



**CITY OF
MONTPELIER
MONTPELIER,
VERMONT**

Agenda for City
Council Meeting
Wednesday, May 26,
2010
5:00 P.M.

- 1) Call to Order by the Mayor
- 2) 10-124. General Business and Appearances
- 3) 10-125. Consideration of the Consent Agenda:
 - a) Consideration of the Minutes from the May 12th, 2010 Regular Meeting.
 - b) Consideration of becoming the Liquor Control Commission for the purpose of acting on the following:
 1. No applications as of "press time"
 - c) Consideration of awarding an architectural professional services contract to assist the Public Works and Recreation Departments in the examination of alternatives, and preparation of a schematic design with cost estimates for the construction of new restroom facilities to serve the Montpelier Recreation Field.
 - d) Consideration of awarding the contract for Roadside Mowing.
- 4) 10-126. Development Review Board Appointments (One Vacancy)-
 - a) No applications.
- 5) 10-127. Design Review Committee Appointments (One Vacancy)-

a) One application:

1. Katharine Jean Coffey-application attached.

- 6) 10-128 Administration on Aging: REACH Report Representatives from the U.S. Administration on Aging will brief the City Council on progress with the REACH grant and answer questions about the national program.

Recommendation: Receive report, discussion, and direction to staff if necessary.

- 7) 10-129 Update on reappraisal Project:

- a) The City is undergoing a full reappraisal of all property values.
- b) Preliminary values are completed and have been sent to the printers.
- c) City Assessor Steve Twombly and Bill Krajeski from New England Municipal Consultants, Inc. will provide an update to the council on the project.
- d) Update will include the schedule, hearing opportunities, a review of the work to date and a summary of grand list changes and estimated tax rates.

Recommendation: Receive report, discussion, and direction to staff if necessary.

- 8) 10-130 Consideration of Stonewall Meadows proposal to transfer land to the City for a park.

- a) The Stonewall Meadows Association has sought to transfer some common land to the City for a small park.
- b) The Association presented a title report indicating that they had clear title and were able to make this transfer.
- c) City Attorney Paul Giuliani has been provided a copy of this report and will provide comments in time for the meeting.

Recommendation: Review title report from Association, receive comments from City Attorney. Direction to Staff.

9) 10-131 Consideration of actions to protect Berlin Pond.

- a) The Superior Court recently issued a Temporary Restraining Order against recreational activities on Berlin Pond.
- b) City Attorney Paul Giuliani prepared a summary of recommended follow up actions that the City could take.

Recommendation: Review Attorney Giuliani's memo, direct Staff to prepare the necessary ordinances and orders for enactment.

10) 10-132 Update on District Energy Project Staff and Project Manager will provide the City Council with an update and recommendations on next steps with the District Energy Project.

Recommendation: Receive update, discussion, direction to staff.

11) 10-133 EA Consultant Staff and Project Manager will provide City Council with a recommendation for a firm to conduct an Environmental Assessment for the District Energy Project.

Recommendation: Receive recommendation, direction to staff.

12) 10-134 Council Reports

13) 10-135. Mayor's Report

14) 10-136. Report by the City Clerk-Treasurer

15) 10-137. Status Reports by the City Manager

16) 10-138. Agenda Reports by the City Manager

Adjournment



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Recommendation: Receive update, discussion, direction to staff.

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On Wednesday evening, May 12, 2010, the City Council Members met in the Council Chamber.

Present: Council Members Jarvis, Golonka, Hooper, Sheridan, Weiss and Sherman; also City Manager Fraser. Mayor Mary Hooper was absent performing her duties as a Legislator.

Call to Order by the Mayor

Acting Mayor Jarvis called the meeting to order shortly after 7:00 P.M.

10-113. General Business and Appearances

None.

City Manager Fraser requested that two items be added to the agenda. Consideration of a Pre-Hearing Notice and an executive session to receive a status report on the Police Union negotiations. Consensus of the council was to add these two agenda items to the agenda.

10-114. Consideration of the Consent Agenda:

- a) Consideration of the Minutes from the April 28th, 2010 Regular Meeting.
- b) Consideration of the becoming the Liquor Control Commission for the purpose of acting on the following:

No applications as of “press time”

- c) Payroll and Bills.

Payroll Warrant dated April 29, 2010, in the amounts of \$109,449.83 and \$26,922.14.

General Fund Warrant dated May 5, 2010, in the amount of \$662,474.71 and \$1,645.00.

Payroll Warrant dated May 13, 2010, in the amounts of \$108,324.61 and \$25,652.31.

Motion was made by Council Member Sheridan, seconded by Council Member Golonka to approve the consent agenda. The vote was 5-0, motion carried unanimously.

10-115. City Hall Arts Center Management – Ordinance.

- a) Second Reading of proposed revisions to Article VIII of the City Ordinances concerning use of City Hall was held on April 28th.
- b) The City Manager has proposed amendments to the ordinance which more accurately reflect current practices and which allow changes to rental policies and fees without requiring future ordinance amendments.
- c) Recommendation: Approve the policies and agreements as presented.

Acting Mayor Jarvis opened the public hearing at 7:07 P.M. No one came forward to comment and the public hearing was closed.

Motion was made by Council Member Weiss, seconded by Council Member Sheridan to approve the revisions to Chapter 2, Article VIII Use of City Hall at its second reading. The vote was 5-0, the motion carried unanimously.

10-116. City Hall Arts Center Management – Policies and Agreements.

- a) In conjunction with this, Council will consider:
 - 1. Revised Rental Management Agent with Lost Nation Theatre
 - 2. Revised Use of Rental Agreement with Lost Nation Theatre
 - 3. Revised City Hall Arts Center Rental Policy and Rate Sheet
 - 4. Revised City Hall Arts Center Rental Contract
- a) The City Manager has proposed the above policies and agreements which are consistent with the proposed ordinance amendment and which reflect current practices.
- b) This item was tabled from the Council's April 28th meeting.

- c) Recommendation: Approve the policies and agreements as presented.

Discussion followed on the process for waiving the fee. It was decided that they would consider those on a case by case basis.

Council Member Weiss noted that the agenda item reflected that this item was tabled, however the minutes of the prior meeting did not note that the item was tabled.

City Manager Fraser reviewed the insurance coverage with the council members.

Motion was made by Council Member Sherman, seconded by Council Member Hooper to approve the three agreements with the addition to the rental policy and the new insurance coverage numbers. The vote was 5-0, motion carried unanimously.

- 10-117. The District Energy Committee will present a recommendation to the City Council for the hiring of a Project Manager for the District Energy Plant.

- a) Proposed Action: Approve Project Manager Contract.

Planning and Development Director Hallsmith gave an update on the project. They had four candidates and had interviewed two. They had offered the position to one of the candidates. She was asking the council to approve a contract for a six month tenure which would take them through the bond vote. After that we could continue with the same candidate or perhaps select someone else who would be more appropriate for the construction phase.

Motion was made by Council Member Weiss, seconded by Council Member Sherman to authorize negotiation of a contract for a six month period with compensation in line with the budgeted amount. The vote was 5-0, motion carried unanimously.

Acting Mayor Jarvis moved to agenda item 10-119 at this time.

- 10-119. Adoption of the City Council's Goals and Priorities for 2010; Manager will compile a list developed from April 12th Work Session.

City Manager Fraser said as he was preparing to compile the list he ran into a problem because they had gone through the process but didn't finish. He suggested they put discussion on the next agenda to finish up the work that needed to be done.

Motion was made by Council Member Weiss, seconded by Council Member Sheridan to table this agenda item for two weeks. The vote was 5-0, motion carried unanimously.

Acting Mayor Jarvis returned to agenda item 10-118.

10-118. Consideration of the City Council's endorsement of the Montpelier Community Justice Center's Citizen Advisory Board Bylaws.

- a) The Citizen Advisory Board of the Montpelier Community Justice Center adopted the Bylaws in January, 2009, a version amended from the original document created in October, 2003, and amended in March, 2005. The MCJC is required to have a Citizen Advisory Board (CAB) per the Safer Communities Grant from the Agency of Human Services that provides the bulk of its funding.

Yvonne Byrd, Executive Director said as the status of the Montpelier Community Justice Center had change to a city department it was felt that it would be appropriate to have the Council endorse the by-laws of the Capital Community Justice Center Advisory Board.

Council Members reviewed the document and suggested the following changes:

Page 2, a. Memorandum of Understanding should be attached to document.

Page 2, h. Self-govern and maintain the existence of the CAB, to be stricken.

Page 2, g. regarding approve grant applications and the annual budget – word differently to reflect submitted to City Manager with final approval by the City Council.

Page 5 Article 4 questioned the need for a treasurer as they were now a city department. It was suggested that treasurer be deleted.

Motion was made by Council Member Sheridan, seconded by Council Member Weiss to adopt the by-laws with the suggested changes. The vote was 5-0, the motion carried unanimously.

10-119A. Consideration of issuing a Pre-Hearing Notice regarding the inquiry concerning the Vermont Compost Company Main Street Facility, Montpelier, Vt.

Council Member Jarvis recused herself from participating on this agenda item to avoid the appearance of a conflict of interest as she is employed by the firm that is

representing Mr. Hammer.

Council Member Hooper, Vice President of the Council presided over this portion of the meeting.

City Manager Fraser explained that Attorney Stitzel had advised that the council adopt this Pre-Hearing Notice. The Pre-Hearing Notice frames the issue. Attorney Stitzel will be present before the formal hearing begins to review the process and the council's role. Once the Pre-Hearing Notice is adopted a copy will be sent to all parties involved.

Council Member Weiss asked that information on deliberative session be provided to the council by the City Manager or City Attorney.

Motion was made by Council Member Sheridan, seconded by Council Member Golonka to adopt the Pre-Hearing Notice. The vote was 4-0, motion carried unanimously.

Council Member Hooper stepped down as Acting Mayor and Council Member Jarvis resumed her duties as Acting Mayor.

10-119B Report by City Council.

Council Member Golonka noted Attorney Giuliani's letter regarding Berlin Pond Source Protection.

Council Member Sheridan said there would be a round table discussion regarding the Senior Center tomorrow and he would report back to the council at the next meeting.

Council Member Sherman had attended the Master Plan public hearing and the next hearing was scheduled for May 24th.

Council Member Jarvis has received calls about the crosswalks downtown and painting was delayed due to the changing temperature. Public Works staff hope to begin that process again soon.

Council Member Jarvis asked about the status of the wastewater penalty and the RFP related to river conservation.

City Manager Fraser said they are still working on that process and what groups would qualify. The State would make the final approval.

10-120. Mayor's Report.

Mayor Hooper was absent this evening.

10-121. Report by the City Clerk-Treasurer

City Clerk & Treasurer Hoyt reminded members of the viewing public that property taxes were due on Monday, May 17, 2010.

10-122. Status Reports by the City Manager

City Manager Fraser told the council that the amended vendor's ordinance took effect today. A question was asked if a vendor could move to another location after the regular day time hours to accommodate events taking place during the evening hours. Consensus of the Council was that would be a city manager decision.

City Manager Fraser reported that the Onion River Exchange would not be taking over the REACH Program. The city will get the program up and running and seek a non-profit partner.

City Manager Fraser said he had attended a meeting last Friday on the use of the railroad tracks through Montpelier. Information is still being gathered. He spoke about Operation Life Saver which is an educational program planned to educate the school students on the rules, risks and dangers of walking near or on the railroad tracks. Attorney Giuliani and Valerie Capels, former Planning Director are helping the city gather information on the Stonecutters Way project. Letters were written to VTTrans and the Senate Transportation Committee. City staff is still seeking an attorney with rail expertise to assist the city. The Bike Path projects are on hold. VTTrans and the railroad are seeking to site a mile long rail siding in the City of Montpelier. Upgrades to the crossing at Pioneer Street are planned, which could cause that intersection to be closed for a period of time.

10-123. Agenda Reports by the City Manager

Consideration of an executive session in accordance with Title 1, Section 313, Subsection (a)(2) Labor relations agreement with employees (Police Union negotiations).

Motion was made by Council Member Hooper, seconded by Council Member Golonka to go into executive session at 8:02 P.M., in accordance with Title 1, Section 313, Subsection (a)(2) Labor relations agreements with employees to receive an update on the

Police Union negotiations. Premature general public knowledge would clearly place the state, municipality, other public body, or person involved at a substantial disadvantage. City Manager Fraser was invited to attend. The vote was 5-0, motion carried unanimously.

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

Motion was made by Council Member Hooper, seconded by Council Member Sheridan to come out of executive session, in accordance with Title I, Section 313, Subsection (a)(2) where they had discussed police union negotiations. The vote was 5-0, motion carried unanimously.

Adjournment.

Motion was made by Council Member Hooper, seconded by Council Member Sheridan to adjourn the meeting. Motion carried.

Attest:

City Clerk

**CITY OF MONTPELIER
DEPARTMENT OF PUBLIC WORKS**

M E M O R A N D U M

TO: William J. Fraser, City Manager

FROM: Tom McArdle

DATE: May 19, 2010

SUBJECT: Professional Services Contract
Montpelier Recreation Field – design of restroom facilities

This is to request City Council approval to enter into a contract with an architectural firm to design restroom facilities for Montpelier Recreation Field. In response to an informal complaint received concerning accessibility inadequacies with the existing restroom facilities recreation, and public works department staff conducted a review. The inadequacies in regards to the American with Disabilities Act (ADA) have been verified and a plan of action to correct the problems is now being acted upon. The first step is to retain the services of a professional architect to ascertain the available options and provide a design. An interim plan to address accommodation needs during the upcoming baseball season will include the use of rented portable facilities. All other accessibility issues at the site are also being addressed but are mostly minor relating to parking, accessible routes and designated wheel chair seating.

Please include the following on the agenda for the next available City Council meeting:

Consideration of awarding an architectural professional services contract to assist the Public Works and Recreation Departments in the examination of alternatives, and preparation of a schematic design with cost estimate, for the construction of new restroom facilities to serve the Montpelier Recreation Field.

The baseball field grandstand and outbuildings were constructed in 1939 and minimal upgrades have been accomplished over the years for the convenience and comfort of visitors. The existing restroom is considered inadequate to meet current demand and is non-accessible in accordance with the American with Disabilities Act (ADA).

The architectural consultant is tasked with determining the appropriate requirements of a restroom facility based on site demands and recreation facility capacity in accordance with the ADA Accessibility Guidelines (ADAAG) to address various inadequacies which currently exist while also satisfying essential courtesy and convenience accommodations. The consultant will develop a schematic design for an economical replacement structure and prepare a construction budget for the purpose of securing funding for a performance based construction contract. Technical and cost proposals were solicited from five local architectural firms.

Two proposals were received; Black River Design and Thomas B. Leytham – Architect. The selection committee, consisting of Tom McArdle & Jim Sheridan, ADA Committee members and Arne McMullen, Recreation Department Director, recommend that a contract be tendered to Thomas B. Leytham – Architect in the amount of \$3,950 based on labor rates and estimated time including reimbursables and that a maximum limiting amount (MLA) be established in the amount of \$4,500 for the project.

Funding for professional services will be obtained from CIP budget line items split between the ADA Improvements and Project Management and through a pledge from the Vermont Mountaineers.

Recommendation: Authorization for the City Manager to enter into a contractual arrangement with Thomas B. Leytham – Architects in the amount of \$3,950.

C: Jim Sheridan, City Councilor, ADA Committee Chair
 Arne McMullen, Recreation Department

March 19, 2010

Design Review Committee
c/o Clancy De Smet
City of Montpelier
39 Main Street
Montpelier, Vermont 05602

Re: City of Montpelier Design Review Committee

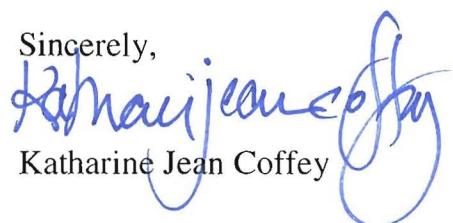
Dear Members of the Committee,

I am writing to express my interest in joining the Design Review Committee in Montpelier. I am a native Vermonter and an architect living and working in Montpelier. I have been in the area just over four years; prior to returning to Vermont I was employed in the Washington, D.C. area at a firm specializing in Historic Preservation.

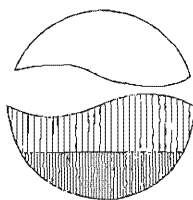
The conservation and growth of our local downtown is vital to keeping our city vibrant, but conservation and growth may often be seen as at odds with one another. Keeping these two goals working together is a balancing act that is worthy of our time and careful consideration. It is something that I take to heart daily as part of my work.

It is with this in mind that I ask for your consideration to join you on the Design Review Committee, serving Montpelier as the City moves forward.

Sincerely,



Katharine Jean Coffey



BLACK RIVER DESIGN
ARCHITECTS
PLC

May 19, 2010

Montpelier City Council
Montpelier City Hall
Montpelier, VT

Re: Design Review applicant Kate Coffey

Dear Council Members

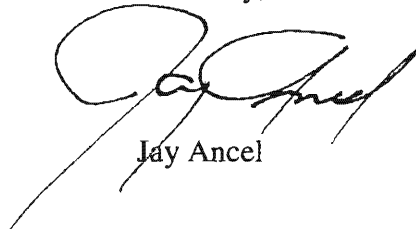
I understand that you are looking to fill a vacancy on the Design Review board, and that Kate Coffey has applied for the appointment. I would like to express my whole hearted support and encouragement based on her qualifications and interest in serving with this important aspect of maintaining the quality built environment of Montpelier.

Kate is an architect in our firm who has worked on a variety of project types including commercial and residential both new and historic. Her interests in quality architecture are born of a concern for community and how buildings can enhance the environment. She has a good grasp of technical issues as well as having a good sense of design aesthetic and function. Kate gets the big picture, something which I think is important in examining how a given project not only works for itself but in the context of the surrounding neighborhood.

I feel she would bring an objective approach to the process with an ability to recognize and facilitate the valid needs of a given project along with the collective interests and integrity of the City.

Having practiced architecture in Montpelier for thirty years, as past president of MDCA and as a resident, I would feel very comfortable in trusting the task of adding to the collective wisdom of Design Review to Kate as a member of the group. Her interests relate both to her professional expertise and her caring for Montpelier as a resident and homeowner. Feel free to contact me should you have any questions or need additional information.

Sincerely,



Jay Ancel

From: [William Fraser](#)
To: [Audra Brown](#); [Jane Aldrighetti](#)
Subject: FW: CC May 26 agenda - Rec Field Restroom design
Date: Wednesday, May 19, 2010 11:36:54 AM

From: Tom McArdle
Sent: Wednesday, May 19, 2010 10:58 AM
To: William Fraser; Beverlee Hill
Cc: Jim Sheridan - Comcast; Arne McMullen; Jessica Little; Sandra Gallup
Subject: CC May 26 agenda - Rec Field Restroom design

Please include the agenda item provided below for the City Council's regular meeting on May 26th. Please let me know if you need anything further to support this request or if you have any questions.

Thanks!

tom

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

City Council Agenda item (consent?)

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purpose of securing funding for a performance based construction contract.

- Technical and cost proposals were solicited from five local architectural firms. Two proposals were received; Black River Design and Thomas B. Leytham – Architect.
- The selection committee, consisting of Tom McArdle & Jim Sheridan, ADA Committee members and Arne McMullen, Recreation Department Director, recommend that a contract be tendered to Thomas B. Leytham – Architect in the amount of \$3,950 based on labor rates and estimated time including reimbursables and that a maximum limiting amount (MLA) be established in the amount of \$4,500 for the project.
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Recommendation: Authorization for the City Manager to enter into a contractual arrangement with Thomas B. Leytham – Architects in the amount of \$3,950.

Cm

McKEE, GIULIANI & CLEVELAND

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
P.O. BOX 1455
MONTPELIER, VERMONT 05601-1455

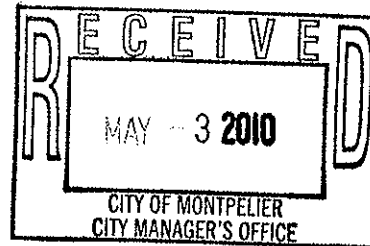
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PETER GIULIANI (1907-1998)
W. EDSON McKEE (1923-1999)
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OF COUNSEL
FREDERICK G. CLEVELAND

OFFICES AT:
TD BANKNORTH BUILDING
94 MAIN STREET, 2ND FLOOR
MONTPELIER, VT 05602



April 29, 2010

William J. Fraser
City Manager
39 Main Street
Montpelier, VT 05602-2950

Re: Berlin Pond Source Protection

Dear Bill:

I would be grateful if you will share this letter with the City Council.

The City of Montpelier has prevailed in its application for a temporary restraining order prohibiting trespass or entry upon Berlin Pond and upon City-owned adjoining lands. While the underlying action remains to be concluded, the Superior Court has found for the City on each material element upon which the underlying action is predicated. The Superior Court's findings and order are completely consistent with previous judicial decisions, current and historical regulatory measures, and the City's protection and enforcement initiatives. In my opinion, the City currently is in a position to complete its source protection responsibilities, thereby ensuring that this valuable asset will serve the City for years to come.

When I visited with the Council last month I distributed for consideration drafts of two ordinances. One ordinance is designed to add Section 13-3 to our code of ordinances. Its purpose is to include Berlin Pond specifically within the general trespass prohibition.

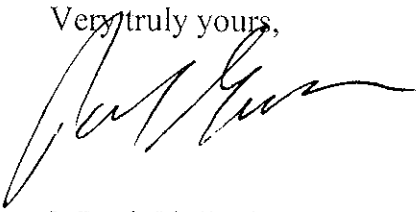
The other proposed enactment is the addition of Article VI, a source protection measure styled as both a City ordinance and a health order. This proposed ordinance complements our existing Source Protection Plan and elevates the Plan to an enforceable enactment.

William J. Fraser
April 29, 2010
Page Two

The adoption of these measures will serve to (a) dispel uncertainty over the nature and extent of the City's authority over Berlin Pond and contiguous land, (b) confirm conclusively that the City takes its water supply protection responsibilities very seriously, and (c) sets in place clear, appropriate and prudent regulatory and management standards.

I will be glad to visit with the Council on this subject at its convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Paul Giuliani", with a stylized, flowing script.

J. Paul Giuliani

JPG:pw
[8881-109]

KATHARINE JEAN COFFEY

ACADEMIC

University of Oregon
Master of Architecture, 1999

Smith College
Bachelor of Arts, 1991

EMPLOYMENT HISTORY

Black River Design, Architects
Montpelier, VT 2005-present

John Milner Associates
Alexandria, VA, 2004-2005

Smith & Vasant Architects
Norwich, VT, 2001-2003

Bread Loaf Corporation
Middlebury, VT, 1998-2001

REGISTRATION

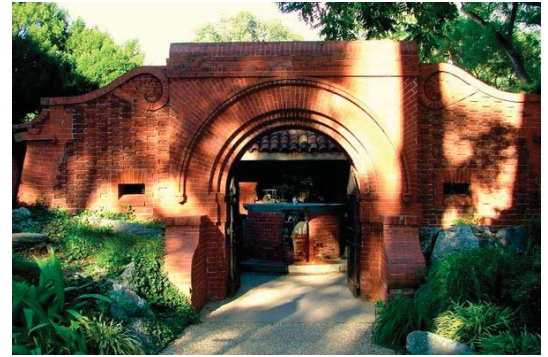
Vermont License 2944

MEMBERSHIP

American Institute of Architects

CERTIFICATIONS

LEED Accredited Professional DB+C



Olmsted Summerhouse, U.S. Capitol Grounds



Simon Bolivar Room, OAS Building, Washington, D.C.



Reuse of Timber Frame Barn, Northfield, Vermont

**CITY OF MONTPELIER
DEPARTMENT OF PUBLIC WORKS**

M E M O R A N D U M

TO: William J. Fraser, City Manager

FROM: Todd C. Law, PE, Director

DATE: May 20, 2010

SUBJECT: Tabulation of Bids Received – Roadside Mowing FY 2010

On May 20, 2010, at 10:00 am, we opened the bids received for roadside mowing services for the summer months, for both a flat rate for the initial mowing, and an hourly rate for mowing as requested after September 1, 2010. Two bids were received; a tabulation is attached. The low bid of \$4,300 flat rate and \$72 hourly was submitted by Evergreen Enterprises, Inc., located in Barre. Based on estimated quantities, this bid is determined to be within the budgeted amount of \$8,000 for this line item.

After considering the bids received, it is our recommendation that you seek authorization from the City Council on the next available Consent Agenda to award the contract for Roadside Mowing for Summer 2010 to Evergreen Enterprises of Barre, Vermont.

If you have any questions or would like to discuss further, please contact me.

c: Mike Garand, Supervisor

Memorandum

To: Montpelier City Council

From: Stonewall Meadow Recreation Association

Date: 5/17/2010

Re: Transfer of Land to City of Montpelier

Update to Status of Proposal of 2009

In June 2009, Stonewall Meadow Recreation Association (SMRA) representatives appeared before the city council to propose the sale of eight acres of recreational property owned by the SMRA non-profit organization to Montpelier for the nominal fee of \$1. The intent was, and remains, to provide a city park for all to use, the first such park in this underserved district.

This memorandum and attached documentation is intended to provide the council with pertinent information that may provide clarity and serve to move this issue forward to resolution. Included you will find a complete title search with a breakdown of findings performed by Dot Helling, which indicate clear and unencumbered ownership of the property. We trust you will find her assessment thorough, valid and current.

The SMRA firmly believes this proposal benefits everyone; our neighborhood, the broader community and the city itself. A place for all of our families to exercise and play benefits the greater good, not just one small non-profit organization. Therefore it is our hope that we may reach consensus on how to proceed after fruitful and forthright discussion at the city council meeting on May 26, 2010. With a clearer picture of the way forward, we can fulfill our obligation to the SMRA members by sharing that direction in our next meeting in late June.

STONEWALL MEADOWS
Montpelier, Vermont

Dedication of Recreational Easement

NOW COMES A. JUDSON BABCOCK of Moretown, Vermont, owner of the lands and premises hereinafter described as the Stonewall Meadows subdivision, located in the City of Montpelier, Vermont, and declares that the premises hereinafter described shall be subject to and shall have the benefit of a recreational easement on terms stated herein.

1. Recreational Area.

(a) The recreational easement hereinafter described shall encumber the following-described lands and premises in the City of Montpelier:

BEING a part of all and the same land and premises conveyed to A. Judson Babcock by warranty deed of Ann D. Hebert dated December 31, 1975, and of record in Book 144, Page 107, of the Land Records of the City of Montpelier, and are shown on a plat entitled "A. Judson Babcock Hebert Farm Subdivision Roadway and Lot Layout" dated October, 1976, drawn by Wayne D. Lawrence, Professional Engineer, and of record in Book _____, Page _____, of the Land Records of the City of Montpelier.

(b) The premises to which said recreational easement pertains (hereinafter called the "Recreation Area") is more particularly described in Schedule A attached hereto.

2. Benefited Property.

(a) The within recreational easement shall inure to the benefit of the following-described premises (the "Benefited Property"):

BEING all lots or other parcels of land which may be improved by the construction of a habitable dwelling structure and which are upon the lands and premises conveyed to A. Judson Babcock by the following deeds of Ann D. Hebert, to wit:

(a) Warranty deed dated December 31, 1975, and of record in Book 144, Page 107, of the Land Records of the City of Montpelier; and

(b) Warranty deed dated November 1, 1976, of record in Book 147, Page 121, of the Land Records of the City of Montpelier.

(b) The lot designated "Lot 1-A" on a plan entitled "A. Judson Babcock Stonewall Meadows Montpelier, Vermont Property Subdivision"

drawn by Wayne D. Lawrence, Professional Engineer, and dated September 11, 1980, which plan is of record in the Land Records of the City of Montpelier, is not an improvable parcel and, therefore, is not entitled to the benefits of this recreational easement.

(c) There presently exists permission from the zoning, planning, and land use authorities of the City of Montpelier and the State of Vermont for a planned unit development on the Benefited Property by this recreational easement. This permission is for the division of a portion of the Benefited Property into lots for single-family and other dwelling houses and for the construction of multiple-unit dwellings. Permission presently exists for two hundred and ten (210) dwelling units (both single-family and multi-family) within this planned unit development. Accordingly, the owner of each lot as shown on the above-referenced plan entitled "A. Judson Babcock Stonewall Meadows Montpelier, Vermont Property Subdivision" (except for the owner of Lot 1-A) shall have a 1/210th (0.476%) undivided interest, in common, in the within recreational easement. The record title owner of the areas where multiple-family dwelling structures are erected or may be erected on the remaining Benefited Property shall have such interest as is described in the deeds from A. Judson Babcock (or his successors or assigns) initially conveying said premises; but the aggregate total of all such interests assigned to areas on which multiple-family dwelling structures are or may be located outside of the area of lots shown on the above-described plan shall not exceed 179/210th (85.238%) of the total undivided interest.

(d) A. Judson Babcock, or his successors or assigns, shall retain all interests in the Recreational Area not conveyed to persons acquiring from him (or his successors or assigns) a portion of the Benefited Property.

3. Terms of Recreational Easement.

(a) All persons who are the record title owner to any portion of the Benefited Property shall have an undivided fractional interest as a tenant in common with all other such persons, with the size of the un-

divided interest appurtenant to each such parcel determined in accordance with the provisions of paragraph 2 (c) above.

(b) This recreational easement shall run with the land and the ownership interest in the within easement may not be severed from the ownership interest in the Benefited Property.

(c) All owners of an interest in the within easement shall be entitled to use the Recreation Area in common with all other such owners for recreational purposes.

4. Option to Create Recreational Association.

(a) At any time before the expiration of this recreational easement as hereinafter provided, a majority in interest of all of the record owners of the Benefited Property may, in the manner hereinafter provided, elect to create an incorporated association to which title to the Recreation Area in fee simple absolute shall be transferred and which shall thereafter have ownership and control of the "Recreation Area".

(b) All Benefited Persons are hereby obliged to execute and deliver such instruments as may be necessary or appropriate to confirm title and control in said incorporated association, if any is formed within the period before termination of this recreational easement and in accordance with the terms hereof.

(c) Any incorporated association so formed shall be a corporation organized not for profit and its ownership interests and voting control shall be confined to persons who are from time to time the record owners of the Benefited Property and ownership, voting, and other rights of control shall be proportional to their respective undivided interest in the within recreational easement.

(d) The incorporated association described above may be formed by a majority in interest of all persons who are record owners of the Benefited Property at the time of voting; provided, however, that such voting must take place within the ten-year period described in paragraph 5(ii) below. A meeting for the conduct of such vote may be called from time to time by any record owner of any portion of the Benefited Property

Such notice shall be deemed effective if given by registered or certified mail, return receipt requested, and addressed to each Benefited Person as his address appears on the then current Grand List Book of the City of Montpelier as filed with the City Clerk. Only persons who are owners of record as of the date of mailing of such notice of a portion of the Benefited Property may vote. Voting at such meeting may be in person or by proxy and all voting shall be in proportion to each owner's undivided interest in the within easement. If more than one person is the co-owner of any parcel, then each shall divide his vote in proportion to his ownership.

5. Termination of Easement.

The within easement shall terminate and be of no further force and effect upon the sooner to occur of the following:

(i) Transfer of the Recreation Area to an incorporated association formed in accordance with the above provisions; or

(ii) Ten (10) years from the date hereof.

Upon such termination, the within easement shall be of no further force and effect.

DATED at the City of Montpelier, County of Washington, and State of Vermont this 3rd day of August, 1981.

IN PRESENCE OF:

STONEWALL MEADOWS

[Signature]
[Signature]

By [Signature]
A. Judson Babcock

STATE OF VERMONT)
:SS.
COUNTY OF WASHINGTON)

At the City of Montpelier this
10 day of August A.D. 1981

A. JUDSON BABCOCK

personally appeared, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed.

Before me [Signature]
Notary Public

STONEWALL MEADOWS

Dedication of Recreational Easement

Schedule A (Description of Recreation Area)

The referenced Recreation Area is bounded on the West by the Eastern boundry line of the fifty foot Green Mountain Power right-of-way running in North-easterly direction bisecting the entire land parcel. The Southern boundry of the Recreation Area is the Northerly edge right-of-way for roadway A. The Eastern boundry will be the roadway A right-of-way along the Westerly loop of roadway A. The Northern boundry is a line extending from roadway A station 47 + 00 Westerly to the intersection with the common rear property pin of lot 38 and 39. All monuments referred to in this description are as shown on a map entitled A. Judson Babcock, Hebert Farm subdivision roadway and lot layout prepared by Wayne Lawrence October 1976.

Montpelier, Vermont

City Clerk's Office

Received for record August 4, A.D. 1981 at 8 o'clock 44 minutes A.M.

Attest:

Jeanette H. Hoot
City Clerk

No. *N'6000*

ARTICLES OF ASSOCIATION

OF THE

STONEWALL MEADOWS RECREATION ASSOCIATION, INC.

*Ad.
\$35.00*

STATE OF VERMONT

Secretary of State's Office

Filed *February* 19, 1988,

[Signature]
Secretary of State

*corporations Dm
\$28,238.6
~~82,985.51~~*

81 River St

FILE #

N-05000-0

ARTICLES OF ASSOCIATION

The name of the corporation shall be ... STONEWALL MEADOWS RECREATION ASSOCIATION, INC. ...
The initial registered agent shall be ... A. JUDSON BABCOCK ...
(NOTE: A Corporation CANNOT be its own registered agent)
with registered office at ... Valley Professional Center, Route #100, Waitsfield, Vermont 05673
The corporation shall be located at ... Valley Professional Center, Route #100, Waitsfield, Vermont
The operating year shall be? Calendar ... Fiscal ...
(Dec. 31) (Month--Day)
If a fiscal year ending is not specified, the calendar year ending December 31st shall be designated as your
fiscal year ending.
The period of duration shall be (if perpetual so state) ... Perpetual.

Please check appropriate box:

- ☐ Vermont General Corporation (T. 11, Ch. 17)
☐ Vermont Professional Corporation (T. 11, Ch. 3)
☒ Vermont Non-Profit Corporation (T. 11, Ch. 19)

This corporation is organized for the purpose of:

- Owning, managing, and developing a recreation area for the Stonewall subdivision in Montpelier, Vermont.
- Buying, selling, and dealing in real and personal property in furtherance of the corporate purposes.

Here set out purposes clearly and briefly, using separate paragraphs to cover each separate purpose.

EACH VERMONT CORPORATION MUST FILE AN ANNUAL REPORT WITHIN TWO AND ONE HALF (2½) MONTHS AFTER THE EXPIRATION OF ITS FISCAL YEAR ENDING.

The following information regarding shares must be completed by business corporations. Non-profit corporations cannot have shares.

The aggregate number of shares the corporation shall have authority to issue is

..... shares, preferred, with a par value of (if no par value, so state)
..... shares, common, with a par value of (if no par value, so state)

If preferred shares are provided for, state here briefly the terms of preference.
If shares are to be divided into classes or series, state here the designations, preferences, limitations, and relative rights of each class or series.

Directors: Business corporations with three or more shareholders must have at least three directors. If there are fewer than three shareholders, the number of directors may be equal to, but not less than, the number of shareholders.

Non-profit corporations must have at least three directors.

The initial board of directors shall have three (3) members with the following serving as directors until their successors be elected and qualify:

Having named fewer than three directors I hereby state that the number of shareholders does not exceed the number of directors.

Directors:

Post Office Address

A. JUDSON BABCOCK Valley Professional Center, Route #100, Waitsfield, VT 05673
ALAN LENDWAY Valley Professional Center, Route #100, Waitsfield, VT 05673
LUCINDA WRIGHT Valley Professional Center, Route #100, Waitsfield, VT 05673

Dated at the Town of Waitsfield in the County of Washington
this day of 1987

A. Judson Babcock
Incorporators

Post Office Address

A. Judson Babcock Valley Professional Center, Route #100, Waitsfield, VT 05673

Names must be Printed or Typed under all signatures, No. 101 Acts of 1965.

IN ADDITION TO ALL THE PRECEDING INFORMATION VERMONT PROFESSIONAL CORPORATIONS MUST COMPLETE THE CERTIFICATE ON THE LAST PAGE OF THIS APPLICATION.

219/21

8-17-88

8-29-88

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

That we, A. JUDSON BABCOCK and LUCINDA W. BABCOCK, husband and wife, of the Town of Moretown, County of Washington, and State of Vermont, GRANTORS, in consideration of TEN DOLLARS (\$10.00) and other valuable consideration, paid to our full satisfaction by STONEWALL MEADOWS RECREATION ASSOCIATION, INC., a Vermont corporation with its principal office in the Town of Waitsfield, County of Washington, and State of Vermont, GRANTEE, have REMISED, RELEASED, AND FOREVER QUITCLAIMED unto the said STONEWALL MEADOWS RECREATION ASSOCIATION, INC., and its successors or assigns, all right and title which we, A. JUDSON BABCOCK and LUCINDA W. BABCOCK, or our heirs have in and to a certain piece of land in the City of Montpelier, County of Washington, and State of Vermont, described as follows, viz:

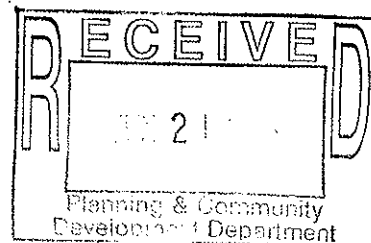
BEING all of our right, title, and interest in and to the recreational easement and recreation area described in a Dedication of Recreation Easement dated August 3, 1981, and recorded in Book 63, Page 171; of the Land Records of the City of Montpelier.

The within Grantors are the owners of numerous lots and other lands within Stonewall Meadows and as such owners are seized of an interest in common with others in the recreation easement and area described in said Dedication. The within Grantee is established to own and manage this recreation area. It is the intention of the within Grantors to carry out the obligations recited in Paragraph 4(b) of the Dedication to transfer the conveyed premises to the Grantee.

Reference is here made to said Dedication and to all deeds and their records by which said property or any part of the same has been previously conveyed in aid of this description.

Young, Monte
& Kyrland
Commissioners of Town
Village Common
Box 278
Northfield, Vt. 05662

Vermont Property Transfer Tax
32 V.S.A. Chap. 231
-ACKNOWLEDGMENT
Return Rec'd. - The Fed. Board of Health Cert. Rec.
Vt. Land Use & Development Plans Act Cert. Rec.
Received by: ADDER
Signed: [Signature], Clerk
Date: AUG 23 1988



TO HAVE AND TO HOLD all right and title in and to said quitclaimed premises, with the appurtenances thereof, to the said STONEWALL MEADOWS RECREATION ASSOCIATION, INC., and its successors and assigns forever. AND FURTHERMORE we, the said A. JUDSON BABCOCK and LUCINDA W. BABCOCK, do for ourselves and our heirs, executors and administrators, covenant with the said STONEWALL MEADOWS RECREATION ASSOCIATION, INC., and its successors or assigns, that from and after the ensealing of these presents the said A. JUDSON BABCOCK and LUCINDA W. BABCOCK will have and claim no right in or to the quitclaimed premises.

IN WITNESS WHEREOF, we hereunto set our hands and seals this 18th day of April, 1988.

IN PRESENCE OF:

[Signature]
[Signature]

[Signature]
[Signature]

STATE OF VERMONT

COUNTY OF WASHINGTON

SS.

[Signature]
 A. JUDSON BABCOCK
[Signature]
 LUCINDA W. BABCOCK

NORTHFIELD SAVINGS BANK

By [Signature] Duly Authorized

At [Signature] this

18th day of August A.D. 1988

A. JUDSON BABCOCK and LUCINDA W. BABCOCK

personally appeared, and they acknowledged this instrument, by them sealed and subscribed, to be their free act and deed.

STATE OF VERMONT

COUNTY OF WASHINGTON, SS.

Before me [Signature]

At the Town of Northfield this

25th day of August A.D. 1988

J.K. PHALEN personally appeared, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of NORTHFIELD SAVINGS BANK.

Before me [Signature]

Notary Public

Vernon, Monte
 & Elford
 Commissioners of the
 Village Common
 Box 378
 Northfield, Vt. 05663

-2-

Montpelier, Vermont

Received for record August 29, A.D. 1988 at 8 o'clock 00 minutes A.M.

City Clerk's Office

Attest:

[Signature]

City Clerk

5. Copy of completed membership form for Viateur Fecteau/Fecteau Residential dated October 6, 2003 with check for \$200 and copy of dues notice, the \$200 representing payment of dues for a five year period;
6. Correspondence between Attorney Sarah Field and SMRA dated March 29, April 7 and April 19, 2005;
7. Warranty Deed from Babcock to Northfield Savings Bank dated _____, 1988 and recorded in Book 296, Page 87 of the Montpelier City Land Records; and
8. Photocopies (5) of maps of Lot A of Babcock subdivision, Stonewall Meadows Recreation Area, 1976 Wayne Lawrence survey for Babcock of Hebert Farm Subdivision; Fitzpatrick-Llewellyn Stonewall Meadows Site Plan dated 1988(?); and Fecteau Plan as of November 2003.

My opinion on the ownership of the Stonewall Meadows Recreational [Easement] Area is based on my review of the above documents, my prior title research in this development and documents of record in the Montpelier Land Records. My opinion is as follows: Each of the lots and condominiums in the Stonewall Meadows development is benefitted by a recreational easement originally set forth in the "Dedication of Recreational Easement" dated August 3, 1981 and recorded August 4, 1981 in Book 171, Pages 63-67 of the City of Montpelier Land Records. Said easement applies to the recreation area shown on the plat entitled "A. Judson Babcock Hebert Farm Subdivision Roadway and Lot Layout" dated October 1976 by Wayne D. Lawrence, P.E. This easement of record expired by its terms upon transfer to the Stonewall Meadows Recreation Association, Inc. by Quitclaim Deed of A. Judson and Lucinda W. Babcock and the Northfield Savings Bank dated April 17, 1988 and the Quitclaim Deed from Stonewall Meadows Associates, Inc. and all Stonewall Meadows condominium owners to Stonewall Meadows Recreation Association, Inc. ("SMRA") dated August 16, 1988, both deeds recorded on August 29, 1988 in Book 219, Pages 21-22 and 23-25, respectively. The recreational area now belongs to the Stonewall Meadows Recreation Association, Inc.

In 1988, the Babcocks quitclaimed their remaining land in the area of the Stonewall Meadows development to the Northfield Savings Bank which later conveyed these interests to Fecteau Residential, Inc., see above. The Babcock to NSB deed (Book 296, Page 87) **quitclaimed only** any right, title and interest in the "Recreation Area." Therefore when the NSB conveyed to Fecteau, it held no interest in the "Recreation Area" as said interests had been conveyed prior to the conveyance to NSB to the SMRA. However, on July 30, 2004, Stonewall Meadows Associates, Inc. executed a corrective Warranty Deed to Fecteau Residential, Inc. recorded in Book 462, Page 333 meaning to correct the 1988 deed and conveying an interest in the Stonewall Meadows 1 Owners Association and the SMRA to Fecteau. The validity and effect of this deed is disputable.

07/27/05