same for biomass renewable power. The standard offer has an overall cap of 50 MW of overall renewable energy production and a technology specific sub-cap of 12.5 MW. It is unknown whether the standard offer is still currently available for renewable power resources or if the program has been fully subscribed to. Further investigation will need to be performed to determine overall and biomass-specific availability.

Simple payback analysis for the CHP electrical power generation and has been calculated based on the published standard offer price of $0.125/kwh and varying fuel costs of wood chips of $40/ton, $50/ton, and $60/ton and is summarized in the following table:

	$40/ton Wood Chips	**$50/ton Wood Chips**	**$60/ton Wood Chips**
Construction Cost Spread	20 years	20 years	20 years
Base Construction Cost Estimate (Phase 1 + CHP)	$22,825,362	$22,825,362	$22,825,362
DOE Grant	($8,000,000)	($8,000,000)	($8,000,000)
City Bond (Approved 2003)	($100,000)	($100,000)	($100,000)
Village Green Renewable Pilot Grant	($200,000)	($200,000)	($200,000)
Total Construction Costs	**$14,525,362**	**$14,525,362**	**$14,525,362**
Annual O&M Costs	$666,780/year	$666,780/year	$666,780/year
Parasitic Load Cost	$60,114/year	$60,114/year	$60,114/year
Cost for Steam Generation	$10,227/year	$12,783/year	$15,340/year
Revenue	$138,834/year	$138,834/year	$138,834/year
Simple Payback on CHP	**11.1 years**	**11.3 years**	**11.6 years**

If the CHP option were to be eliminated due to the payback or change in standard offer for the renewable energy production, the overall steam system pressure could be reduced which would result in additional savings in the base cost of the oil and biomass steam plants due to lower pressure piping and equipment requirements.


GMP
(GREEN MOUNTAIN POWER)
POLE 1
PRIMARY METER
AT GMP POLE #1
POLE 2
UG
OH
EXISTING TO REMAIN
POLE 5
600A BUS, 12.47KV, 3ø 250MVA, SWITCHGEAR
M
1
2
3
4
SPARE
EXISTING TO BE REMOVED
POLE
EXISTING TO REMAIN
TRANSFORMER
12.47KV/480V
1000KVA
1600A
480V, 3ø, 3W
DRAWOUT SWGR
1600A
52M
EO
1200A
52BS1
EO
800A
52G1
EO
800A
600A
600A
1200A
BLACK START
DEG
DEG1
650KW/
812KVA 0.8PF
480V
STG1
500KVA
0.8PF
480V
600A
600A
MCC-1
OIL BOILER
FACILITY
600A
MCC-2
BIOMASS
FACILITY
POLE 4
TRANSFORMER
12.47KV/
120/208V
3-100KVA ON POLE
POWER HOUSE
122 STATE STREET
TRANSFORMER
12.47KV/
120/208V
500KVA
TRANSFORMER
12.47KV/
120/208V
500KVA
120 126 128
134/136
STATE STREET
TRANSFORMER
12.47KV/
120/208V
1ø-50KVA ON POLE
132 134 136
SECONDARY POWER BUS 120/208V
BUILDING 10
50A, 3ø
116 STATE STREET
600A, 3ø
110 STATE STREET
600A, 3ø
VANDERWEIL
POWER GROUP
274 Summer Street - Boston, MA 02210
617.423.7423 TEL 617.423.7401 FAX vanderweil.com
Project
CITY OF MONTPELIER, VT
DISTRICT HEATING PLANT
UPGRADE
Title
SOUTH ELECTRICAL SERVICE
ONE LINE DIAGRAM
FINAL BUILD-OUT
Scale
NONE
Date
3/15/10
Number
SKE-001B

Appendix A - GIS Sketches

Proposed Floodplain and Floodway Designations

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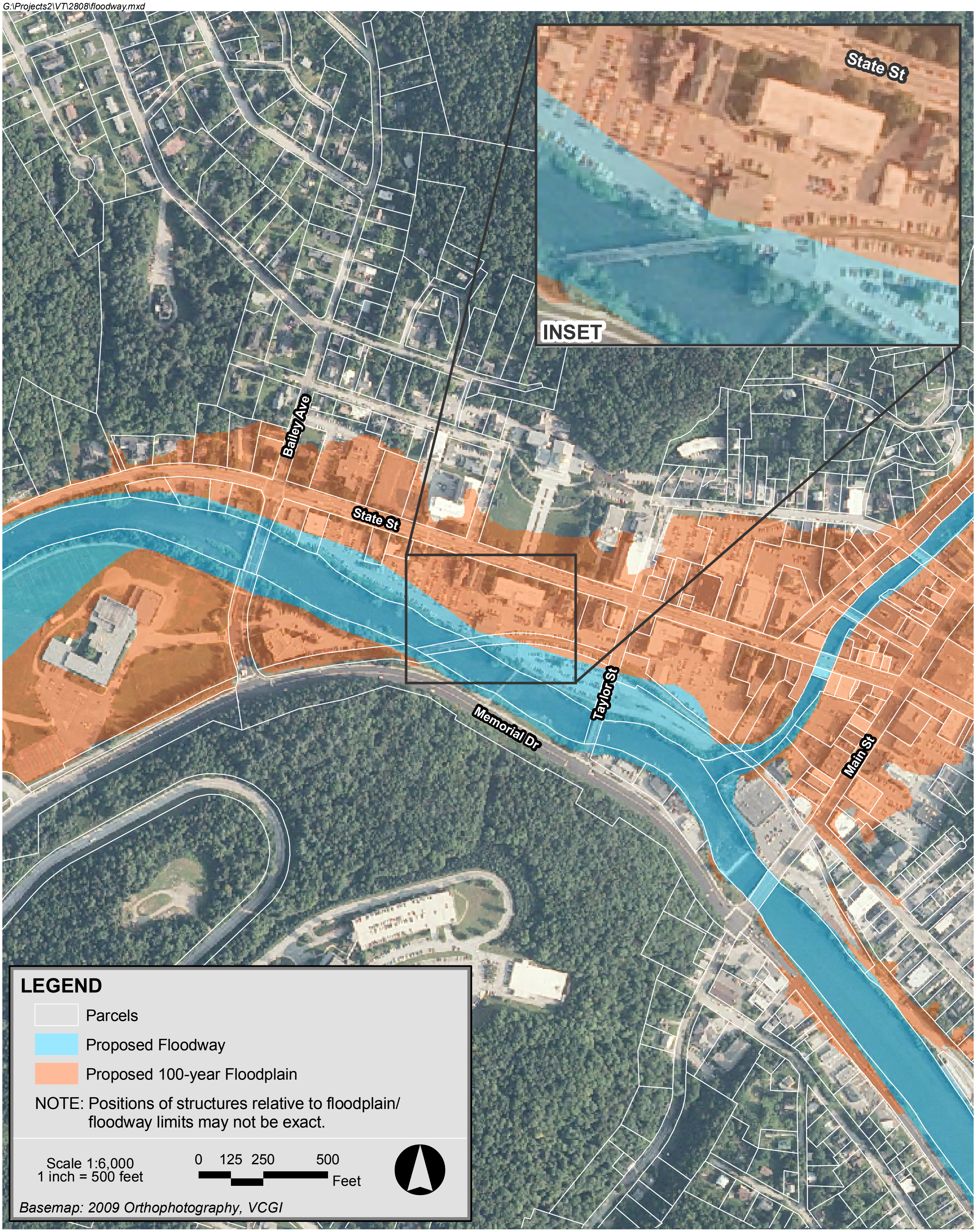


Montpelier CHP Montpellier, Vermont

Epsilon ASSOCIATES INC.

Proposed Floodplain and Floodway Designations

Appendix B - Process Flow Sketches

SKM-001 - HP Steam and Feed water System Process Flow Diagram

SKM-002 - LP Steam and Feed water System Process Flow Diagram

SKM-003 - HW and Condensate Process Flow Diagram

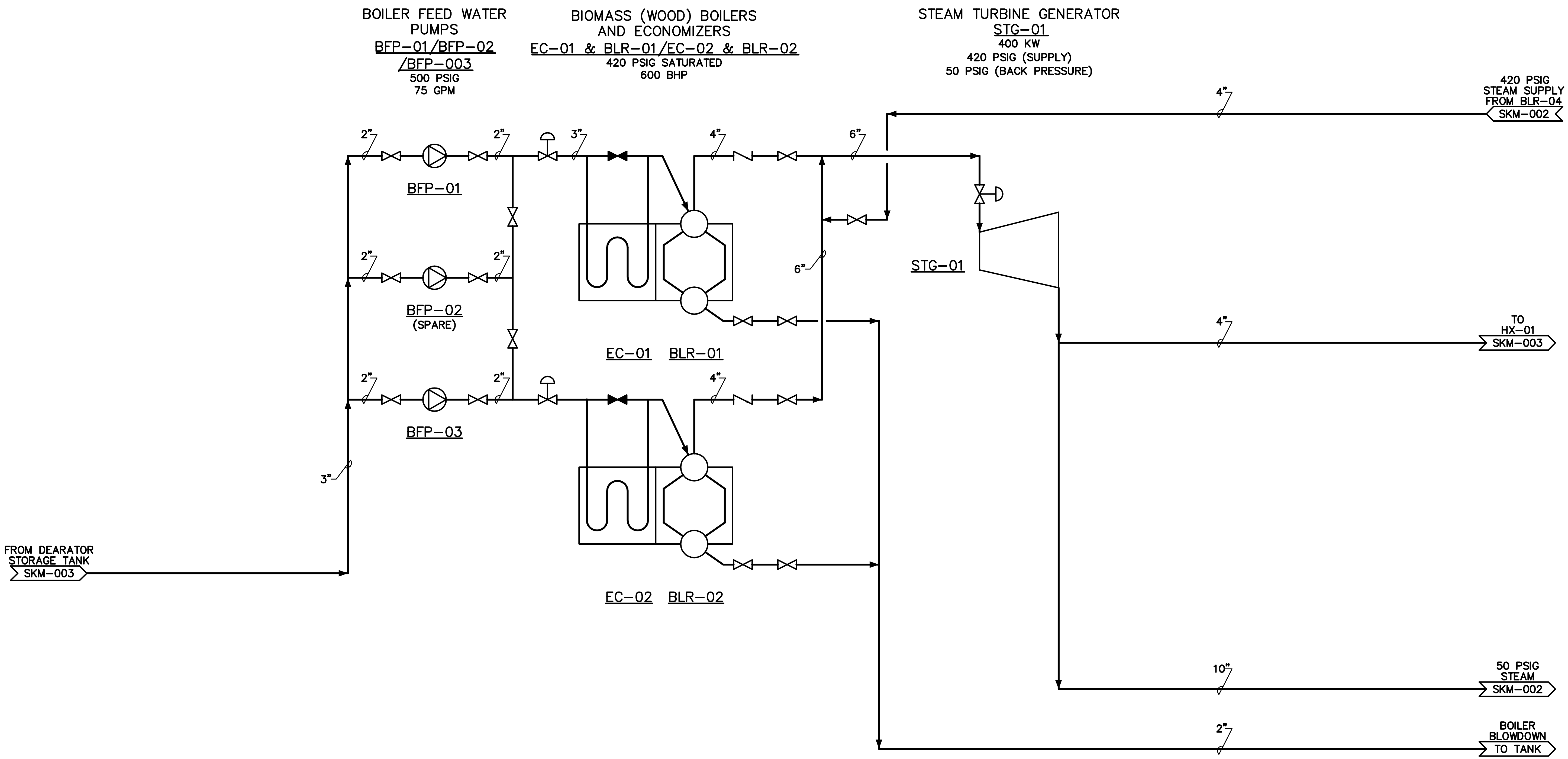
SKM-004 - Biomass Boilers (Wood Chips) Material Handling Process Flow Diagram

SKM-005 - Biomass Boilers Ash Removal and Exhaust Process Flow Diagram

SKM-006 - District Heating System Energy Transfer Station Process Flow Diagram

SKE-001A - South Electrical Service - One-Line Diagram Phase 1

SKE-001B - South Electrical Service - One-Line Diagram Final Build-out



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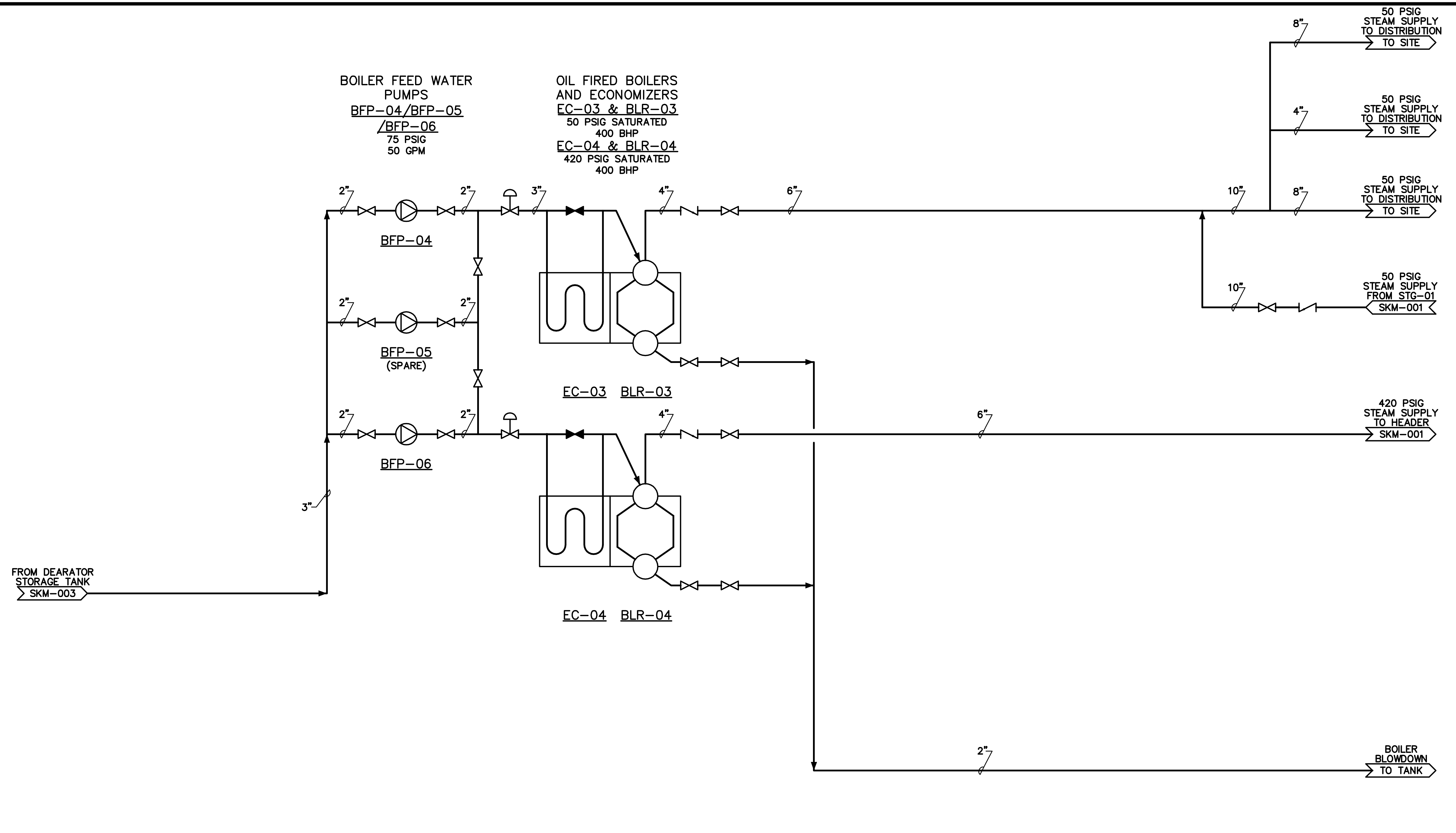
Project	CITY OF MONTPELIER, VT DISTRICT HEATING PLANT UPGRADE
Title	HP STEAM AND FW SYSTEM PROCESS FLOW DIAGRAM
Scale	NONE
Date	03-15-10
Number	SKM-001



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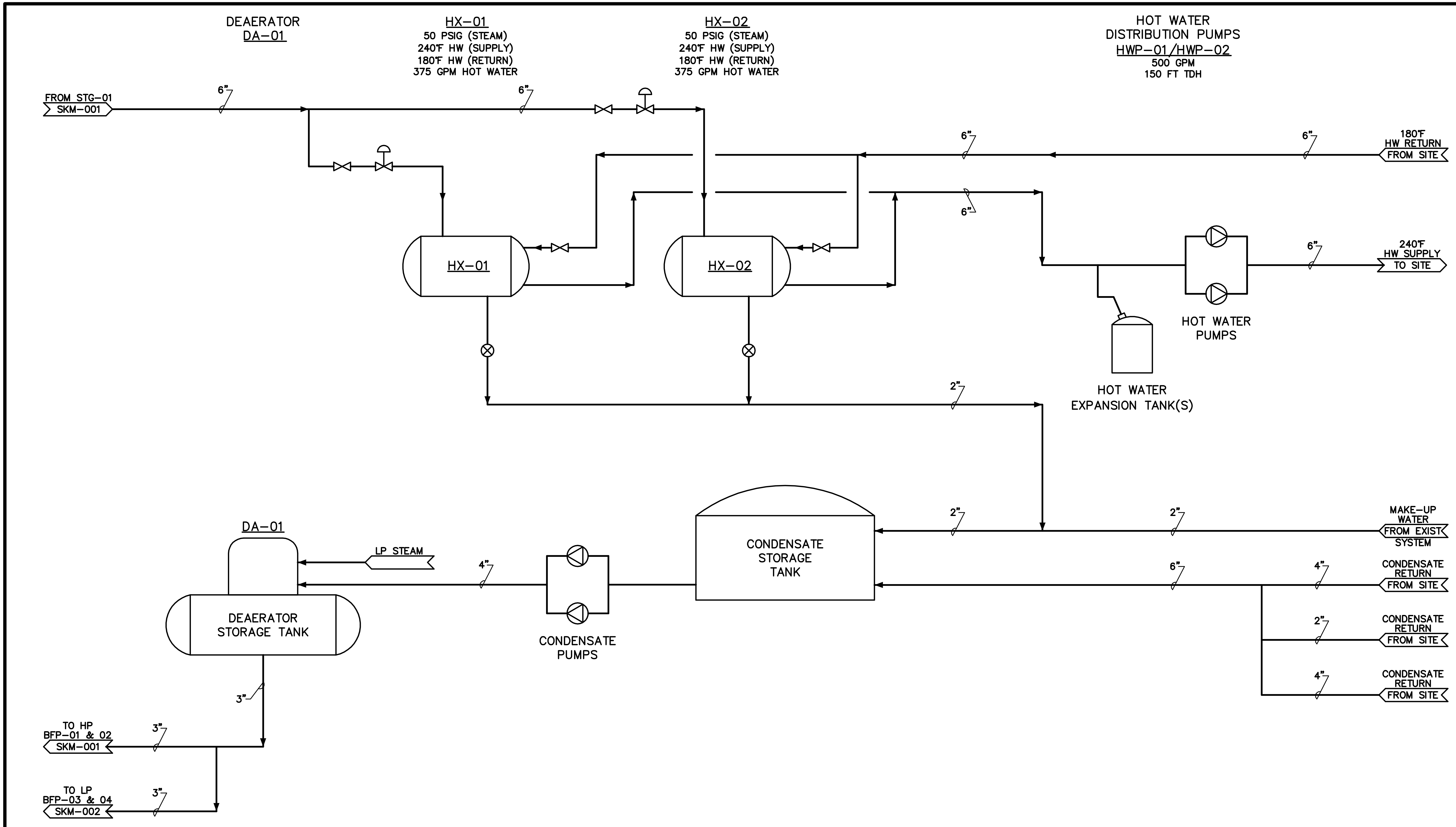
Project	CITY OF MONTPELIER, VT DISTRICT HEATING PLANT UPGRADE	Scale	NONE
		Date	03-15-10
Title	LP STEAM AND FW SYSTEM PROCESS FLOW DIAGRAM	Number	SKM-002



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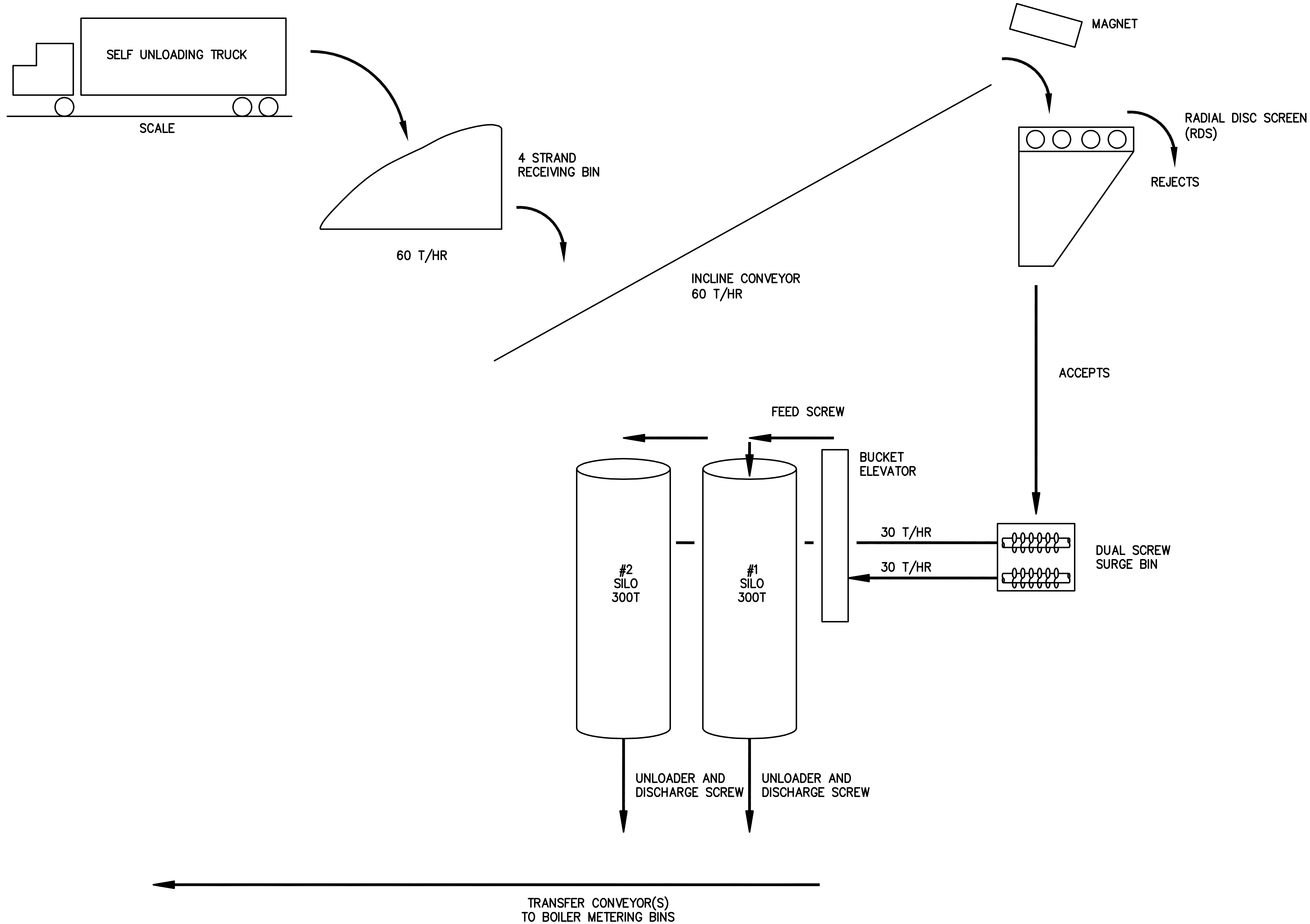
Project	CITY OF MONTPELIER, VT DISTRICT HEATING PLANT UPGRADE
Title	HW AND CONDENSATE PROCESS FLOW DIAGRAM
Scale	NONE
Date	03-15-10
Number	SKM-003



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Project	CITY OF MONTPELIER, VT DISTRICT HEATING PLANT UPGRADE
Title	BIOMASS BOILERS (WOOD CHIPS) MATERIAL HANDLING PROCESS FLOW DIAGRAM
Scale	NONE
Date	03-15-10
Number	SKM-004

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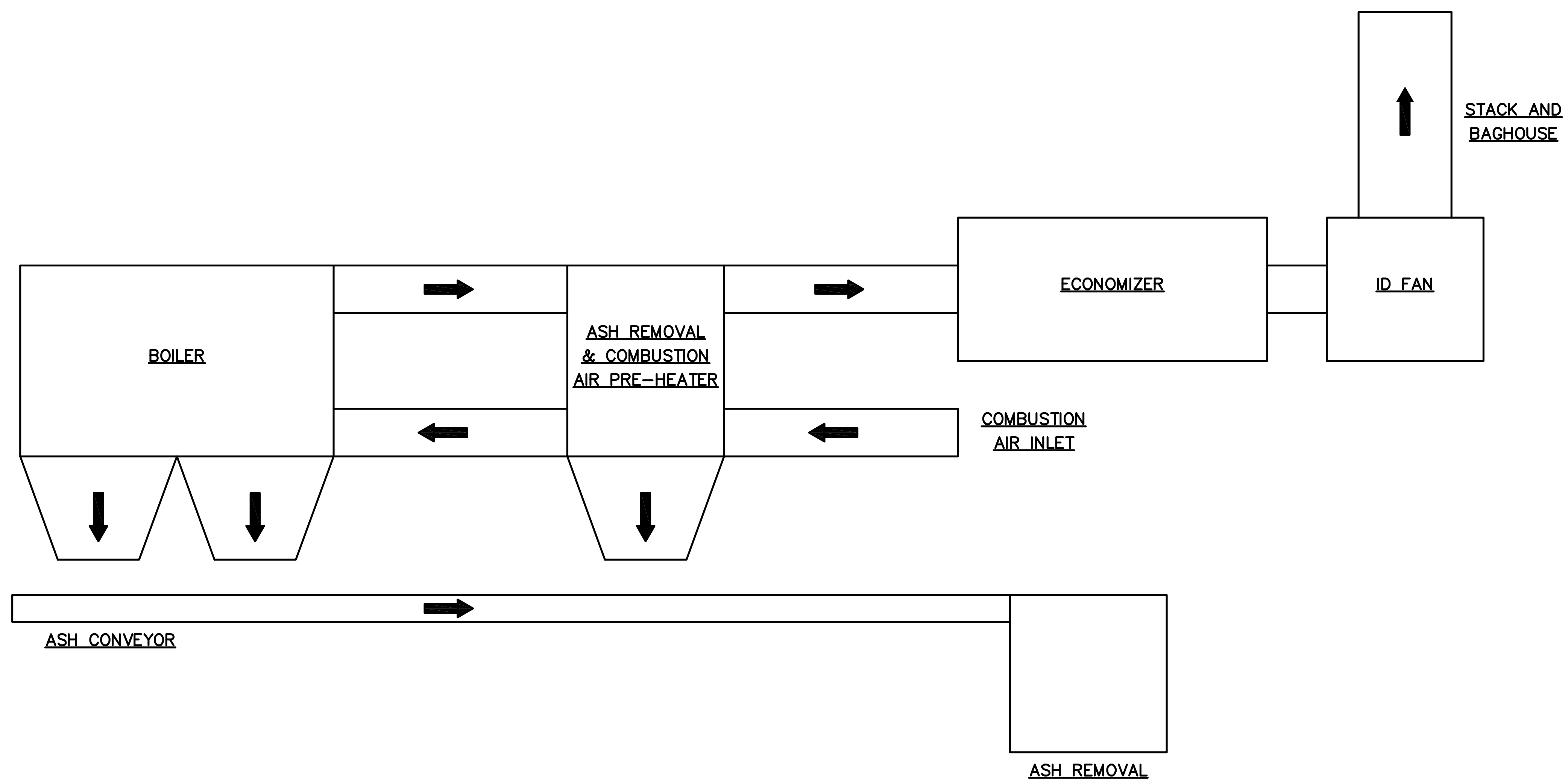

VEOLIA ENERGY

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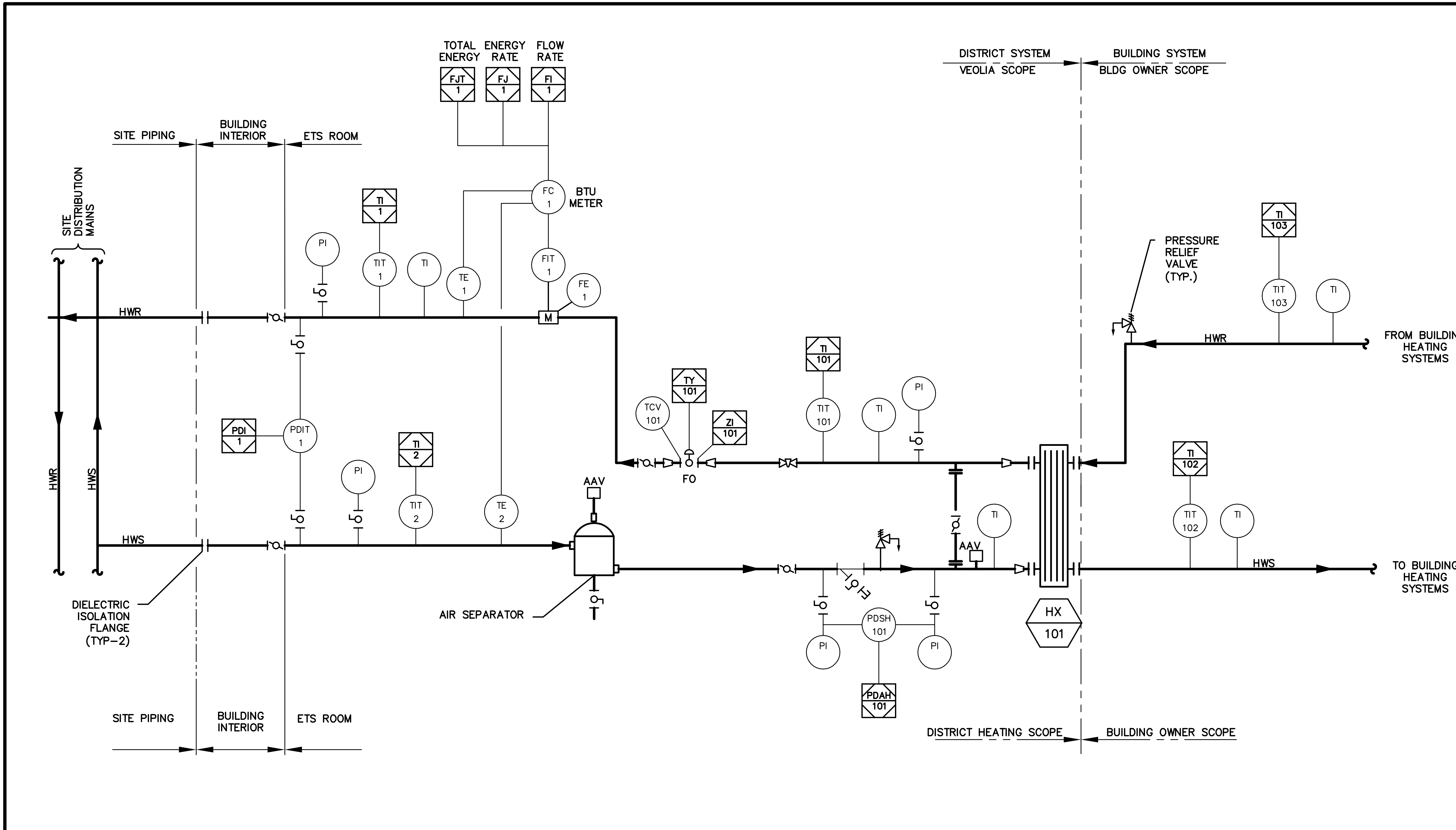
Project	CITY OF MONTPELIER, VT DISTRICT HEATING PLANT UPGRADE	Scale	NONE
		Date	03-15-10
Title	BIOMASS BOILERS ASH REMOVAL AND EXHAUST PROCESS FLOW DIAGRAM	Number	SKM-005



VEOLIA ENERGY

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Project	CITY OF MONTPELIER, VT DISTRICT HEATING PLANT UPGRADE
Title	DISTRICT HEATING SYSTEM ENERGY TRANSFER STATION PROCESS FLOW DIAGRAM
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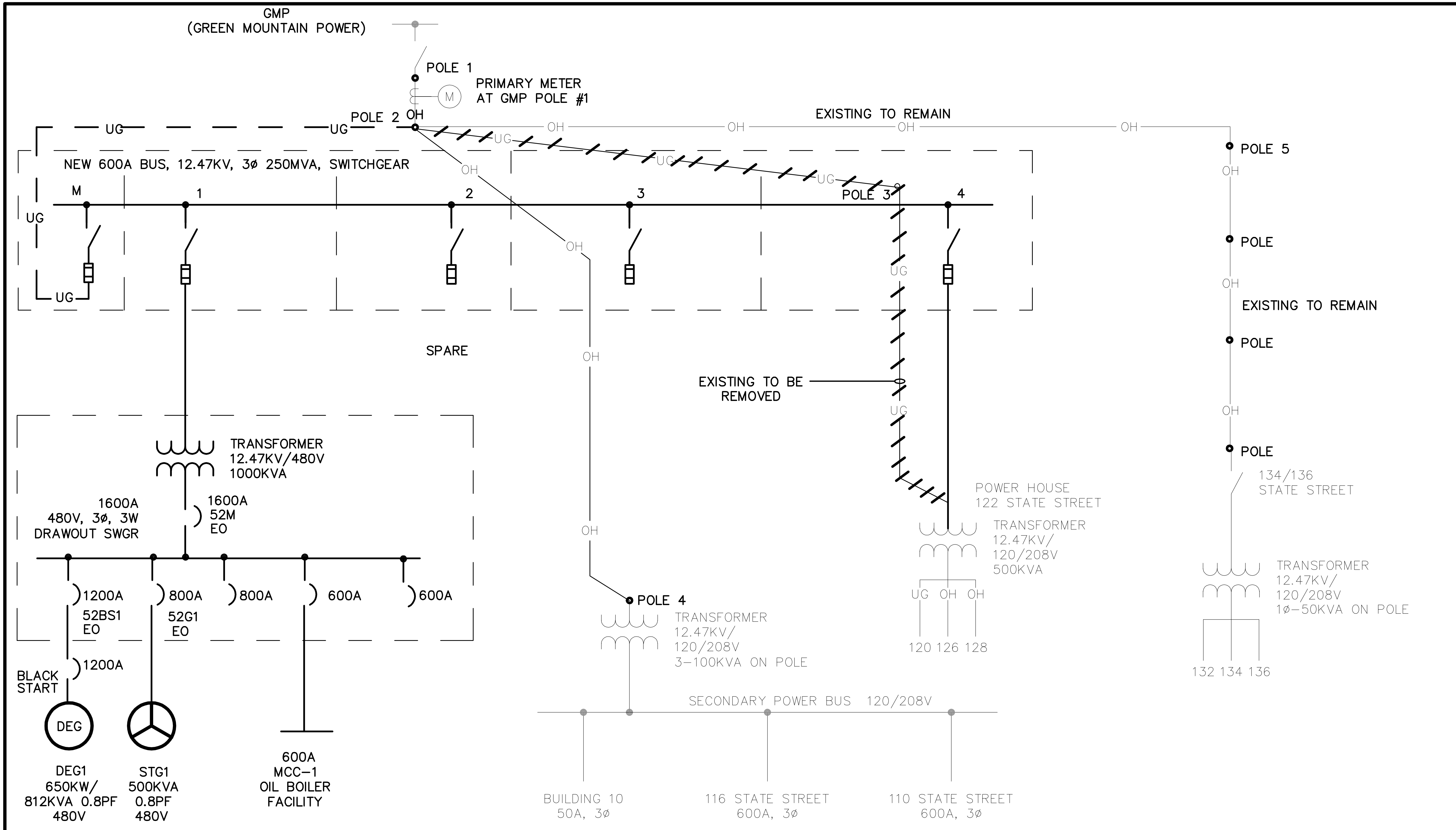
Date	03-15-10
Number	SKM-006



VEOLIA ENERGY

VANDERWEIL POWER GROUP

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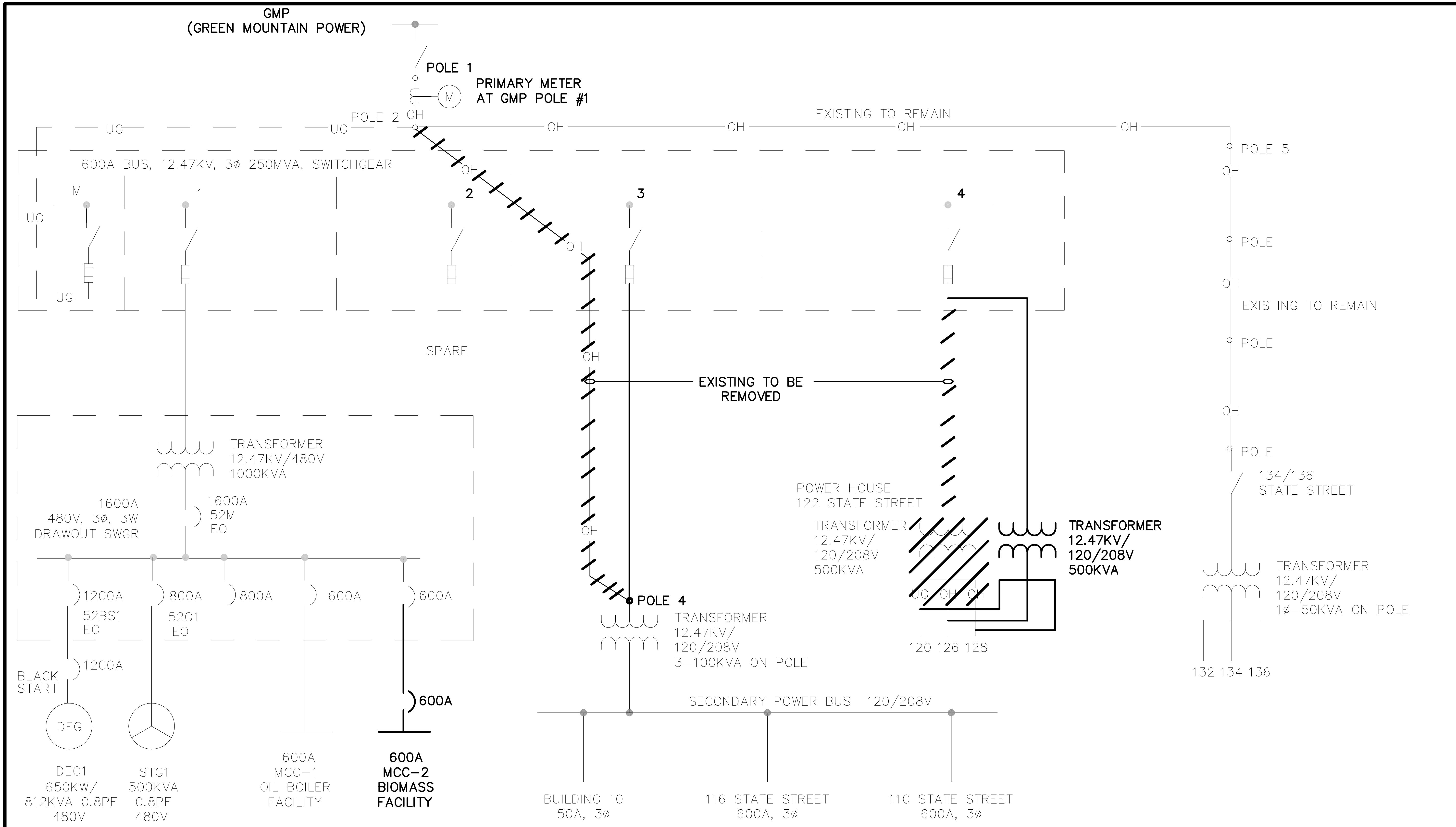
Project	CITY OF MONTPELIER, VT DISTRICT HEATING PLANT UPGRADE
Title	SOUTH ELECTRICAL SERVICE ONE LINE DIAGRAM PHASE 1
Scale	NONE
Date	3/15/10
Number	SKE-001A



VEOLIA ENERGY

VANDERWEIL POWER GROUP

274 Summer Street - Boston, MA 02210
617.423.7423 TEL 617.423.7401 FAX vanderweil.com

Project	CITY OF MONTPELIER, VT DISTRICT HEATING PLANT UPGRADE
Title	SOUTH ELECTRICAL SERVICE ONE LINE DIAGRAM FINAL BUILD–OUT
Scale	NONE
Date	3/15/10
Number	SKE–001B

Appendix C - Layout Drawings

M-01 - Existing Site Layout

M-02A - Proposed Site Plan - Phase 1

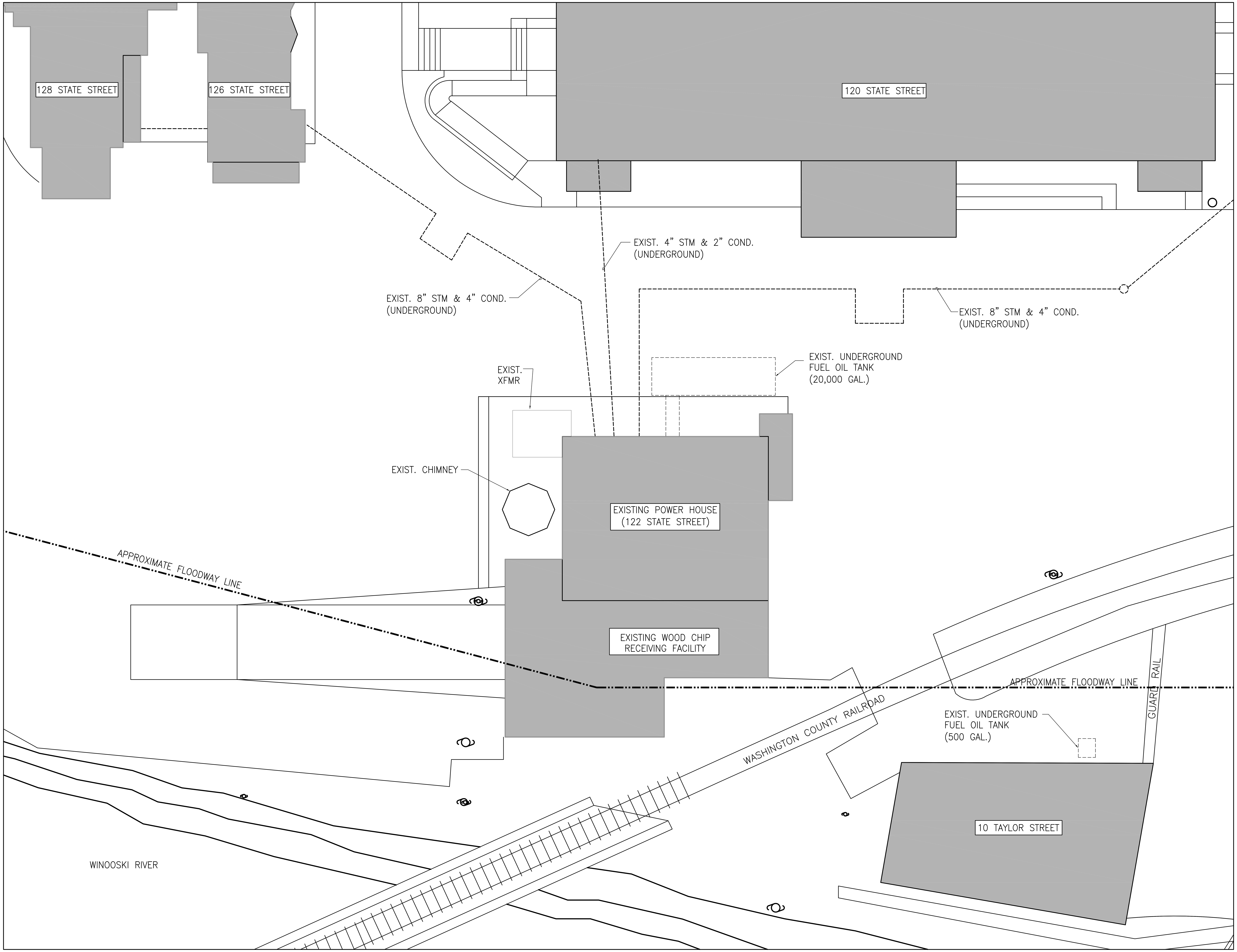
E-02A - Electrical Site Plan - Phase 1

M-02B - Proposed Site Plan - Final Build-out

M-03A - Proposed Mechanical General Arrangement Plan A

M-03B - Proposed Mechanical General Arrangement Plan B

M-04 - Proposed Hot Water Distribution Piping Routing



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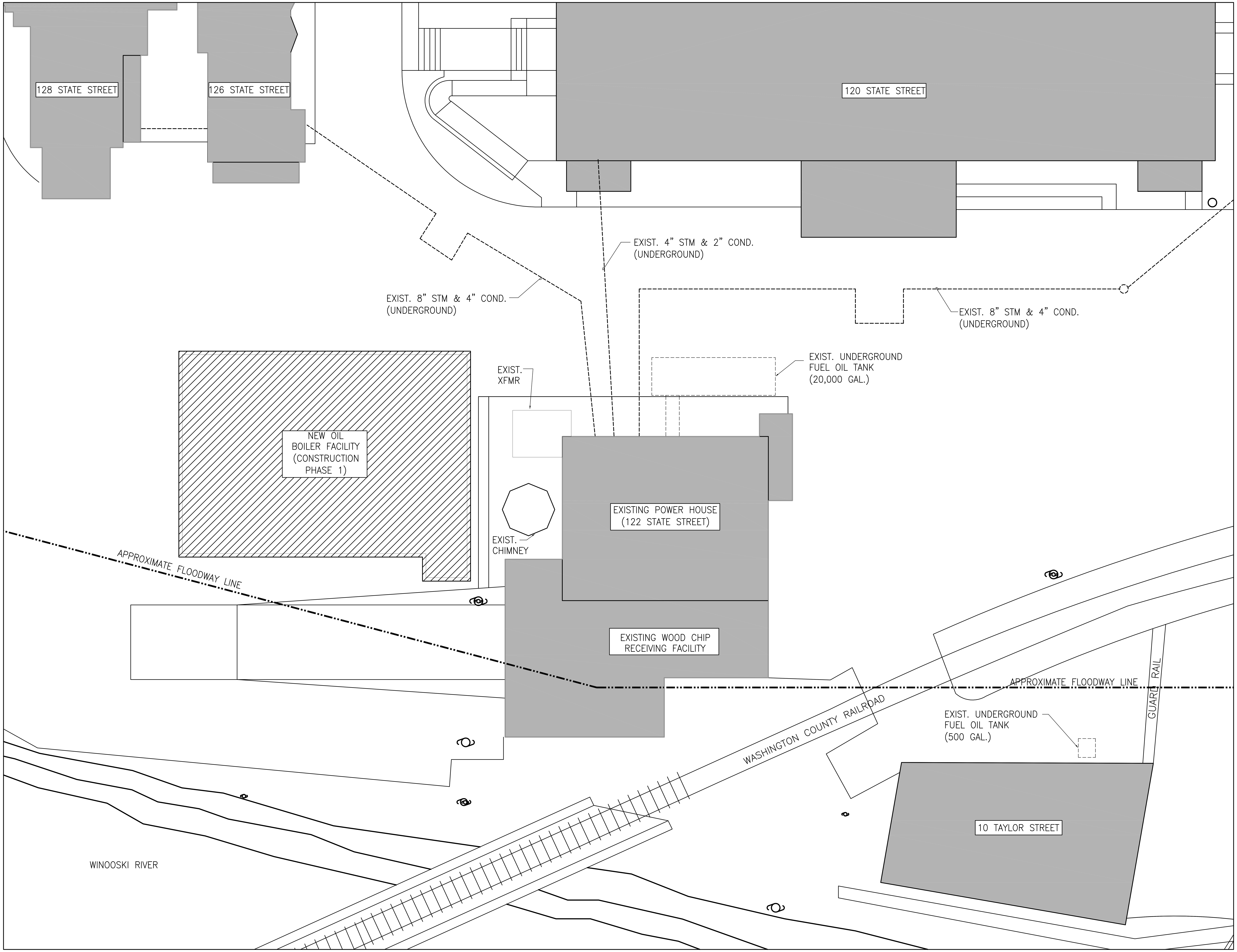
Job Number: 25513.00	Sheet of
Drawn by: PH	
Checked by: CH	
Date of Original: 02-12-10	
Revised: 03-15-10	
Scale: 3/32" = 1'-0"	

Project

EXISTING
SITE PLAN

M-01



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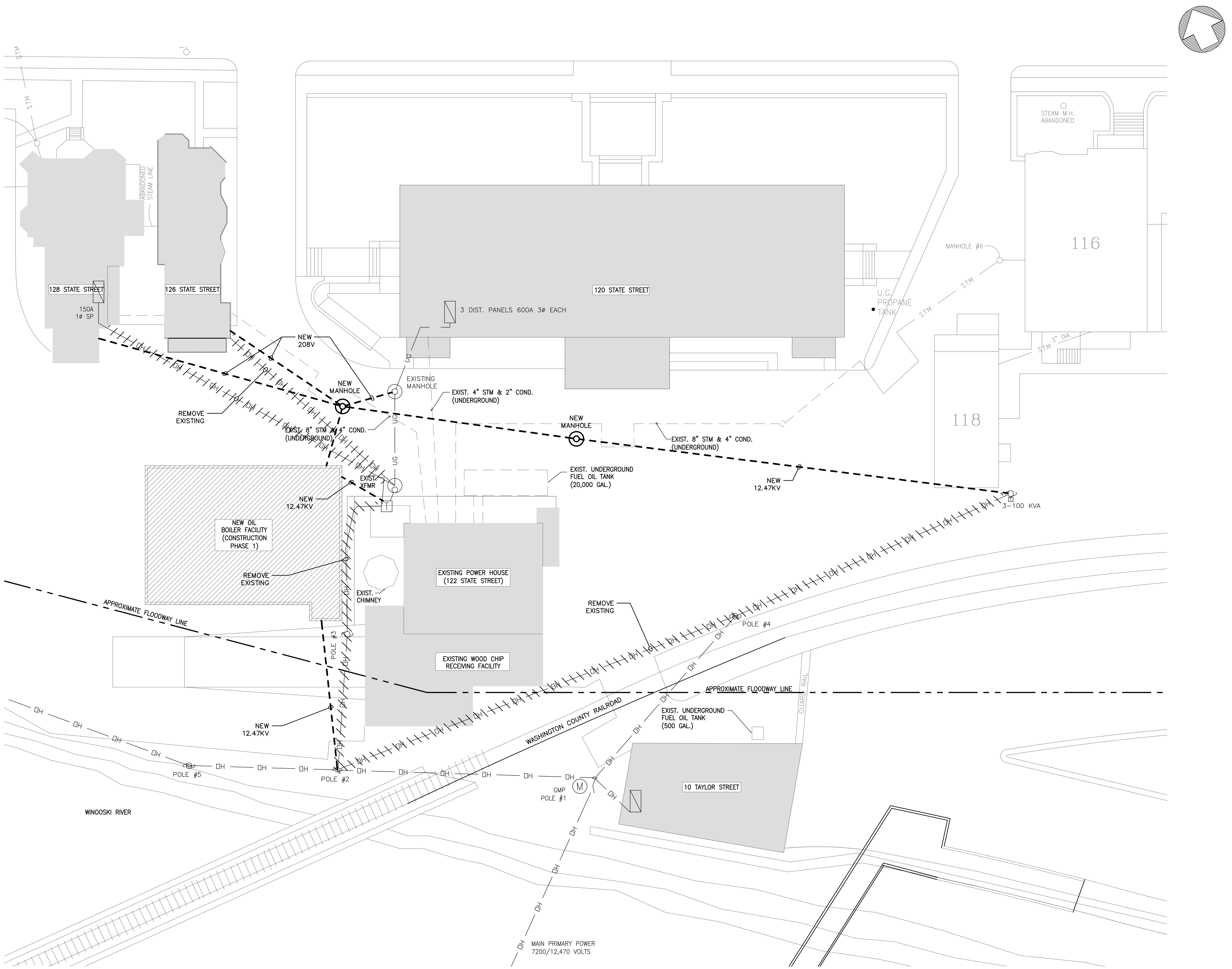
Revised: 03-15-10

Scale: 3/32" = 1'-0"

Project

PROPOSED
SITE PLAN
PHASE 1

M-02A



0 10' 20' 30' 40' 50' 60'

SCALE: 1"=20'

VERIFY, PRINT MAY HAVE BEEN REDUCED

CITY OF MONTPELIER
DISTRICT ENERGY CHP

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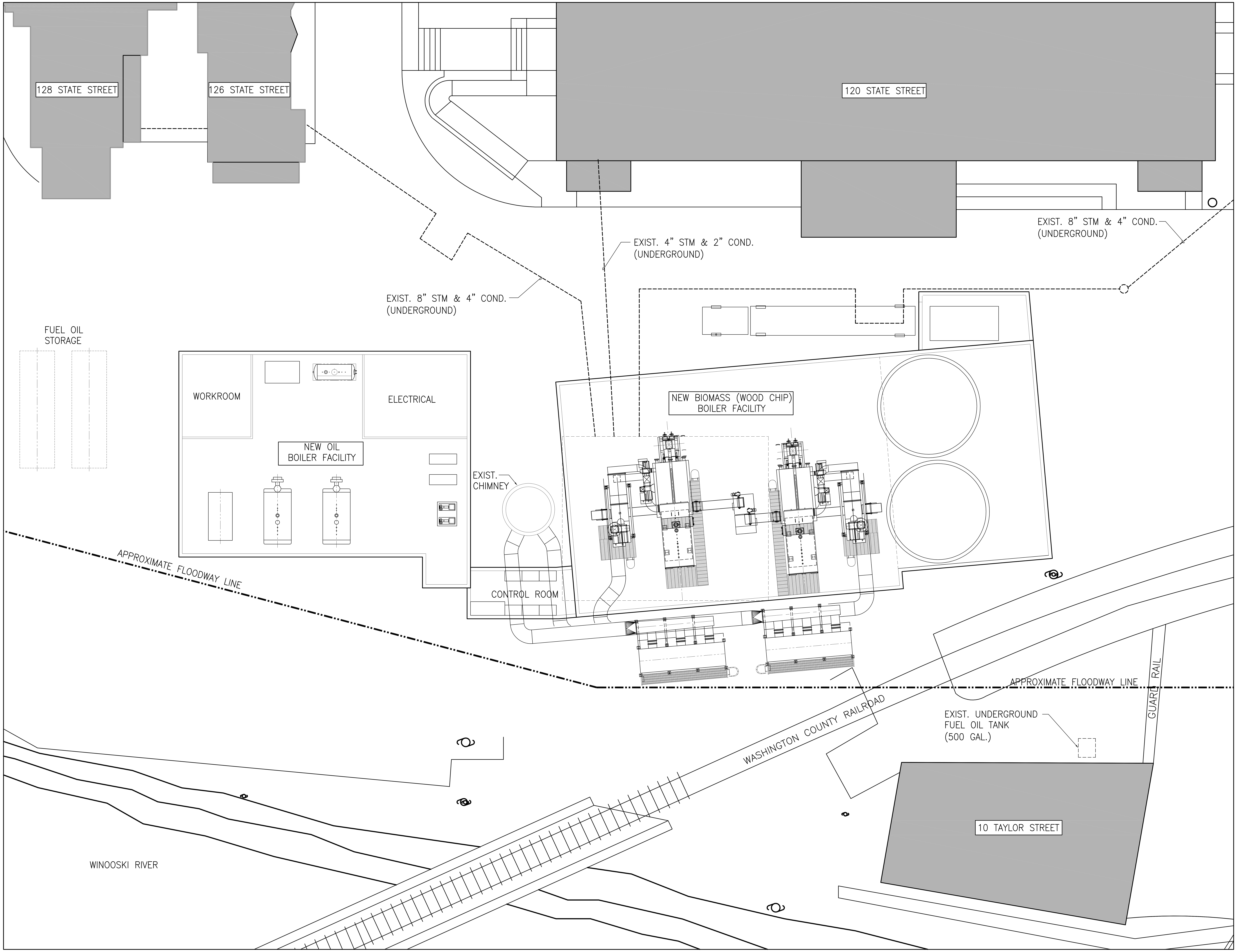
Checked by: WES
Date of Original: 3/15/10
Revised:

Scale: AS NOTED

Project

ELECTRICAL
PROPOSED SITE PLAN
PHASE 1

E-02A



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Job Number: 25513.00	Sheet of
Drawn by: PH	
Checked by: CH	
Date of Original: 02-12-10	
Revised: 04-01-10	
Scale: 3/32" = 1'-0"	

Project

PROPOSED
SITE PLAN
FINAL BUILD-OUT

M-02B

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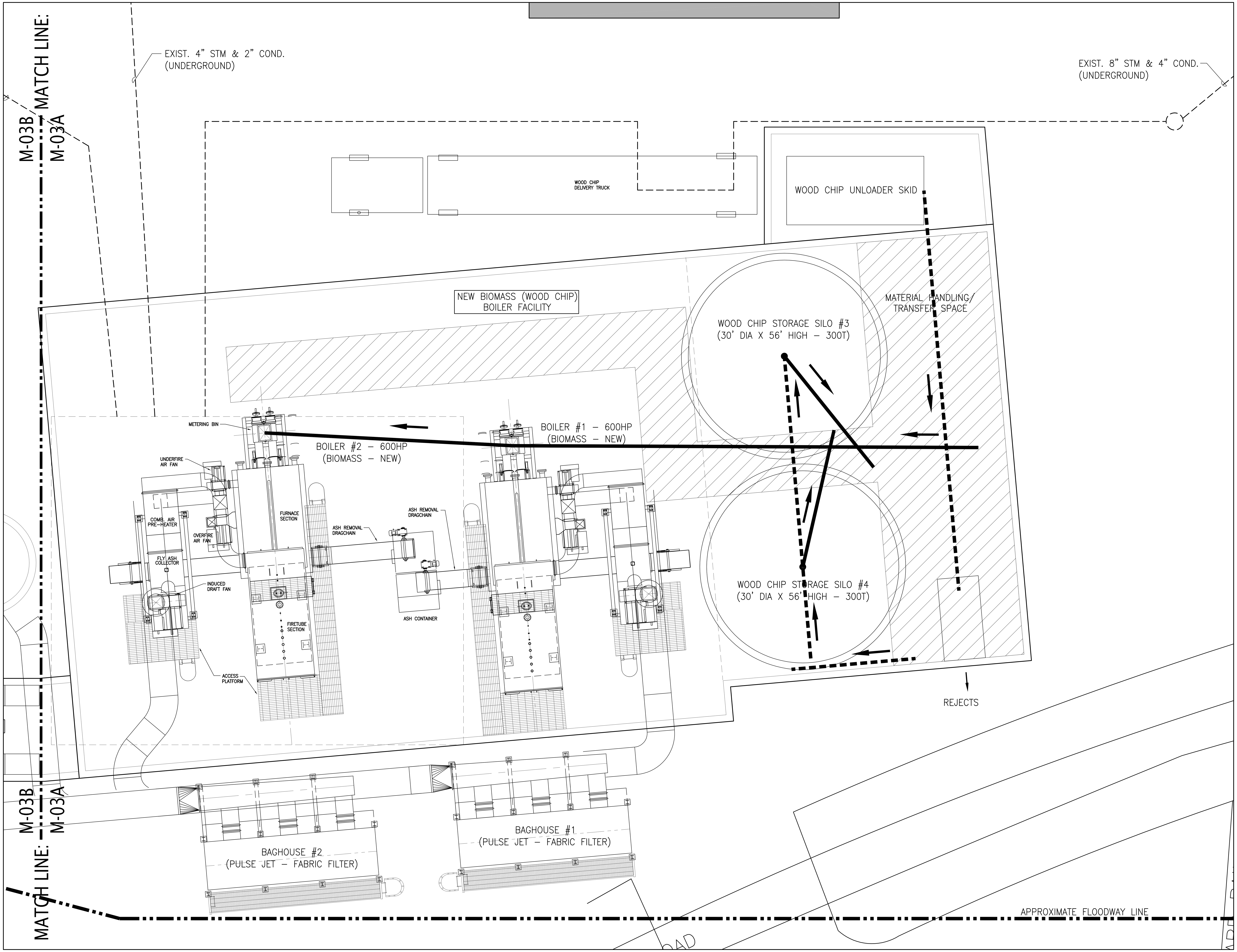

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Job Number: 25513.00	Sheet of
Drawn by: PH	
Checked by: CH	
Date of Original: 02-12-10	
Revised: 04-01-10	
Scale: 3/16" = 1'-0"	

Project

PROPOSED MECHANICAL
GENERAL ARRANGEMENT
PLAN A

M-03A

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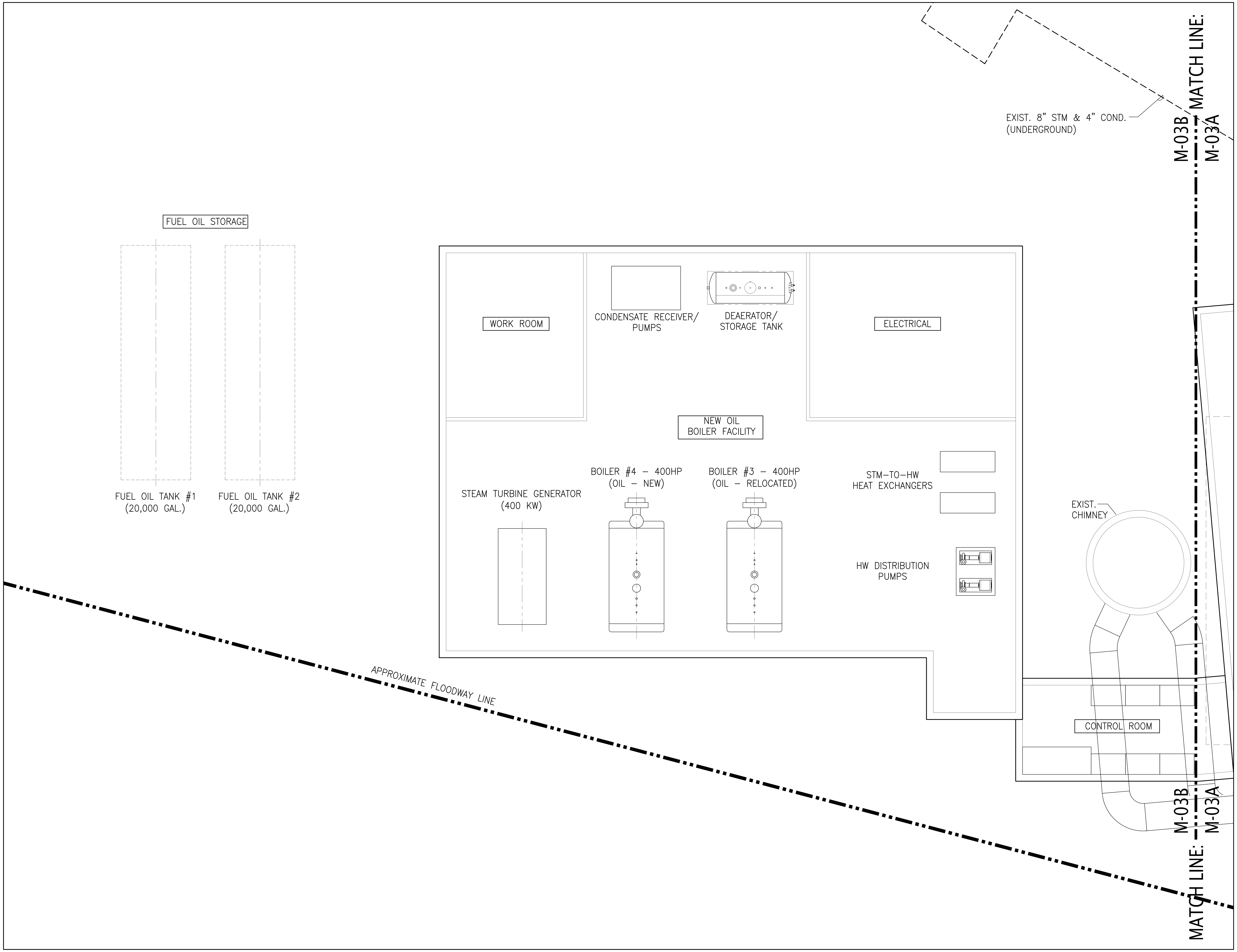

CITY OF MONTPELIER
DISTRICT ENERGY CHP

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ENERGY

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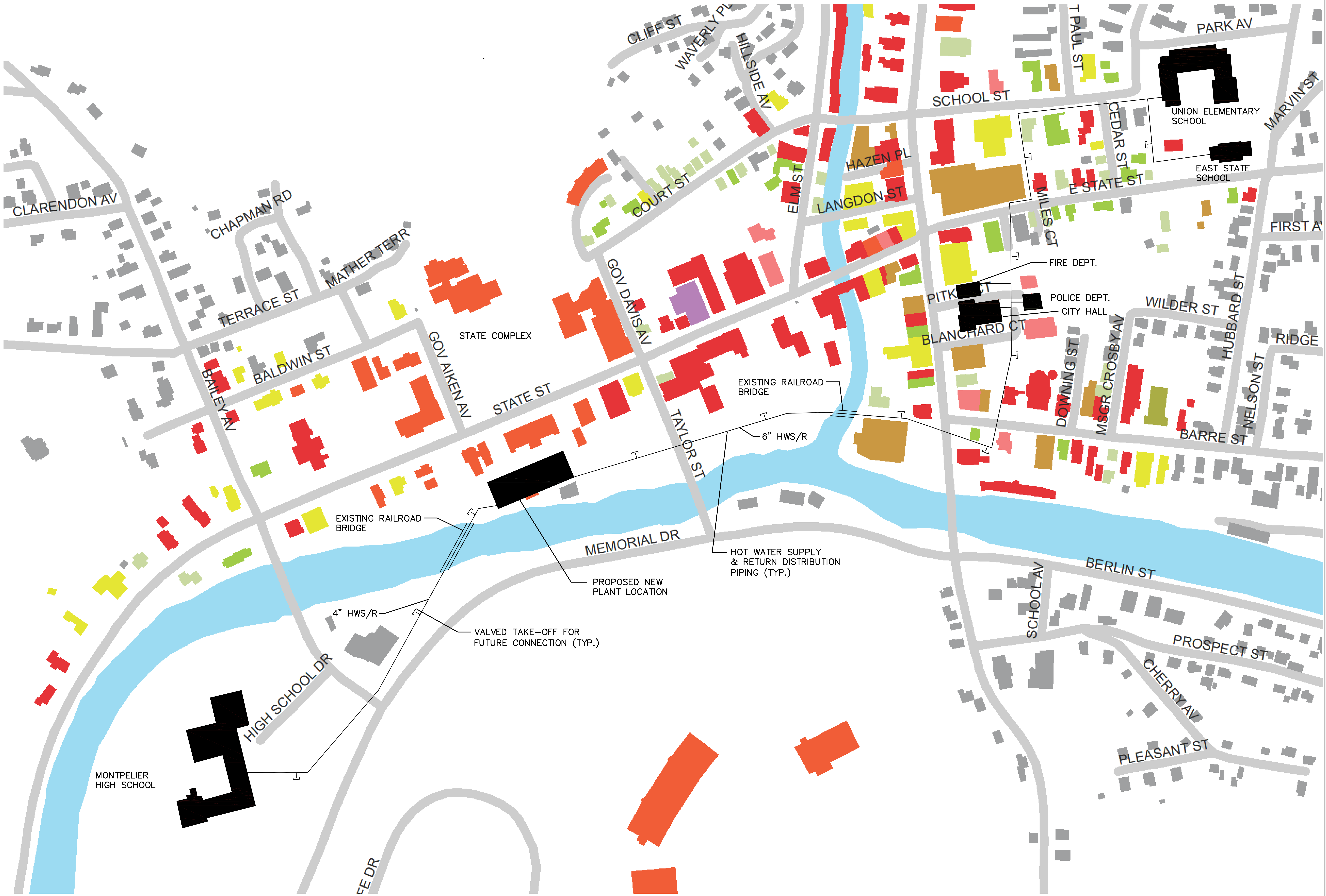
Date of Original: 02–12–10	
Revised: 03–15–10	
Scale: 3/16" = 1'–0"	

Project

PROPOSED MECHANICAL
GENERAL ARRANGEMENT
PLAN B

M–03B



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Revised:

Scale: NOT TO SCALE
Project

PROPOSED HOT WATER DISTRIBUTION PIPING ROUTING

M-04

Appendix D - Calculations

Estimate of Average Monthly Heat Load for Existing State Complex (3-year span)

Proposed Phase 1 Buildings - Estimated Peak Heating Loads

New Heating Plant - Estimated Yearly Heating Loads

R.G. Vanderweil Engineers, LLP
Project: Montpelier District Energy CHP Feasibility Study

Calculation: Estimate of average monthly heat load for state complex (3-year span)

Variables:

Heating Value of Wood Chips:	9.02 MMBTU/ton	Efficiency of Existing Wood Boiler:	55% (Estimated)
Heating Value of #6 Oil:	153,000 BTU/Gallon	Efficiency of Existing Oil Boiler:	80% (Estimated)
Heating Value of #6 Oil:	0.153 MMBTU/Gallon		

2006 - State Complex Plant - Monthly Fuel Usage

Month	Boiler #1 Tons	Boiler #2 Gallons	Boiler #3 Gallons
JAN	682.56	28567	0
FEB	417.52	12318	25270
MAR	666.52	1788	13956
APR	35	4235	39896
MAY	0	0	17768
JUN	0	0	0
JUL	0	0	0
AUG	0	0	0
SEP	0	0	5322
OCT	0	0	29426
NOV	0	0	31425
DEC	634.01	14472	13541

2007 - State Complex Plant - Monthly Fuel Usage

Month	Boiler #1 Tons	Boiler #2 Gallons	Boiler #3 Gallons
JAN	784.14	2980	26734
FEB	655.01	3005	28165
MAR	434.54	3106	29098
APR	617.13	8944	3148
MAY	0	0	18017
JUN	0	0	0
JUL	0	0	0
AUG	0	0	0
SEP	0	0	0
OCT	0	673	15188
NOV	367.24	1509	24431
DEC	777.45	6709	13359

2008 - State Complex Plant - Monthly Fuel Usage

Month	Boiler #1 Tons	Boiler #2 Gallons	Boiler #3 Gallons
JAN	757.27	9921	12220
FEB	837.47	1276	18114
MAR	612.63	3547	23182
APR	146.02	557	20359
MAY	0	0	14590
JUN	0	0	0
JUL	0	0	0
AUG	0	0	0
SEP	0	0	0
OCT	0	8830	15451
NOV	299.84	1739	24362
DEC	780.5	3632	21186

2006 - State Complex Plant - Total Purchased Energy

Month	Boiler #1 MMBTU	Boiler #2 MMBTU	Boiler #3 MMBTU	PLANT MMBTU
JAN	6156.7	4370.8	0.0	10527.4
FEB	3766.0	1884.7	3866.3	9517.0
MAR	6012.0	273.6	2135.3	8420.8
APR	315.7	648.0	6104.1	7067.7
MAY	0.0	0.0	2718.5	2718.5
JUN	0.0	0.0	0.0	0.0
JUL	0.0	0.0	0.0	0.0
AUG	0.0	0.0	0.0	0.0
SEP	0.0	0.0	814.3	814.3
OCT	0.0	0.0	4502.2	4502.2
NOV	0.0	0.0	4808.0	4808.0
DEC	5718.8	2214.2	2071.8	10004.8
TOTALS	**21969.2**	**9391.1**	**27020.4**	**58380.8**

37.6% % WOOD 62.4% % #6 OIL

2007 - State Complex Plant - Total Purchased Energy

Month	Boiler #1 MMBTU	Boiler #2 MMBTU	Boiler #3 MMBTU	PLANT MMBTU
JAN	7072.9	455.9	4090.3	11619.2
FEB	5908.2	459.8	4309.2	10677.2
MAR	3919.6	475.2	4452.0	8846.8
APR	5566.5	1368.4	481.6	7416.6
MAY	0.0	0.0	2756.6	2756.6
JUN	0.0	0.0	0.0	0.0
JUL	0.0	0.0	0.0	0.0
AUG	0.0	0.0	0.0	0.0
SEP	0.0	0.0	0.0	0.0
OCT	0.0	103.0	2323.8	2426.7
NOV	3312.5	230.9	3737.9	7281.3
DEC	7012.6	1026.5	2043.9	10083.0
TOTALS	**32792.3**	**4119.7**	**24195.4**	**61107.4**

53.7% % WOOD 46.3% % #6 OIL

2008 - State Complex Plant - Total Purchased Energy

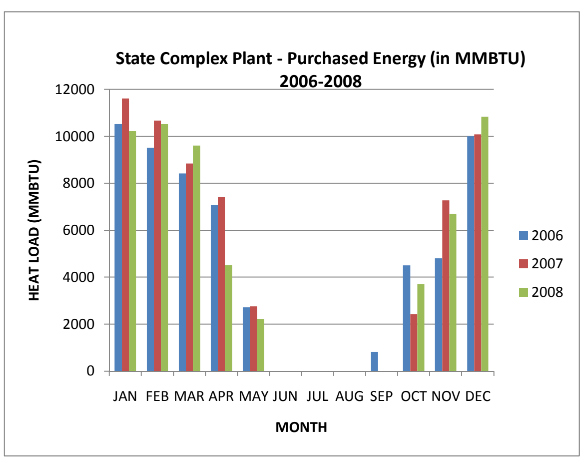
Month	Boiler #1 MMBTU	Boiler #2 MMBTU	Boiler #3 MMBTU	PLANT MMBTU
JAN	6830.6	1517.9	1869.7	10218.1
FEB	7554.0	195.2	2771.4	10520.6
MAR	5525.9	542.7	3546.8	9615.5
APR	1317.1	85.2	3114.9	4517.2
MAY	0.0	0.0	2232.3	2232.3
JUN	0.0	0.0	0.0	0.0
JUL	0.0	0.0	0.0	0.0
AUG	0.0	0.0	0.0	0.0
SEP	0.0	0.0	0.0	0.0
OCT	0.0	1351.0	2364.0	3715.0
NOV	2704.6	266.1	3727.4	6698.0
DEC	7040.1	555.7	3241.5	10837.3
TOTALS	**30972.2**	**4513.8**	**22868.0**	**58354.0**

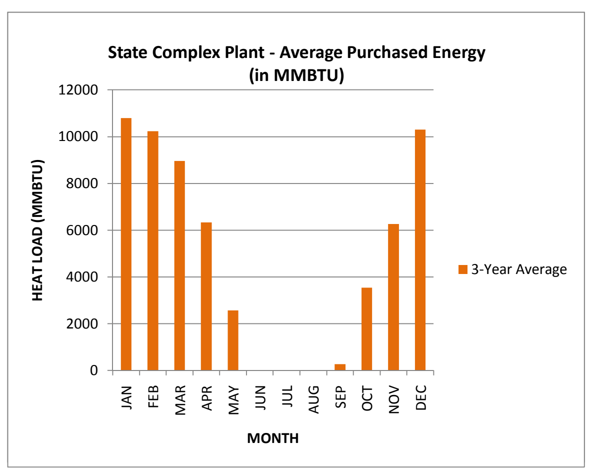
53.1% % WOOD 46.9% % #6 OIL

State Complex Plant - Average Purchased Energy (3-Year Average)

Month	Boiler #1 MMBTU	Boiler #2 MMBTU	Boiler #3 MMBTU	PLANT MMBTU
JAN	6686.7	2114.9	1986.7	10788.3
FEB	5742.7	846.5	3649.0	10238.3
MAR	5152.5	430.5	3378.0	8961.0
APR	2399.8	700.5	3233.6	6333.9
MAY	0.0	0.0	2569.1	2569.1
JUN	0.0	0.0	0.0	0.0
JUL	0.0	0.0	0.0	0.0
AUG	0.0	0.0	0.0	0.0
SEP	0.0	0.0	271.4	271.4
OCT	0.0	484.7	3063.3	3548.0
NOV	2005.7	165.6	4091.1	6262.5
DEC	6590.5	1265.5	2452.4	10308.3
TOTALS	**28577.9**	**6008.2**	**24694.6**	**59280.7**

48.2% % WOOD 51.8% % #6 OIL





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	Project:	City of Montpelier District Energy CHP System				
	Calc By:	Check By:	Job No.:	File Name:	Sheet Name:	Date:
	PBH	CH	25513	imated Peak H	Page1	3/13/2010
Calculation Sheet	Topic:	**Proposed Phase 1 Buildings Estimated Peak Heating Loads**				

Building Owner	Building Location	Building Area (sq. ft.)	Est. Heat Load (MMBTUH)	Information Source
State of Vermont	State House	68,700	4.95	Lane Associates for State of VT
State of Vermont	Supreme Court	42,000	1.48	Lane Associates for State of VT
State of Vermont	120 State St.	76,500	2.61	Lane Associates for State of VT
State of Vermont	133 State St.	104,700	5.00	Lane Associates for State of VT
State of Vermont	6 Baldwin St.	32,750	0.82	Lane Associates for State of VT
State of Vermont	116 State St.	2,500	0.40	Lane Associates for State of VT
State of Vermont	110 State St.	11,675	1.00	Lane Associates for State of VT
State of Vermont	109 State St.	124,880	5.73	Lane Associates for State of VT
State of Vermont	128 State St.	9,250	0.22	Lane Associates for State of VT
State of Vermont	126 State St.	5,900	0.15	Lane Associates for State of VT
State of Vermont	132 State St.	3,950	0.12	Lane Associates for State of VT
State of Vermont	118 State St.	4,400	0.13	Lane Associates for State of VT
State of Vermont	4 Aiken Place	5,700	0.20	Lane Associates for State of VT
State of Vermont	2 Western St.	9,500	0.31	Lane Associates for State of VT
State of Vermont	136 State St.	3,525	0.24	Lane Associates for State of VT
State of Vermont	134 State St.	3,000	0.19	Lane Associates for State of VT
State of Vermont	112 State St.	35,172	1.50	Lane Associates for State of VT
City of Montpelier	City Hall/Fire Dept.	42,450	0.80	CORE Data & Estimate
City of Montpelier	Police Station	3,000	0.08	CORE Data & Estimate
City of Montpelier	Union Elem. School	58,000	3.00	CORE Data
State of Vermont	East State School	25,600	0.65	CORE Data & Estimate
City of Montpelier	Montpelier High School	89,174	3.00	CORE Data
Phase 1 Totals		762,326	32.58	
			973.3	BHP

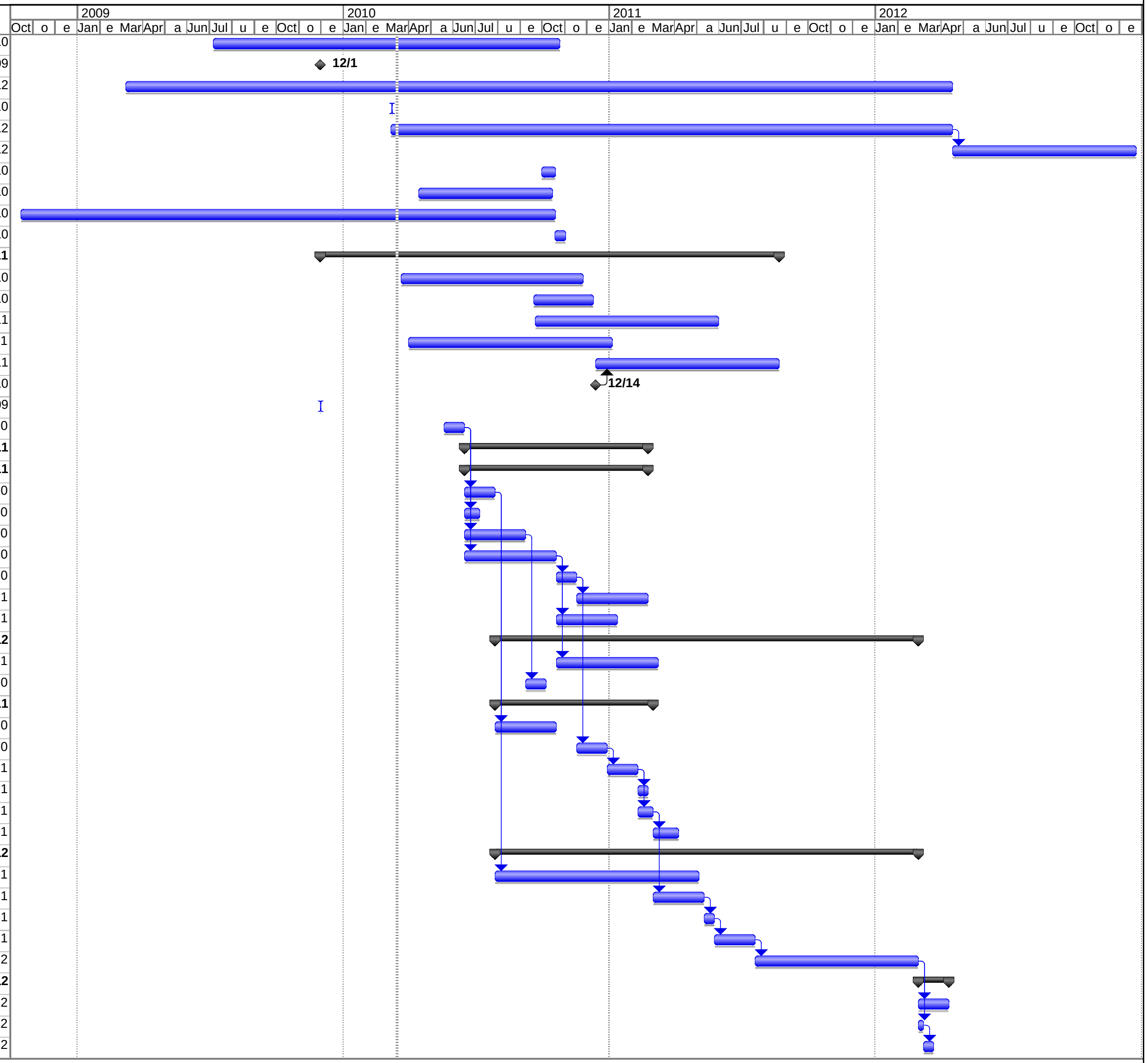
Vanderweil Engineers R.G. Vanderweil Engineers, Inc.	Client:	Veolia Energy Nrth America				
	Project:	City of Montpelier District Energy CHP System				
	Calc By:	Check By:	Job No.:	File Name:	Sheet Name:	Date:
	PBH	CH	25513	d Yearly Heati	Page1	3/13/2010
Calculation Sheet	Topic:	New Heating Plant Estimated Yearly Heating Loads				

Existing Purchased Energy Loads			
State Complex Purchased Energy Loads (Input):	59280.7	MMBTU	(Calculated Average)
State Complex Average Percent Wood Boiler:	48%		(Calculated Average)
State Complex Average Percent Oil Boiler:	52%		(Calculated Average)
State Complex Purchased Wood Energy Loads (Input):	28454.7	MMBTU	(Calculated)
State Complex Purchased Oil Energy Loads (Input):	30826.0	MMBTU	(Calculated)
Estimated Existing Wood Boiler Efficiency:	55%		(Estimated)
Estimated Existing Oil Boiler Efficiency:	80%		(Estimated)
State Complex Wood Heating Load (Output):	15650.1	MMBTU	(Calculated)
State Complex Oil Heating Load (Output):	24660.8	MMBTU	(Calculated)
State Complex Total Heating Load (Output):	40310.9	MMBTU	(Calculated)
City Hall/Fire Department Purchased Energy Loads (Input):	3,727	MMBTU	(CORE Collected Data)
Estimated Existing Oil Boiler Efficiency:	80%		(Estimated)
City Hall/Fire Department Heating Load (Output):	2,982	MMBTU	(Calculated)
Police Department Purchased Energy Loads (Input):	300	MMBTU	(CORE Collected Data)
Estimated Existing Oil Boiler Efficiency:	80%		(Estimated)
Police Department Heating Load (Output):	240	MMBTU	
Montpelier H.S. Purchased Energy Loads (Input):	7,590	MMBTU	(CORE Collected Data)
Estimated Existing Oil Boiler Efficiency:	80%		(Estimated)
Montpelier H.S. Heating Load (Output):	6,072	MMBTU	(Calculated)
Union Elementary School Purchased Energy Loads (Input):	6,389	MMBTU	(CORE Collected Data)
Estimated Existing Oil Boiler Efficiency:	80%		(Estimated)
Union Elementary School Heating Load (Output):	5,111	MMBTU	(Calculated)
East State School Yearly Purchased Energy Loads (Input):	2,500	MMBTU	(Estimated based on area)
Estimated Existing Oil Boiler Efficiency:	80%		(Estimated)
East State School Heating Load (Output):	2,000	MMBTU	(Calculated)
Total Phase 1 Buildings - Heating Loads (Output):	56715.7	MMBTU	(Estimated/Calculated)
Total Phase 1 Buildings - Peak Heating Loads:	32.58	MMBTUH	(Estimated/Calculated)
Total Final Biomass Buildout Peak Energy Loads:	41	MMBTUH	(Basis of Design)
Total Final Buildout - Peak Energy Loads:	8.42	MMBTUH	(Estimated)
Total Final Buildout - Heating Loads (Output):	14,657.6	MMBTU	(Estimated)
Total Final Buildout Buildings - Heating Loads (Output):	71,373.3	MMBTU	(Calculated)

Appendix E - Project Schedule

Veolia Energy Montpelier Biomass Community Energy Plant

ID		Task Name	Duration	Start	Finish
1		DOE Project	340 days	Tue 7/7/09	Mon 10/25/10
2		**150 Day Go/ No Go Decision**	**0 days**	Tue 12/1/09	Tue 12/1/09
3		**1.0 Project Management Plan**	811 days	Mon 3/9/09	Mon 4/16/12
4		Project Kick Off	1 day	Tue 3/9/10	Tue 3/9/10
5		1.1 Maintain Project Management Plan	551 days	Mon 3/8/10	Mon 4/16/12
6		1.2 Environmental & Reg Compliance	180 days	Tue 4/17/12	Mon 12/24/12
7		1.4 Prepare Reports & Briefings	13 days	Fri 10/1/10	Tue 10/19/10
8		1.4.1 Inception Report	132 days	Thu 4/15/10	Fri 10/15/10
9		1.4.2 Project Report	524 days	Thu 10/16/08	Tue 10/19/10
10		1.4.3 Final Report	11 days	Tue 10/19/10	Tue 11/2/10
11		**Permitting**	**450 days**	**Tue 12/1/09**	**Mon 8/22/11**
12		Air/ Emissions	180 days	Mon 3/22/10	Fri 11/26/10
13		Local Building/ Zoning	60 days	Mon 9/20/10	Fri 12/10/10
14		Local Act 250, Chapter 79,89	180 days	Wed 9/22/10	Tue 5/31/11
15		ISO NE Interconnection Registration	200 days	Thu 4/1/10	Wed 1/5/11
16		Utility Interconnection Application	180 days	Tue 12/14/10	Mon 8/22/11
17		Execute Financial Agreements	0 days	Tue 12/14/10	Tue 12/14/10
18		Montpelier Board Meeting	1 day	Tue 12/1/09	Tue 12/1/09
19		Zoning Commission	20 days	Thu 5/20/10	Wed 6/16/10
20		**Engineering Design**	**180 days**	**Thu 6/17/10**	**Wed 2/23/11**
21		**Prepurchase Specifications**	**180 days**	**Thu 6/17/10**	**Wed 2/23/11**
22		BioMass Equipment	30 days	Thu 6/17/10	Wed 7/28/10
23		Electrical Equipment	15 days	Thu 6/17/10	Wed 7/7/10
24		60% Design Documents- Plant	60 days	Thu 6/17/10	Wed 9/8/10
25		60% Design Documents- Site Piping	90 days	Thu 6/17/10	Wed 10/20/10
26		100% Design Documents-Oil Plant	20 days	Thu 10/21/10	Wed 11/17/10
27		100% Design Documents-Bio Plant	70 days	Thu 11/18/10	Wed 2/23/11
28		100% Design Documents- Site Piping	60 days	Thu 10/21/10	Wed 1/12/11
29		**2.0 Construction Phasing**	**415 days**	**Thu 7/29/10**	**Wed 2/29/12**
30		Site Piping Distribution System	100 days	Thu 10/21/10	Wed 3/9/11
31		Electrical Service Relocations Phase 1	20 days	Thu 9/9/10	Wed 10/6/10
32		**Construct Oil Plant**	**155 days**	**Thu 7/29/10**	**Wed 3/2/11**
33		Oil Plant Equipment Delivery	60 days	Thu 7/29/10	Wed 10/20/10
34		Civil/Structural	30 days	Thu 11/18/10	Wed 12/29/10
35		Process MEP	30 days	Thu 12/30/10	Wed 2/9/11
36		Electrical Backfeed for Demolition	10 days	Thu 2/10/11	Wed 2/23/11
37		Start Up and Commission Oil Plant	15 days	Thu 2/10/11	Wed 3/2/11
38		Demolition Existing Plant	25 days	Thu 3/3/11	Wed 4/6/11
39		**Construction BioMass Plant**	**415 days**	**Thu 7/29/10**	**Wed 2/29/12**
40		Biomass Equipment Delivery	200 days	Thu 7/29/10	Wed 5/4/11
41		Civil/Structural to Grade	50 days	Thu 3/3/11	Wed 5/11/11
42		Rigging and Setting Boilers/Silos	10 days	Thu 5/12/11	Wed 5/25/11
43		Constuct Bld Watertight	40 days	Thu 5/26/11	Wed 7/20/11
44		Proccess MEP and Building Shell	160 days	Thu 7/21/11	Wed 2/29/12
45		**3.0 Start Up and Commissioning**	**30 days**	**Thu 3/1/12**	**Wed 4/11/12**
46		Biomass Plant	30 days	Thu 3/1/12	Wed 4/11/12
47		District Piping System	5 days	Thu 3/1/12	Wed 3/7/12
48		(6) New Customer ETS Stations	10 days	Thu 3/8/12	Wed 3/21/12



Project: Montpelier 81409
Date: Mon 3/15/10

Task | Split | Progress | Milestone | Summary | Project Summary | External Tasks | External Milestone | Deadline

Appendix F - Biomass Fuel Availability

Biomass Fuel Availability

Montpelier, Vermont

Prepared for:
Veolia Energy NA

March 2010

Prepared By:

Innovative Natural Resource Solutions LLC

107 Elm Street, Suite 100-G
Portland, ME 04101
207/772-5440

www.inrsllc.com

Introduction

This document serves as an independent assessment of wood availability, and factors influencing availability and pricing, for a combined heat and power project in Montpelier, Vermont that is expected to use 12,200 green tons of wood annually, following a traditional seasonal load curve.

Innovative Natural Resource Solutions LLC (INRS) was hired by Veolia Energy NA to compile this report. INRS has experience with the region's forest products industry and loggers, and has a strong working knowledge of existing and potential markets for biomass in the Northeast.

> *INRS believes the information contained in this report to be correct, based upon information sources we deem reliable. Given the dynamic nature of wood markets and biomass, INRS does not warrantee information in this report against all errors. This report contains some predictions, forecasts and forward-looking statements that are based upon the professional knowledge, experience and opinion of INRS. These predictions and forecasts are not guarantees of future events.*

Innovative Natural Resource Solutions LLC

Founded in 1994, Innovative Natural Resource Solutions LLC (INRS) is a full-service consulting firm specializing in the forest industry, natural resource conservation, and renewable energy.

INRS has worked with a number of parties on the development of new biomass energy facilities around the country. The firm is currently working with developers of biomass or biofuel projects in Maine, New Hampshire, New York, New Jersey, Vermont, Massachusetts, Indiana, Virginia, Georgia and California.

A complete description of INRS activities in biomass energy development, including a partial client listing, can be found at www.inrsllc.com

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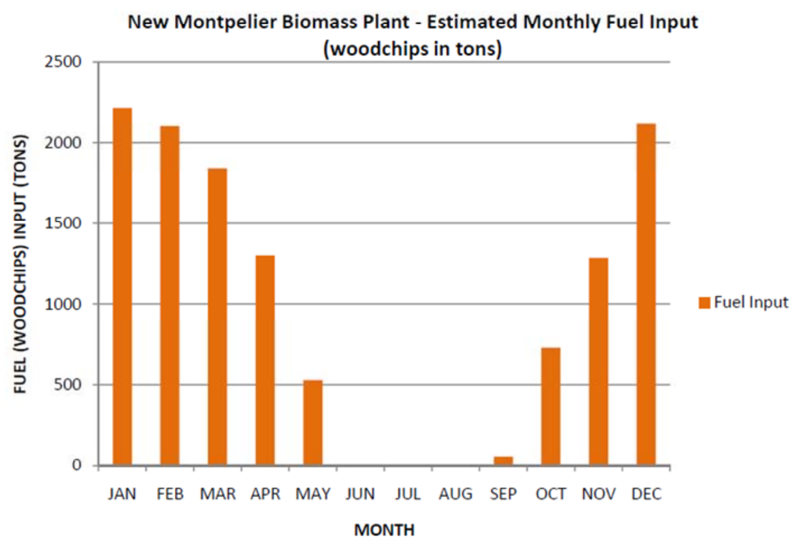
Summary

The Montpelier, VT Combined Heat & Power Project is expects to use roughly 12,200 green tons of wood fuel annually, following a traditional heating load curve. This assumes an average moisture content of 45% (varies by season and species) and an average BTU value of 4,625 per pound (9.25 MM per ton); these are typical for biomass in this region.

Figure 1. Anticipated Annual Fuel Use, by Month (Green Tons)



This region of Vermont is heavily forested, with a strong agricultural base as well. The region has a history of "harvesting" natural resources, and a market for low-grade wood fits well into the current marketplace.

Timber growth within 30 miles of Montpelier exceeds harvest levels by over 650,ooo green tons per year with all current and historic markets. The region also has a number of existing major markets for low-grade wood, the closes being large-scale biomass electric plants in Burlington and Ryegate, which use a lower grade and lower cost chip than Montpelier is expected to utilize. There are a number of very small thermal energy users (e.g., schools) that use "bole chips" in proximity to Montpelier; these are of a scale to be viewed as "infrastructure supporting" rather than as competitors.

INRS breaks biomass prices into two components:

- The cost of the diesel used to fell, skid, transport and process a ton of chips; and
- All other components of cost (stumpage fees to a landowner, staff and equipment costs, supplier profit, etc.), referred to as the "wood component".

INRS projects that the "wood component" of bole chips will average $47.00 per green ton in the current heating season, and increase annually by 3.5%. In order to get a final delivered price, 2.1 times the price of gallon of diesel should be added; for example, if diesel averages $3.00 per gallon in 2010, the average delivered cost for bole chips is projected to be $53.30.

Wood Fuel Specification

The Montpelier, Vermont Combined Heat and Power Project expects to use wood fuel that is clean, free of fines and oversized pieces, and delivered via a self-unloading truck. INRS has used the following specifications in understanding this project:

- Clean, 100% wood chips from known sources, free from paint, chemicals, glues, metals, nails, or other non-wood substances. No rotten substances that are evidence of decomposition, no rocks, no dirt (*de minimus* amounts allowed)
- Average moisture content ~45%
- Less than 10% bark, hardwoods and softwoods (including mixed) are acceptable
- Chip size:
    - Minimum 1/8” x 1/8” x 1/8”
    - Maximum 2.5” x 2.5” x ¼”
- Delivery via live-floor (self-unloading) trailer

This is a “bole chip”, produced from harvested roundwood, or a chip from sawmill residue. This specification specifically excludes the oversized pieces, long sticks, and non-wood material (e.g., rocks, etc.) that are associated with “dirty chips” or biomass chips that are used in larger scale biomass electric facilities and derived from chipping of forest residues and whole trees.

Figure 2. Bole Chips for Use in a Biomass Thermal Application.

Existing and Proposed Users of Low-Grade Wood

The area around Montpelier, Vermont has a handful of direct competitors for low-grade wood, though none within a 30-minute drive time. Biomass power plants that are the closest large-scale users of low-grade wood use a product with a much less forgiving specification, and are not necessarily competitors for "bole chips". Pellet mills and pulp mills use a chip close to the specifications discussed above; these are more direct competitors for the Montpelier project.

The figure below shows the location of major competitors for biomass in the region. The tables provide details on each facility.

Figure 3. Major Users of Low-Grade Wood, 30 - 60 - 90 Minute Drive Times

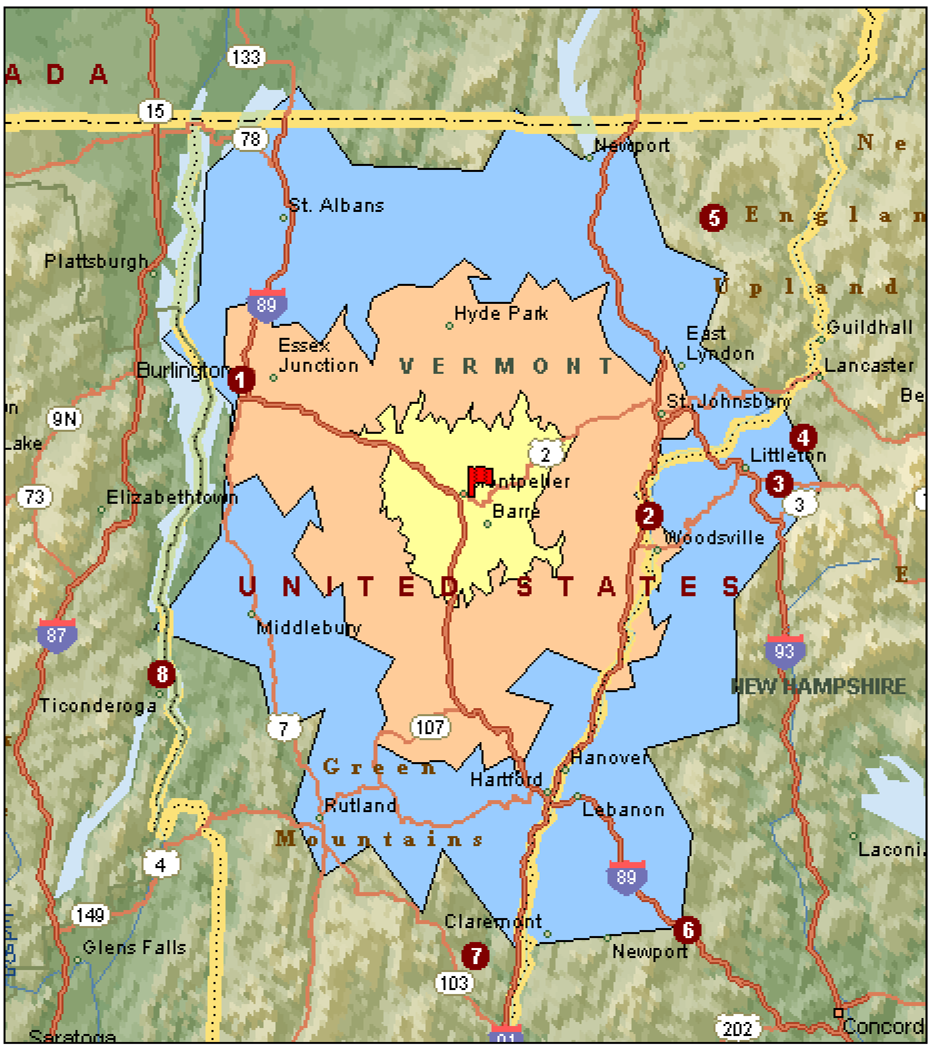


Table 1. Major Competitors, 60 Minute Drive Time

Facility 1	McNeil Station
Location	Burlington, VT
Status	Operating
Product	Electricity
Owner	Burlington Electric
Size	50 MW
Fuel	Whole-tree chips, sawmill residue, some roundwood chipped on-site
Annual Wood Use (est.)	Up to 600,000 green tons
Distance – miles	41 miles
Distance - time	47 minutes

Facility 2	Pinetree – Ryegate
Location	Ryegate, VT
Status	Operating
Product	Electricity
Owner	Suez Energy North America
Size	20 MW
Fuel	Whole-tree chips and sawmill residue
Annual Wood Use (est.)	260,000 green tons
Distance – miles	36 miles
Distance - time	59 minutes

Table 2. Major Competitors, 60 Minute Drive Time

Facility 3	Pinetree – Bethlehem
Location	Bethlehem, NH
Status	Operating
Product	Electricity
Owner	Suez Energy North America
Size	17 MW
Fuel	Whole-tree chips and sawmill residue
Annual Wood Use (est.)	230,000 green tons
Distance – miles	62 miles
Distance - time	1 hours, 17 minutes

Facility 4	DG Whitefield LLC (formerly Whitefield Power & Light)
Location	Whitefield, NH
Status	Operating
Product	Electricity
Owner	Marubeni Sustainable Energy, Inc
Size	13.8 MW
Fuel	Whole-tree chips, sawmill residue
Annual Wood Use (est.)	180,000 green tons
Distance – miles	68 miles
Distance - time	1 hour, 29 minutes

Table 3. Other Proximate Major Competitors

Facility 5	Vermont Biomass Energy Company
Location	Island Pond, VT
Status	Proposed (currently assembling financing)
Product	Wood pellets
Owner	Azur Enterprises, LLC
Feedstock	Roundwood and sawmill chips
Annual Wood Use (est.)	~200,000 green tons
Distance – miles	68 miles
Distance - time	1 hour, 32 minutes

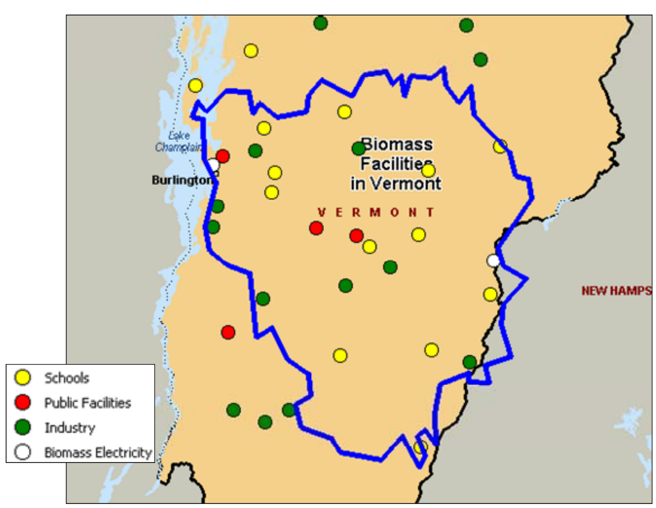
Facility 6	Hemphill Power & Light / DG Springfield
Location	Springfield, NH
Status	Operating
Product	Electricity
Owner	Marubeni Sustainable Energy, Inc
Size	16 MW
Fuel	Whole-tree chips, roundwood chipped on-site and sawmill residue
Annual Wood Use (est.)	200,000 green tons
Distance – miles	87 miles
Distance - time	1 hour, 35 minutes

Facility 7	North Springfield Biomass
Location	North Springfield, VT
Status	Proposed
Product	Electricity
Owner	Winstanley Enterprises, LLC
Size	25 MW
Fuel	Whole-tree chips and sawmill residue
Annual Wood Use (est.)	300,000 green tons
Distance – miles	91 miles
Distance - time	1 hour, 42 minutes

Facility 8	Ticonderoga Mill
Location	Ticonderoga, NY
Status	Operating
Product	Paper (uncoated freesheet)
Owner	International Paper Company
Annual Wood Use (est.)	700,000 green tons of pulpwood (~2/3 hardwood) 80,000 green tons of biomass
Distance – miles	86 miles
Distance - time	1 hour, 44 minutes

While there are few major competitors for wood fuel in the region, Vermont is national leader in the use of biomass for small-scale and community energy projects. The figure below shows the large number of schools, public facilities and industries (e.g., sawmills) in Vermont that use biomass for thermal applications. Many of these are very small-scale users (e.g., under 1,000 green tons per year). This diverse customer base helps support a chipping and delivery infrastructure that the Montpelier project will be able to utilize.

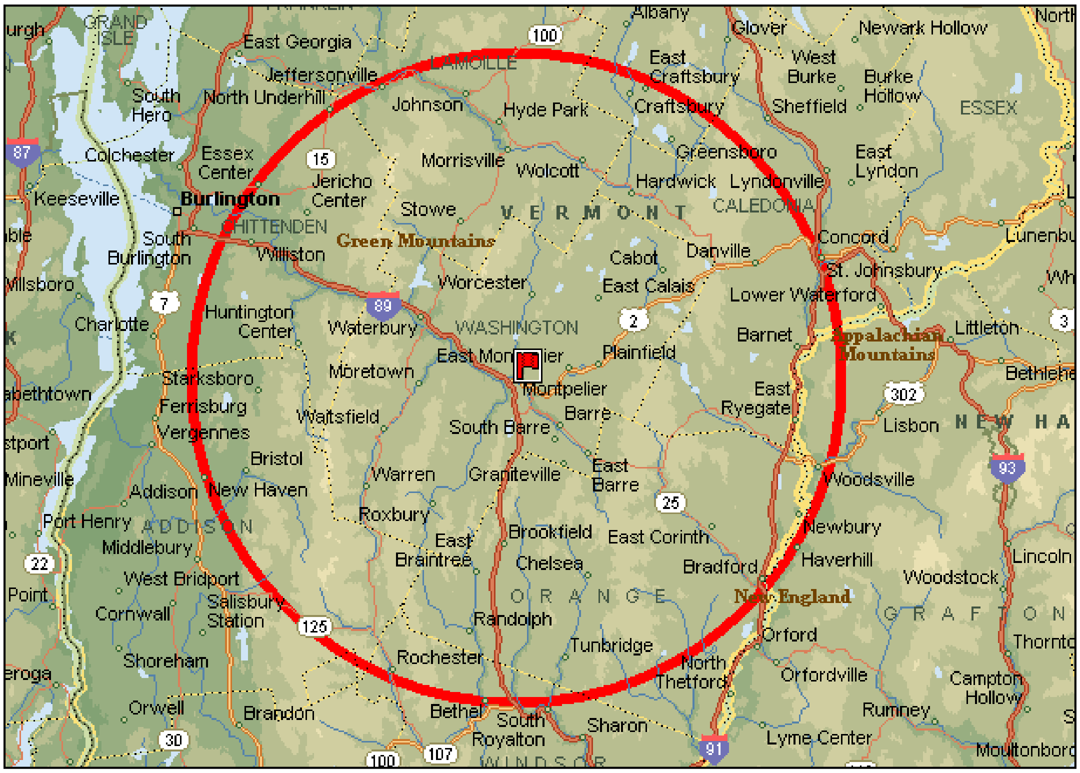
Figure 4. Biomass Energy Installations (60 Minute Drive Time from Montpelier)



Forest Growth and Removals

Using the USDA Forest Inventory & Analysis database, INRS determined the growth and loss (harvest and mortality) for a region within a 30-mile radius of Montpelier, VT. INRS used the most recent complete FIA information, which uses data collected between 2003 and 2008 for Vermont[1].

Figure 5. Thirty Mile Radius - Montpelier, VT



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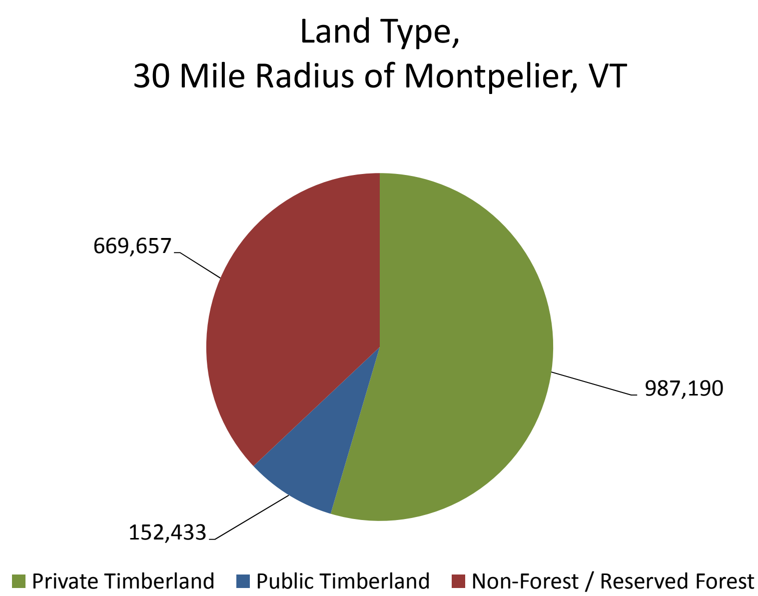
[1] USDA Forest Service data is presented in cubic feet. INRS calculated green tons assuming 85 cubic feet of solid wood per cord, and that a green cord of wood weighs 2.6 tons for hardwood and 2.3 tons for softwood.

Of the 1.8 million acres of land that are within a 30 mile radius of Montpelier, VT, roughly 55 percent is private timberland, capable and legally available for growing commercial forest products.

Figure 6. Land Ownership Patterns within 30 Miles of Montpelier, VT (acres)



For purposes of growth and harvest levels, land within the Green Mountain National Forest and other public lands was excluded from the analysis. While timber harvesting does occur on National Forest lands and other public holdings, these lands have historically proven to be shrinking in terms of timber volume sold, and are generally unreliable as a steady source of supply. Any volume of wood that is made available from this federal land base could be used by the facility, and as such the information below should be considered conservative.

With all large markets in place and operating, the 30 miles surrounding Montpelier, VT (exclusive of the Green Mountain National Forest), annual harvest levels exceed harvest levels by nearly 677,000 green tons on private lands.

Table 4. Standing Inventory and Net Growth- Removals for Area within 30 Miles of Montpelier

	Private	**Public** ***green tons***	**All Timberland**
Net Growing Stock - Standing	64,412,222	12,190,177	76,602,399
Net Growth	1,352,819	221,082	1,573,901
Removals	676,109	107,577	783,686
Removals Less Growth	*676,710*	*113,505*	*790,215*

Current and Projected Biomass Prices

Prices for "bole chips" for thermal applications are influenced by a number of factors, including but not limited to:

- Markets for other wood products, including:
  - Sawlogs (stronger markets means more residuals and more harvesting activity)
  - Pulpwood or other low-grade roundwood (strong markets means more competition for material); and
  - Biomass chips (strong markets can have a modest influence on availability; price differential between the two products moderates this market influence);
- The cost of diesel fuel (based on extensive analysis of logging and transport records, INRS estimates that it takes slightly more than 2 gallons of diesel to harvest, skid, de-limb, chip and transport a green tons of chips; this can vary based on distance to market and other factors);
- Short-term weather events, which limit harvesting activities in the woods (e.g., extended rains or spring and fall mud season);

Of these factors, the role of diesel is the most volatile and has the most significant short-term influence.

INRS spoke with eleven potential suppliers, or wood-using facilities, as part of this analysis. Current pricing for bole chips for small-scale seasonal users (less than 2,000 green tons per year) is in the mid to high $50s per green ton. In current market conditions, Montpelier could expect to pay slightly below this level, given the meaningful volume and more consistent wood use offered. The market is generally served by a handful of aggregators and brokers; a number of loggers indicated that the thermal market is too seasonal and requires too much customer attention to be attractive for a firm with woods-based operations. Based on INRS experience, these observations are accurate.

For a 12,200 green tons of bole chips on a seasonal use curve (delivered), $47.00 should be considered as the base price for the wood component of biomass fuel; the total anticipated cost is:

wood component + (2.1 x gallon of diesel) = total delivered cost per green ton

The following table shows what a facility in Montpelier, VT can expect to pay for the purchase of roughly 12,200 green tons of wood annually on a per-ton basis at a variety of diesel costs. These prices do not anticipate the entrance of a major new market for low-grade roundwood or bole chips in close proximity to Montpelier (e.g., a pellet mill - none are announced or expected).

Table 5. Projected Wood Prices at Various Diesel Costs; 2009 - 2014

Heating Year	Wood Component	Diesel Per Gallon									
		$ 2.50	$ 2.75	$ 3.00	$ 3.25	$ 3.50	$ 3.75	$ 4.00	$ 4.25	$ 4.50	$ 4.75
		Delivered Price per Green Ton									
2009 - 2010	$ 47.00	$ 52.25	$ 52.78	$ 53.30	$ 53.83	$ 54.35	$ 54.88	$ 55.40	$ 55.93	$ 56.45	$ 56.98
2010 - 2011	$ 48.65	$ 53.90	$ 54.42	$ 54.95	$ 55.47	$ 56.00	$ 56.52	$ 57.05	$ 57.57	$ 58.10	$ 58.62
2011 - 2012	$ 50.35	$ 55.60	$ 56.12	$ 56.65	$ 57.17	$ 57.70	$ 58.22	$ 58.75	$ 59.27	$ 59.80	$ 60.32
2012 - 2013	$ 52.11	$ 57.36	$ 57.88	$ 58.41	$ 58.93	$ 59.46	$ 59.98	$ 60.51	$ 61.03	$ 61.56	$ 62.08
2013 - 2014	$ 53.93	$ 59.18	$ 59.71	$ 60.23	$ 60.76	$ 61.28	$ 61.81	$ 62.33	$ 62.86	$ 63.38	$ 63.91
2014 - 2015	$ 55.82	$ 61.07	$ 61.60	$ 62.12	$ 62.65	$ 63.17	$ 63.70	$ 64.22	$ 64.75	$ 65.27	$ 65.80

Biomass Harvest Standards

In Vermont, Act 248 requires electric generation facilities to acquire a "certificate of public need", and conditions may be imposed as a result. Vermont has previously required large-scale biomass plants to comply with certain harvest and procurement standards. At both McNeail Station and Ryegate Power, company foresters are required to visit each Vermont-based logging job that supplies that plant and assure that conditions are being met that protect forest regeneration, preserve water quality, protect habitat and account for aesthetics. These facilities, which each have wood use more than twenty times larger than is proposed for Montpelier, have employed forestry staff to meet these standards.

It is not clear what, if any, standards would be imposed on a small, seasonal, efficient user such as the Montpelier Combined Heat & Power project. The state hasn't directly faced this issue in roughly twenty years, and any assessment of what will happen is speculative. Thermal-only users (e.g., schools) do not have such standards to comply with, and the Public Utilities Commission reportedly wants to encourage small, efficient biomass projects. As such, it is entirely possible that no or only minimal harvest standards would be imposed on the Montpelier project; this would add little to no cost. While unlikely, it is possible that standards such as are found at Burlington and Ryegate could be imposed on the Montpelier project; this could add several dollars per ton in compliance costs.

If the project qualifies for the feed-in tariff (which is currently over-subscribed), it will need to provide third-party "performance certification", where the logger / forest / harvest is audited to meet certain environmental criteria. At this time, Performance-based certification is offered only as part of Forest Stewardship Council certification; pricing is presently unavailable, but this would certainly add several dollars or more per ton in compliance costs.

Montpelier Alive

• ENRICHING A VIBRANT DOWNTOWN •

MEMO

To: Montpelier City Council
From: Suzanne Eikenberry, Montpelier Alive Executive Director
Date: March 19, 2010
RE: Revised Vendor Ordinance Changes

Suzanne Eikenberry
Executive Director
39 Main Street
Montpelier, VT 05602
director@mdca.org
(802) 223-9604
www.MontpelierAlive.org

Based on feedback from the March 10, 2010 Council Meeting, we would like to revise our proposal for Vendor Ordinance changes for this summer. While we still believe that our original proposal is sound, we feel that we need to refine and prioritize our suggestions. The following are suggested changes that we believe will improve the City's ease of enforcement on the vendor ordinance, improve sidewalk access for people with disabilities, and can pass through the Council process.

1) Designated spaces for downtown vendors: The City should maintain a list of pre-approved spaces with the ability to add spaces. This will remove many enforcement issues that might arise. If this is approved, the ordinance should have a map of the designated downtown attached.
2) Defining similar businesses: This is at the heart of many conflicts. Similar businesses should be by class, ie food, clothing, crafts, etc.
3) Defining how 50 feet measurement: A key component of the current regulation is the requirement that vendors not set up within 50' of a similar business. Since apparently not everyone measures this the same way, we would define it as the shortest distance from the cart to any street-facing portion of the property owned or rented by the business. For example, the outdoor seating area of Julio's would be part of measurement edge there, but not the seating area at Rhapsody which is on public sidewalk. If someone were to decide to set up a cart on Stone Cutters Way, the rear portion of Kismet would not enter into the measurement.
4) Parked cars: While we did not initially suggest this, we believe the ordinance should have a provision that vendors cannot set up in such a way as to impede access or egress from cars in legal parking spots.
5) Signboards: The current ordinance does not allow vending carts to use signboards. Since this has not been enforced in the past, we suggest allowing signboards and giving the sign board regulations to vendors when they receive their license.
6) Tables: We recommend that vendors not be allowed to set up tables. As we surveyed the spaces available downtown, few spaces provide sufficient room for vending carts with tables. Keeping sidewalks open is important for ADA concerns.

7) Enforcement: Unlike Burlington's ordinance, Montpelier's does not specify who is responsible for enforcement. We believe that should lie with the Police Department and parking enforcement.
8) Vendors outside of downtown: Designated spaces do not apply to vendors setting up outside of downtown. Instead we recommend that they abide by the general guidelines about where they can set up. We recommend that they also must obtain permission from the landowner and get a safety approval from the Police Department.

Since the heart of our suggested changes is the designated vendor spaces, we thought the Council might like a list of which spaces, and the total space for cart, trash cans, coolers, and other accoutrements available with each identified space. Again, we may have missed spots which meet all of the criteria in the ordinance, so we are suggesting that the City Manager be enabled to add spaces to the list of pre-approved spaces.

1) City Hall Plaza, two spaces, each to be 12' wide by 10' deep
2) Main and School Streets on bump out closest to Bethany Church, one 11' by 11' space
3) Washington County Courthouse on bump out (red faux-brick area), one 10' by 11' space
4) Christ Church Pocket Park, one 19' by 14' space with landowner permission only (Christ Church)
5) Park area to the right of the Chittenden Bank, one space, with permission of the landowner (State of Vermont)
6) Rialto Bridge, one or two small spaces for non-food carts only. These spaces should not block public benches
7) State and Elm Streets in front of former Chittenden Bank space, one non-food cart
8) To the right of the Information Booth on State St, one non-food cart only

There are a few spaces which were used last year which we did not include. Those are:

1) To the left of the Information Booth where Dave Cousins' located his sandwich cart. This space is only 5' wide, so very few vendors (food or non-food) would be able to squeeze in here.
2) Space in front of City Center since this is within 50' of two restaurants and a crafts store.
3) Space in front of the State House. The sidewalk here is very narrow, so that a cart would have to set up on the grassy median between the sidewalk and the street. This can potentially interfere with legally parked cars and compact the grass to the extent where turf restoration would be difficult or impossible at the end of the summer.

You will notice that we have dropped the question of increasing fees from our suggestions. We still believe that it is time to increase the fee, however, we realize that no increase would take effect this summer. In an effort to move the most pressing changes forward, we are willing to drop the fee question. If the Council chooses to look into fee structures at a later date, we would be happy to share our thoughts and research.

We look forward to seeing some changes in vendor regulations this summer. We believe our suggested changes will ultimately lead to a better balance of the many different interests involved as well as a more functional streetscape, while encouraging the vibrancy street vendors can add to downtown.

ARTICLE XIV. VENDORS.

~~Sec. 9-1400. LICENSE REQUIRED.~~

~~It shall be unlawful for any vendor to sell, display or offer for sale any food, beverage, goods or merchandise within the city of Montpelier without first obtaining a vendor's license therefor as provided herein.~~

Sec. 9-1400~~1~~. DEFINITIONS.

(a) "Vendor" shall mean any person, including an employee or agent of another, who sells or offers to sell food, beverages, personal services, goods or merchandise on any ~~public~~ street or sidewalk from a stand, motor vehicle or from his or her person, or one who travels by foot, wagon, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell food, beverages, personal services, goods or merchandise.

(b) "Stand" shall mean any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered as a motor vehicle, used for the display, storage, promotion or transportation of articles or personal services, offered for sale by a vendor.

(c) "Public Street or Sidewalk" shall include all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys, public parking spaces and any other public way.

(d) "Designated location" shall mean those locations within the designated downtown of the City of Montpelier that have been approved as vending locations.

Sec. 9-1401. LICENSE REQUIRED.

It shall be unlawful for any vendor to sell, display or offer for sale any food, beverage, goods or merchandise within the city of Montpelier without first obtaining a vendor's license therefor as provided herein.

Sec. 9-1402. APPLICATION.

The application for a vendor's license shall be submitted to the City Clerk for approval by the City Council on forms provided therefor and contain all information relevant and necessary to determine whether a vendor's license may be issued, including but not limited to:

(a) Proof of the identity and business address of the applicant.

(b) A brief description of the nature, character and quality of the food, beverages, personal services, goods or merchandise to be sold.

(c) If employed by another, the name and business address of the person, firm, association, organization, company or corporation.

(d) If a motor vehicle is to be used in the conduct of a vending business, a description of the vehicle together with the motor vehicle registration number and the license number; provided, however, that no vendor shall conduct business from any public parking space.

(e) A description of the proposed location(s) of the vending business and the proposed days and hours of operation ~~length of time during which it is proposed that the business shall be~~

~~conducted~~ at each location. If the location(s) is/are located outside of the designated downtown, then the applicant shall obtain signatures from the property owner, the Police Chief and any designee the Police chief names. In cases where the vendor is seeking to do business in a City of Montpelier park, then the signature of the Parks Commissioner must also be obtained.-

(f) Proof of a valid and current state license for the type of business activity for which a license under this ordinance is sought.

(g) Acknowledgment that issuance and maintenance of a vendor's license by the vendor shall be subject to review by the Chief of Police and Health Officer.

Sec. 9-140X. DESIGNATED LOCATIONS

Designated locations shall apply to the designated downtown district.

The City Manager shall maintain a list of designated locations for vendors wishing to locate in the designated downtown. If a vendor wishes to locate in a space not on the list of designated locations, then the vendor may apply to the City Manager to add or move a space. Any spaces that the City Manager approves shall conform to the guidelines in Sec.9-1406 (a). Additionally, the property owner shall submit written approval for use of the location for vending with space limitations clearly defined. In the event that the application is for a space on property belonging to the City of Montpelier, the City Manager shall decide whether or not to grant permission to use the space.

The City Manager shall set area limits on any additional locations beyond the initial ones approved by City Council.

Sec. 9-1403. FEES.

An applicant for a license under Sec. 9-1402 shall pay an annual license fee of two hundred fifty dollars ($250.00) per vendor.

Sec. 9-1404. INSURANCE.

No vendor's license shall be issued to an applicant unless the applicant furnishes proof to the City Clerk of a public liability bond or insurance policy in an amount not less than $100,000 for property damage and injuries, including injury resulting in death, caused by the operation of the vending business and naming the city as an additional insured.

Sec. 9-1405. LICENSES.

The license issued to a vendor shall be ~~carried with~~displayed by the vendor while he or she is engaged in the business of vending.

Sec. 9-1406. RESTRICTIONS APPLICABLE TO ALL VENDORS.

(a) Stands. Vendor's stands shall not:

~~(1) Exceed eight feet in length, three feet in width, or eight feet in height;~~

~~(2)~~(1) Impede pedestrian or vehicular travel, or access to the entrance of any adjacent building or driveway;

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~~(3)~~(2) Occupy more than half of the available sidewalk width or four feet of such sidewalk, whichever is less;

~~(4)~~(3) Locate within five feet of a crosswalk, fire hydrant, fire escape, bus stop, loading zone, driveway, or entrance of any building; or

(4) Locate within fifty feet of any ~~other vendor or~~ business establishment offering for sale goods or merchandise in the same class ~~of substantially the same type~~ as that being offered for sale by the licensed vendor (food, arts, crafts clothing, etc.). Fifty feet shall be measured as the shortest distance between the cart and any street-facing property owned or rented by the similar business.

(5) Provide tables and seating for customer use.

(6) Impede access to or egress from cars parked in legal parking spaces.

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(b)Stands located outside of the designated downtown shall:

(1)Not exceed eight feet in length, three feet in width, or eight feet in height;

~~(1)~~(2)Shall not locate on any property, public or private, without the landowner's written approval.

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~~(b)~~(c)Stands located inside the designated downtown shall:

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(1)locate in a location that is on the City of Montpelier's list of designated locations, or seek an amendment to the list of designated locations from the City Manager.
(2)Shall not use more space in total than allowed for the permitted space. Space usage includes the cart, plus any umbrellas, coolers, signboard, and other items connected to the business.
~~(5)~~

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(b) Hours of Operation. Vendors shall be allowed to engage in the business of vending only between 7:00 A.M. and 10:00 P.M., except that those vendors who conduct their business by going door-to-door shall be allowed to operate only between 9:00 A.M. and 5:00 P.M.. All vending stands must be removed from public property during non-vending hours.

(c) Handicapped Areas. No vendor shall conduct business within five feet of any handicapped parking space or access ramp.

(d) Removal of Trash. All trash or debris accumulating within fifty feet of any vending stand shall be collected by the vendor and deposited in a trash container.

Sec. 9-1407. SUSPENSION OR REVOCATION OF LICENSE.

(a) Any license issued under this ordinance may be suspended or revoked by the City Council after due notice to the licenses and hearing, for any of the following reasons:

(1) Fraud or misrepresentation in the application for the license.

(2) Fraud or misrepresentation in the course of conducting the business of vending.

(3) Conducting the business of vending contrary to the conditions of the license.

(4) Conducting the business of vending in such a manner as to create a public nuisance or breach of the peach, or constitute a danger to the public health, safety or welfare.

(b) Upon suspension or revocation, the City shall deliver written notice to the licensee(s) stating the action taken and the reasons supporting such action. The written notice shall be delivered to the licensee's place of business or mailed to the licensee's last known address.

Sec. 9-1408. APPEALS.

Persons who are denied licenses or whose licenses have been suspended or revoked may appeal by filing a written notice of appeal with the Washington Superior Court. The appeal must be filed within thirty (30) days after receipt of the notice of denial, suspension or revocation.

Sec. 9-1409. RENEWALS.

Application for renewal of licenses issued under Sections 9-1405 or 9-1412 shall be made to and received by the City Clerk within fifteen (15) days prior to the expiration of such license. The City Clerk shall review each application for renewal to determine that:

(a) The applicant is in full compliance with the provisions of this ordinance.

(b) The applicant has a currently effective insurance policy naming the City as an additional insured in the minimum amount provided for in Section 9-1404. If the City Clerk finds that the application meets the above requirements, the City Clerk shall issue a new permit.

Sec. 9-1410. EXCEPTIONS.

(a) The provisions of this ordinance shall not apply to a vendor who sells or offers for sale, in person or by his employees or agents, newspapers.

(b) The provisions of this ordinance shall not apply to sales made by manufacturers, merchants and dealers for resale only.

Sec. 9-1411. RELIGIOUS, CHARITABLE, EDUCATIONAL AND SERVICE ORGANIZATIONS.

Authorized representatives of religious, charitable, educational or service organizations desiring to solicit money, to sell products of the land, or to distribute literature shall be exempt from the payment of any fee hereunder, but shall be required to submit in writing to the City Clerk the name and purpose of the cause for which such activity is sought, the name and address of the immediate director of such activity, and the period during which such activity is to be carried on in the city of Montpelier. If the City Clerk, after investigation, shall find that the organization is a bona fide charitable, religious, educational or service organization, the Clerk shall issue, free of charge, a license to carry on such activity. Such license shall cover all persons engaged in the activity for which the license was issued. Organizations designated as religious or exempt under Sections 501(c), 501(d), 501(e), 521, 527 or 528 of the Internal Revenue Code of 1986, or subsequent enactments, shall be exempted from the payment of the fee imposed under Section 9-1403, provided that no license issued hereunder shall be of a duration in excess of fifteen (15) consecutive days. Organizations not found to be exempt as defined above shall be responsible for the full fee.

Sec. 9-1412. SPECIAL EVENT LICENSE.

(a) The City Council may issue special vendor's licenses to be used in conjunction with a special event. Such licenses shall be valid for no more than three (3) consecutive days designated for the event by the City Council.

(b) The fee for a special vendor's license shall be twenty-five dollars ($25.00) for each day for which it is valid, provided that any organizations in Section 9-1411 shall be exempt from the payment of any fee imposed hereunder.

(c) The City Council shall require the sponsor of any special event to administer all applications for multiple special vendor's licenses under this section.

Sec. 9-1413. SPECIAL TRANSIENT VENDOR LICENSE.

In lieu of the license required under Section 9-1400, the City Clerk may issue a thirty (30) day license to a person selling or offering for sale or soliciting orders for the sale of services, goods or merchandise from premises occupied temporarily as a tenant, lessee, guest or invitee. Such license shall be valid only between the dates specified thereon, and the person applying for such a license shall comply with and be subject to all the provisions of Sections 9-1402, 9-1404, 9-1405, 9-1407, 9-1408 and 19-1410. An applicant for a license under this section shall pay a license fee of fifty dollars ($50.00). As used in this section, the term "merchandise" shall include plants and other agricultural or forest products.

Sec. 9-1414. LOUD NOISES AND SIGNS.

No vendor or transient vendor, nor any person on their behalf, shall shout, make any cry out, blow a horn, ring a bell, or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of this city or upon any private premises in the city where a sound of sufficient volume is emitted or produced therefrom to be capable f being plainly heard upon the streets, avenues, alleys, parks, or other public places, or parade with a sign or placard, for the purpose of attracting attention to any goods, wares or merchandise which such license proposes to sell. If any ~~signs or~~ displays are put up, they shall be removed. All signs, including sign boards, must comply with City regulations.

Sec. 9-1415. VENDING MACHINES.

No vending machine or other dispensing device shall be placed or maintained, either permanently or temporarily, upon any City property, including any street, highway or sidewalk, without the prior approval of the City Council. In considering and acting upon a request for the placement of and maintenance of such vending machine or dispensing device, the City Council may impose reasonable fees, conditions and standards.

CHARTER REFERENCES: T. 3, Sec. 17(I); T. 3, Sec. 17(IV), 1955 Charter.

STATE LAW REFERENCES: Peddlers, .V.S.A., T. 32, Sec. 9301 et seq.; itinerant vendors, V.S.A., T. 32, Sec. 9201 et seq.

Sec.9-1416. ENFORCEMENT

This ordinance shall be enforced by sworn officers of the City of Montpelier Police Department.

Sec's. 9-~~1416~~-1417 to 9-1499. Reserved.

Enacted September 13, 1972.

Amendment enacted July 28, 1976 [Sec. 9-1405 rewritten]. Date of Publication: 8/02/76. Effective Date: 8/09/76.

Amendment enacted October 11, 1978 [Sec's. 9-1405 and 9-1407 rewritten]. Date of Publication: 10/18/78. Effective Date: 10/24/78.

Amendment enacted May 27, 1981 [Sec. 9-1409 added]. Date of Publication: 6/03/81. Effective Date: 6/09/81.

Amendment enacted May 26, 1982 [Sec. 9-1405, fee increased]. Date of Publication: 6/09/82. Effective Date: 6/16/82.

Amendment enacted January 12, 1983 [Sec's. 9-1410 and 9-1411 added]. Date of Publication: 1/18/83. Effective Date: 1/25/83.

Amendment enacted March 14, 1984 [Sec. 9-1412 added]. Date of Publication: 3/24/84. Effective Date: 3/31/84.

Amendment enacted April 9, 1985 [Sec. 9-1405, rate increased]. Date of Publication: 4/15/85. Effective Date: 4/22/85.

Amendment enacted October 23, 1985 [Sec. 9-1413 added]. Date of Publication: 10/31/85. Effective Date: 11/06/85.

Amendment enacted October 11, 1989 [Article XIV repealed and replaced]. Date of Publication: 10/17/89. Effective Date: 10/23/89.

Amendment enacted May 12, 2004 [Sec. 9-1412, fee increased]. Date of Publication: 5/27/04. Effective Date: 6/02/04.

FY10 Municipal Planning Grant (MPG)

Program Description

Program Overview

For fiscal year 2010, the Department of Economic, Housing and Community Development (DEHCD, formerly DHCA) will grant approximately $250,000 to municipalities to promote community planning, revitalization and development activities that maintain Vermont's land use goal of compact settlements separated by rural lands.

The Municipal Planning Grant (MPG) program funds a wide range of municipal planning projects as allowed by 24 V.S.A. §4306 (b). This year, due to reduced funding, grant priority will be given to: bylaw updates that bring them into conformance with the municipal plan (a 2011 statutory requirement); municipal plans and updates that are addressing a demonstrated need; and studies leading to growth center and Vermont neighborhood designations.

Grant funds are regionally apportioned, based on the percentage of municipalities with confirmed planning processes within each of the 11 Regional Planning Commission (RPC) regions. Eligible municipalities compete within their region for grant funding. Funding decisions are made by the DEHCD Commissioner, based on the competitive criteria listed under Grant Selection Process below.

Grant-Related Dates:

RPC Confirmation of Municipal Planning Process: by April, 30 2010.

Application Deadline: April 30, 2010.

Award Decisions: Late May, 2010.

Mid-project Report Due: February 28, 2011.

Project Completion and All Funds Spent: November 8, 2011.

Final Report and Products Submitted: postmarked by December 13, 2011.

MPG projects must be completed within 18 months. No time extensions are granted.

Who Can Apply?

Municipalities with a local planning process that has been confirmed by April 30, 2010 are eligible to apply for grants of up to $15,000. Municipal confirmation includes formal plan approval by the Regional Planning Commission (RPC) as required by 24 V.S.A. §4350. Municipalities without a confirmed local planning process may apply but only to create a municipal plan intended for regional confirmation.

Municipal organizations other than the planning commission (such as the conservation commission or the downtown revitalization organization) may apply for a grant, but only with prior approval of the planning commission and selectboard. Each municipality may submit only one application per year.

More than one municipality may apply jointly for a consortium application (up to $25,000). Consortia applications must address a shared issue and must identify a lead municipality to administer the project and the funding. All municipalities in a consortium must have a confirmed local planning process by April 30, 2010. None may apply for an individual MPG the same year.

Funding Available

Municipalities may apply for any dollar amount between $1,500 and $15,000, and consortia may apply for up to $25,000. There is currently no local match funding required.

Municipalities with large, multi-year projects are encouraged to break projects into related, standalone phases that each produce a particular product upon completion — then apply for one phase each year. However, because funds are allocated competitively each year, MPG support for subsequent phases cannot be guaranteed.

DEHCD reserves the right to award less than the amount of the municipality's request, based on availability of funds.

Eligible Activities

The Municipal Planning Grant program supports a range of projects relating to planning and land use and promotes cooperation, collaboration and the exchange of ideas. Eligible projects must have a clear connection to planning and implementation of the municipal plan.

Funds may be used (but are not limited) to:

- Underwrite expenses for public meetings and hearings, informational workshops, citizen surveys, outreach and notification costs;
- Support research, data collection, capacity studies, inventories and mapping.
- Pay planning and zoning staff for work on grant projec*t if it is beyond their normal duties*;
- Pay consultants, administrative staff, interns, regional planning commission staff, or legal fees associated with the project;
- Purchase development rights, easements, and titles of properties for housing and conservation purposes identified in the municipal plan;
- Purchase materials needed to produce a plan, bylaw, or implement or administer the project, like writing supplies, maps and copies.
- Ancient Roads studies

Funds may **not** be used to:

- Support political activities;
- Pay Regional Planning Commission dues;
- Reimburse expenses made before the grant is awarded;
- Subsidize tax mapping (see Mapping Notes below);
- Pay planning commission members; staff for performance of their normal duties;
- Capitalize a "reserve" fund for use beyond the grant period;
- Purchase computer hardware or other equipment.

MAPPING NOTES:

- Parcel mapping projects are only eligible if there is a clear connection to planning and other Chapter 117-related activities and involve creating GIS parcel layers as part of a larger planning project. We do not fund mapping for property tax assessment purposes. For parcel mapping projects, please allocate the percentage of anticipated use for tax purposes from other funding sources.
- GIS mapping must follow applicable VGIS data guidelines or standards.

SINGLE PROJECT:
Only one project can be funded. If multiple products with multiple consultants are proposed, an application is likely to be considered as having more than one project. Updates of town plans and bylaws are usually considered two separate projects and typically require separate applications. However, there are specific instances when an update of both the plan and bylaws make sense as one project. For example, if a Planning Commission wishes to update a section of the municipal plan relating to energy planning, and simultaneously update its bylaws dealing with energy efficiency, this could be proposed as a single project eligible for a MPG.

Grant Selection Process (Competitive Criteria)

DEHCD uses competitive criteria and statewide priorities to score and rank applications. The statewide priorities are updated annually to comply with policy initiatives or legislation. Grants are awarded based on the application scores and the amount of grant funds available within the respective regions. The DEHCD Commissioner reserves the sole right and responsibility to allocate grant resources.

Applications are scored using the following statewide priorities and criteria:

1. **Application Quality** – *Up to 15 points*
   The application is complete, well-written, internally consistent, and realistic; it describes a single, clearly defined project.
2. **Realistic Work Plan & Budget** – *Up to 20 points*
   The work plan is well developed and tasks are appropriate for the proposed budget. Costs are well-documented. For multi-phased projects, the first phase has been well executed and subsequent phases are well-defined.
3. **Clear Linkage of Proposed Project to the Municipal Plan / Demonstrated Need for Municipal Plan Update** – *Up to 20 points*
   For bylaw, capital budget, special studies and other types of projects, the project implements ideas and actions set forth within the municipal plan. Language within the plan that describes the project or elements of the project is included with the application. If the project is for a new or updated municipal plan, the plan or update will address pressing planning concerns in the community and the need is well-articulated. (A recently expired plan or pending expiration of a plan alone is not considered a pressing planning concern.)

4. **Citizen Participation / Partnerships & Outreach** – *Up to 15 points*
   Includes citizen participation activities intended to educate and involve the public in planning as appropriate to the project, and demonstrates cooperation or coordination with relevant local and/or regional organizations and partners.
5. **Statewide Priorities** – *Up to 30 points*
   - Update of municipal bylaws for the purpose of bringing bylaws into conformance with the municipal plan by 2011 as required in 24 VSA §4401 & §4481.
   - Developing or updating a Municipal Plan that addresses pressing planning concerns in the community. (A recently expired plan or pending expiration of a plan alone is not considered a priority.)
   - Studies or activities furthering growth center planning that will help meet requirements for designation [24 V.S.A. § 2793c].
   - Studies or activities leading to a Vermont Neighborhoods designation application [24 V.S.A. § 2793d].

Bonus Points: Projects within and related to a designated downtown, village center or new town center are eligible for bonus points (20 points for downtowns and 10 for other designations).

NOTE:

- Poor administrative performance on previous MPG grants may affect the competitiveness of an application.
- When one out of equal scoring applications needs to be selected for funding, preference will be given to the municipality without a recent Municipal Planning Grant, or for plans/bylaws that are most out-of-date. Otherwise these factors will not influence ranking of applications.
- Experience has shown that funding the development of plans and bylaws to include "adopted" versions as a deliverable product is not realistic. Municipal planning and achieving community consensus takes time. Applicants are therefore encouraged to use the grant for activities leading up to (and including) distribution of a draft plan or bylaw for the first required public hearing by the planning commission.
- Municipal plans expire every five years unless they are readopted [24 V.S.A. § 4387]. While municipalities are encouraged to fully address any concerns facing the community in every plan update, when no significant changes in the plan are needed at the five year interval, municipalities may choose to update just the data presented in the plan and to readopt it. Simple re-adoption can usually be accomplished by volunteer planning commissions without additional assistance and will not be considered a priority for Municipal Planning Grants.

Grant Awards and Administration

Award notices are sent via email to successful applicants through the online Grants Management System. In the event of partial funding, applicants are required to submit a modified work plan and budget. Grant agreements and other required documents will be made available shortly thereafter. Completion and electronic submittal of these forms will be required for payment. All grants management forms and instructions will be available through the grants management system. Details of payment and reporting are as follows:

First Payment – Upon execution of the grant agreement, requisition may be made for an advance payment of 40% of the award.

Second Payment – Mid-project reports are due February 28, 2011. Requisition for 30% of the award may be submitted along with the progress report.

Final or Close Out Reimbursement – Up to 30% of the award is made on a *reimbursement basis*. The reimbursement is made when the project and its deliverables are complete as detailed in Attachment A of the grant agreement, the expenditures are properly budgeted and documented (copies of invoices and canceled checks or a detailed transaction report), showing that the funds were spent for the purposes specified in the grant agreement. Invoices must show that grantees have spent or obligated all grant funds no later than November 8, 2011. Unused, ineligible or undocumented costs must be returned.

While grant activities must be completed by November 8, 2011, grantees have up to one month after that date to assemble the final report. Final reports must be submitted no later than December 13, 2012 to receive the final payment.

Minor alterations to the work plan or the approved budget may be allowed but only upon request and approval from DEHCD. Substantial alterations are not allowed and the end product must remain the same.

No grant extensions are offered. Projects that cannot be completed within the grant period under the terms of the grant agreement are closed out. The grant will cover eligible work completed and documented costs, however, ineligible or undocumented costs must be returned.

All final products and public communication must acknowledge funding from the Municipal Planning Grant Program, administered by the Vermont Department of Economic, Housing & Community Development, Agency of Commerce & Community Development. This helps increase the likelihood that grant funding will be available in future years.

On Wednesday evening, March 24, 2010, the City Council Members met in the Council Chamber.

Present: Mayor Hooper; Council Members Golonka, Sherman, Sheridan, Jarvis, Hooper and Weiss; also City Manager Fraser.

Call to Order by the Mayor:

Mayor Hooper called the meeting to order at 7:00 P.M.

10-074. General Business and Appearances

Dan Cardozo, a city resident had written a letter to Council Member Sherman and she suggested he come down to address his concerns to the Council directly. He had concerns about the Motorcycle Toy Run held in downtown Montpelier. What concerns him most about the event is the gridlock and the noise through downtown Montpelier high noon on a Saturday with the Farmer's Market in full swing, and you can't cross the street for thirty minutes. A third of the bikers run pipes that are illegal. It's great fun to rev your engines and make a noise in the canyons of downtown Montpelier, but it really is disruptive. If anybody on the Council were to ask the participants at the Farmer's Market whether they appreciate such a thing he thinks they would hear mostly negative comments. At least that is what he has heard when he has talked to folks there. Last year he got out of town before the bikers came because he didn't want to be stuck in gridlock and didn't want to hear the noise. He has been a motorcyclist for 35 years. He owns and rides a bike but he doesn't run illegal pipes. Illegal pipes give motorcyclists who obey the law a bad name. That is his overall concern.

His suggestions a couple of years ago, and his suggestion now especially with the Taylor Street Bridge being closed, is reroute the parade down Memorial Drive across the bridge between the Credit Union and High School and come back up by the State House. People who want to watch the parade can watch the parade down there. The bad boys can rev their engines away from downtown and the problem is solved.

Council Member Sherman said today that apparently there has been no parade permit requested so far this year and there is another event happening at the State House on the 14th so there may be some question about whether they will be coming here in the first place or going some place else.

Mayor Hooper told Dan Cardozo that it is the Council's job to listen but not to have a full discussion.

Dan Cardozo said what he understands from Council Member Sherman is that when there is a permit to be issued there is an opportunity for the Chief to define the route and any special conditions. Whether it is the Council's job to ask the Chief, whether it is his job to ask the Chief, but he would like to have the Chief of Police be asked to have these special conditions.

Mayor Hooper said the Council would need to add this as an agenda item so it would be properly warned and they can have a conversation about it.

City Manager Fraser reminded the Council that they have the Proclamation for the Valentine Phantom. They are going to do some work through the Phantom network and believe they can get it to the real Phantom.

10-075. Consideration of the Consent Agenda:

A) Consideration of the minutes from the City Council's February 10th and February 17th, 2010 Regular Meetings.

B) Summary Budget Report by Department for General Fund and Detailed Budget Status Reports for General Fund, Water Fund, Sewer Fund, Cemetery Fund, Parks Fund, Parking Fund and Senior Center Fund for a seven-month period beginning July 1, 2009, and ending January 31, 2010.

C) Consideration of a request from Joseph Gainza, Director of Vermont Action for Peace, for a waiver of the City Hall Auditorium rental fee for a dance they held the evening of Friday, March 5, 2010. (Mr. Gainza's letter is attached for review.)

D) Consideration of declaring the week of April 4th to April 10th, 2010, ***"Montpelier Affordable Housing Week"*** as requested by Jim Libby and Members of Montpelier's Housing Task Force.

E) Consideration of a request from Brooke Garber for a waiver of the City's Noise Ordinance in order to have live music at her wedding reception on August 21st, 2010. The reception will be held under a tent at Vermont College, and she would like to have the band play until 11:00 P.M. Brooke has talked with Police Department staff and has notified residents within the 250 foot radius, using a mailing list she actually obtained from the College. Her letter also mentioned that Council would be acting on her request at this meeting.

F) Consideration of a request from Anne-Marie Keppel for permission to close State Street to traffic (from Main to Elm) on Saturday, June 5th, from 7:00 A.M. to 5:00 P.M. for the 6th Annual Montpelier Fashion Show.

G) Consideration of becoming the Liquor Control Commission for the purpose of acting on the following:

a. Application for an Educational Sampling Event Permit from Distilled Spirits Council, Washington, DC; this will be a "tasting event to educate legislators on the distilled spirits industry."

b. Annual renewal of Liquor Licenses. (City Clerk will distribute list of applications at the meeting.)

c. Annual renewal of Tobacco Licenses. (City Clerk will distribute list of applications at the meeting.)

H) Approval of Payroll and Bills

General Fund Warrant dated March 10, 2010, in the amount of $193,318.55 and $156.00.

Payroll Warrant dated March 18, 2010 in the amount of $106,010.08 and $26,114.34.

Motion was made by Council Member Sheridan, seconded by Council Member Hooper to approve the consent agenda.

Council Member Weiss said he would like to remove two items from the consent agenda. The first is the Vermont Action for Peace (C) and the second is the request to close traffic for the Fashion Show.

Mayor Hooper called for a vote on the remainder of the agenda. The vote was 6-0, motion carried unanimously.

10-075. (C) Consideration of a request from Joseph Gainza, Director of Vermont Action for Peace, for a waiver of the City Hall Auditorium rental fee for a dance they held the evening of Friday, March 5, 2010. (Mr. Gainza's letter is attached for review.)

Council Member Weiss said in terms of the request to waive the fee for the Vermont Action for Peace for the Haiti proposal it is his understanding that in terms of raising the fee no food or beverages can be served, and even if the fee is waived there is still a $50 mandatory charge. He would like to know if food and beverages were served and if they were there can't be a waiver.

Paul Markowitz, with an ad hoc group called the Central Vermont Friends of Haiti, said they were the ones who organized the dance that took place a couple of weeks ago. Yes, there were food and beverages served and all of the proceeds from that went to Haiti.

Council Member Weiss said with the current policy the language is quite clear that a fee cannot be waived if food and beverages are being served. Therefore, he doesn't think they should waive it.

Council Member Jarvis said they have talked about changing that policy, but unfortunately they haven't done it yet.

Mr. Markowitz said all of the bands and everybody who contributed didn't get paid for any of this. They are already paying $200 to Lost Nation Theatre, which is a minimum fee they have to pay. This is another $300 fee on top of this which would take $300 away from the group so all of the proceeds can go to Haiti.

Council Member Sheridan said he would move the waiver. Council Member Sherman seconded the motion.

Council Member Golonka asked who paid for the clean up of the facility.

Mr. Markowitz said they cleaned it up themselves. They had to pay for a staff person from Lost Nation to be there, but that is part of the $200 fee.

Mayor Hooper called for a vote on the motion. The vote was 5-1, with Council Member Jarvis abstaining to avoid the appearance of a conflict of interest.

10-075 (G). Consideration of a request from Anne-Marie Keppel for permission to close State Street to traffic (from Main to Elm) on Saturday, June 5th, from 7:00 A.M. to 5:00 P.M. for the 6th Annual Montpelier Fashion Show.

Council Member Weiss said the Chief of Police has already noted they don't want to close State Street for a parade. He doesn't see how they can close all of State Street on June 5th with the Taylor Street Bridge closed. There needs to be some accommodation to allow traffic to flow.

City Manager Fraser said to be clear they aren't closing all of State Street but only Main to Elm so people can get around.

Motion was made by Council Members Sheridan, seconded by Council Member Jarvis to approve the request for permission to close State Street to traffic from Main to Elm Street on Saturday, June 5th, from 7:00 A.M. to 5:00 P.M. for the 6th Annual Montpelier Fashion Show.

Council Member Hooper said he was curious about how the length of this closure compares to previous fashion shows.

Ann-Marie Keppel said they did this last year. The reason for the expansion is she has tried to expand the event. There have been about 1,000 plus spectators that come to the event. They stay for the one hour of the event and then all leave so the objective is to keep everybody downtown longer and keep them shopping. There are street entertainers and music. It is simply to set up the tents, have the performances and the fashion show and then disassemble the tents and clean the street to resume traffic. It is an extended period of time, but it is for a good purpose to keep downtown shoppers here for longer. It is the same amount of time as last year.

Mayor Hooper called for a vote on the motion. The vote was 6-0, motion carried unanimously.

10-076. Consideration of supporting an air monitoring program that the Conservation Commission is undertaking with science classes from U-32 and Montpelier High School.

a) Conservation Commission Chair Kris Hammer will be in attendance to present to Council several grant proposals totaling $12,500; he wants to use this time to update the Council on the Commission's latest activities, as well as seek Council support for these grant proposals.

b) Recommendation: Receive presentation from Kris Hammer; opportunity for Discussion; direction to Conservation Commission.

Kris Hammer said he presented members of the Council a copy of their proposal. This came about through the enVision process. The Conservation Commission has been very involved with both reducing our reliance on fossil fuels and making good air quality in Montpelier priorities. They noticed there really is no way to measure what kind of air quality we have in Montpelier. He has been involved with one of the chemistry teachers at Montpelier High School and the head of the Science Department at U-32 who are really interested in doing more applied science. They have done a lot of work with the water quality monitoring and he presented his data to the Conservation Commission a couple of years in a row. They are applying for a couple of grants and ask the City of Montpelier to be their fiscal agent.

Council Member Jarvis asked if they were looking for city staff support for the actual application process.

Kris Hammer said the first application has already been sent off. This is mainly so the Council is aware of what they are doing. Right now their application is for a pilot program just this year. Ideally, they would like to set up a 10-year monitoring program so once the district energy system goes in and as they start to use more pellet stoves and more people are using wood they would like to have something that is sustainable. They may commit some of their budget to that. He has been talking to Gwen about possibly building a monitoring program into the district energy plant as part of that budget. They aren't sure where the funding is going to come for that. They are going forward with a pretty robust sampling. They have been talking about sampling methodology.

Mayor Hooper asked if they knew where they were going to sample.

Mr. Hammer said that would be up to the science classes. There are some logistics about how they set the stuff up, how it is secured. The idea is to do a number of sampling positions around the city, but it is also to leave it up to the students to say what are some interesting questions they can answer and develop a methodology. They may come up with some other ideas or interesting questions. This program was used up at U-32 about 10 years ago and it is really what got the whole legislation about bus idling introduced. They used similar equipment and monitored exhaust at the school and looked at carbon monoxide levels and used that data to advocate turning the buses off. The students are interested in doing some science that they see is really going to benefit the city. They are hoping to do more of this kind of collaborative effort with the schools.

Council Member Weiss said with two school systems operating why is he asking the city to be the fiscal agent.

Mr. Hammer said it is largely because of the grant. It's not really a school program. It is a community based program and some of the funding sources wouldn't support a school program. There are other grant sources for educational institutions. This is a community based effort and they are tapping into the schools and want to involve the high schools. It is something that is going to serve our community and not just the schools.

Mayor Hooper asked if action was needed on this.

Mr. Hammer said the Norcross Wildlife Foundation requires a letter of support be sent by the fiscal agent.

Motion was made by Council Member Sheridan, seconded by Council Member Weiss that the Council support the air monitoring program. The vote was 6-0, motion carried unanimously.

Kris Hammer said he also wanted to update the Council on some of the other stuff they are doing. They are working with the Nature Conservancy to do a whole educational program about invasive species in Montpelier. They are planning a workshop later this year and hope to get out on some properties in town. There are plenty of invasive species in the parks. They are going to do some educational work around identification and talk about control methods. One of the things they noticed early on is that there is a whole row of barberry right in front of City Hall up against the building. That is an invasive plant. It is actually a landscape plant, but it has these wonderful red berries that the birds love. If you go into Hubbard Park there is a lot of barberry so it is escaping. There is also a hedge of it down by the Health Center. They have been working with Suzanne Eikenberry from Montpelier Alive to look at removing the barberry and then on Green Up Day they would do a whole planting to replace them with a non-invasive plant. They seem to be very supportive. He has talked to Todd Law about it and checked in with Bev Hill. There are folks in the city who are aware this is happening. They are hoping to use the Green Up Day event as a kick-off to the whole educational program about invasive plants.

10-077. Report from Mia Moore, the City's Representative to the Central Vermont Solid Waste Management District (CVSWMD) to update the City Council on the District's latest activities.

Mia Moore said she had a couple of points to go over where the District is at and then finish by why she is encouraged by what is happening. Donna Barlow Casey has left the District after 14 years of service. She has gone on to be the Director of Vermont Technical College's Center for Sustainable Practices. This was a dream job she could not pass up. The District is taking this opportunity to become a little bit leaner at the central staff level by restructuring and creating a General Manager position. This position is going to do a combination of Executive Director and Administrative Manager. They are working with the Vermont League of Cities and Towns to hire a General Manager. Lisa Stewart, who was the Administrative Manager, is acting General Manager during this time period. So far she is doing a great job.

Janice Wolfrin resigned her position as Chair of the Board of Supervisors and also stepped down from being a Plainfield representative and took a seat as a member of the Plainfield Planning Committee. The upcoming April meeting is when they welcome all of the new representatives to the Board of Supervisors and elect new leadership positions. They will be electing a new chair then.

As of mid February the District is no longer operating any trash transfer depots. The transition to town management of the depots went surprisingly smoothly. All of the towns that used to have a District operated depot are now managing that themselves and contracting out to a private hauler. The private haulers have actually hired on some of the District's former staff who were running District depots.

Cabot and Strafford on Town Meeting Day voted to leave the District. Northfield has warned a special meeting in mid April to decide whether or not they would like to leave the District. Lisa Stewart is working with Northfield in anticipation of that vote to demonstrate to them the benefits of staying with the District. Calais is working with their representative, Bill Powell, to decide whether or not to move toward leaving. Barre Town is in a wait and see period and they haven't heard anything else from any of the other towns.

She sits on the Financial Oversight Committee and they are working on creating the FY 2011 budget and the income they are assuming for that budget will come from assessment and surcharge for about 57,000 residents within the District. That accounts for them not having Cabot and Strafford and losing one big town and one little town so they are conservatively estimating there will be about 57,000 residents that they can be getting the assessment and surcharge from as far as income goes.

She spoke about the upcoming programming and what the District is planning on doing with all of this restructuring. They just released the schedule for hazardous waste collections. There will be five of them in 2010. They are planning collections for e-waste, bulk materials, scrap metal, clothing, etc. They are a resource for district residents who are interested in diverting their household food scraps through either purchasing a green cone at cost from the District or learning how to build a composting bin. Their school organics program continues to grow. Nearly 100 percent of the schools within the District, or about 20 towns, have implemented some sort of food scrap diversion program. Most of them are using their pickup operation. The very small schools are either using green cones on their own school property or have partnered with local farmers.

With regards to their business organics program they have just added new customers and are fully intending to operate that organics pick up program through FY 11. The digestive product at Vermont Technical College the District was a founding partner with the College to determine the feasibility of a digester that would provide electricity for Vermont Technical College and some of the surrounding area. The first phase of the feasibility study to determine the feasibility is nearing completion. They are no longer moving forward as a partner in this, but they are working with Vermont Technical College to continue being a provider of food scraps that will be needed to run the digester.

These are all very exciting projects for the District. The transition period in the immediate term seems a little bit shaky or rocky, but in the medium and long term this is a very exciting opportunity for the District. Everything she just stated as far as programming that the District is providing seems like reason enough alone to stay with the District as far as Montpelier is concerned. In addition to that, they are working on a budget that would maintain all of these programs but in fact reduce the per capita assessment that towns need to pay in order to be members of the District. They are just in the early stages of deciding if they can do it at all and if so what they will be reducing it to so she doesn't have numbers yet. That is a consideration on the table as they discuss the budget for FY 11. That still includes the District continuing to subsidize pick up for their business organics program for businesses that are within District towns. Businesses that operate in non-district towns will need to start to pay the full price of the organics pick up program while the district will continue to subsidize that through FY 11 for businesses that operate within District towns. She sees those as two very good reasons for Montpelier to continue to be a member of the Central Vermont Solid Waste Management District.

She went on to say that they are actively works on recruiting district representatives from Hardwick, Plainfield, Tunbridge, Washington, Williamstown and Woodbury.

Council Member Sheridan told Mia Moore it was a nice report and she has his vote.

Council Member Sherman asked her to remind them what the per capita rate was currently.

Ms. Moore said currently it is $3.10 per resident.

Council Member Sherman asked if the Lawrence Wallbridge fund and projects will continue.

Ms. Moore replied yes, in the FY 11 budget the current draft has $10,000 in that fund. Lawrence Wallbridge Fund is a small grants program that the District has to encourage reuse and recycling with nonprofits and small businesses.

Mayor Hooper said one of the reasons she thought it was important that we receive a report was because of the issue of other towns considering their resignation. Municipalities are obligated by law to participate in a district. We have to comply with Act 78. If our solid waste management district is not available to us, then we have to do those things ourselves which creates a whole different system.

Mia Moore said one of the benefits that Montpelier gets as being a member of the District is that it brings them into compliance with Act 78. The reason she wanted to join the District was because of its zero waste emissions.

Mayor Hooper said if Barre, Berlin, East Montpelier and some of the larger towns chose not to participate, then it is of concern. If enough towns withdraw there is a concern so we need to pay attention and be speaking with our colleagues and encouraging them to continue their participation.

Council Member Sherman asked Ms. Moore to tell her the relationship between the Casella site that most Montpelier residents use and the District. Is the Casella site totally independent or is there collaboration?

Ms. Moore said it is totally independent. The only relationship she knows of is that they need to pay the surcharge on the trash and the recyclables that are collected there when they tip at the Central Vermont Landfill.

Mayor Hooper said Mia Moore has outlined a direction that is being taken. This could be the Council's opportunity to either affirm or suggest an alternative direction, or ask for more information if we need it.

Council Member Hooper said he is fairly sure that Cabot and Northfield have reservations because they lost their subsidized depots. Why are the other towns leaving or considering leaving?

Ms. Moore said she thinks Strafford had a subsidized depot as well. She isn't sure about Calais. Barre Town had a subsidized depot as well. She was here last September or October and one of the suggestions that came from the Council was for the District to revisit its health care benefits plan for its staff. She mentioned that to Lisa and Donna at the time and they asked for the blueprint for what Montpelier had just done as far as the health benefit program for their city staff. She just received that information from Sandy Gallup to share with the Financial Oversight Committee when they start having those conversations.

10-078. Revisit the suggested amendments to the City's Vendor Ordinance.

a) City Council Members received a copy of a memo from Suzanne Eikenberry, ***Montpelier Alive*** Executive Director, outlining some changes they'd like incorporated before the 2010 summer vending season.

b) Council discussed these proposed amendments at their March 10th meeting; staff was directed to contact a few of the vendors and work through some points raised that evening.

c) Suzanne is ready to come back to Council with some slight variations to their initial proposal.

d) Recommendation: Further discussion; direction to staff with any further changes and/or set the date for the first public hearing … possibly April 14th.

Mayor Hooper said at their last meeting there was a presentation and discussion of the proposed changes. She is going to turn the discussion over to Police Chief Facos and Suzanne Eikenberry from Montpelier Alive.

Police Chief Facos said with regards to revamping the ordinance for vendors the issue that came up was enforcement. How do we do that? What is involved with that? The way the ordinance is currently structured it is a very unwieldy process. They had a situation on Friday between a business and a vendor regarding violation of the existing ordinance and the officer who initially handled the complaint reviewed what was going on and it boiled down to protein products versus hot dogs versus the distance ruling. Currently, they would take statements from those witnesses, conduct an investigation, write an affidavit and go to the city attorney. There is no set penalty. We do not have a ticket system for the violation. The bottom line is that it would really become a nightmare. On behalf of the Police Department and all parties involved he thinks they should avoid that.

Good ordinances have to be clear in purpose and be clearly able to be enforced if they are going to be effective. Setting the stage for any potential changes he would like to outline some fundamental concerns to him which he has shared both with Montpelier Alive as well as the City Manager. There should definitely be a new permit process, and on that permit, however the details are worked out, it needs to be clearly defined as to what the rules and responsibilities are for the vendor. Along with that on that permit the holder would sign acknowledging they understand what every one of those requirements means to them and they will conduct their business in accordance to those regulations. The penalty phase should be quite simple. If there is an infraction or violation the police would be the investigating body and look into whether or not there was a violation of the permit. The first time there would be a warning and an educational opportunity. Any future violations of any of those would be the revocation of the permit. The Council could establish the permit for whatever time period. That holds all businesses accountable. It also keeps the interests of public safety in mind, pedestrian traffic, etc. If you have a problem vendor it is a mechanism to let them know this isn't going to happen in the city.

This would keep it very simple and keeps it off the administrative level. We do not need to involve the city attorney unless there were unforeseen complications, and also an officer is not going to be writing affidavits and not asking for witness statements from business owners and pedestrians. That also protects the vendor. Along with that, just to avoid any conflict, he strongly agrees with designated locations. He doesn't know how it is going to be decided who gets what and what the process will be, but it should be their designated spot for the duration of the permit. It's not first come, first serve, whether it is 5:00 or 6:00 in the morning. That will lead to problems.

Walking around the city, how is our community ADA compliant? Our sidewalks aren't very wide. He has been out with Tom McArdle from the Public Works Department and they have literally brought out the tape measure and assisted businesses on how far out they can and cannot go into the right-of-way. Suzanne and Montpelier Alive have done a tremendous job with communicating and educating the merchants regarding the sign boards. We need to keep in mind what our ADA requirements are. He would hate to see permits paid for and issued and then down the road find out this is not an adequate location.

Suzanne Eikenberry, Shawn Bryant, Montpelier Alive Board President and committee members appeared before the council. She said they took the feedback they received two weeks ago and asked themselves what were their top priorities to make the vendor situation work more smoothly this summer than it did last summer. They removed the suggestion to change the fee because they know it won't go into effect this summer anyway and really focused on the things they think will help avoid conflict. Designated spaces are still at the heart of what they are suggesting. They think it is really important to define similar businesses. There was a question at the last meeting of how you define fifty feet. They think vendors should have the right to have sign boards out and they should also be given the sign board ordinance so they know what they are expected to follow. They also are staying with the suggestion that tables shouldn't be allowed. They saw how enforcement needed to be added and she backs everything that Chief Facos just stated. She didn't realize that part of his problem on enforcement and thought he could do it on an administrative level. She agrees that adding that into the ordinance is really important. His suggestion of a warning for the first offense and second offense to pull the permit makes a lot of sense.

Regarding designated spaces, they had a situation on Friday where the police were called in over a disagreement between a vendor and a building owner and two restaurants. That actually pointed out why designated spaces are a good idea. First of all, there was the conflict of whether or not that was a legitimate space and that conflict could be avoided up front by naming what spaces are legitimate spaces. Secondly, there was a suggestion towards the end of that conflict that the vendor consider moving to a space in front of TD Bank which isn't on their list of designated spaces. She looked at that idea and saw that was a great example of why having the designated spaces run through the City Manager makes a lot of sense because there is one place in front of the bank that could be added to the list. Under the way they have suggested the ordinance change that vendor could come to the City Manager and ask for that space to be added. However, there are other spaces in that area that would be very problematic. It is a very busy intersection. The way the ordinance is written you have to leave 5 feet from an intersection, crosswalk, or fire hydrant. If you picture 5 feet away from the crosswalk at the corner of State and Main, and there is a vendor with a line of people there, she thinks they would find pedestrians walking in the street at a very busy intersection. Even though our ordinance would allow that right now she thinks they would be creating a safety hazard. They could be between Langdon Street and State Street, over towards the Langdon Street side there is a window that is in a staircase and the sidewalk is really wide.

The other situation she thought of which the ordinance doesn't address is that even if the sidewalk is really wide a vendor setting up directly in front of a retail display window wouldn't be good. There are situations the ordinance hasn't been very specific about, but you would probably want the right spot. The conflict would be greater than the reward.

Shawn Bryant said they need to make sure there is access for people to get in and out of their cars. One of the concerns would be if a vendor sets up in the green strip between the parking space and the sidewalk where there may appear to be enough room but if it impedes the ability of people to open their doors and get out of their car that wouldn't work. He thinks Chief Facos made some very good points. The ADA concern is a very real and legitimate concern. As Suzanne and he went around measuring the spaces to look for places where they thought it would be appropriate for vendors to locate one of the things they took into account was whether there was enough room to still allow a reasonable legal access for people with disabilities while still creating enough space for a vendor. When you walk around Montpelier and start looking at the sidewalk with a critical eye you find out they aren't nearly as wide as you think they are.

Council Member Sherman said she recalled trash was a major issue in their previous discussion. How are they going to deal with trash?

Ms. Eikenberry said the way you have to deal with trash is through the vendor's fee. The way they came up with suggesting the higher fee was the need to increase it, but if they want to really get something passed for the summer they would not press the fee because other issues are more pressing in terms of making things run smoother downtown.

Council Member Sherman said did they say something about requiring them to have trash containers.

Ms. Eikenberry said the state requires them to and they could be required to have it in front of their vending cart instead of the back of the cart. That is one suggestion.

Council Member Sherman said to her it is important they deal with the trash they generate.

Mayor Hooper said as a matter of process the City Council is going to ask a few more questions and there will be an opportunity for members of the audience to ask questions of the City Council. Then, they will make a decision about how they will proceed. If they choose to amend the ordinance, the way they do that is through a public hearing process. They are having an informal conversation now and deciding if there is a desire to amend the ordinance and then go into a more formal process which will be duly warned and noticed.

Council Member Hooper asked if they are only using designated spaces in the downtown for vendors, do they still need to have the 50 foot requirement in the ordinance.

Ms. Eikenberry said for the downtown the City Manager requested that if she was going to have the ability to add designated spaces she wants to set a guideline. She personally thinks the City Manager also needs to have the ability to use personal judgment on some of those cases they haven't anticipated like 5 feet from intersection of State and Main may not be enough.

Mayor Hooper said in her memo which proposes 8 items that would be addressed one of them is the issue of tables. She recommends they not allow tables.

Ms. Eikenberry said the biggest reason is space. When you look at the size of the spaces that are available you are looking at an average of 10 feet by 11 feet. You have an 8 foot cart, a cooler or two from vendors, the space the vendor takes up standing, and there isn't room for tables downtown. Our downtown is very compact. The second reason is an equity issue. The state through their Health Department has ruled that restaurants without bathroom access cannot have tables so it does affect some of our downtown restaurants. However, they have also said that vendors can have up to 16 seats. Remember when the state is looking at vendors they are also looking at people at fairgrounds and not just thinking about an urban setting. The State Health Department does allow vendors to have seats.

Mayor Hooper said if the issue was table seats it is simply one of unimpeded access and keeping the area open. Can't we just deal with it based on the size and have a requirement that the area is kept open?

Ms. Eikenberry said she is thinking back to enforcement and the ADA requirements. If they look at the situation last summer where there was the one cart that did have tables you often saw pedestrians having to walk around in the street. It was very hard if someone was in a wheelchair to use that ramp. She had a number of people tell her they had to cross the street if they just wanted to walk down the street. You could do it on a case by case basis, but she thinks they will find the spaces aren't there.

Corinna Jordan, a resident in Montpelier, said she is interested in vending dry goods. She is looking for something useful to do during the summer because she is in school now. She would like to do a fun, possibly profitable, green product educational cart type of thing. She has been considering what the ordinance is and what the costs are. She would like to be able to move around and not be in one spot. She is hearing why there should be designated spaces downtown and she is thinking there might not even be spaces wide enough on the public sidewalks to set up. The cart she is considering is 2 or 3 feet by 4 feet so it isn't as big as some of the food service carts would have to be. She has questions about insurance. Insurance is $600 per year, and that's a lot of money. She gets the impression for vendors insurance is required. If she is not selling food, does she need to have the same kind of insurance? How much more dangerous would her vending cart be than a baby cart?

Tim Azarian, a vendor downtown said he is disappointed because it feels like there is one group against another group here, which is Montpelier Alive against the vendors. It seems like that because there seems to be no collaboration. No one contacted him or made a phone call to tell him they wanted him to work with them to come up with suggestions. There is so much they could have worked out. He thought at the end of the last meeting it was recommended that group contact vendors to try and work out some of these issues instead of bringing them back to the Council. He is not opposed to the idea of designated spaces. It makes sense. Regarding the trash, they always brought their own trash can and put it by the cart and took it home at the end of the day. There is a recommendation on the bulb outs. There is one space here at the Washington County Court House bulb out which is where they had been setting up. It is saying we get off the sidewalk and go to the bulb out area. The problem is that their back are either going to be to the sidewalk where people are walking back of them because there is no way for them to come around front. The other way they would have the streets at their backs with the traffic and all of their stuff on the edge of the curb. It would feel completely unprotected and unsafe to have their backs to the street. His biggest contention, and the only one he is passionate about and the one he will continue to come to Council meetings for, is the tables and chairs. Tables and chairs aren't all that convenient for them to do. The main reason they started using tables and chairs is because we really hate to use throw away items so they bring down bowls and plates, and once those are filled up they go to disposable items. If you give someone a bowl or a plate they can't take it back to their office so people need a place to sit down and enjoy their meal. A lot of people would come to hang out and not even order food. People would bring their hot dogs over and there were two little tables that they had for people to take a break and a rest. They received a lot of complements all summer, especially from out of staters and Canadians so they were encouraged by the tables. Their health license states they can't have tables and chairs as Suzanne said. His recommendation is that instead of completely wiping out all tables and chairs is to find some kind of compromise or modify the law to make it work for Montpelier. Sixteen tables is probably too much, so limit it to two. They just want space for a couple of people to sit down. They aren't asking for an expanded space.

He hears the concerns about handicapped people and some of the sidewalk space. They came to them and they immediately moved their tables and chairs. During the end of the summer they moved them even further away from the cart. He felt they were sensible when people did say something to them. The times it was brought up they definitely addressed it. He is suggesting having a limit. The vendors are really colorful and add a lot of vibrancy to the downtown. He thinks there is a lot of potential to find compromise to make it work for everybody. You could justify tables and chairs, if you are a vendor and you want to have a table and chairs then you need to offer not to go items. The last problem with tables and chairs is that there are restaurants that do have tables and chairs. Rhapsody has two tables and Positive Pie has a few. If the City Council does go with the suggestion about tables and chairs it is not going to seem fair that restaurants can have them out, also. Please take that into consideration.

Mayor Hooper said if there are new ideas the Council would like to hear them. If there are general points of agreement what they should do is ask the handful of people to sit down together and work out and come up with explicit language that could be presented at a public hearing.

Nick Sammons said he is new to Montpelier and is looking at opening up a vending cart. It would be really nice outside of this forum they could work something out. Vendors really do bring vibrancy to this town. Portland is famous for its vendors. His cart is really not to make money but to be able to participate in the community and offer a product of Vietnamese sandwiches that everyone would like. He doesn't see they are competing in any way with restaurants. There is no competition. If restaurants want to start their own vending cart they have the option to do so.

Guy Andrews said they are thinking about putting a vending cart business together. He wanted to bring a suggestion to the Council about solving some problems around vending cart application fee. Designated areas look like the way to go. Anyone who has been around in the summer knows there are some really advantageous locations in the city that seem to be doing a really good vending business. Maybe a per square foot basis rental could be implemented. Some of the carts seem larger than others. That might accommodate some of the seating as well. He suggested they look at what some of the other cities have done. Burlington has a lot of vending carts. Maybe they could look at the City of Rutland and Portland, Maine.

Benjamin Allard, one of the owners of the Skinny Pancake, said he supports vending carts. He actually spent four years running a cart before he opened a restaurant. It was his form of income from 2003 to 2006. In Burlington they have strict rules and regulations. He recommended they look at Burlington's Church Street Marketplace rules and regulations. He spent many years butting heads against those rules and regulations. There is a reason you can't move 10 feet down the street because there is a business you are going to block. Even this past year they were lucky enough to move their cart to a more advantageous location after waiting years trying to get to that location. When they got to the point they looked at the size of the cart, which is rather large, and they looked at the business behind it and said they couldn't go straight in front of that business because it would kill it, which is a reality. The gentleman who said you don't compete with businesses, that's not true. Absolutely, vending carts do compete with the businesses next to them. Vending fees on Church Street will run anywhere from $1,800 to $2,400 – that's a much bigger market. If you are actively working there that as a percentage becomes a very small percentage for overhead. It is extremely affordable over the course of the year. He isn't advocating for those kinds of numbers. You are required to have specific dollies, trash cans, matching seats, coolers so it doesn't look like a yard sale, and extremely specific locations. Church Street is clearly a thriving commercial district where carts and storefronts live in reasonable harmony, and it is all based on strict rules that are enforced.

Chip Hart from City Center Associates said he wrote a memo which got delivered on March 10th. They appreciate both the Council's efforts and Suzanne's with Montpelier Alive's efforts, and now the Chief's efforts since he has become engaged. They would endorse an ordinance that would be satisfactory to everybody. They would also happily participate in a process. They aren't against vendors. They think there has to be some sensitivity to location. They frankly think the elephant in the room is the physical challenge to locating vendors. They buy the idea of the added vibrancy. They have the interest of their tenants at heart and thought the 50 foot rule was a reasonable one and would like to see that kept in the ordinance. He is not unsympathetic to the challenges of the Council, but the vibrancy of the downtown and creating an orderly business model which recognizes considerable physical limitations of the downtown and is favorable to all participants would be their goal.

Mayor Hooper said she was going to bring this back to City Council and ask them how they would like to proceed.

Ms. Eikenberry said their process before they developed these suggestions was to first look at a bunch of other jurisdictions, rules and regulations. They did look at the Church Street in Burlington example. They called different parties who had an interest in this, including Tim, restaurants, the City Manager and Mayor, and they talked to a very large number of people about this before they developed their set of suggestions and really strove to get something that was middle ground. Clearly, there is a lot of people they didn't think about contacting. So far during the last two meetings four people have come forward saying they are interested in starting a cart downtown this summer.

Council Member Sheridan asked if this wasn't what we have a Justice Center for. They could mediate a meeting with everybody, the vendors, Chief of Police, Suzanne Eikenberry, and give them a forum. There is conflict here and a possible ordinance.

Council Member Jarvis said maybe they could involve Yvonne Byrd as the facilitator so that Suzanne is not put in a funny position because she is the Director of an organization that represents constituent businesses. To ask her to be the middle man is a bit much, but perhaps someone like Yvonne could play that role.

Council Member Golonka said he disagrees with that. It is the Council's job to propose ordinance changes and we have asked them to come up with suggestions, and she has done that. If we are going to take this any further we owe the public a hearing and we alter it as we see fit as a Council.

Council Member Sherman said it is dialogue and they don't need mediation yet. The City Manager also plays an important role here. We should keep it with the Council and the City Manager, but she thinks it is time to move ahead with the ordinance and public hearing process.

Council Member Weiss told the City Manager that it was reported last Friday there was a vendor problem. Did that person apply for a license?

City Manager Fraser replied yes.

Council Member Weiss said therefore the process of getting a license under the existing ordinance is already taking place.

City Manager Fraser said until we have a new ordinance the existing ordinance is what rules.

Council Member Weiss said it is perfectly possible that licenses will be issued before a new ordinance is invoked and therefore a new ordinance may not take effect until the summer of 2011.

City Manager Fraser said no, not necessarily. The license is issued to give permission to do business in town and right now we have one set of restrictions of how they can do those, but a new set of restrictions could still be issued. He thinks there might be agreement on the notion of designated spaces, trash receptacles and some of the other changes were on track. We would be down to only talking about tables and perhaps a process by which people block retail spaces and the process of how people are assigned their spaces. If the Council wanted this up for hearing for the next meeting and we could get the interested parties together. We could come up with some suggestions everybody could live with.

Mayor Hooper said there has been suggested a process we could use which would be to set a public hearing. She feels what is proposed before us thanks to Montpelier Alive needs to be amended further. We can set the hearing. We can ask the Manager to see that a meeting is convened of the folks who have expressed points of view and an interest in this and ask them to develop a draft to amend the ordinance. Suzanne has recommended an outline in a memo to the Council of what Montpelier Alive recommends be included in the ordinance.

Council Member Sheridan said usually when they have a hearing they have a set ordinance in place. He doesn't think everything is set in place yet. Are we ready to go to an ordinance or not? He doesn't want to have another discussion meeting and try to create an ordinance on the spot.

Mayor Hooper said there are two points of view. One is to let's get to it and make a decision, and the other is we are not ready to make a decision yet.

City Manager Fraser said they do have a draft ordinance presented. Staff have often drafted ordinances. They could back and add some things which were discussed in our draft and still warn that for the first reading. We could have some proposed amendments we would all agree to and then have another hearing.

Mayor Hooper said her only concern is that the perception not be that this is a done deal and in fact we really are soliciting the input of the people who are directly affected and making sure it is working for them. That is the outcome they are looking for.

Motion was made by Council Members Jarvis, seconded by Council Member Sherman to set the first hearing and ask City Manager Fraser to convene a group including Montpelier Alive, interested vendors and community members to work on an ordinance with the understanding the Council is going to receive some additional input at the hearing.

Council Member Weiss said we shouldn't forget that we wanted to take a look at newsstands. We aren't happy with the proliferation of newsstands down near the Post Office.

Mayor Hooper said she thinks there is a consensus that designated spaces makes sense. She would like to know how they are going to allocate them and that is an issue she really wants to hear back from the vendors on how it is going to work. They all agree defining what similar business is important. She doesn't know that they need to be regulating tables if they are regulating space.

Council Member Sherman replied that doesn't work for her. She thinks tables are a critical part of this and they need to be included. Council Member Jarvis agreed. Vendor tables are a critical issue and an equity issue.

Mayor Hooper said she is suggesting they not exclude them from the ordinance. Police Chief Facos' list clearly needs to be part of this.

Council Member Hooper said one other thing he would like is that the designated space needs to be very clear.

Council Member Weiss said he also would like consideration about the possibility of vendors who don't want to be there every day. What do we do with their designated spaces?

Mayor Hooper called for a vote on the motion. The vote was 6-0, motion carried unanimously. There will be a public hearing on April 14th and she looks forward to everyone working very hard on this before then.

10-079. Consideration of supporting an Application for a VHCB Feasibility Grant.

a) Council is being asked to support staff's efforts with the planning grant for the Senior Center; VHCB has suggested that the City apply for some additional money from them to help determine the feasibility of developing the building for housing.
b) Community Development Specialist Garth Genge will be in attendance to present this proposal and answer any questions that Council, or members of the audience, may have.

c) Recommendation: Receive proposal; opportunity for discussion; approve staff moving forward with the Feasibility Grant Application.

Mayor Hooper recused herself from participation. The committee she sits on is actively engaged with issues associated with funding of the Vermont Housing Conservation Board. While she doesn't feel she has a conflict she doesn't want there to be anything close to a perception of that occurring.

Council Member Jarvis, president of the Council took the chair to preside over the meeting.

Garth Genge, Community Development Specialist said one of the funding opportunities for the 58 Barre Street housing portion is that the Vermont Housing Conservation Board has a $10,000 feasibility fund for initial feasibility of affordable housing projects. He didn't put an application in right away because he understood that it was for nonprofit housing providers to do it, and since they had two of them trying to choose who was going to do it was a little bit complicated. In talking to the Conservation Board he found out that the municipality can make an application. The City of Montpelier can make the application for the funding. One of the reasons for doing it now is because their feasibility money really is feasibility. It is about initial investigation so that the dollars allocated to the early parts of the review could go to that. They received the grant from the Vermont Community Development Program, and that grant contract hasn't been written and there is usually some kind of restriction so it would also allow a little bit of flexibility between the different sources of money to pay for the different portions. It just gives us a little more flexibility. He provided a budget that is a little bit flexible in terms of some portions being shifted between architects right now. Gossens Bachman has been very good working with us and finding other sources to do things more cheaply so it will probably fluctuate as we go along. The survey is almost done. The title search is in progress. Drawings are being developed so we will have the actual dimensions of the building. He is meeting tomorrow with the legal representative. Jeff Kantor who has been exploring some of the funding options. In the afternoon they are meeting with the historic consultant about the historic tax credits. Things are moving along and ideally they will be on time for the proposal next month.

Council Member Weiss suggested that the group who is looking at 58 Barre Street also needs to look at the Recreation building directly across the street. Those two buildings go hand in hand. Any work that is done at 58 Barre Street needs to take into consideration the building across the street because they are partners and he would be disappointed when the committee reports back if there is not some reference to how that recreation building ties into this proposal.

Community Development Specialist Genge said there is an application before the Vermont Community Development Program with a portion of the dollars being allocated for evaluating the energy efficiency and the accessibility issues at the Recreation Center. They may restrict use of the funds more than he put in the budget, but that is part of the program. They are also looking at the site itself. With the St. Michaels School Building next door they don't want to put them in an untenable position so they are trying to keep all of the possibilities there in mind. The focus is on 58 Barre Street because those are the steps they can take right away. He isn't sure where the sources for the Recreation Center could come from for dollars. He had a meeting with the Senior Center Advisory Board today and it is understood that the future growth of the Senior Center having more need for facilities the best place to expand into would be the Recreation Center. That is on the table, but how soon and how quickly that can happen they don't know.

Motion was made by Council Member Sheridan, seconded by Council Member Sherman to move forward with the feasibility grant application.

Acting Mayor Jarvis called for a vote on the motion. The vote was 5-0, motion carried unanimously.

Mayor Hooper resumed her position as chair of the meeting.

10-080. Adoption of a formal grievance process and a formal *"Notice of Provision of Services"* for the Americans with Disabilities Act.

a) The ADA Committee has been meeting to develop a Transition Plan which is required by the ADA.

b) This plan will inventory all City facilities and programs and identify where deficiencies may exist.

c) The plan will then outline the cost and effort needed to rectify the deficiencies and lay out a proposed time frame for accomplishing this work.

d) Drafts of these two items are included with this agenda; they have been reviewed by the ADA Committee and are recommended for adoption.

e) Recommendation: Presentation of these documents; review and discussion; adoption.

City Manager Fraser said they have had this ADA Committee that Council Member Sheridan is chairing. Included on the committee is Tom McArdle, although his expertise is in transportation he is probably our most knowledgeable city employee on general ADA regulations, and Kim Brittenham from the Vermont Center of Independent Living who is an expert on ADA. We wanted the Council to find out what the committee's task is and explain the transition plan to the Council Members. There are a couple of items that have been drafted by Kim and the committee for a grievance process and a statement of benefits. Kim and Tom can give you a brief overview of what our responsibility as a community are and the breadth and scope of the things they have to look at. It is interesting on how much of that prior discussion was largely focused on compliance because we need to keep that out front at all times.

Tom McArdle said the committee was appointed at the recommendation of staff and in consultation with Kim and others that the city needed to address and update its ADA compliance through a complete assessment. The City Council appointed an ADA Committee and advertised for those positions and they have been holding monthly meetings and trying to develop a transition plan. That's the common term for conducting an evaluation of our compliance with all of the various aspects of ADA, and it is quite lengthy and very complete. It addresses all aspects of public accessibility. The transition plan allows or guides communities and the private sector in evaluating their own deficiencies, conducting self evaluations and documenting all of that and developing a transition plan. The transition plan is transitioning from noncompliance to compliance with accessibility which ranges from communications and physical right-of-way issues and meetings. Part of that includes a way for those folks with disabilities to find out what is available, what does a community have available to meet their needs, whether it is to attend an event or meeting, to find out how they can accomplish their objective. In order to provide that information there is a notice of service. If we are unable to provide that service we are providing a means for them to appeal that to seek relief, which is the grievance procedure. There are also some specific tasks they have tackled they felt were immediate needs. Last fall they addressed some parking deficiencies. They are looking at restroom facilities at the Mountaineers Field. City Clerk Charlotte Hoyt participated in a pilot program for "vote by phone" at March Annual meeting. There are a number of areas they are already addressing and will continue to be. They are working on the web site to address accessibility areas.

Kim Brittenham said she is present to answer questions about the notice of provisions or the grievance procedure. They are taken this directly from the Department of Justice templates.

Council Member Golonka said the grievance procedure is a little confusing to him. He needs someone to tell him what the cross outs mean. He can't figure out the first one on page 1.

City Manager Fraser said on page 1 it is supposed to say City Manager where it says ADA Coordinator. The initial hearing would be with the City Manager and any further appeal would be to the City Council.

Assistant Public Works Director McArdle said as of now the City Manager is the ADA Coordinator so they are trying to work around that as well.

Mayor Hooper said to be clear in the proposed grievance procedure wherever it says ADA Coordinator that will be City Manager. Now there is a proposal that the appeals body is the City Council.

Assistant Public Works Director McArdle said typically before it gets to that point there is an opportunity for the committee to correct those issues.

Council Members Weiss and Sherman moved adoption of the grievance process and notice of provision of services for the Americans with Disabilities Act. The vote was 6-0, motion carried unanimously.

City Manager Fraser said the first is the notice.

Mayor Hooper asked what this means. She understands they are notifying people with disabilities that services will be made available. For example, if someone wanted to attend a City Council meeting who needed assistance with signing the City Council would then provide an interpreter.

Ms. Brittenham replied that was true. If they don't have a way for people to know what accommodations the city provides or to ask for accommodations, then you assume the entity doesn't know how to provide them and you might not try. It is a way of including people with disabilities.

Mayor Hooper said she totally understands the need for notice.

City Manager Fraser said that was the issue that Kim raised.

Assistant Public Works Director McArdle said some things do take a little bit of time like finding a signer and when they are available. This also gives the city time to work with that individual to meet their needs.

Ms. Brittenham said it is a requirement. The Department of Justice requires that all municipalities with 50 or more employees, which includes full and part time employees, need to have an ADA Coordinator, a grievance process and they publish this notice of provisions.

Mayor Hooper said this could mean that all of the city's written materials need to be produced in Braille when requested. She asked if the Council needed to adopt the notice of provision of services.

City Manager Fraser said they were suggesting they felt the Council should endorse it. It is an affirmative statement from the elected officials that this is something they endorse.

Council Member Sherman asked if captioning would be sufficient to make a Council meeting ADA accessible.

Ms. Brittenham said closed captioning is when the text appears on the bottom of the screen when the viewer wants it to appear. Open captioning is more like subtitles when it just appears.

Council Member Hooper spoke about access and people who are deaf and asked if they needed to not only see a recorded meeting but participate in that.

Assistant Public Works Director McArdle said they are looking into that and working with the technology people in City Hall. They have done an inventory of all of our communication systems. The notice of provisions would allow somebody to look into that and tells them how to do it. Ultimately, they will be back with the transition plan and the self evaluation. There will be an opportunity for public comment and review.

Council Member Sherman moved the Council adopt the notice of provision of services and that the ADA Committee work on them. Council Member Weiss seconded the motion.

Council Member Sheridan said as Chair of the Committee it is a really terrific committee and he would like to commend Tom McArdle and Kim Brittenham. They should be lauded for their efforts in this. They really helped him as Chair to come into what is a tough job.

Mayor Hooper called for a vote on the motion. The vote was 6-0, motion carried unanimously.

10-081. Reports by City Council.

Council Member Sherman reported she attended the Chamber of Commerce Regional Public Safety Authority meeting. There were ideas about bringing together dispatch, fire and ambulance and police services for a four-town area. She had a conversation with Sandy Pitonyak about the Book of Ordinances. Although some desks do have the books and some don't and it is totally unreliable if they are not totally up to date in the books. She suggested to her they dispense with the books and go to the city web site where all of the ordinances are easily available and can be download and printed. That is an idea the Council might want to consider. The other issue she has heard a lot from residents at a Montpelier neighborhood potluck a few days ago are the sidewalks on Sibley Avenue between College Street and Barre Street. It is in a rough condition and residents are very eager to have that improved. She staved off an effort to start a petition saying it was unnecessary and it could be brought to the Council's attention without that.

Council Member Jarvis thinks what ought to be communicated to them is that while they appreciate that and would love to fix it, there is no money in the budget for it.

Council Member Jarvis said she saw on the job posting for the Care Bank position. She would like to know the process for getting that out from under city management. How long a time line are we talking about in terms of that being a program that stands fully on its own? She is especially concerned about that because knowing that Garth in the near future may be very much unavailable to us. She is concerned about the priorities of the Planning Department and the timing, especially because of the 58 Barre Street project. There is a lot that is going on that needs to be shepherded through and he is not going to be able to do that at a certain point. She assumes that Gwen will have to step in. That is her priority and the Care Bank is not her priority. She would like to see that the city is pushing that out of its hands. Something that bothers her every day she drives by are the trash cans outside City Hall. It is this beat up broken plastic thing. She knows that Montpelier Alive did a bunch of nice trash cans last summer.

Council Member Golonka said from the regional shared services meeting they had last week they will be asking for an agenda item at the next Council meeting to discuss the city's further continuance in that process and whether or not we want to move forward.

Council Member Hooper said he would like to remind people that the winter parking ban is still in effect until April 1st.

Council Member Weiss said he wanted to offer commendation to the folks who organized the 13th Annual Green Mountain Film Festival. It is going exceedingly well. They have done well in selecting and have had good attendance. He thinks it is a real benefit to the city of Montpelier. In anticipation of the meeting on April 5th, is there any expectation that Council Members are supposed to bring in their objectives?

Mayor Hooper replied of course.

10-082. Mayor's Report:

There was a citizen who asked the Council to consider how the toy run is going to be managed. Do we need to have a conversation here?

City Manager Fraser said it depends upon what their choice is. The last time this came up we talked about a lifetime waiver for the noise and a strong support for continuing it as it is. They do understand there are some complications this year because of the prior use of the State House Lawn so that in itself may be an opportunity to do something different with location, etc.

Council Member Weiss said he didn't want to waste agenda time for that particular topic. Let it be decided administratively.

Council Member Sherman said she thinks this is important to consider this. It is complicated. There is an increasing number of participants and the delightful challenge of revving up. Someone needs to know that is an issue and the route is very important, particularly this year

Council Member Hooper said they should put up signs early in the morning the day before very visibly that the street will be closed for an hour.

Mayor Hooper said they will handle this administratively.

Mayor Hooper said they should let the community know they are having a goals setting session and invite them to communicate with us. It is our obligation to let people know that this is the annual moment when we say what we are going to work on for the year. We could put this out on the web site and use it as a press release. She reported they had a really nice dinner with the Dewey Hall residents, which is the group that was formed as a result of some concerns about neighborhood concerns and the use of Dewey Hall at Vermont College in terms of noise, maintenance, smoking and that which was a typical hard conversation beginning three or four years ago has become a very neighborly process which the College, neighbors and New England Culinary Institute are engaged in and are respectful of each other. It was a fine thing they did up there through the Community Justice Center process.

10-083. Report by City Clerk-Treasurer.

City Clerk Hoyt reminded members of the viewing public that you needed to have your dogs registered by April 1st.

10-084. Status Report by the City Manager.

Last week they met about the District Heating Plant with the Senate Institutions Committee. They are expecting a detailed report from Veolia by the end of the month which will give us a better picture of the some of the numbers. He was on VPR at noon today talking about and answered some questions from call-ins. The Department of Energy is very engaged in that project. Almost every week they are working with Lost Nation Theater preparing some documents and a rental policy. In order to get to the issue of fees for events they are putting in a provision for a deposit for clean up.

10-85. Agenda Reports by the City Manager

a) Consideration of an Executive Session, in accordance with Title I, Section 313, Subsection (a)(1) for the purpose of discussing Police Union Negotiations.

Motion was made by Council Member Golonka, seconded by Council Member Sherman to go into executive session at 9:30 P.M., in accordance with Title I, Section 313, Subsection (a)(1) for the purpose of discussion Police Union Negotiations. The vote was 6-0, motion carried unanimously.

Present: Mayor Hooper; Council Members Golonka, Sherman, Sheridan, Jarvis, Hooper and Weiss; also City Manager Fraser.

After motion duly made and seconded by Council Member Weiss and Hooper, the Council Members came out of executive session at 9:50 P.M., in accordance with Title I, Section 313, Subsection (a)(1) where they had discussed Police Union Negotiations. The vote was 6-0, motion carried unanimously.

Adjournment:

After motion duly made and seconded by Council Members Hooper and Jarvis the Council Meeting adjourned at 9:51 P.M.

Transcribed by Joan Clack.

Attest: Charlotte L Hoyt

Charlotte L. Hoyt, City Clerk

CITY OF MONTPELIER
Council Meeting
Consent Agenda
March 24, 2010
Liquor License and Tobacco Renewal Applications

Belladonna LLC **12 Main Street**	**2nd Class Liquor License** **Tobacco License**
Brockton Corporation **dba Shaw's Beer & Wine #7521** **2 Main Street**	**2nd Class Liquor License** **Tobacco License**
City Dog Country Dog, Inc **dba Restaurant Phoebe** **52 State Street**	**1st Class Liquor License**
Grace & Duane, Inc **dba Montpelier Village Pizza** **89 Main Street**	**1st Class Liquor License**
Hyzer Industries, Inc **dba Three Penny Taproom** **108 Main Street**	**1st Class Liquor License**
Great American Enterprises, Inc **dba Charlie O's Cigar Bar & Le Café Tabac** **70 Main Street**	**1st Class Liquor License** **Tobacco License**
Inndeavors Inc **dba Inn at Montpelier, The** **147 Main Street**	**1st Class Liquor License**
Langdon Street Café Collective, Inc **4 Langdon Street**	**1st Class Liquor License**
Sarducci's Inc **3 Main Street**	**1st Class Liquor License**
Uncommon Market, LLC, The **1 School Street**	**2nd Class Liquor License**

Sandy Pitonyak

To: Anthony Facos
Cc: Gesualdo Schneider; Todd Law; William Fraser
Subject: 3 Penny Tap Room Proposal for Outdoor Event on May 1st

Scott Connor just stopped by. He explained that they propose to put up a tent between the back of their business and Andrew Brewer's building (in the parking lot), and it will begin as soon as Onion River Sports' bike exchange ends at 1:00 P.M. Scott said their music is only going to be played until 8:30 P.M.

I gave him a copy of the Noise Ordinance (anyway); he's talked with Charlotte; and he knows that he needs to have all of his information ready for May 1st.

Scott said he's going to be meeting with you before he leaves on his honeymoon next Tuesday. Would you let me know if you think a meeting is necessary between you, Scott and/or Wes, Bill, Ges and Todd?

Thank you!

P.S. For the record, Scott said they'd reserved the Gym at Vermont College for this event but college staff accidentally double-
booked ... school prom being held there!

Sandy Pitonyak

From: Gesualdo Schneider
Sent: Wednesday, March 31, 2010 1:58 PM
To: Sandy Pitonyak; Anthony Facos
Cc: Todd Law; William Fraser
Subject: RE: 3 Penny Tap Room Proposal for Outdoor Event on May 1st

Sandy and Tony,

My question is whether he has a map of his planned placement. Specifically, would vehicles be able to drive in the alleyway if necessary?

This would not be a stopper, but would affect any planning.

Gesualdo

From: Anthony Facos
Sent: Wednesday, March 31, 2010 3:18 PM
To: Gesualdo Schneider; Sandy Pitonyak
Cc: Todd Law; William Fraser; L-PD_SUPER
Subject: RE: 3 Penny Tap Room Proposal for Outdoor Event on May 1st
Attachments: image001.gif

I spoke with Scott earlier this afternoon and I specifically asked that question. Scott's plan is to leave the alleyway open and there will appropriate fencing from the corner of ORS to the north corner of the Miller building. The main entrance for the fenced in area will be from Langdon Street. There will not be a stage, just tents and grills. He will have 3 bartenders and three security/doormen on duty for the event. He also advised he has scheduled a meeting with Jerry Cody from DLC. I don't have any other issues with this and we will make sure we have a full shift that evening.

Chief Tony Facos

From: Todd Law
Sent: Wednesday, March 31, 2010 3:27 PM
To: Sandy Pitonyak; Anthony Facos
Cc: Gesualdo Schneider; William Fraser
Subject: RE: 3 Penny Tap Room Proposal for Outdoor Event on May 1st
Attachments: image002.gif

I am assuming he has gotten the consent of the others who use/ have arrangements to that parking lot? Mr. Alvarez does control some of the parking area in the back where there is a Times Argus parking, etc. I don't see any other glaring issues with this one.

Thanks, (Alvarez lot will NOT be affected ... per Scott)

Todd

SP

City of Montpelier, Vermont
"The Smallest Capital City in the United States"

DATE: April 8, 2010

TO: Mayor and City Council

FROM: William J. Fraser, City Manager
Andy Hooper, City Council Member
Sandra J. Gallup, Finance Director

SUBJECT: Recommendation for Audit Services Contract FY10-FY12

The City advertised and sent out 25 requests for proposals for audit services for the fiscal years 2010-2012. Three accounting firms submitted proposals.

Their proposal's not-to-exceed prices (assuming a Single Audit with one Major Program is required) are as follows:

	FY 2010	FY 2011	FY 2012
Love, Cody & Co CPA Bennington VT	$26,500	$27,400	$28,400
Cota CPA, PC Williston VT	$32,000	$33,500	$35,500
A.M. Peisch Company LLP St. Albans	$33,000	$34,500	$36,200

Note: A major program is a federal grant that exceeds $300,000.

We interviewed Love, Cody & Co and Cota CPA, the two lowest bidders. **Based on these interviews and the firms' qualifications, references and comparable experience, we recommend accepting Love, Cody & Co. CPA's proposal for the fiscal years 2010-2012.** (Note: Council member Weiss attended the bid opening but was out of town during the week of the interviews and recommendation decision.)

Budget note: Sullivan Powers & Co. performed the City's audit from FY 2004 to FY 2009 and declined to provide audit services in 2010. We have $30,900 in the FY2010 budget for the audit and financial statement preparation services. When we factor in the cost of the financial statement preparation (Fothergill Segale Valley will prepare) and take out the single audit fee (which we will charge to the major program directly) the low bid will be $5,600 over our budgeted amount. The final Audit Report will be completed by December 15th of each contract year.

ATTACHMENT B

Recommendation: As a result of the work summarized in Report #1 of the Public Safety Committee, the Committee unanimously recommends that the participating municipalities continue to pursue a consolidated Public Safety Authority by approving the motion below:

Motion to Continue the Regional Public Services Committee

The ______________________________ Council / Selectboard hereby expresses its desire to continue to pursue a Regional Public Safety Authority for consolidation of public safety services – dispatch, ambulance, firefighting and law enforcement – with nearby cities and towns so as to improve service delivery and contain costs over time.

We understand the Regional Public Safety Committee is composed of two appointees of the municipal governing body of each participating city or town, and the chief executive officers (or their designees) of the Central Vermont Chamber of Commerce, Central Vermont Economic Development Corporation, and Central Vermont Regional Planning Commission.

We also understand the Central Vermont Chamber of Commerce has agreed to continue to provide administrative support and meeting space with web-casting and recording of meetings until the Committee chooses another location and/or another administrative services provider.

______________________________ Council/Selectboard agrees that its appointees

______________________________ and ______________________________

will be committed to meeting twice monthly throughout 2010 for the purpose of determining how dispatch, ambulance, firefighting and law enforcement could be configured to best serve the participating municipalities if the municipal boundaries separating them were erased or ignored.

The Regional Public Safety Committee's charge for 2010 is to understand and report:

1) the configuration and budget for each consolidated service,

2) current conditions and costs of these services,

3) relative cost, value and ease of moving from the current service system to the consolidated model,

4) a recommendation regarding consolidation of these services, including the structure for a Public Safety Authority and draft by-laws, and

5) to provide a written report summarizing its work, findings and recommendations.

Moved, seconded and approved by the municipal governing body this ______ day of

____________, 2010.

Request to Cater Malt and Vinous Beverages & Spirituous Liquors

Caterer's Permit Number 2019

APPROVED	DISAPPROVED Date:
Reason:	
(for department use only)	

To: Board of Selectmen/Alderman at catered location and Vermont Liquor Control Board.

From: Licensee name: Yebba Inc

d/b/a: The Abbey Pub + Restaurant

Street: 6212 VT Rte 105 Town/City: Enosburg Falls

Contact name and phone number: Rachel Judd (802-933-4747

Email or Fax # rachel@abbeygroup.net

BE SURE TO READ INSTRUCTIONS BELOW, BEFORE COMPLETING APPLICATION.

(Each catered affair must have a recommendation from the local Board of Selectman or Alderman acting in their capacity as local control commissioners and must have the approval of the State Liquor Control Board.)

Please answer the following questions:

1. Describe type of party to be catered: Cocktail reception
2. Location of catered party (street, town or city; if no address, describe location): State House 115 State Street Montpelier
3. Date of catered party (not more than five days, unless specifically authorized: 4/8/10
4. Hours of operation: Start 1500 hrs. End 1900 hrs. 5 # Of Persons Attending 40-60

Signed: ______ (caterer) Date: 3/29/10

We recommend: approval disapproved

If you recommend disapproval, please state reason(s): ______

Town/City Clerk's signature Of CATERED location. Town/City Date

Fax Number:

SUBMIT AT LEAST 15 DAYS PRIOR TO DATE OF FUNCTION

Submit to Town/City Clerk for recommendation. Town/City Clerk will mail to Vermont Liquor Control Board, Green Mountain Drive, Drawer 20, Montpelier, VT 05620-4501.

LIQUOR CONTROL BOARD'S PROCEDURAL REQUIREMENTS FOR CATERER'S PERMIT HOLDERS:

1. All liquor control laws and regulations that apply to 1st and 3rd class licenses also apply to caterer's permits.
2. Before a catered event is approved in any open area, the following requirements must be fulfilled:
   a) A defined area, for serving and consumption of alcohol beverages, designated with physical barriers.
   b) Separate toilet and lavatory facilities available for both men and women.

Sandy Pitonyak

To: L-Council
Subject: Catering Permit

Application from Yebba, Inc., d/b/a The Abbey Pub & Restaurant, for a Cocktail Reception scheduled to be held on Thursday, April 8th, from 3:00 to 7:00 P.M. at the State House.

Sandy Pitonyak

Administrative Assistant to the City Manager
City Hall - 39 Main Street
Montpelier, VT 05602
Telephone: (802) 223-9502
FAX: (802) 223-9519
spitonyak@montpelier-vt.org

OK with me.
Tom

I approve.
- Sarah

I approve
Nancy Sherman

Sandy Pitonyak

From: T. Andrew Hooper [tah@thatitguy.com]
Sent: Monday, April 05, 2010 10:39 AM
To: Sandy Pitonyak
Subject: RE: Just need one more vote on that Catering Permit!
Attachments: image002.gif

Let's do it!

Aye!

or for the Pirates: Arrggghh!

New ☒
Renewal ☐
If this is a renewal with changes please indicate below, if there are no changes, it is not necessary to complete each year.

VERMONT DEPARTMENT OF LIQUOR CONTROL
Enforcement & Licensing Division
OUTSIDE CONSUMPTION PERMIT

Approved/Disapproved

Office Use Only

Name of Licensed Premise (Corporation/Partnership/Individual, d/b/a)
Royal Dragon Inc.,

d/b/a ROYAL ORCHID THAI RESTAURANT

Address 38 ELM St., #1 Town/City MONTPELIER

License Number 4281-001-1RST-0101 **Email or Fax #** 802 223-0457

Outside consumption would be in the area described below: (describe fully, including size, physical barriers, etc.) It is a wooden desk with three side wooden rails. The desk size is 12'x14'. It is capacity for 8-10 ~~p~~ seats.

Outside Consumption time period (hours) from April to October 11:30 - 14:30

Permanent Use ☒ from April to October 17:00 - 21:00

Month/Day April Month/Day October.

Occasional Use ☐ Day(s) Requested

Signature of Licensee [signature]
ORNON JILANDHARN

APPROVED BY LOCAL CONTROL COMMISSIONERS
Town/City Clerk Signature ______________________
Date

APPROVED BY DEPARTMENT OF LIQUOR CONTROL
Investigator/Enforcement Office______________________
Signature Date

Please remember that this outside consumption permit is an extension of your license to serve alcohol beverages, and that the same rules apply in this area as do in the regularly licensed premise area.

Enf 02/03

SAMPLE TIF TIMELINE

ASSUMES PREPARATION BY MUNICIPALITY (FEASIBILITY STUDIES, ETC) LEADING UP TO PLAN DEVELOPMENT IN 2008 AND ASSUMES 30 YEAR DEBT INSTRUMENT

2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040

YELLOW = NON-STATUTORY STEPS

GREEN = STATUTORY STEPS

RED = DEBT STEPS

Pre-Approval negotiations between municipality, developers, those seeking development or redevelopment, neighbors, interested parties.

TIF District Plan Developed by municipality.

Changes to local ordinances, zoning, etc initiated by municipality

TIF District Coordinating Agency hired by municipality (At descretion of municipality; allowed by 24 VSA 1898(e) and cost may be included as a "related costs.")

After public notice, one or more public hearing(s) held on TIF District plan. (24 VSA 1892(a))

After properly noticed public hearings and upon finding of public purpose by municipal legislative body, TIF District created by vote of same. (24 VSA 1892)

LIFE OF TIF DISTRICT: DISTRICT EXISTS AS OF 12:01 AM OF APRIL 1 OF THE YEAR CREATED BY MUNICIPAL LEGISLATIVE BODY AND REMAINS IN EXISTENCE UNTIL DATE AND HOUR THAT ALL INDEBTEDNESS IS RETIRED. (24 VSA 1894(a)(3)).

TIF District debt retired. Life of District ends.

TIF District Plan recorded with municipal lister or assessor. (24 VSA 1892(b))

On or about 12:01 am the April 1 following approval by municipal body, municipal lister or assessor certifies assessed valuation of taxable property within the district, setting original taxable value. (24 VSA 1895)

Each year, municipal lister or assessor certifies to muncipal legislative body, increase or decrease in original taxable value, computes tax increment, and the municipal treasurer holds 75% of the increment apart in segregated, special account to service debt, until such time as all debt is paid. The tax resulting from the original taxable value and 25% of the increment is submitted to the taxing authorities (24 VSA 1896)

Application submitted to VEPC for approval of use of Education Fund Revenue to finance TIF debt (32 VSA 5404a(f, g, h))

Application approved or denied by VEPC (32 VSA 5404a(h))

TIF District Financing Plan submitted and apporved by VEPc (if not appproved concurrent with TIF Plan) (24 VSA 1894(c))

Municipal Legislative body authorized, by single vote of legal voters, to pledge credit of municipality up to a specified maximum dollar amount for all TIF District debt obligations. (24 VSA 1897(a))

Within the five-year period following creation of the TIF District by the municipal body, the municipal body must incur debt related to the TIF District. If debt is not incurred within five years of District creation, the muicipality must reapply to VEPC for use of Education Fund revenues toward the TIF debt. (24 VSA 1894(a)(2))

Any debt incurred during the 20 year period following the creation of the TIF District by the municipal legislative body may be retired over any period authorized by the legislative body of the municipality. However, only debt incurred during the five year period following the creation of the District by the municipal legislative body is eligible to be paid down using incremental Education Tax TIF District revenues. The first instance of debt that is incurred during this five year period begins the period of 20 years during which 75% of the incremental Education Tax TIF District revenues may be retained to pay any of the debt that is incurred during the first five-year period. Debt incurred AFTER the fist five year period is not eligible to be paid using incremental Education Tax TIF District revenues. The debt may be retired over any period authorized by the legislative body of the municipality. (24 VSA 1894)

When the first instance of TIF District debt is incurred, the 20-year retention period commences during which 75% of the incremental TIF District revenue may be set aside to be used to pay TIF District debt and related costs. Once generated and set aside during the 20 year period, the funds can be used until the debt is retired. (24 VSA 1894)

Tax revenue based on improved taxable values distributed 100% to all taxing entities from this point on.

Infrastructure built and/or rebuilt

Development and redevelopment begins. New properties built and older properties improved.

Approximate period during which incremental value will be generated by new properties and improved properties within TIF District.

Annual reporting required by municipality to VEPC and Tax Department. (24 VSA 1901)

2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040

City of Montpelier, Vermont

"The Smallest Capital City in the United States"

William J. Fraser
City Manager
wfraser@montpelier-vt.org

Beverlee Pembroke Hill,
Assistant City Manager
bhill@montpelier-vt.org

March 16, 2010

The Times-Argus
Att: Classifieds

Please insert the following with City of Montpelier notices on Thursday, March 18th

CITY OF MONTPELIER
Tree Board Vacancies

The Montpelier City Council is seeking individuals interested in filling two full-time positions on the City's Tree Board: both 3-year terms will expire in April, 2013. Letters of interest and/or resumes should be submitted to the Office of the City Manager, City Hall - 39 Main Street, Montpelier, on or by noon on Thursday, April 8th. The City Council will make these appointments at their Wednesday, April 14th City Council Meeting; applicants are encouraged to attend. All meeting rooms and facilities in City Hall are accessible to disabled persons. Further information may also be obtained by contacting Commission Co-chair Wendy Blakeman (229-0185).

William J. Fraser
City Manager

(802) 223-9502, Telephone *39 Main Street, Montpelier, VT 05602* *(802) 223-9519, Fax*
www.montpelier-vt.org

Sandy Pitonyak

From: John Snell [jsnell@thesnellgroup.com]
Sent: Monday, March 15, 2010 5:52 PM
To: Sandy Pitonyak; naquinsease@comcast.net
Subject: Re: Tree Board Vacancies ... your positions THIS time!
Attachments: image001 156.gif

Thanks. Yes, I would like to be re-appointed to the Board.

John Snell
17 First Avenue
Monpelier, VT
229-1751

At 5:51 PM -0400 3/15/10, Sandy Pitonyak wrote:

> Just send me an e-mail if you want to be reappointed, 'k? Thank you both.
>
> *Sandy Pitonyak*

Sandy Pitonyak

From: Carole Naquin [naquinsease@comcast.net]
Sent: Monday, March 15, 2010 8:20 PM
To: Sandy Pitonyak
Subject: Re: Tree Board Vacancies ... your positions THIS time!

15 years...

Okay reappoint me for another 3.

Thanks Sandy.

Carole

On Mar 15, 2010, at 4:42 PM, Sandy Pitonyak wrote:

Just send me an e-mail if you want to be reappointed, 'k? Thank you both.

Sandy Pitonyak

Veolia Energy

VEOLIA
ENERGY

Veolia Energy

VEOLIA ENVIRONNEMENT

2008 Revenue: $47.0 Billion**

320,000 Employees worldwide

70+ countries

VEOLIA ENERGY

- **No.1** in Energy Services and Global Building Management Worldwide

2008 Revenue:
$9.7 Billion**

VEOLIA ENVIRONMENTAL SERVICES

- **No.2** Worldwide in Waste Management, Leader in Hazardous Industrial Waste Management

2008 Revenue:
$13.1 Billion**

VEOLIA TRANSPORTATION

- **No.1** Private Operator of Surface Passenger Transportation in the U.S. and Europe

2008 Revenue:
$7.9 Billion**

VEOLIA WATER

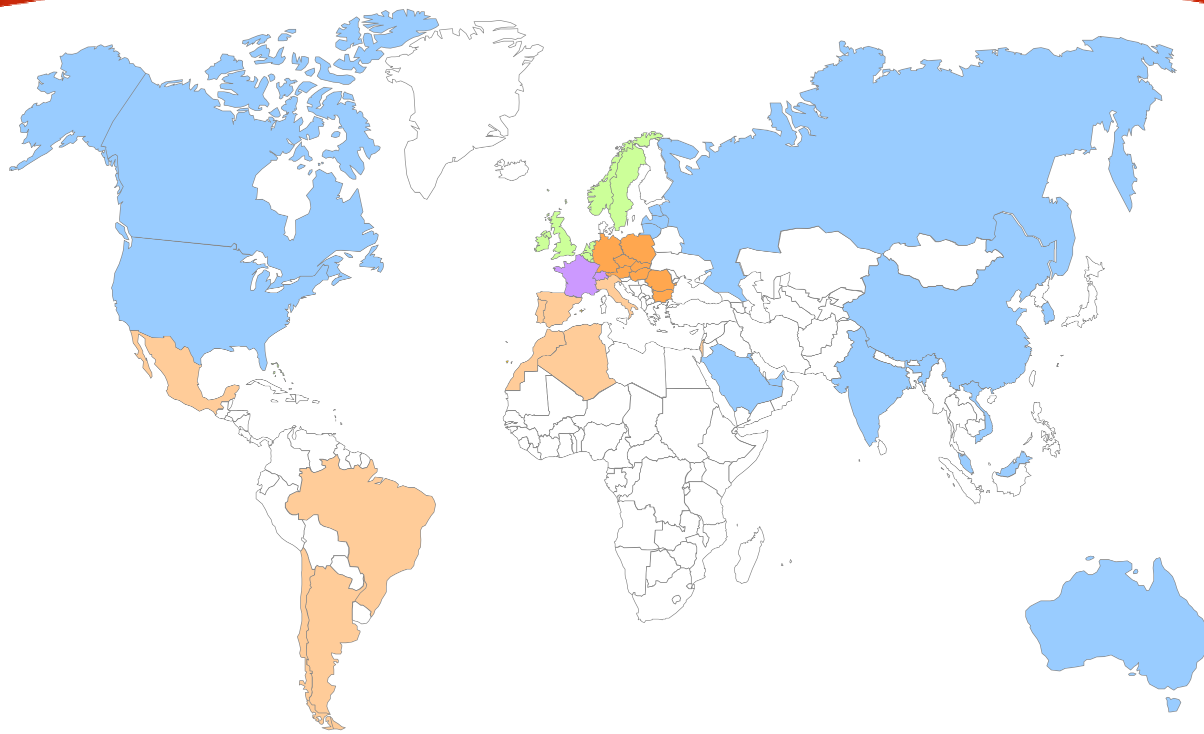
- **No.1** Worldwide in Water Services *(based on global reach, number of customers served, history and revenues)*

2008 Revenue:
$16.3 Billion**

** Veolia Energy operates in Europe under the brand:* Dalkia

*** Based on an exchange rate of US $1.3 = 1 €*

Veolia Energy - Global Operations
Operating in 39 Countries



Central & Eastern Europe
Germany
Austria
Bulgaria
Hungary
Poland
Czech Republic
Romania
Slovakia

North Atlantic
Belgium
Luxembourg
Ireland
United Kingdom
Sweden
Norway
Netherlands

Southern
Argentina
Algeria*
Brazil
Chile
Spain
Israel
Italy
Morocco
Mexico
Portugal

Development zone
United States
Australia
Canada
Saudi Arabia
Bahrain
UAE
China
South Korea
Estonia
India*
Latvia*
Lithuania
Malaysia
Russia*
Singapore

France & Switzerland

*** Representation offices**

Veolia Energy – US Operations

Offices/Facilities in 13 States – Customer Relationships in 19 additional States

VEOLIA ENERGY

Veolia Energy - US Operations
Extensive Thermal Energy Production & Distribution Expertise

Serving more than 1,200 customers in 13 cities from 24 central plants

District Energy Systems

Produce electricity, steam, hot water, and chilled water at central utility plants, and then transmit these energy products to nearby facilities through a pipe distribution system.

Customer Benefits

Customers:

- Receive reliable, competitively-priced energy products
- Conserve capital
- Gain additional building space by avoiding the need for separate boilers or chillers
- Avoid labor expenses related to maintenance activities

Environmental Benefits

Cogeneration converts energy by-products into useful thermal energy, resulting in less waste, fewer air emissions, and greater efficiency

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Veolia Energy – US Operations

Unparalleled Expertise in Sustainable Energy and Facility Operations & Management Solutions

VEOLIA ENERGY

Committed to Sustainable Energy and Facility Solutions

Total Capacity of Thermal Energy Systems Owned or Managed:

Steam / Hot Water capacity - 11.5 million lbs./hour

Chilled Water capacity - 165,225 tons

Electric Generating capacity - 1,109 MW

Steam / Hot Water Distribution Pipe - 133 miles

Chilled Water Distribution Pipe - 17 miles

Customer Space Served - 262 million square feet

Services
Design, Build, Operate and Maintain Service

- Identify best source of capital
  - Veolia
  - 3rd Party
  - Owner
- Provide proven operational expertise and performance guarantees to meet financial pro-forma requirements
- Risk Management for Client
  - Fixed cost for Operations and Maintenance
  - Guaranteed performance of energy assets (New Plant)

SAMPLE PROJECTS

VEOLIA
ENERGY

Biogen Idec – Cambridge MA

Complete outsourcing of a 5.5-MWe cogeneration power plant

Biotechnology

Combined heat and power (CHP)

The Customer – Biogen IDEC:

- Veolia was awarded the contract in December 2005.
- Veolia supported this client in the completion of its plant construction, its startup and acceptance testing for a plant that included:

  > 5.5-MW Solar Turbines "Taurus 60" gas turbine
  > 70-Mlbs/hr heat recovery steam generator
  > 2 x 50Mlbs/hour auxiliary boilers; air compressors
  > all auxiliary systems and equipment

- Under a five-year agreement, Veolia is also responsible for providing comprehensive O&M services and meeting all performance guarantees for these facilities.
- Veolia has developed operating strategies, manuals and safety procedures for this new plant.
- Veolia is continuously making improvements to increase efficiencies and plant outputs to better serve the clients needs.
- Veolia was also able to utilize its local district steam network to provide added reliability to the client.

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Grays Ferry - Philadelphia

- Grays Ferry is one of Veolia Energy's three Philadelphia, PA steam production facilities.
- Grays Ferry is a 170 megawatt cogeneration facility (CHP) with a 120 megawatt combustion turbine and a 50 megawatt extraction/condensing steam turbine.
- Grays Ferry has a Heat Recovery Steam Generator with duct firing capability and steam capacity of 711 Mlbs. per hour, and a 735 Mlbs. per hour high-pressure superheat boiler.
- The plant uses two fuels - natural gas and #2 fuel oil.

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Lille Network - France

From coal to cogeneration: the evolution of a district heating network toward positive, clean energy

MUNICIPALITIES AND PUBLIC CORPORATIONS

Heating and cooling network

Combined heat and power (CHP)

The Customer: Municipality of Lille

- The city of Lille, France (population 192,000).

Specific Requirements:

- Build a district heating network.
- Improve energy efficiency at the city's installations and reduce heating expenses.
- Address the environmental concerns of the various stakeholders.

Veolia Energy's Solution:

- Construction of a coal-powered thermal power plant in 1985 and a new gas boiler coupled with a gas turbine-powered cogeneration power plant in 2001.
- Operation of facilities producing heat and electricity, as well as the distribution network by remote management.
- Efforts to integrate the site into the landscape by working with neighbouring residential associations and informing and maintaining a dialogue with locals.

Results:

- Preservation of the urban environment, with improved air quality.
- Connection of new buildings.
- Improved energy efficiency, with heating costs for users reduced by 15%.
- Decoration of the Mont de Terre power plant by children from neighbourhood schools.
- A closer relationship with users and the general public.

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The Vilnius Network - Lithuania

Modernizing and expanding the network in order to extend its service life as the primary source of heat for the residents of Vilnius

MUNICIPALITIES AND PUBLIC CORPORATIONS

Heating and cooling network

Combined heat and power (CHP)

The Customer: Municipality of Vilnius, Lithuania

- The city of Vilnius (population 680,000) chose Veolia Energy to operate the district heating network.

Specific Requirements

- Optimize energy efficiency and control heating costs for users.
- Renovate residential buildings in order to reduce heat consumption and heating bills.
- Develop new sources of renewable energy.

Veolia Energy's Solution:

- Modernized the network's production and distribution facilities.
- Automated operation of energy production facilities and the distribution network.
- Opened three branch offices and appointed 75 neighbourhood supervisors to maintain relations with subscribers and connect new buildings to the network.
- With help from the World Bank, created an energy-consumption management fund to finance the renovation of installations and an individual billing program.

Results:

- Production facilities are more reliable, and breakdowns have been reduced by 12%.
- Increased energy efficiency and lower heating rates.
- Preservation of the urban environment.
- Plans to produce green electricity from biomass at one of the cogeneration power plants connected to the network.

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