



**CITY OF
MONTPELIER
MONTPELIER,
VERMONT**

Agenda for City
Council Meeting
Wednesday, July 14,
2010
7:00 P.M.

- 1) 10-163. Call to Order by the Mayor
- 2) 10-164. Adoption of Goals
- 3) 10-165 General Business and Appearances
- 4) 10-166. Consideration of the Consent Agenda:
 - a) Consideration of the Minutes from the June 9 and June 23, 2010 Regular Meeting.
 - b) Consideration of approval of payroll and bills.
 - c) Consideration of becoming the Liquor Control Commission for the purpose of acting on the following:
 - 1) Request to Cater Malt and Vinous Beverages & Spirituous Liquors. Consideration of a request by Vermont Hospitality Management (New England Culinary Institute) for a reception on Friday, July 16, 2010 at the T. W. Wood Art Gallery/VCFA.
 - 2) Consideration of a request by the Vermont Hospitality Management (New England Culinary Institute) for a reception on Saturday, July 17, 2010 at Nobel Lounge/VCFA.
 - d) Consideration of street closings requests

- 1) State Street between 130 State and Governor Davis Avenue - August 15, 2010 from 2 p.m. 10 p.m.- Statehouse lawn for the Great Vermont Community Picnic with food being prepared by NECI and local restaurants. A noise variance is also requested.
- 2) Summer Street - from Spring Street to Winter Street - Meadow neighborhood block party on Saturday, July 31, 2010 from 3 p.m. - 10:00 p.m. with a rain date of Saturday, August, 7, 2010. Also, request a Noise Ordinance.
- 3) Loomis Street from Park Avenue to Liberty Street- on Saturday, August 28, 2010 from 4 p.m. to 8 p.m. for the Eighth Annual Block Party. Rain date - Sunday, August, 29, 2010 from 2 p.m. - 6 p.m.
- e) Request for approval from Uncommon Market to reserve one parking space (the last one on Elm Street before the intersection of Elm and School) on Thursdays and Fridays, Jul 29th and 30th; August 19th and 20th; September 16 and 17th; and October 7 and 8.
- f) Request to Approve Highway Pavement Markings Contract Three bids were received. Council has been provided with tabulation of bids Staff recommends bid be awarded to Hi-Way Safety Systems, Inc., of Rockland, MA in the amount of \$6,127.21 and authorize the City Manager to sign all contracts and other documents.

5) 10-168 APPOINTMENTS:

- a) DISTRICT ENERGY COMMITTEE: The following people have applied: * Barry McPhee * Bill Neuburger * Edith Pike-Begunska * Johanna Miller * Karl Bissex * Ken Jones * Tim Heney * Justin McCabe * Paul Markowitz * Carl Etnier
- b) DEVELOPMENT REVIEW BOARD Staff advertised the vacancy for the Development Review Board At the time the agenda went to press the following applications had been received: * The terms of Jeremy D. Hoff (who has moved away) and Daniel Richardson expire on August 8, 2010. * Daniel Richardson has requested reappointment. * Sabina Haskell has requested appointment to the vacancy

* S. Mark Sciarrotta has requested appointment to the vacancy

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 expiring three-year terms;; said term which will expire August 8, 2010.

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- 10) 10-172 CONSIDERATION OF A POWER PURCHASE AGREEMENT * Members of the Montpelier Energy Team will be present to discuss last-minute matters relating to the City's consideration of a "Power Purchase Agreement" with All Earth Renewables (AER). * Under this agreement a number of solar panels would be installed on City-owned open space; through the group-net-metering capability of GMP's grid these would supply City Hall with some or all its electrical power, at little to no cost through the first five years and at significantly reduced rates over the longer term. * City must enter into this agreement by July 15th to qualify for incentives enabling this arrangement Committee members and staff will be present to answer questions; discuss details. City Council has received numerous documents from the Montpelier Energy Committee and City Staff relative to applying for a Certificate of Public Good by the July 15th deadline.

Recommendation: Discussion, direction to staff.

- 8) 10.170 - SENIOR CENTER
 - a) Staff is requesting approval to apply for a Vermont Community Development Block Grant for 58 Barre Street. A combined application for both the housing portion and the MSAC. Public hearing to be held the week of August 23, 2010. Estimated total of \$550,000 with the

maximum amount allowed for MSAC being \$300,000. Amounts to be determined once final insurance settlement is made.

Recommendation: Authorize the application for the Vermont Community Development Block Grant and for the City Manager to sign the necessary documents.

- b) Review and discussion of draft document prepared by Council Member Jarvis.

Recommendation: Authorize grant application. Provide additional direction to staff as necessary.

- 7) 10-169 REQUEST FOR APPROVAL FOR PRELIMINARY APPLICATION FOR HUD/DOT GRANT Staff is requesting approval to submit a Preliminary Application for TIGER II Planning Grant along with a Community Challenge Planning Grant. Council has been provided an outline of these grants and the types of projects it could be used for by the Planning Director.

Recommendation: Approve City Staff submission of the Preliminary Application for the HUD//OT Grant and authorize the City Manager to sign the necessary documents.

- 8) 10.170 - SENIOR CENTER

- 6) 10-167 BERLIN POND: HEALTH ORDER, ORDINANCE AND TRESPASS ORDER - SECOND READING

- a) Council will reconvene as the Local Board of Health.
- b) Local Board of Health takes up the draft "ordinance relating to the Protection of Berlin Pond". A Motion must be made to accept the findings and to enact the ordinance as a health order.
- c) After this motion is concluded, a motion must be made to reconvene as the City Council.
- d) The Council will conduct the second reading of the proposed Ordinance. Amendments may be considered leading to a motion to approve the Ordinance as amended. And directing the City Clerk to distribute copies

of the ordinance in accordance with Sec. 7-612 after its effective date.

- e) Trespass Order -conduct the 2nd reading and consideration of anyh amendments.

- 9) 10-171 - EXPANSION OF JUSTICE CENTER RE-ENTRY PROGRAM
MCJC is seeking approval ot submit a grant for expanding its Restorative Reentry Program in response to this RFP. While the proposal has not yet been drafted, the Directors of the MCJC and Greater Barre Community Justice Center have met with Joanne Pereira and Tom Dunn of Probation and Parole, the Montpelier and Barre Chiefs of Police, and State's Attorney Tom Kelly to determine their priorities regarding who to serve. The consensus was to develop a program for offenders reentering the community from prison that would be less intensive than the current Circles of Support and Accountability (COSA) and more intensive than the Reparative Probation Program that would help people become productive citizens, cease causing harm, and work their way back into the good graces of the community. Department of Corrections, police and state's Attorney also feel it is important to serve people throughout the county and use the results to develop support for the CJsCs from other communities.

Recommendation: Discussion, Direction to staff regarding a possible grant application.

- 15) 10-176 Agenda reports by the City Manager
 - a) Set date for Master Plan Hearings
- 12) 10-173 Mayor's Report
- 13) 10-174 Report by the City Clerk-Treasurer
- 11) 10-172 Council Reports
- 14) 10-175 Status Reports by the City Manager



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Three bids were received. Council has been provided with tabulation of bids

Staff recommends bid be awarded to Hi-Way Safety Systems, Inc., of Rockland, MA in the amount of \$6,127.21 and authorize the City Manager to sign all contracts and other documents.

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POWER PURCHASE AGREEMENT

By this **POWER PURCHASE AGREEMENT** (this “Agreement”) between **EARTH NRG SERVICES, LLC**, a Vermont limited liability company with its principal place of business at 94 Harvest Lane, Williston, Vermont 05495 (“Company”), and **THE TOWN OF MONTPELIER**, with an address of 39 Main Street, Montpelier, VT 05602-2950 (“Customer”), the parties agree as follows:

1. Purchase of Electric Energy; Equipment. The Company shall be permitted to install and maintain a solar tracker, more specifically identified on Exhibit A attached hereto (the “Equipment”), at a mutually agreed upon location at the Customer’s premises. The Customer agrees to purchase all electric energy generated by the Equipment at the price specified in this Agreement. Customer agrees that it will cooperate with the Company and municipal and regulatory authorities in obtaining any and all necessary permits in connection with the installation of the Equipment. Any expenses associated with the procurement of such permits shall be the responsibility solely of the Company.

2. Term; Possession. This Agreement is for an initial term of five (5) years, commencing when the equipment is in operation, on _____, 20__ (the “Initial Term”), unless it shall sooner terminate or be extended or renewed as provided herein. Thereafter, the term may be extended for up to two (2) additional five (5) year terms (the “Renewal Terms”) by Customer giving notice of its election to renew at least sixty (60) days prior to the expiration of the Initial Term or the first Renewal Term, as appropriate.

3. Ownership of Equipment. This Agreement creates an obligation to purchase electric energy, and shall not be deemed to effect an agreement for the sale of the Equipment. Company shall remain at all times the sole owner of the Equipment and, unless Customer exercises its option to purchase the Equipment at the conclusion of the Initial Term or thereafter pursuant to Section 7 hereof, nothing contained in this Agreement, or the payment of charges or other amounts pursuant to this Agreement, shall enable Customer to acquire any right, title, or other interest in the Equipment.

4. Charges; Credits. The charges for the electric energy shall be \$0.19/kWh. The total is based upon the actual amount of energy produced by the Equipment which the Customer uses. To simplify billing, the Customer will be charged, on a monthly basis, an estimate of how much power the Equipment will produce in a twelve (12) month period. For the electric energy generated by the Equipment listed on Exhibit A, the estimated annual kilowatt-hour energy production is 81,200 and the charges shall be Fifteen Thousand Four Hundred and Twenty Eight Dollars (\$15,428.00) per year, to be paid by Customer to Company in consecutive monthly installments of One Thousand Two Hundred Eighty Five Dollars and Sixty Six Cents (\$1285.66), plus any applicable taxes, for each and every month of the Initial Term, due and payable on the first (1st) day of each month of the Initial Term (prorated for the first and any other partial month during the Term in the event the Agreement commences on a day other than the first (1st) day of the month). In the event the 1st day of the month

is a weekend or holiday, the payment will be due on the next business day. Each year, on the anniversary date of this Agreement, Company will compare the estimated kilowatt-hour production to the actual production. If, under normal operating conditions, the estimated kilowatt-hours produced for that year differs from the actual by 10% or more, the Company will adjust the estimate up or down, as appropriate, and increase or decrease the monthly charges, as appropriate, to more closely reflect the actual production. If, at the end of the Initial Term, the Equipment produced less power over the Initial Term than estimated, the Company will issue a credit to the Customer's account (or, in the event the Company is taking back the Equipment, a refund to Customer) for the difference between the estimated production and actual production at the rate of \$0.19/kWh. If the Equipment produced more power over the Initial Term than estimated, the Customer will be charged the differential between the estimated production and actual production at the rate of \$0.19/kWh. In the event the Customer exercises its option to renew pursuant to Section 2, the charges during each and every month of either Renewal Term will be calculated in the same manner, with a new rate derived at the commencement of such Renewal Term consistent with the then current residential rates charged by the Customer's utility plus \$0.04/kWh.

5. Payment. Customer will have the option of having payment of charges automatically be withdrawn monthly by the Company through Automatic Cash Handling (ACH) or prepaying one full year in advance by check. If ACH option is selected, payment shall be made consistent with the instructions indicated on the Automatic Payment Authorization in the form of Exhibit C attached hereto.

Select Option (initial in space): _____ACH, _____Prepayment.

6. Up-Front Payment. Upon execution of this Agreement, the Customer shall pay Company the sum of One Thousand and 00/100 Dollars (\$1,000.00) (the "Up-Front Payment"). In the event the Customer exercises its option to purchase the Equipment as specified in Section 7, the Up-Front Payment may be applied to the purchase price. THE UP-FRONT PAYMENT MAY NOT BE USED BY CUSTOMER FOR PAYMENT OF ANY CHARGES, SUMS, OR OTHER OBLIGATIONS UNDER THIS AGREEMENT.

7. . Option to Purchase Equipment. If the Customer is not then in default and has performed all of the terms and conditions of this Agreement, the Customer shall have the option to purchase the Equipment at the end of the Initial Term or, if this Agreement is renewed, on any anniversary date of this Agreement thereafter during such Renewal Term. This option may be exercised by delivery of written notice to Company at least sixty (60) days prior to the expiration of either the Initial Term or the anniversary date of the Agreement during the Renewal Term, as applicable. The Customer may purchase the Equipment for the estimated fair market value as set forth on Exhibit B. Such estimate of fair market value shall be based on the Company's analysis of what it reasonably believes will be the replacement value of such Equipment at the end of the Initial Term and the Company's expense to remove the equipment. If there is evidence that the amount in Exhibit B does not represent the fair market value at the time of purchase, the parties will negotiate a fair market value price. Company shall apply the Up-Front Payment provided by the Customer pursuant to Section 6 towards

the purchase price if Customer exercises the option to purchase immediately upon the conclusion of the Initial Term. If this agreement terminates and Customer has not exercised its option to purchase Equipment as provided for hereunder, the Company will remove the Equipment as provided in Section 15.

8. Use and Care of Equipment. Customer shall take reasonable measures to ensure that the Equipment will not be affected or damaged such that it cannot properly function. In the event Customer has actual knowledge or reasonably suspects that the Equipment is not functioning properly or has been damaged, Customer must immediately notify the Company. Customer shall assure that any trees, shrubs, or other objects that might shade the tracker will be trimmed and maintained to appear in the same manner as when the tracker was initially installed. If Company determines that shading on the tracker has increased from when the tracker was installed, Company has the right to reduce any credit the Customer may be entitled to pursuant to Section 4, such reduction to account for the decreased electrical production.

9. Inspection; Maintenance and Repair. Company shall have the right, upon reasonable notice to Customer, and at the Company's sole cost, to enter the premises where the Equipment is located for the purpose of inspecting it, observing its use, maintenance, operation, or for removing or replacing it, and to perform any act related to the safety, protection or preservation of the Equipment.

10. Insurance. Company shall procure and maintain, at Company's sole cost and expense, insurance that covers all damage to the Equipment. Customer shall procure and maintain, at Customer's sole cost and expense, insurance that covers all damage to Customer's premises during the term of this Agreement, provided such damage was not caused by the gross negligence of the Company. Customer's insurance shall also provide for appropriate liability coverage.

11. Default. In the event Customer fails to perform any of the terms, obligations, conditions and covenants contained in this Agreement required of Customer, or if any proceeding in bankruptcy or insolvency is instituted by or against Customer, or if Customer makes an attempt to sell, secure, or convert or remove the Equipment, or if any execution or attachment is levied on the Equipment, or the Equipment is encumbered in any way, or, subject to the terms of Section 14, the Customer sells the premises upon which the Equipment is located, or if at any time in Company's judgment its rights in the Equipment shall be threatened or rendered insecure, Customer shall be deemed to be in default under this Agreement, and Company shall have the right to exercise any and all remedies allowed by law, including, without limitation, the following:

(a) Company may remove and retain the Equipment without demand or legal process, free of all rights of Customer; however Company will notify Customer in writing thirty (30) days prior to removing the Equipment in which case Customer authorizes Company or its agents to enter upon the premises where the Equipment is located for the sole purpose of repossessing the same. Company will advise Customer of the date and time it will repossess the Equipment, whereupon all rights of Customer in the Equipment shall terminate immediately.

(b) Company may institute any legal or equitable action deemed necessary by Company seeking any remedy available to Company, in law or in equity, including, but not limited to, any or all of the relief outlined in (a) above; provided, however, that Company's damages for Customer's default as provided herein shall be limited to the charges due from Customer pursuant to Section 4 for the balance of the Initial Term or Renewal Term, as applicable.

(c) Company may disable the Equipment such that it shall not provide electric energy to the Customer until such time as the default has been cured; however Company will notify Customer in writing thirty (30) days prior to disabling the Equipment.

12. Waiver. Forbearance on the part of Company in exercising any right or remedy available under this Agreement upon Customer's breach of the terms, covenants and conditions of this Agreement, or Company's failure to demand the punctual performance thereof shall not be deemed a waiver: (a) of such right or remedy; (b) of the requirement of punctual performance, or (c) of any subsequent breach or default on the part of Customer.

13. Failure to Provide Service. In the event Company becomes aware that the Equipment is not supplying the electric energy as provided for in this Agreement, it shall have the opportunity to make any necessary repairs to the Equipment as set forth in Section 9. Should the Company's efforts to restore electric energy be unsuccessful such that the Equipment fails to produce power for two (2) consecutive months, the Customer may terminate this Agreement and the Company shall remove the Equipment at its sole cost and expense and will return the Customer's up-Front Payment within 30 days.

14. Sale of Premises. In the event the Customer intends to sell the premises where the Equipment is located during the term of this Agreement, it must notify Company in writing of such intention no less than thirty (30) days prior to the closing of such sale. The sale of the premises shall constitute a default pursuant to Section 11, unless (a) the Company and new owner agree that this Agreement shall be assigned to the new owner under the same terms and conditions, such consent not to be unreasonably withheld by Company, or (b) Customer agrees to enter into a new original Agreement with Company for the same Equipment at a new location within the State of Vermont. Customer shall be responsible for all costs associated with relocating the Equipment. In the event the new owner assumes this Agreement as provided herein, the new owner shall be entitled to apply Customer's Up-Front Payment to reduce the purchase price of the Equipment should the new owner exercise the option to purchase the Equipment immediately upon the conclusion of the Initial Term pursuant to Section 7.

15. Removal of Equipment. In the event the Equipment is removed from the premises by Company, the Customer forfeits its Up-Front Payment and the Company shall return the premises to a condition reasonably similar to the condition of the premises at the time when the Equipment was initially installed. The Customer shall notify the Company within five (5) days of Equipment removal if it

perceives any deficiencies in restoration.

16. Monitoring Equipment Performance. Customer acknowledges that Company generally monitors the performance of and updates firmware on the Equipment through the use of the Customer's internet service via an Ethernet connection. Accordingly, Customer agrees to allow Company to have access to Customer's available internet service via an Ethernet connection for the sole purpose of monitoring the performance of and updating firmware on the Equipment. In the event that Customer opts not to allow Company access to Customer's internet service or if Customer does not have internet service suitable for Company's purposes, Customer agrees to provide kilowatt-hour information (read from the meter on the Equipment) on a quarterly basis to Company to ensure the Equipment is operating correctly. Failure to provide such information may result in Customer paying for electricity that was not delivered to Customer if the Equipment fails. Company will not share with third parties any information concerning Customer's use of the Equipment ("Information"), except as follows: (i) when third parties provide necessary technical services and require Information to provide those services; (ii) to collect and combine Information with data Company obtains from other users and to use all of that data to produce and use nonpersonal aggregate statistical information; (iii) if required by applicable law or pursuant to subpoenas, court orders or legal process; or (iv) as deemed necessary, in Company's discretion, to protect the legal rights or the property of Company, or to prevent personal injury.

17. Green Attributes. During the term of this Agreement, the Company will retain all rights to the green attributes of the Equipment including all Renewable Energy Credits ("REC"). The Company agrees that it will not sell or otherwise pledge any of the green attributes or RECs during the term of the Agreement. Accordingly, the Customer shall be free to make claims that they are receiving renewable power from the Equipment.

18. Notices. Any notice to be given hereunder shall be deemed given when sent by registered or certified mail to Company at 94 Harvest Lane, Williston, VT 05495 and to Customer at 39 Main Street, Montpelier, VT 05602-2950.

19. Assignment or Subleasing. Customer shall not assign, sublet, transfer, pledge, or mortgage any of its rights under this Agreement or to any of the Equipment without the prior written consent of Company.

20. Severability. Each provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of the Agreement.

21. Governing Law; Jurisdiction. Any action to enforce this Agreement or any breach or alleged breach of this Agreement and to determine the rights and duties arising from this Agreement may be brought only in the courts of the State of Vermont. The parties expressly consent to the

jurisdiction of the federal and state courts of the State of Vermont and agree that this Agreement shall be construed, performed, and interpreted in accordance with, and governed by, the laws of the State of Vermont.

22. Entire Agreement. This Agreement contains the entire agreement between the parties, and shall be binding on Company and Customer, and their respective successors and assigns. This Agreement may not be amended or altered except by a written agreement signed by both parties.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement on the date(s) set forth below.

EARTH NRG SERVICES, LLC

By _____
Its Duly Authorized Agent

Dated: _____

CUSTOMER

Print Name: _____

Dated: _____

EXHIBIT A
EQUIPMENT

AllSun Tracker Model 6000

Serial Number:

EXHIBIT B

Equipment Purchase Price

The estimated Fair Market Value at the end of the first term is \$13,392.00. (Per Tracker)

EXHIBIT C

FORM OF AUTOMATIC PAYMENT AUTHORIZATION

Please complete the following information to initiate the Automatic Cash Handling (ACH) method of payment.

Model # of Tracker: 6000

Quantity of Tracker(s): 10

PPA Charge (\$/mo): \$1285.66

ACCOUNT HOLDER INFORMATION

Name:

Address:

FINANCIAL INSTITUTION INFORMATION

Institution Name:

Branch Location:

Address:

Transit/Routing Number:

Account Number:

Type of Account (Checking/Savings):

Account Holder Name as it Appears on Account:

■ Please attach a voided check or a savings deposit form from the account

I authorize **EARTH NRG SERVICES, LLC** to instruct my financial institution to deduct my Agreement payments from the account designated above on the first day (1st) of each month or the first business day thereafter. I authorize my financial institution to debit the amount of my Agreement payments from my designated account. This authorization shall remain in effect until the Agreement terminates. My notification must afford **EARTH NRG SERVICES, LLC** and my financial institution reasonable time to act on it.

Signature:

Date:

Print Name:

Beverlee Hill

From: Barry McPhee, MET [montpelier.energy.team@gmail.com]
Sent: Friday, July 02, 2010 2:56 PM
To: Beverlee Hill
Cc: Ken Jones at work
Subject: July 14 City Council agenda item: Consideration of a 'Power Purchase Agreement' solar PV installation

Hello Beverlee,

As we discussed briefly this morning, here is a description of the July 14 City Council meeting agenda item I requested be added to the agenda. This may possibly undergo a revision by next Wednesday.

Consideration of a 'Power Purchase Agreement' solar PV installation:

- Barry McPhee and Ken Jones of the Montpelier Energy Team will be present to discuss any last-minute matters relating to the City's consideration of a "Power Purchase Agreement" with AllEarth Renewables (AER).
- Under this agreement a number of solar panels would be installed on City-owned open space; through the group-net-metering capability of GMP's grid these would supply City Hall with some or all its electrical power, at little to no cost through the first five years and at significantly reduced rates over the longer term.
- The City must enter into this agreement by July 15 to qualify for incentives enabling this arrangement
- Barry and Ken will:
 - answer questions, discuss details, and may present talking points related to the proposal;
 - have on-hand all information needed to enable the City and AER to apply for a Certificate of Public Good by the July 15 deadline.
- One or more AER personnel may also be present.

Thank you!

--

Barry McPhee
Coordinator, Montpelier Energy Team
802 229 5120

For City Council Packet

To review for the "Consideration of a 'Power Purchase Agreement' solar PV installation" item at the July 14 2010 meeting

The Basics

- Green Mountain Power's grid features 'Group net-metering'. This allows a customer to supply power (via, say, solar panels or wind turbines) at one location on its grid, and designate one or more locations elsewhere on the grid to draw their power from the ongoing credit built by that supply.
- AllEarth Renewables (AER) has developed an arrangement taking advantage of group-net-metering and current clean-energy tax incentives. It's called a "Power Purchase Agreement" (PPA). It significantly and favorably changes the economics involved in a customer installing renewable energy sources. Under this arrangement, with Montpelier as the customer:
 1. Montpelier selects one or more unshaded sites for installation of up to 26 'AllSun Tracker' solar panels. Fifty sq.ft. of unshaded land needed per Tracker; @60,000 sq.ft. for all 26. Installation on buildings is not allowed.
 2. AER installs the Trackers, which they own for the first 5 years.
 3. Montpelier gives AER a \$1,000 deposit; AER covers the install and cost of the required Certificate of Public Good.
 4. Montpelier enters into a 5-year agreement to purchase the power created by the Tracker site from AER at a fixed rate of \$0.19/kWh, and is credited by GMP a total of \$0.1905/kWh. That \$0.1905 credit = \$0.1305/kWh produced + \$0.06/kWh per GMP's Solar GMP incentive, and exceeds (by \$.0005/kwh) the cost of the power.
 5. After 5 years Montpelier has three options:

1. buy the Trackers at approximately \$13,300 per Tracker (approx. \$345,000 for all 26).
 2. have the Trackers removed at \$3000 per Tracker (\$78,000 for all 26 but free if performance had been less than advertized)
 3. renew the PPA for an additional 5-year period, but paying AER \$0.23/kWh, i.e. 4¢. more than the first-5yr rate.
6. Over 25 years including the purchase of the ASTs, average cost of power is \$0.063 per kwh.
- One City-owned site has been identified by the City, and confirmed by AER, as feasible for installation: the land adjacent to the Water Treatment Plant on North Paine Turnpike in Berlin. It can accommodate 8-10 Tracker panels. If the City Council approves may immediately move forward on this with the needed signature(s); all needed information/documents have been supplied.
 - Due to a July 15 deadline associated with the Business Solar Tax Credit (30% of the cost of for systems and equipment associated with a solar PV installation), Montpelier's entering into a "Power Purchase Agreement" contract rests on its submitting a Certificate of Public Good application to the Public Service Board, via AER, by Friday July 11.
There is no risk associated with Montpelier later withdrawing this application, should the City decide against going forward. (As of this writing it's unknown whether Montpelier has submitted this application; it will be known by the time City Council reads this material.)

Related Points/Detail

- The City's total payback over 25 years would be (see accompanying worksheets):
 - For water treatment plant site-only installation (10 panels) assuming 2% annual GMP rate increase -- \$250,192

- For water treatment plant site-only installation (10 panels) assuming 5% GMP annual rate increase -- \$416,485
 - For a full installation (26 panels) assuming 2% GMP annual rate increase -- \$650,396
 - For a full installation (26 panels) assuming 5% GMP annual rate increase -- \$1,082,861
- The maximum possible installation—26 AllSun Tracker panels (ASTs)—would supply 203, 040 kWh, enough to power City Hall and the DPW's garage.
- The site on North Paine Tpk, on which 8, 9 or 10 panels can be installed, would supply between 36.1% and 45.1% of City Hall's power.
- The current federal (thru 2016) and state tax credits and other incentive programs available (thru july 15 2010) make this PPA deal possible.
- GMP's Solar GMP 6¢/kWh incentive is likely to remain in effect because the cost to GMP is less than the rates GMP pays for extra power during Summer peak load. In the case that it is phased out, Montpelier would be grandfathered in for the initial 5yr agreement.
- Regarding the 5-year lock-in at \$.1305/kwh: the basis of future electricity prices is largely tied to the futures prices of natural gas because natural gas represents the marginal production of electricity in the northeast. Many believe that natural gas prices could spike sharply in the near future.
- Construction for this project would be complete in 45 days, i.e. by this September.
- A further benefit of additional Tracker installations would enable Montpelier's historically-designated municipal buildings to avail of solar with no physical (i.e. regulatory) impact.
- ASTs re-set to vertical each morning, removing any snow accumulation.
- In addition to the intrinsic benefits--savings and use of renewable energy source--Montpelier would now be known for both its move to biomass per the District Energy plant, and for its accelerating move to solar PV.

AllSun Tracker Power Purchase Agreement (PPA) Analysis for																											
		Town of Montpelier																									
Sun Tracker Info:																											
Model	6000 Watt					Avg \$ / kWh	\$	0.1305																			
Price	\$ 44,640	Per Tracker																									
kWh /yr	8,120	Per Tracker	Estimated annual GMP rate increase				5%																				
Power Rate during first 5 years	\$ 0.19	/kWh																									
Estimated Fair Market Value, end of year 5	30%	(= sale price to City per depreciated Tracker of \$13392)																									
Utility Solar Incentive	\$ 0.06	/kWh																									
	Qty	26																									
	At install	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6+	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22	Year 23	Year 24	Year 25	
Upfront Cost	(\$1,000)																										
Equipment Purchase						(\$347,192)																					
PPA Payment		(\$40,113)	(\$40,113)	(\$40,113)	(\$40,113)	(\$40,113)																					
kWh produced / year		211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	211,120	
Savings on Electric Bill		\$27,551	\$28,929	\$30,375	\$31,894	\$33,489	\$35,163	\$36,921	\$38,767	\$40,706	\$42,741	\$44,878	\$47,122	\$49,478	\$51,952	\$54,549	\$57,277	\$60,141	\$63,148	\$66,305	\$69,620	\$73,101	\$76,757	\$80,594	\$84,624	\$88,855	
GMP incentive (\$0.06/kWh)		\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	\$12,667	
Annual Cash Flow	(\$1,000)	\$106	\$1,483	\$2,930	\$4,448	(\$341,149)	\$47,830	\$49,588	\$51,434	\$53,373	\$55,408	\$57,545	\$59,789	\$62,145	\$64,619	\$67,217	\$69,944	\$72,808	\$75,815	\$78,972	\$82,288	\$85,769	\$89,424	\$93,262	\$97,291	\$101,522	
Payback	(1,000)	(894)	589	3,518	7,967	(333,182)	(285,352)	(235,764)	(184,329)	(130,957)	(75,548)	(18,003)	41,786	103,931	168,550	235,766	305,711	378,518	454,333	533,306	615,593	701,362	790,786	884,047	981,338	1,082,861	
Years	1	1	-	-	-	1	1	1	1	1	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	
Cost of power over 25 years	\$0.015	/kWh																									
Annual Rate of Return over 25 years	17.0%																										
Payback of equipment purchase (\$347192)	7	years, based on estimated utility rate increase of 5% per year																									
Payback of deposit and equip. purchase (\$347192)	9	years, based on estimated utility rate increase of 5% per year																									

CITY COUNCIL MEETING STATED MEETING & PUBLIC HEARING JUNE 9, 2010

On Wednesday evening, June 9, 2010, the City Council Members met in the Council Chamber.

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

Call to Order by Mayor:

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

10-139. General Business and Appearances:

Suzanne Eikenberry from Montpelier Alive said they were on the Consent Agenda for July 3rd street closures. The Taylor Street Bridge is closed, which will have an impact on incoming traffic. The meeting with the Police Department is tomorrow and they may come back with one or two other requests. Green Mountain Transit Authority has agreed to provide a free shuttle for people from satellite parking lots, so they are hoping that will cut down on the traffic. Everything pertaining to July 3rd is on their web site – www.montpelieralive.org. The parade starts at 6:00 P.M. with the fireworks at dark between 9:00 and 9:30 P.M. The July 3rd activities start at 8:00 A.M. and go throughout the whole day.

Ted Hoppe, a long time resident of Montpelier, said he wanted to start with a little story. There's this turtle walking down the street and these two slugs come up and mug the turtle. They take all of his money and the police come and are filing a report and say to the turtle what happened. The turtle says he doesn't know because it happened so fast. He came in here to talk about compassion. Recently he tried to pull together a program at the Kellogg-Hubbard Library called "Cultivating Compassion," which will air on the local Onion River cable access channel next week. In trying to pull that together he tried to get a lot of help from people in the city. It was his hope and dream to see that the Mayor could issue a proclamation and declare Montpelier a compassionate zone. The reason he wanted to do this, much like Burlington did this with in terms of immigration where they created an amnesty zone, he wants Montpelier to behave compassionately. There was a really good attendance at his program last week and a lady asked how they could participate. He promised to come before the Council to see what he could do.

Why compassion? Compassion is something he thinks each city program encompasses in some way. There are two basic issues of compassion and they are basically misunderstood. There was a 58 year old lady tazed in Barre. Compassion is two things. One is to cause no suffering. The other is that if there is someone who is suffering and we can help them then we should help in whatever way we can. He thinks this is really at the heart of all of the programs we have in the city, a neighborhood watch. This is what we want our police to do; this is what we want the Fire Department to do and of course they do when they respond to an ambulance call. But it is not enough. He thinks that each individual person in the city needs to be empowered in a way that the city government can do. We need to say to people this is what we are all about. We want everybody in the city not to cause any suffering, and if we see suffering we want to participate in a way that can alleviate as much suffering as possible. He hopes they can declare Montpelier a compassionate zone, and this is the first place to site a compassionate zone.

The idea of compassion is not only to have compassion for that lady who got tazed but to have compassion for the police officer who tazed her because that is important. What happens in the mind of a police officer when he is tazing someone is actually very interesting. What they find in an MRI is that a reward system is being stimulated in the brain.

Anthony Otis, a resident of Montpelier, said he wanted to raise awareness about illegal posting in the downtown. He is speaking in terms of historic preservation and not in his position on the Heritage Group but as a personal initiative. In the past week and a half there were signs for a lost dog. There were 10 of one color on a post in the downtown quad. Incidentally, after the lawn sales were over nobody picked them up, so he did. There are still 13 to 15 signs posted for a lost dog.

Mr. Otis went on to say we need to do better with Lamb Abbey.

Council Member Jarvis said Lamb Abbey has just been closed down.

Mr. Otis said he doesn't know what is next for him. Maybe we have to take out advertising and spend money that could be spent on something else for historic preservation, but we need to get out the message. He was standing on Main Street today in the vicinity of Rite Aid and looked down the street and there are a lot of new traffic signs. This beautiful city we have developed over the last couple of decades and the work of the merchants is all screened out by all of these signs. He saw the signs and was really upset about not being able to see the buildings. He would hope the commercial

community would also begin to talk about that. He certainly doesn't like the color of the sidewalk signs that are on East State Street. They are too big. We need to get awareness out to the folks in the city that it is illegal to post.

10-140. Consideration of the Consent Agenda:

a) Consideration of the Minutes from the May 19, 2010 Regular meeting.

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

1) Request to cater malt and vinous beverages and spirituous liquors:

a) The Black Door Bistro on June 24, 2010 at the T.W. Wood Art Gallery.

b) New England Culinary Institute (NECI) on June 6, 2010 at the Hopkins House at National Life. (Ratification of poll vote by Council Members.)

c) New England Culinary Institute (NECI) on June 14, 2010 at the Hopkins House at National Life.

Additional catering permit requests received after the agenda was prepared.

Vermont Hospitality Management dba New England Culinary Institute to cater the following:

Reception and dinner on June 11, 2010 from 5:00 P.M. to 9:30 P.M. at the Noble Lounge at the Vermont College of Fine Arts for 35 people.

Benefit Concert at Alumni Hall, Vermont College of Fine Arts on June 11, 2010 from 7:00 P.M. to 11:00 P.M. for 125 people.

Request for Outside Consumption Permits for the following:

McGillicuddy's Irish Pub on July 3, 2010 on Langdon Street from 5:00 P.M. to 1:30 A.M.

Langdon Street Café on July 3, 2010 on Langdon Street from 7:00 P.M. to Midnight

Receipt of Monthly Budget Report from the Finance Director.

North Street Retaining Wall Reconstruction Bid Results

Street Closures for Independence Day Celebration on July 3, 2010 for the following:

State Street: between Governor Davis and Bailey Avenue – closed from 12:30 P.M. until 10:30 P.M. for vendors and parade. Note: Access to Department of Motor Vehicles will be re-routed through state parking lots.

Main Street: between the Roundabout and State Street – closed from 6:00 P.M. until approximately 7:45 P.M. for the Montpelier Mile Road Race followed by the parade. Note: No parking on State Street between 5:00 and 8:00 P.M. Vehicles remaining on the street will be towed.

Langdon Street: Closed from 3:00 P.M. to 1:00 A.M. for McGillicuddy's and Langdon Street Café street parties.

60 State Street Parking Lot: Closed from 3:00 P.M. to 1:00 A.M. for Julio's Cantina street party.

The Meadow Area: Closed from 4:30 p.m. to 6:30 P.M. for parade staging area. All resident vehicles must be removed from the street. Letters will be sent to property owners of record.

School Street: Between St. Paul and Main Streets - closed from 4:30 to 7:45 P.M. for parade staging area. All vehicles must be removed from the street.

City Manager Fraser said there is an additional agenda item for DuBois and King. Council Members have received a copy of the proposed contract with Marsh Engineering for Turntable Park and that should have been on the agenda as well.

Council Member Golonka said he would like to pull the North Street retaining wall for discussion.

Mayor Hooper said she has a question about the outside consumption permit for McGillicuddy's it is confusing and she would like to pull that.

Motion was made by Council Member Sheridan, seconded by Council Member Weiss to approve the consent agenda after adding the catering permits and the Dubois & King contract and removing the two requested items to be considered separately. The vote was 6-0, motion carried unanimously.

10-140 (A) North Street Retaining Wall Reconstruction Bid Results

Council Member Golonka said they are talking about the Northfield Street retaining wall later in item 7 on the agenda. If they are going to vote on it then it makes it irrelevant. This is a 44 percent increase from the budgeted amount and he is concerned. He would like an update about that and whether there is a possibility for scaling back or if it is an emergency situation. It seems high in terms of the budget.

- 10-141. Consideration of a request from James Nagle, 133 Towne Hill Road, for a noise variance on June 12, 2010 from 6:00 to 10:00 P.M. Neighbors within 250 feet have been notified and Council Members have been provided with a copy of the letter and names and addresses of those so notified.

Recommend approval of request.

James Nagle said he is asking for a noise variance. They are going to have outside bands at 133 Towne Hill Road. It will be between the barn and the house so it shouldn't be too loud, and it will be between 6:00 and 10:00 P.M. this Saturday.

Council Member Sherman said there are different levels of volume. It is wonderful to have outdoor music at his party, but in other parts of the city they probably don't want to hear it. She is sure he will use discretion.

Motion was made by Council Member Jarvis, seconded by Council Member Hooper to grant the noise variance to James Nagle, 133 Towne Hill Road. The vote was 6-0, motion carried unanimously.

- 10-142. Consideration of a request from Susan Calza, Breck Campbell, and Lawrence Houston, residents of First Avenue, for a partial street closure of First Avenue on Saturday, June 19 from 1:00 to 7:00 P.M. A copy of the letter notifying the neighbors on First Avenue, Hubbard Street, Tremont Street, East State Street and Guernsey

Avenue has been provided to the Council. Council has also been provided with a copy of the Police Chief, Fire Chief, and the Public Works Directors indication of approval with certain requirements.

Recommend approval of request.

Lawrence Houston from 12 First Avenue said their daughter is graduating along with Susan and Breck's daughters. They are a tight community and thought this would be a great way to send their kids off to college. In talking with all of their neighbors when they were handing out the flyers everybody was receptive to it. The Council has made the process easy and Bev Hill has been great to help make this happen. Hopefully, it won't cause too much inconvenience to the city to allow this to happen.

Motion was made by Council Member Sherman, seconded by Council Member Sheridan to approve the partial street closure request for First Avenue on Saturday, June 19th from 1:00 P.M. to 7:00 P.M.. The vote was 6-0, motion carried unanimously.

10-143. First Reading of Proposed Ordinances concerning Berlin Pond.

City Attorney Paul Giuliani has recommended two ordinance amendments relating to the use of Berlin Pond. The amendments were discussed at the May 26, 2010 meeting. The City Council voted unanimously to proceed with the public hearing process for adoption. Correspondence from Paul Giuliani and copies of the proposed amendments are enclosed.

Recommendation: Conduct the First Reading on both amendments; warn the second reading for June 23rd.

Mayor Hooper opened the public hearing at 7:25 P.M.

Steven Syz said he thought Paul Giuliani was going to be here because they had a long discussion today about some changes and inconsistencies between Chapter 13 and Article 6 documents. He indicated he would make another draft of both so there would be Version A and Version B.

On Chapter 13, Section 13-3(a), it says it will be unlawful for any person to trespass on the surface of Berlin Pond or any tributary or lands adjacent thereto owned by the City of Montpelier. There are activities that would logically be appropriate within these areas, such as things that may be beneficial to the city in the long term. The Conservation Commission

worked on looking for a site for a well field which would be either supplemental or replace the pond in the case of an emergency. With Steve Gray they looked at the possibility of digging five streams that the Interstate crosses. There is always the possibility that a truck carrying chemicals or fuels would go off the road and rupture and spill into one of those streams. They had talked about digging out excavations on city land at the bottom of those streams so the first flush could be diverted into those areas.

City Manager Fraser asked if his concern that says it is unlawful for any person to occupy or enter. Mr. Syz replied yes. City Manager Fraser said the intent was that the trespasser was there without permission. The sort of work he is describing has always been by permission from the Conservation Commission and permission given to the consultants.

Mr. Syz said there are many more examples.

Council Member Jarvis said she would assume it would be unauthorized or without permission.

Mayor Hooper said back in Section 7-605 says human activity within zones 1 and 2 are prohibited unless and except for certain uses, which she assumes it talking about testing and protection.

City Manager Fraser said they have issued permission to people to go in and do certain bird counts and classes to go in as long as they had permission.

Mr. Syz said research and water quality testing would be another area. On Irish Hill there are mountain bike trails, paths, hunting, four wheelers, and those are existing uses next to a brook which is a major tributary. Somewhere it might be more explicit in the text of these documents and they might comport more with each other and reference research and other appropriate uses that are beneficial or neutral with respect to water quality.

The other thing that makes him a little nervous is the second whereas where it talks about Berlin Pond provides the exclusive public water supply for the City of Montpelier and the precincts within the Town of Berlin. For a long time a portion of Montpelier was fed by Montpelier Springs and a portion on Towne Hill is fed by a series of wells.

City Manager Fraser said that is no longer the case. The only public water supply is from Berlin Pond.

Mr. Syz asked if there was a risk of putting this in of losing some sort of right. Since that water from Montpelier Springs was used for such a long time, and still flowing and water that is hundreds of years old, and flows through North Branch River Park, it seems like there is some vested right of the city to those waters. If you say this is exclusive as opposed to saying the dominant public water supply that was and may be very important. Let's say a truck with 50,000 gallons of gasoline goes off the Interstate into one of the streams...

City Manager Fraser said he understands his concerns.

Mr. Syz said somewhere in here it talks about existing structures, etc. It talks about existing uses in zone 2. It says human activity I zones 1 and 2 of Berlin Pond has protection in the area are prohibited unless directly or acquired for water quality testing protection enforcement or improvement purposes. Arguably, these trucks that keep coming into the watershed with gasoline and chemicals pose a risk to the water supply. He doesn't believe gasoline could be treated by the treatment facility. It was primarily constructed to deal with giardia that was the problem at one time. Clarity in terms of what is and what is not allowed is important.

He is very much in support of the concept here. He can't imagine why the Agency of Transportation put the Interstate right through the Berlin Pond watershed crossing five brooks that supplies a watershed that the city fathers of this city started purchasing land in 1830 and gradually acquired land all around the pond. Since then other organizations, the Vermont Land Trust, the Vermont River Conservancy, the Conservation Commission and the Town of Berlin acquired more and more land along Irish Hill to protect the pond. Now we have the Interstate going through the watershed posing a huge risk, and that underscores the need to think about alternate sources such as Montpelier Springs and possibly an alternate well field. He is just introducing ideas he thinks are consistent with this that don't belong in an ordinance but need to be thought about by the city.

Mayor Hooper said generally the trespass is okay as long as it is so narrow that it excludes legitimate uses of and if they can give permission to people to go in and do the appropriate work he is okay with that. Secondly, he is asking the city to keep their options open in terms of protecting both this pond and considering other sources of water for production. They will look for some proposed changes from Paul Giuliani.

She said she is curious because he is somewhat of an expert in groundwater related issues. Is he familiar with the Source Protection Plan?

Mr. Syz replied yes. What he is the most comfortable with are the maps. Then, there is a whole mass of text he didn't read.

Mayor Hooper said they are essentially incorporating the Source Protection Plan into the ordinance.

Mr. Syz said he had no comment on that.

Mayor Hooper said this was written in 2001. Do things change rapidly enough that they need to look at this again to make sure it is sufficient or effective?

Mr. Syz said his view at the time was that it was deficient with the really important things for providing the city with a water supply. The immediate area is important next to the pond and the streams; there is no question. He thinks much more land acquisition should take place for the benefit of the pond and the recharged waters, the groundwater which eventually comes into the ponds through the springs, wetlands, etc. Something needs to be done with respect to the water flowing from the streams underneath the Interstate.

Brian Pfeiffer, a resident of Plainfield but who works in Montpelier, so he drinks the water said he has spent a lot of time around Berlin Pond over the years guiding people on bird watching trips. He generally supports the ordinance but has some concerns and echoes some of what Steven said. He is a consulting field biologist. He works for municipalities, private landowners, timber companies and State of Vermont Fish and Wildlife Department doing field surveys of birds, butterflies and dragon flies mostly. He has actually done a bit of research around Berlin Pond over the years. He had permission to visit areas of the pond that are posted over the course of 25 years frequenting the shoreline.

In the city's desire to be unequivocal about protecting this incredible resource that they have created a bit of ambiguity here. Some of it has come up with what they were just discussing with Steven, and that is prohibiting researchers from even setting foot in one of the tributaries to the pond to conduct surveys for aquatic insects which tend to be good indicators for water quality. It's great to have language in here that would delineate some sort of clear procedure for getting permission. It would be good to have this so that in the future years from now they would know there was a procedure for us so we do it right when we go.

What probably is most troubling to him is Section 7-600 that incorporates the provisions of the Source Protection Plan, and he may be one of the few people who have actually read that plan. He was a volunteer member of a group that developed the Conservation Plan for Berlin Pond back in 2005 and they relied on that document. That is a bit troubling to him because in one paragraph to adopt the findings and analyses of that plan as they pertain to possible sources of pollution he would be uncomfortable declaring that as part of our statute or ordinance now. His guess is that there are a lot of people who live in Montpelier or Berlin who would probably agree with much of what is in the Source Protection Plan? To adopt it without really telling folks about it or reevaluating feels troublesome to him.

He thinks he would put brackets around Section 7-607. There are some uses delineated here but others that would seem appropriate that are not. If they had some means for defining getting permission it would help.

He makes his living showing people nature. He is actually not here because of that. He doesn't guide bird watching trips to the pond that much any more. His chief concern that there may indeed be other uses. There may be reasons to set foot in those waters that are not made clear here. Much of them have to do with research and goals of improving the quality of the watershed.

The Fish and Wildlife Department put up an osprey nesting platform. It was an issue before the Berlin Select Board, and he isn't sure that Montpelier had much of a say in it.

City Manager Fraser replied they did.

Mr. Pfeiffer said he as a bird watcher made a stink about it, and it came down mostly because he was making a lot of noise.

Council Member Jarvis said they probably should just have Paul Giuliani's legal opinion about making the Source Protection Plan a part of the Whereas clauses.

Mayor Hooper closed the Public Hearing at 7:50 P.M. She asked the Council Members if they were ready to set second reading.

Council Member Jarvis said she thinks it is appropriate to change Section 13-3(a) to specify that we are trying to exclude unauthorized persons or persons without permission conducting beneficial activities as determined by the city.

Motion was made by Council Member Jarvis, seconded by Council Member Sheridan to approve first reading and set second reading for the June 23rd Council Meeting.

Mayor Hooper said one of the issues she has is the Source Protection Plan. We are quite explicitly saying you cannot do certain things she isn't comfortable with. She is concerned about adopting an ordinance that we are prohibiting these activities without knowing where and what those activities are. She would suggest the notion of whether we incorporate this into the ordinance and how we do it is of concern. We also talked about making sure the Town of Berlin knew we were doing this. She would like to know affirmatively that the city is looking at doing this because we are talking about prohibiting people in Berlin from doing certain things.

City Manager Fraser said he e-mailed a copy of the ordinance to the Town Administrator.

Mayor Hooper said these are serious concerns they need to sort out before we actually adopt the ordinance.

Mayor Hooper called for a vote on the motion. The vote was 6-0, motion carried unanimously.

10-140 (B) Request for Outside Consumption Permits for the following:

McGillicuddy's Irish Pub on July 3, 2010 on Langdon Street from 5:00 P.M. to 1:30 A.M.

Mayor Hooper said on the application form from McGillicuddy's it indicates one closing time and on agenda item for the street closure requests it indicates another time. Langdon Street Café is closing at midnight and on the application from McGillicuddy's they were asking to be allowed to continue serving outside until 1:30 A.M. .

Council Member Hooper said Julio's was until 1:00 A.M. How can they serve outside after street closure? Langdon Street is only closed until 1:00 A.M.

Mayor Hooper said if you read the front it says the consumption time is until 1:30 A.M., and if you read the letter on the back they say until 12:30 A.M. If she understands this correctly, they want to keep the bar open until 1:30 A.M.

Council Member Jarvis said he is asking for more time between when the music ends and when the consumption ends.

Motion was made by Council Member Jarvis to approve it from 5:00 P.M. to 1:00 A.M. for the outside consumption permit. Council Member Hooper seconded the motion. The vote was 6-0, motion carried unanimously.

Mayor Hooper said they should note there have been issues of rowdiness associated with some drinking in the city and she is a little concerned that this not be an issue that evening on that street.

10-140 (A) North Street Retaining Wall Reconstruction Bid Results

There were questions about costs and the urgency.

Council Member Golonka said he is concerned about the costs overall. Is there a possibility of scaling back? What is the urgency?

Todd Law, Director of Public Works said they did scale back on the project, but as Tom McArdle outlined in his memo asbestos was found on the back side of the wall. They have to actually stabilize the water main. They have applied for additional grant monies from VTrans to increase our cost share. They will give us 80 to 90 percent towards the cost of this in a structuring grant. It was based off the old estimate. In the past other municipalities will turn it in or won't do certain projects though there are sufficient monies at times. They haven't applied for that, but this is essentially the project that can be built. There has been a lot of erosion in that area and it is a fairly significant wall. It holds up North Street. There is one house that is within a driveway away, 15 feet from the wall.

Council Member Golonka said his concern is our priority projects have always been these exit roads outside of town to benefit outside communities, whether it is East Montpelier or Middlesex. This one seems to be over budget.

Public Works Director Law said the other side of it is on our retaining walls the retaining wall on Nelson Street was substantially over budget, and a lot of that was because of the severity of that wall. They don't build them like they used to, which is a good thing.

Mayor Hooper said there are probably 15 houses on North Street in Montpelier above the retaining wall, and there are probably 50 or 60 in East

Montpelier. We have rebuilt the upper part of North Street about 10 years ago and we spent \$300,000 serving those 15 houses as opposed to all of those 50 or 60 people who use it on a daily basis when they are coming in to Montpelier. She thinks that is an important and interesting question.

Public Works Director Law said the only revenue we receive is grant money from VTrans and the Legislature.

Council Member Hooper said given the proximity of the two low bids, is his preference to go with the lower of the two?

Public Works Director Law said they are both reputable companies. They have worked with both of them in the past.

Motion was made by Council Member Golonka, seconded by Council Member Hooper to award the contract to the low bidder Hebert Excavation, Inc in the amount of \$158,820.00 and authorize the city manager to sign the necessary documents. The vote was 6-0, motion carried unanimously.

Council Member Jarvis said the City Manager said in his memo that he would ask the Council to ratify the contract with DuBois & King for the Turntable Park .

Mayor Hooper asked if the Council would like to ratify the approval of the contract.

Motion was made by Council Member Sheridan, seconded by Council Member Sherman add consideration of ratification of the approval of the contract for Turntable Park. The vote was 6-0, motion carried unanimously.

10-143 (A) Ratification of approving a contract for the Turntable Park.

Council Member Jarvis said this has the potential to be a great project and a really nice way to clean up that area and celebrate a historic element of Montpelier. She is concerned because of the uncertainty of Stone Cutters Way with the increase of rail traffic and the possibility of a siting there. The idea of expending a pretty significant amount of money and staff time to do this work concerns her. Six months down the road it could be a really loud, noisy and smelly place to hang out. We already have concerns about the

money we have already invested in the area so the notion of investing more when there still is that uncertainty is something that concerns her.

Council Member Golonka said he thought the authorization was just to add it to the Consent Agenda and not to approve. He is concerned about getting notices in their Friday packets, which maybe he doesn't read until Tuesday afternoon and suddenly he has to give a response. He brings it up as an issue. He agrees with Sarah that there are a lot of unknowns in the area. He is concerned if they add more money and suddenly have to rip it up that maybe they should use this as an opportunity to change the lease with the state or use this as an opportunity to get a 30 year lease instead of a 3 year lease. It seems a little rushed to him.

Council Member Jarvis said if they decide they want to go forward the very least they need to do is send another letter to the Senate Transportation Committee and the Agency of Transportation and our Congressional representatives to say we are doing this. They have given us the indications they are not looking at Stone Cutters Way for a siting and they are going forward and expending serious state and municipal funds and for them to tell us now if we shouldn't do it.

Mayor Hooper said that is an excellent idea.

Council Member Sheridan asked what they do if they don't say anything.

City Manager Fraser said it shows we are considering this as long term. A lot of the work is already done.

Public Works Director Law said they started the survey work this week.

City Manager Fraser said they could stop the work. There have been downtown grant funds for a number of years. This project was actually in the original plan for Stone Cutters Way from the beginning and it got scaled down as cost realities became clearer and it became a much more modest and affordable package. They have the funds and the Council has approved them all. It really isn't the safest place in town and does need to be cleaned up. We have the grant funds and will lose the funds this year. They have until December to use the funding. If the city were to opt not to do it because of our own reasons that is fine but we should understand that we will be forfeiting any funds we have.

Council Member Sheridan asked if he could remind them what that figure is.

City Manager Fraser replied it is over \$200,000 and at least half of it is from outside funds. If we write or call the state and ask if they could guarantee there won't be a rail site he doesn't believe they can do that. He believes the state will say they offered to get the city this land so they could build this project. They would give us the land. He believes they will say any rail siting or anything they are considering doing won't encroach into the Turntable Park. Then, it becomes the issue that if that were to occur does that make the park less likely to be used because people won't want to hang out there. There are other parts of Stone Cutters Way they are talking about.

He said with Attorney Giuliani's assistance they sent a letter to the Senators, the state and others staking our claim as to why we believe we have solid leasehold on Stone Cutters Way, but they haven't heard back in any official way from them yet and not sure they will. The Secretary of Transportation did send him a personal e-mail saying he didn't agree with this but it's a non-issue because they don't have any plans to do anything with Stone Cutters Way. He believes from the message they received from the Senate Transportation Committee and whether they will prevail 100 percent in their argument but they do have a case to survive a motion to dismiss which means the city has put them on notice. This means the whole premise of them wanting to put a rail site in rather quickly would mean they could spend two years in court.

He spoke to Fred Connor who has been trying to acquire the property adjacent to that and he told him today he is going ahead and planning to close with the state. His take of this is that it isn't going to happen. The bigger question they are going to face is that if there is going to be a siting they are going to look to the bike path. They own that and it's longer and there is no development along the way right now. There is no existing bike path there. He likes Sarah's idea of saying we are going to move ahead and understand there isn't going to be a siting and tell us if we are wrong because we are about to spend the state's money and ours.

Council Member Golonka asked if there were any issues with this grant specifically that would trigger a pay back of funds for the Stone Cutters Way project.

City Manager Fraser said it is downtown transportation money. It's a fair concern and it is the state themselves that have tripped us up in spite of having worked with them to develop this area.

Council Member Weiss asked if they could divide this agreement into two parts. Under the agreement it says the consultant will conduct engineering investigations to develop plans, specifications and estimates. We could eliminate at this point to provide engineering services during the construction phase because he doesn't know that there is any agreement yet on the construction phase. Why then are we considering an agreement which includes that provision?

City Manager Fraser said they are into June now and we are cutting ourselves short in trying to get it constructed this season. We are looking for a consultant to develop the project and shepherd it all the way through completion, and those are the services they sought when seeking a bid. They didn't want to break it up and then have to go through another process. Garth Genge, Tom McArdle and Todd Law have worked closely in developing this and understanding the timelines and they want to have this ready to go by the time snow comes.

Council Member Weiss asked if there were implications if the Council approves the agreement that automatically we will go ahead with construction.

City Manager Fraser replied no because they will still have to get construction bids and weigh those against the budget.

Council Member Weiss said if the bids come in too high they are still paying \$16,000 to somebody who is not going to be responsible for the construction.

City Manager Fraser said they will be hired to see that it can be built on time and not to exceed \$16,000.

Mayor Hooper said one thing she would like to add about this proposal is that one of the property owners that is on the city side of the park redeveloped their property with the expectation there was going to be a park there. They have said from day one that it is an eyesore. She would suggest with the so called Pylisk property it was the same expectation. In addition to the citizenry, the grants and protecting the river we have an obligation to the property owners on either side of that property and it will continue to be of value to them. She would hope the city would go ahead with the project. This will also be one of the very few places along the river that there will be visual and public access to the river which was important to the citizens a long time ago. It is important to members of the community to have some access to the river, if it is only visual.

Motion was made and seconded by Council Members Sherman and Hooper to approve the contract for the Turntable Park work with Marsh Engineering Services. The vote was 5-1, with Council Member Sheridan voting against the motion.

- 10-140. (C) Consideration of approval of a contract with DuBois & King for \$240,640 to perform “local share” consultant services connected with the Army Corps of Engineers Flood Mitigation Study. Funds have been allocated in the city’s capital plan and costs are being shared equally with the State of Vermont. Copies of the proposed agreement were sent to the City Council on Monday.

Recommendation: Authorize the City Manager to sign the contract (and any related documents) as presented.

Mayor Hooper said the other contract they want to discuss is the consideration of approval for DuBois & King to perform the local share of consulting services with the Army Corps of Engineers Flood Mitigation Study, and the local share is \$240,640.

City Manager Fraser said some of the city’s share will be performed by the Army Corps of Engineers. When they looked at the total project and divided up the tasks the city can pay its share either in cash to the Army Corps of Engineers or through in-kind services. These are services the Corps would not have to do themselves and the city could do them. We obviously don’t have the personnel to do that. The Corps gives you credit for in-kind services at the rate they would charge. The value of this work that is \$240,000 they will give us credit for at least \$338,000 or perhaps even more. It is a pretty substantial savings that the city is getting that we would have to write a check for to the Corps. The city and the state are saving the difference between what the Corps’ value of this work is and what we are actually paying out by doing it local.

Mayor Hooper inquired what the total study costs were going to be.

Council Member Hooper said it is \$1.3 million.

City Manager Fraser said it went up a little because we have \$350,000 to \$400,000 they set aside in the capital plan over the last two or three years for this. We are in for half of this, which is about \$650,000 which is split with the state. Actually, it is \$700,000 and the city is in for \$350,000. The \$400,000 is what they could have done for that amount of work for

\$240,000 and still get credit for matching \$400,000, so they would split the savings with the state. They decided to divide the contract with DuBois & King and anything that is not being done by them would be done by the Army Corps of Engineers.

Public Works Director Law said some of it is a benefit cost analysis. You have to do an analysis to make sure what you are doing will benefit the community as a whole, and some of that is culture. That is a Corps requirement.

Motion was made by Council Member Jarvis, seconded by Council Member Sheridan to approve the contract with DuBois & King for \$240,640, and authorize the city manager to sign the necessary documents. The vote was 6-0, motion carried unanimously.

Attorney Paul Giuliani had arrived so the council return to agenda item 10-143, First Reading of Proposed Ordinances concerning Berlin Pond to gather more information.

10-143. First Reading of Proposed Ordinances Concerning Berlin Pond.

City Attorney Giuliani said Steve Syz and he had a very good discussion and Steve had some very thoughtful observations. He would leave with the Council some red lined amendments of what they have. They attempt to clarify and are an attempt to make the ordinance a little tighter.

City Manager Fraser said there was a substantive question that came up which had to do with the wisdom of incorporating the whole Source Protection Plan in the ordinance as opposed to a reference to it and it has made these findings. Another person who testified in favor of the ordinance suggested it should be included. What does that mean to make that an ordinance as opposed to saying the ordinance is based on the Plan's findings?

Attorney Giuliani said in order to enact the ordinance, and more particularly to enact a health order, findings have to be made. There has to be some objective things in the record and rather than just reciting an Executive Summary from the Plan there is no problem with incorporating it. Those are the findings and conclusion. The Council just didn't pluck this out of the air and there was some objective verifiable data that can be looked at. The conclusions in the Source Protection Plan has some predicate for what they are doing here, so by incorporating it as a reference is fine.

Council Member Jarvis asked if it had to be a health order. Couldn't they just do this by ordinance rather than by health order?

Attorney Giuliani said let's assume a situation develops and some condition occurs on the pond when you have a health order on the books as a finding by the Council that the condition that now exists is now an imminent peril to health and safety the city can act as a Board of Health immediately and not going through the whole enforcement process of an ordinance. The health order can be acted on in very short notice. The people who the health order is directed at have a right of appeal to the City Council. There is plenty of due process. It's just a much quicker way to get the relief. If something happens they aren't going to have the luxury of time to act. It will be pretty catastrophic he would think. They don't want to have some sort of an ad hoc reaction and you really want this on the shelf in case something really happens.

Mayor Hooper asked if the city had the authority if there is an imminent health hazard to act on an issue.

Attorney Giuliani said they do but they have to convene as a local Board of Health and make all of the findings that are in the ordinance right now. From an administrative and an enforcement point it will be a lot easier. Just pray you never have to use it but it will be there.

Mayor Hooper said she was initially concerned about adopting the whole thing by reference, but they do have to adopt it.

Attorney Giuliani said he would like to second the suggestion about sending the letter to the state. You want to set up what is called a Gestapo. You want the state to know that you are relying upon what they have done or not done. Just put them on notice that the city is doing something.

Council Member Jarvis said they have set the ordinance for Second Reading but do they also need to convene themselves as the Board of Health?

Attorney Giuliani replied at that time, yes. It probably should be on the agenda. When it comes up somebody could make a motion to convene as a local Board of Health jointly with the City Council.

- 10-144. Consideration of Transfer of \$182,000 from General Fund to the Capital Fund. Staff has identified projected operations budget savings due, primarily, to the mild winter weather.

Recommendation: Transfer \$182,000 from the General Fund to the Capital Fund for use on specific projects as outlined.

City Manager Fraser said the actual amount they recommend being transferred from the General Fund into the Capital Fund is \$207,000. Technically, it doesn't need the Council's vote because it is going from the equipment fund to the equipment fund. There was the sale of the vactor and then they received grant monies through error for the new one so their proposal for that particular case was to take that equipment revenue to buy the second half of the dump truck, which they approved the first half in the budget for this coming year.

City Manager Fraser said they found themselves in an unusual and positive situation where there were some savings in the department budget, and overall there might be an additional \$30,000 or \$40,000 net savings because of weather related savings. The savings this year were all weather related savings. It was a mild winter. They are not the kind of sustainable savings they will have year in and year out. They caught a break this year.

What they are trying to do is take a look at the Public Works weather related savings, not savings because of health insurance or other operational changes that are budgeted. They want to convert public works savings to public works projects and convert City Hall savings to City Hall projects so they are still in the areas that we allocated the funds. The main reason for the Council's vote is because they are transferring it from one fund to another and by doing that it goes into the capital fund and carries forward into the fund balance.

Their proposed allocations is a debt that we paid but it shows as a minus \$22,000 for our August 2008 storm damage where we received a lot of FEMA and other monies.

Finance Director Gallup said it was \$234,000 and about 10 percent of it was the City's. All but \$22,000 was reimbursed to us from outside sources and they finally reconciled all of that money. Again, that is a weather related public works bill that has come and gone. They have already talked about the retaining walls, and that is a pressing need. Their suggestion was both paving and the sidewalks were areas that came up during the capital discussions and areas we wish we could put more money into. They have applied for enhancement grants for sidewalks which will require a local match, and that is why they selected \$50,000 there.

Jumping down to the City Hall projects we need to have rails in the proper spaces. Then, there were discussions on the ADA Committee that by law we need to make certain improvements. There is \$5,000 in the budget and this was a chance to get to some of those things to come into compliance. Last, but not least, several years ago they renovated all of the Planning Offices because there were some serious mold issues downstairs. At that time it was also an issue for the Public Works Offices so they are proposing they take some of this year's heat savings and address the mold issue and get it done.

Council Member Golonka told Finance Director Gallup and City Manager Fraser he wanted to thank them for coming to the Council with savings. He applauds their efforts. His concern is this. We are outside of the budget season and there are significant issues out there with 58 Barre Street, the water fund deficit and other projects that may come up. By just sort of reallocating money like this sounds like automatically prioritizing these projects before we even have a process. He thinks they may be faced with significant expenses coming up, and they may very well be projects they will need to approve before budget season and he would like a separate agenda on each of them. He is concerned they are just zeroing out our savings without having a discussion of goals and priorities for the budget. Obviously, they did allocate some for the retaining wall on North Street as he recalls, about \$48,000. Some of these sound like we are going to have to do anyway, whether it is the mold or front step railing. He doesn't like zeroing out every dime in savings before the end of the year. He would like to get first of all some credit into the press that we did have surplus in our budget, and if we have to use the entire reserve funds for these projects that is fine.

Finance Director Gallup said this is just a part of the General Fund budget and it is the first time they have seen the weather cooperate. The General Fund budget has another whole story to it this year. We are over in revenue about \$62,000 mostly due to ambulance. Then, in expenditures we are just about \$35,000 over which you can point to some legal costs, the survey and video archive. This is a piece of the budget that is related to weather and it is unusual and an opportunity that we won't have very often to take money from the DPW area and spend it in the DPW area.

Council Member Golonka said he would prefer it going to the reserve fund and have the staff get the credit in the press that we actually had a budget savings that were under budget.

Public Works Director Law said the City Manager would have liked to look at some of the projects that hadn't been discussed and prioritized, but the fact was they were looking at the paving projects as an addition to the monies that were already allocated to paving in the capital improvements plan. We applied for a grant and this is the additional monies to meet that \$80,000 local match for that grant. The transportation enhancement grant of \$50,000 they figured would stretch their money; it's a 50/50 match to cover all of the sidewalk improvements they looked at last year.

City Manager Fraser said it really is the Council's call. This money all lapses into the fund balance and they have to spend it as it comes up; that's fine. They were only recommending the weather related savings because the timing is such that it is now June and they have a handle on where the budget stands but it has to be transferred into the capital fund by June 30 or it does lapse. In terms of the priorities, from their perspective the \$22,000 is really spent. The \$90,000 really needs to be spent on the retaining walls, the front step railing. ADA repairs and the mold they should take care of. It leaves the \$70,000 which we could let lapse and then use as necessary. Their team's perspective was that the Council had said loud and clearly during the budget process that paving and sidewalks are areas you felt were under funded.

Council Member Sheridan said the Citizens' Survey talked about roads and paving. He doesn't see anything superfluous here. Mostly, it is stuff they have delayed over the years and we will probably never have a winter like this where we can catch up on some of these delays. He sees it as a chance to catch up on areas we have cut.

Council Member Golonka said his point is that it is in a vacuum. They aren't looking at the budget as a whole yet you are making budgetary decisions, and that is why he doesn't like it. He would rather have the General Fund increase our Fund Balance and these come up as emergency or agenda items. He doesn't like doing budget decisions in a vacuum and that is why he doesn't support it in this manner.

City Manager Fraser said they have submitted an enhancement grant application. It was one the Council approved last year and we didn't get funded so we just resubmitted it for sidewalk extensions and that kind of work. That was the city's share.

Mayor Hooper said this is a question of whether we look at it retrospectively. If we had these questions before the Council during the budget season for the current year that has generated the fund her guess is

they would have waited and come out pretty close to the way the recommendation is being made to the Council.

City Manager Fraser said they saw this as an opportunity to get ahead in some areas. They never have all of the cards on the table, even at budget time. They don't know when the storms are going to come or grant opportunities are coming up.

Council Member Hooper asked if the grants for paving the sidewalk are in hand or on the books.

Public Works Director Law said they have applied for them.

City Manager Fraser said the other policy piece is that it would be transferred to the capital plan and the grants would be available for other uses.

Council Member Golonka said it is the first time since he has been here that they have swapped things in the middle of the budget year. What if we were in a deficit? Would they then come to the Council and say here is what we will cut so we won't have a deficit? He would rather have these as different agenda items as they come up and keep it separate from the issue that we are in a surplus.

City Manager Fraser said the reason it is here is because the Council has to approve anything that goes from one fund to another. For the last several years they have put the brakes on spending and made their own internal cuts and not have surpluses based on the priorities the Council has articulated. There is no reason why they couldn't have spent the money in the same fiscal year.

Council Member Golonka said he would rather see the reserve fund start to build and have any type of spending out of it be a conscious decision by the Council as a separate agenda item. These may mean six different agenda items they have.

Council Member Sheridan asked if he wanted to do them one by one now.

Council Member Golonka said they don't have any details on the 58 Barre Street building. They had a meeting of the Water Rate Committee and they are facing a huge deficit there.

Council Member Sheridan inquired if this could be moved into the water fund.

City Manager Fraser said he didn't know the legal answer to that.

Finance Director Gallup said it is different users.

City Manager Fraser said the main issue is that there are people who pay taxes into the general fund that are not water or sewer users and sewer and water users that are not the same. They have in the past loaned money from one fund to another and actually signed notes with interest rates and paid them off. The water fund is now paying the general fund interest because it is a defacto loan.

Council Member Sherman said with respect to Council Member Golonka's suggestion she moved the Council proceed with the recommended allocation of savings to the projects listed in the Public Works Department and in City Hall in the amount of \$207,000. Council Member Sheridan seconded the motion.

The vote on the motion was in favor 4 to 2 with Council Members Golonka and Weiss voting against the motion.

Finance Director Gallup said the description in the agenda was different than what she had planned tonight. Therefore, there was more information than this just one sheet. She had promised to come to the Council with the balances of all of the funds as presented at audit time. She will present the short version. She said the city needs to get better about what are reserve funds. They say their unrestricted funds are reserve. In accounting terms they aren't. The whole spreadsheet is fund balance for general fund. Totals at the end of last June are at the very bottom - \$1,373,000. Of that \$623,000 is unreserved and undesignated, and that is what she holds on to. That is what the Council is calling reserve money. It is the surplus and what is carried forward year to year and has no restrictions on it, but there is a lot of money above it that does have some kind of restrictions. Some are because of accounting procedures. Other items are restricted like the Tree Board and the Conservation Commission because they don't spend their line items and she carries it over year to year. These are designated funds for specific purposes. That's the general fund.

Finance Director Gallup said there are two other major governmental funds. One of them is community development. They don't talk about community development funds much but there is \$3,200,000 there. In

notes receivable there is \$2.8 million. That is over 90 loans out to residents, businesses and nonprofit organizations. There are a lot of different kind of restrictions on how those are paid back and how they received the money in the first place. This means the city acts as a bank in many ways.

Mayor Hooper said it is a very important asset in the community in terms of people improving the values of their property and making investments in the community.

Finance Director Gallup said the third largest major government fund is capital projects. When they look at the balances on this towards the end of June the Route 2/302 Roundabout is really causing havoc. There is a deficit there because there was a collection of a grant receivable for \$713,000 that didn't come in within 60 days, and there are some different revenue issues.

She said she knows there are some questions on traffic impact fees. That is part of the capital projects, and the end of 2009 it is only \$28,000. There has been some talk about running out of time to spend that money. Most of that money came in during 2007 and there is a six year time clock on that.

There are three major enterprise funds and they are accounted for differently. The Water and Sewer Committee is working very hard and the Council should be hearing from them soon. They are the water fund, sewer fund and parking fund. Accounting for them is different than for governmental funds. It is called unreserved money, and for the water fund it says \$634,000 in deficit. She would add that includes the pension which is not due until 2017. \$297,000 comes off that, so there is a deficit in the water fund of \$336,000. It is the same thing with sewer. It isn't \$782,000 but \$379,000, and there is a plan to deal with that. For parking it says that has a \$95,000 deficit, but when you take the pension fund into account we are really almost \$100,000 to the good in parking. The enterprise funds have been doing pretty well the last few years.

There are many funds here and some are more complicated than others.

10-145. Discussion of City Council's goals, priorities and objectives for 2010-11.

On April 5, 2010 the Council conducted a workshop to discuss goals, priorities and objectives for the upcoming year. At that meeting an outline of key issues was developed. The outline is enclosed.

Recommendation: Complete discussion, adopt final version or provide direction to staff.

Council Member Weiss moved to readopt 2009-10 goals and priorities and in November 2010 validate the status of each statement. Council Member Golonka seconded the motion.

City Manager Fraser asked if he would accept a friendly amendment that anything that has already been completed that is on the list be removed.

Council Member Weiss replied yes.

Mayor Hooper said they never completed the work on this but did a laundry list and she wanted this in front of the Council because of her concern that the Council isn't getting at the most important issues. For her a lot of this is economic development questions.

Council Member Weiss said in defense of the motion which has been made and seconded he wants to give an example. It says: Transit Center – continue developing project. There are a minimum of six alternatives to what the present path might be. They could spend an hour just defining that one. He doesn't think the effort is worth it right now.

City Manager Fraser replied one thing they could do is to pull out the "Must Do" items. The Carr Lot, Transit Center, 58 Barre Street are on that list along with the district heating project and water fund deficit. There are some other actions. There is the ordinance committee, the Recreation Department, economic development, TIF District and housing. Someone suggested a review of the committees and commissions, regional shared services, street lights, bike path and a charter commission. The question for the staff is how they fall in priority with the group.

Council Member Jarvis said she thinks it is important to prioritize. The Recreation Department issue is an issue and they need to lean very hard on the School Department and tell them we don't think they are doing their fiduciary obligation to the taxpayers if they don't pay closer attention to the budget. Right now we don't have the capacity to even think about taking over the Recreation Department. We don't have our hands around the Senior Center and she doesn't think it would be doing any service to the taxpayers of the city taking it over.

Mayor Hooper said that is our problem. We need to figure out how to prioritize the list.

Council Member Golonka said after listening to Council Member Jarvis talk about the Recreation Department he thinks they need to prioritize so he would be inclined to withdraw his second to the motion.

Council Member Sherman said they could proceed with Sarah's methodology and eliminate things and take off what isn't critical.

Mayor Hooper said there are about 7 things on the list that are related to economic development. She doesn't think they were willing to consider a change in how we raise our revenues or think about what we are doing. She heard from the Expense/Revenue Committee that we weren't going to take a look at expenses and revenues until we did a management study, that they wanted to be able to stand up in front of the people of Montpelier and say we have looked at this as carefully as we can.

Council Member Weiss said on a personal note he wanted to have the minutes reflect that at 9:30 P.M. Alan Weiss excused himself from the rest of the meeting.

Mayor Hooper said let's have a discussion on whether or not they want to do a management study, what we mean by it and have that discussion.

Council Member Jarvis said maybe they could say their top priority is economic development this year and incorporate affordability into that as well. She thinks about economic development mostly in terms of how we make Montpelier a more affordable place to live and consider growth.

City Manager Fraser said they are soon to have a lengthy and robust discussion about the Master Plan and there are goals and strategies in there. There are a lot that deal with land use, growth and policies. That is really the forum to say what you want to do.

Mayor Hooper asked if they were all in favor of eliminating the Recreation Department.

Council Member Jarvis added with the provision that they press the School Department.

Council Member Golonka said he is on the merger committee with U-32 and Montpelier, and that is going forward. There is a big gaping hole with what happens with the Recreation Department so if we don't continue that discussion over this period it may just be thrust upon the Council.

City Manager Fraser said he has met with the new superintendent and told them our concerns and he said he was going to look at it. He thinks they should put themselves in the position to say that if the school and U-32 do reach a point where they are ready to take that bold step with merging that at that point the city ought to be in the position to take over the Recreation Department.

Council Member Golonka said he thinks they need to continue the dialogue and having one agenda item to discuss that would probably solve that.

Mayor Hooper said that brings us back to the issue of affordability and what are we going to do about that. She doesn't think having a meeting with CDEC gets into it. We need to figure out how to put more property on the grand list and build Stone Cutters Way. By building Stone Cutters Way there is another couple of million dollars on the grand list. She tried to do it with Sabin's Pasture so she doesn't want to lose sight of that.

Council Member Jarvis said there is the item on economic development but what comes after it does not encompass what we mean by prioritizing economic development. She would also like to see them work closer with Montpelier Alive and other business associations in terms of that. She went on to say there is Sabin's Pasture to consider and other housing development issues.

City Manager Fraser said what is included here is a list of Council Member's priorities.

Mayor Hooper said she would suggest that at an upcoming meeting they really do spend an hour talking about what we mean about affordability. She is talking about economic development and meeting with CVEDC.

City Manager Fraser said it is fair to come out of this meeting and say our top priority is economic development and our second is x and y. When you talk to a community about affordability and economic development it means different things to people. Economic development he believes would be seen much in the way it was a few years ago when they talked about economic development and received back lashes. What kind of economic development are we talking about? What are we doing to make the community more affordable? Are we trying to create more affordable housing? What do we mean by those terms?

Council Member Jarvis said she thinks they need to have another workshop session as a separate meeting, or meet earlier. What about meeting on June 23rd at 6:00 to discuss what we mean by economic development.

Council Member Golonka said they could never eliminate our fiduciary responsibility about the Recreation Department because it is in the charter.

Mayor Hooper said they need to do their meeting schedule. The next regularly scheduled meeting is June 23rd. The City Manager is not going to be here and Bev will be here instead. Does the Council want to have meetings during July or August?

Council Member Sheridan said there should be two meetings in July.

Mayor Hooper said there would be two meetings in July and one in August. The meetings for July and August are July 14th and 28th and August 11th. She said this is a little frustrating because when they met way back in April they didn't finish because everybody wanted to leave. Now April, May and June we haven't moved and now we are talking about waiting until July to do this. Maybe she and Bill can put together some form of structure before meeting on this. The Council agreed that they would meet an hour early on July 14th to finalize the goals.

10-146. Council Reports.

Council Member Sheridan reported it is nice to have the Mountaineers back and the Fashion Show was great. The ADA Committee met on Tuesday and the transition plan has already started and their next meeting will be towards the end of July. They are still moving forward on bathrooms.

Council Member Sherman said she is receiving several calls about the new pedestrian signs and the neon green signs that cover up the buildings. She spoke about the free shuttle on Independence Day July 3rd. Montpelier did it exactly right in applying to GMTA a month in advance for an event that has wide regional appeal. The Transportation Advisory Committee is also going to start a Montpelier Circulator sometime this summer, and they are planning a route. It will be at no cost with some funds being reallocated from other projects that will go through the city picking up people and dropping them off. She attended the meeting on sidewalks and they have a lot of people reporting falls and concerned about sidewalk quality, especially in the winter when the snow gets plowed on to the sidewalks.

Council Member Jarvis said she would like to vote Tom Golonka to the Board of Trustees of VMERS if he is willing. He needs five signatures.

Council Member Golonka said he wanted to thank Tony, Cheryl, Ges and Bob Gowans for showing up at the regional shared services meeting on last Thursday. It was a difficult meeting, mainly because they were asking employees who would be affected by this type of merger to give them their opinions. Hopefully, it allayed some of the fears in the community that this is very preliminary and it isn't going to happen in the very near future. What came out of that meeting was really a recommendation that if we do want to pursue anything that it would be advantageous to pursue dispatch first. The question then comes up, is it worth it to go through the whole process of creating a regional entity just for dispatch? He thought the meeting went well. Jim Sheridan also attended.

10-147. Mayor's Report

Mayor Hooper reported she had a conversation with members of the community about an opportunity for the City of Montpelier to participate in a power purchase agreement with All Earth Renewables which is a firm that essentially takes advantage of state and federal tax credits available for renewable resources. It is able to sell to municipalities that can't take the tax advantage. The renewable equipment is at a much lower price than you can purchase on the market. There are only so many state tax dollars that are available for the different firms to take advantage of. All Earth Renewables is essentially putting together a package for solar equipment. It actually attracts the sun so it is more efficient. They put together a package that is right below a threshold of the Public Service Department certificate of need that moves you into a whole different arena and they get the certificate of need for whoever wants to do this. In this case it could be the City of Montpelier. For \$1,000 you can buy a large array of solar collectors that you would have the use of for the next 6 or 7 years, at the end of which you would buy them at a reduced price from this firm. They are supposed to last for 25 years and the payoff for this is in 7 or 8 years so you have essentially free electricity. Todd Law spoke with the City Manager about it and he is meeting with a representative of this firm shortly. If it is something that looks viable then we need to figure out if we want to dive into it. Todd thought this might work at the water treatment plant.

Mayor Hooper said she wanted to repeat the confidence on the reappraisal. She had her informal hearing today and was impressed and continues to hear only positive things. She also thanked the Council for their work on

the Vermont Compost decision. It took a lot of our time but was worth it in her opinion.

She thinks there is something they can do about the downtown signs and Montpelier Alive needs to take the bull by the horns. We can have designated downtown directional signs. There is a provision in the statute that allows that. She wasn't the one who wanted to pull the paper signs down. In fact, she thought they added something to the community and the liveliness of postering.

10-148. Report by the City Clerk-Treasurer.

City Clerk-Treasurer Hoyt reminded folks that the water and sewer bills are due on Tuesday, June 15th. She also reminded the Council of the Board of Civil Authority training being held on June 15th at 6:00 P.M.

10-149. Status Reports by the City Manager:

City Manager Fraser said there is an executive session request.

The Water Rate Committee just met to talk about water and sewer rates and there will be some recommendations at future meetings. The good news for right now is that sewer looks pretty good and the recommendation for this year is there will be no change at all in the sewer rate. Because of the change in the grand list the 2 cents on the sewer benefit charge and reducing the CSO charge from 10 to 7 cents were able to raise enough money to basically eliminate the deficit in the sewer fund over the next two years.

Water is a lot more challenging. They had a little more difficulty coming to a consensus on water. First of all, the deficit is larger. Secondly, it has such high fixed costs that what they are seeing is as they keep raising rates to the point of elasticity and demand, people are fleeing the rates. They are seeking alternatives. Most recently National Life just reduced their use by 30 to 40 percent by pressure treating their whole building, but that is lost revenue to the city. There is a real incentive if you are a high user to seek alternatives. On the other hand, we have fixed costs we have to cover. They talked about reducing the top rate, but that really shifts the burden on to the smaller user. What the Water Rate Committee has agreed on is figuring out a way to beef up the fixed rate portion of the rates because that is a fixed cost we have to deal with. It is the cost of the debt. Right now we

call it the readiness to serve charge. That is a cost we have no matter whether somebody uses the water or not. It wouldn't just be raising the current charge but coming up with a usury scheme. The members of the committee were unanimous on that and one wanted to retain a consultant to help us to do that. The suggestion is they would not want to do anything with rates right now and see if they could have a proposal for September 1 and tell the community we are undergoing this effort and it will be to deal with fixed costs and a fixed portion of the rate. The committee is struggling with this and they want to make a very thoughtful recommendation to the Council and public.

City Manager Fraser said he just learned late this afternoon about a possible dilemma with the Carr Lot and the District Energy Project. It may well require an agenda item at the next meeting. With the Carr Lot we have the potential issue about the floodway and we have filed an appeal to that. They are actually meeting with Senator Leahy's Office on Monday to see if we can expedite the decision. In anticipation that it might go bad for the city and not use the Carr Lot, Gwen suggested we might look at a possible combined use with the District Energy Plant. She did a great deal of work with both the Department of Energy and the Federal Transportation Agency. The Department of Energy is concerned that any waiting on the Carr Lot will hold up the district energy project, and they don't want anything to delay the project. With the Carr Lot the FTA people are saying they thought we had switched to the other site and we told them they were only considering it. Because it is the federal government and they are so flexible they are saying they need the environmental assessment for the project they want. Basically, the FTA folks are sick of all of the issues that had to do with the Carr Lot. They don't like the retaining wall; they don't like the contamination issues; they don't like the acquisition issues. They want us to move the whole project. We can tell them the Council will discuss this issue in two weeks when it has been duly warned and the public has a chance to come and talk about it. There is work that has to be done for the District Energy Plant anyway. In terms of an environmental assessment there is a lot of work to be done on the site. What we are waiting for now is information from FEMA and EPA, and with the Transit Center they are now threatening to take the money away if we don't get moving. There is a meeting scheduled Monday at Senator Leahy's Office to talk about speeding up the decision with FEMA.

This will be on the agenda for the next meeting.

Discussion of summer meeting schedule.

This was considered earlier in the meeting. The decision was to hold the meeting on July 14th, July 28th and August 11th.

Update on collective bargaining with the police union. Possible executive session under 1 VSA 313 (a) (1) where premature public knowledge would clearly place the city at a substantial disadvantage.

Motion was made by Council Member Jarvis, seconded by Council Member Sherman to go into executive session at 10:13 P.M. in accordance with 1 VSA 313(a) 1 to consider a collective bargaining issue with the police union where premature public knowledge would clearly place the city at a substantial disadvantage. The vote was 5-0, motion carried unanimously.

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

After motion duly made and seconded by Council Members Jarvis and Sherman the council came out of executive session in accordance with 1 VSA 313(a) whereby they had discussed a collective bargaining issue with the police union.

Adjournment:

Motion was made by Council Member Jarvis, seconded by Council Member Sherman to adjourn the meeting. Motion carried unanimously.

Transcribed by: Joan Clack

Attest _____
Charlotte L. Hoyt, City Clerk

CITY COUNCIL MEETING STATED MEETING & PUBLIC HEARING JUNE 9, 2010

On Wednesday evening, June 9, 2010, the City Council Members met in the Council Chamber.

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

Call to Order by Mayor:

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

10-139. General Business and Appearances:

Suzanne Eikenberry from Montpelier Alive said they were on the Consent Agenda for July 3rd street closures. The Taylor Street Bridge is closed, which will have an impact on incoming traffic. The meeting with the Police Department is tomorrow and they may come back with one or two other requests. Green Mountain Transit Authority has agreed to provide a free shuttle for people from satellite parking lots, so they are hoping that will cut down on the traffic. Everything pertaining to July 3rd is on their web site – www.montpelieralive.org. The parade starts at 6:00 P.M. with the fireworks at dark between 9:00 and 9:30 P.M. The July 3rd activities start at 8:00 A.M. and go throughout the whole day.

Ted Hoppe, a long time resident of Montpelier, said he wanted to start with a little story. There's this turtle walking down the street and these two slugs come up and mug the turtle. They take all of his money and the police come and are filing a report and say to the turtle what happened. The turtle says he doesn't know because it happened so fast. He came in here to talk about compassion. Recently he tried to pull together a program at the Kellogg-Hubbard Library called "Cultivating Compassion," which will air on the local Onion River cable access channel next week. In trying to pull that together he tried to get a lot of help from people in the city. It was his hope and dream to see that the Mayor could issue a proclamation and declare Montpelier a compassionate zone. The reason he wanted to do this, much like Burlington did this with in terms of immigration where they created an amnesty zone, he wants Montpelier to behave compassionately. There was a really good attendance at his program last week and a lady asked how they could participate. He promised to come before the Council to see what he could do.

Why compassion? Compassion is something he thinks each city program encompasses in some way. There are two basic issues of compassion and they are basically misunderstood. There was a 58 year old lady tazed in Barre. Compassion is two things. One is to cause no suffering. The other is that if there is someone who is suffering and we can help them then we should help in whatever way we can. He thinks this is really at the heart of all of the programs we have in the city, a neighborhood watch. This is what we want our police to do; this is what we want the Fire Department to do and of course they do when they respond to an ambulance call. But it is not enough. He thinks that each individual person in the city needs to be empowered in a way that the city government can do. We need to say to people this is what we are all about. We want everybody in the city not to cause any suffering, and if we see suffering we want to participate in a way that can alleviate as much suffering as possible. He hopes they can declare Montpelier a compassionate zone, and this is the first place to site a compassionate zone.

The idea of compassion is not only to have compassion for that lady who got tazed but to have compassion for the police officer who tazed her because that is important. What happens in the mind of a police officer when he is tazing someone is actually very interesting. What they find in an MRI is that a reward system is being stimulated in the brain.

Anthony Otis, a resident of Montpelier, said he wanted to raise awareness about illegal posting in the downtown. He is speaking in terms of historic preservation and not in his position on the Heritage Group but as a personal initiative. In the past week and a half there were signs for a lost dog. There were 10 of one color on a post in the downtown quad. Incidentally, after the lawn sales were over nobody picked them up, so he did. There are still 13 to 15 signs posted for a lost dog.

Mr. Otis went on to say we need to do better with Lamb Abbey.

Council Member Jarvis said Lamb Abbey has just been closed down.

Mr. Otis said he doesn't know what is next for him. Maybe we have to take out advertising and spend money that could be spent on something else for historic preservation, but we need to get out the message. He was standing on Main Street today in the vicinity of Rite Aid and looked down the street and there are a lot of new traffic signs. This beautiful city we have developed over the last couple of decades and the work of the merchants is all screened out by all of these signs. He saw the signs and was really upset about not being able to see the buildings. He would hope the commercial

community would also begin to talk about that. He certainly doesn't like the color of the sidewalk signs that are on East State Street. They are too big. We need to get awareness out to the folks in the city that it is illegal to post.

10-140. Consideration of the Consent Agenda:

a) Consideration of the Minutes from the May 19, 2010 Regular meeting.

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

1) Request to cater malt and vinous beverages and spirituous liquors:

a) The Black Door Bistro on June 24, 2010 at the T.W. Wood Art Gallery.

b) New England Culinary Institute (NECI) on June 6, 2010 at the Hopkins House at National Life. (Ratification of poll vote by Council Members.)

c) New England Culinary Institute (NECI) on June 14, 2010 at the Hopkins House at National Life.

Additional catering permit requests received after the agenda was prepared.

Vermont Hospitality Management dba New England Culinary Institute to cater the following:

Reception and dinner on June 11, 2010 from 5:00 P.M. to 9:30 P.M. at the Noble Lounge at the Vermont College of Fine Arts for 35 people.

Benefit Concert at Alumni Hall, Vermont College of Fine Arts on June 11, 2010 from 7:00 P.M. to 11:00 P.M. for 125 people.

Request for Outside Consumption Permits for the following:

McGillicuddy's Irish Pub on July 3, 2010 on Langdon Street from 5:00 P.M. to 1:30 A.M.

Langdon Street Café on July 3, 2010 on Langdon Street from 7:00 P.M. to Midnight

Receipt of Monthly Budget Report from the Finance Director.

North Street Retaining Wall Reconstruction Bid Results

Street Closures for Independence Day Celebration on July 3, 2010 for the following:

State Street: between Governor Davis and Bailey Avenue – closed from 12:30 P.M. until 10:30 P.M. for vendors and parade. Note: Access to Department of Motor Vehicles will be re-routed through state parking lots.

Main Street: between the Roundabout and State Street – closed from 6:00 P.M. until approximately 7:45 P.M. for the Montpelier Mile Road Race followed by the parade. Note: No parking on State Street between 5:00 and 8:00 P.M. Vehicles remaining on the street will be towed.

Langdon Street: Closed from 3:00 P.M. to 1:00 A.M. for McGillicuddy's and Langdon Street Café street parties.

60 State Street Parking Lot: Closed from 3:00 P.M. to 1:00 A.M. for Julio's Cantina street party.

The Meadow Area: Closed from 4:30 p.m. to 6:30 P.M. for parade staging area. All resident vehicles must be removed from the street. Letters will be sent to property owners of record.

School Street: Between St. Paul and Main Streets - closed from 4:30 to 7:45 P.M. for parade staging area. All vehicles must be removed from the street.

City Manager Fraser said there is an additional agenda item for DuBois and King. Council Members have received a copy of the proposed contract with Marsh Engineering for Turntable Park and that should have been on the agenda as well.

Council Member Golonka said he would like to pull the North Street retaining wall for discussion.

Mayor Hooper said she has a question about the outside consumption permit for McGillicuddy's it is confusing and she would like to pull that.

Motion was made by Council Member Sheridan, seconded by Council Member Weiss to approve the consent agenda after adding the catering permits and the Dubois & King contract and removing the two requested items to be considered separately. The vote was 6-0, motion carried unanimously.

10-140 (A) North Street Retaining Wall Reconstruction Bid Results

Council Member Golonka said they are talking about the Northfield Street retaining wall later in item 7 on the agenda. If they are going to vote on it then it makes it irrelevant. This is a 44 percent increase from the budgeted amount and he is concerned. He would like an update about that and whether there is a possibility for scaling back or if it is an emergency situation. It seems high in terms of the budget.

- 10-141. Consideration of a request from James Nagle, 133 Towne Hill Road, for a noise variance on June 12, 2010 from 6:00 to 10:00 P.M. Neighbors within 250 feet have been notified and Council Members have been provided with a copy of the letter and names and addresses of those so notified.

Recommend approval of request.

James Nagle said he is asking for a noise variance. They are going to have outside bands at 133 Towne Hill Road. It will be between the barn and the house so it shouldn't be too loud, and it will be between 6:00 and 10:00 P.M. this Saturday.

Council Member Sherman said there are different levels of volume. It is wonderful to have outdoor music at his party, but in other parts of the city they probably don't want to hear it. She is sure he will use discretion.

Motion was made by Council Member Jarvis, seconded by Council Member Hooper to grant the noise variance to James Nagle, 133 Towne Hill Road. The vote was 6-0, motion carried unanimously.

- 10-142. Consideration of a request from Susan Calza, Breck Campbell, and Lawrence Houston, residents of First Avenue, for a partial street closure of First Avenue on Saturday, June 19 from 1:00 to 7:00 P.M. A copy of the letter notifying the neighbors on First Avenue, Hubbard Street, Tremont Street, East State Street and Guernsey

Avenue has been provided to the Council. Council has also been provided with a copy of the Police Chief, Fire Chief, and the Public Works Directors indication of approval with certain requirements.

Recommend approval of request.

Lawrence Houston from 12 First Avenue said their daughter is graduating along with Susan and Breck's daughters. They are a tight community and thought this would be a great way to send their kids off to college. In talking with all of their neighbors when they were handing out the flyers everybody was receptive to it. The Council has made the process easy and Bev Hill has been great to help make this happen. Hopefully, it won't cause too much inconvenience to the city to allow this to happen.

Motion was made by Council Member Sherman, seconded by Council Member Sheridan to approve the partial street closure request for First Avenue on Saturday, June 19th from 1:00 P.M. to 7:00 P.M.. The vote was 6-0, motion carried unanimously.

10-143. First Reading of Proposed Ordinances concerning Berlin Pond.

City Attorney Paul Giuliani has recommended two ordinance amendments relating to the use of Berlin Pond. The amendments were discussed at the May 26, 2010 meeting. The City Council voted unanimously to proceed with the public hearing process for adoption. Correspondence from Paul Giuliani and copies of the proposed amendments are enclosed.

Recommendation: Conduct the First Reading on both amendments; warn the second reading for June 23rd.

Mayor Hooper opened the public hearing at 7:25 P.M.

Steven Syz said he thought Paul Giuliani was going to be here because they had a long discussion today about some changes and inconsistencies between Chapter 13 and Article 6 documents. He indicated he would make another draft of both so there would be Version A and Version B.

On Chapter 13, Section 13-3(a), it says it will be unlawful for any person to trespass on the surface of Berlin Pond or any tributary or lands adjacent thereto owned by the City of Montpelier. There are activities that would logically be appropriate within these areas, such as things that may be beneficial to the city in the long term. The Conservation Commission

worked on looking for a site for a well field which would be either supplemental or replace the pond in the case of an emergency. With Steve Gray they looked at the possibility of digging five streams that the Interstate crosses. There is always the possibility that a truck carrying chemicals or fuels would go off the road and rupture and spill into one of those streams. They had talked about digging out excavations on city land at the bottom of those streams so the first flush could be diverted into those areas.

City Manager Fraser asked if his concern that says it is unlawful for any person to occupy or enter. Mr. Syz replied yes. City Manager Fraser said the intent was that the trespasser was there without permission. The sort of work he is describing has always been by permission from the Conservation Commission and permission given to the consultants.

Mr. Syz said there are many more examples.

Council Member Jarvis said she would assume it would be unauthorized or without permission.

Mayor Hooper said back in Section 7-605 says human activity within zones 1 and 2 are prohibited unless and except for certain uses, which she assumes it talking about testing and protection.

City Manager Fraser said they have issued permission to people to go in and do certain bird counts and classes to go in as long as they had permission.

Mr. Syz said research and water quality testing would be another area. On Irish Hill there are mountain bike trails, paths, hunting, four wheelers, and those are existing uses next to a brook which is a major tributary. Somewhere it might be more explicit in the text of these documents and they might comport more with each other and reference research and other appropriate uses that are beneficial or neutral with respect to water quality.

The other thing that makes him a little nervous is the second whereas where it talks about Berlin Pond provides the exclusive public water supply for the City of Montpelier and the precincts within the Town of Berlin. For a long time a portion of Montpelier was fed by Montpelier Springs and a portion on Towne Hill is fed by a series of wells.

City Manager Fraser said that is no longer the case. The only public water supply is from Berlin Pond.

Mr. Syz asked if there was a risk of putting this in of losing some sort of right. Since that water from Montpelier Springs was used for such a long time, and still flowing and water that is hundreds of years old, and flows through North Branch River Park, it seems like there is some vested right of the city to those waters. If you say this is exclusive as opposed to saying the dominant public water supply that was and may be very important. Let's say a truck with 50,000 gallons of gasoline goes off the Interstate into one of the streams...

City Manager Fraser said he understands his concerns.

Mr. Syz said somewhere in here it talks about existing structures, etc. It talks about existing uses in zone 2. It says human activity I zones 1 and 2 of Berlin Pond has protection in the area are prohibited unless directly or acquired for water quality testing protection enforcement or improvement purposes. Arguably, these trucks that keep coming into the watershed with gasoline and chemicals pose a risk to the water supply. He doesn't believe gasoline could be treated by the treatment facility. It was primarily constructed to deal with giardia that was the problem at one time. Clarity in terms of what is and what is not allowed is important.

He is very much in support of the concept here. He can't imagine why the Agency of Transportation put the Interstate right through the Berlin Pond watershed crossing five brooks that supplies a watershed that the city fathers of this city started purchasing land in 1830 and gradually acquired land all around the pond. Since then other organizations, the Vermont Land Trust, the Vermont River Conservancy, the Conservation Commission and the Town of Berlin acquired more and more land along Irish Hill to protect the pond. Now we have the Interstate going through the watershed posing a huge risk, and that underscores the need to think about alternate sources such as Montpelier Springs and possibly an alternate well field. He is just introducing ideas he thinks are consistent with this that don't belong in an ordinance but need to be thought about by the city.

Mayor Hooper said generally the trespass is okay as long as it is so narrow that it excludes legitimate uses of and if they can give permission to people to go in and do the appropriate work he is okay with that. Secondly, he is asking the city to keep their options open in terms of protecting both this pond and considering other sources of water for production. They will look for some proposed changes from Paul Giuliani.

She said she is curious because he is somewhat of an expert in groundwater related issues. Is he familiar with the Source Protection Plan?

Mr. Syz replied yes. What he is the most comfortable with are the maps. Then, there is a whole mass of text he didn't read.

Mayor Hooper said they are essentially incorporating the Source Protection Plan into the ordinance.

Mr. Syz said he had no comment on that.

Mayor Hooper said this was written in 2001. Do things change rapidly enough that they need to look at this again to make sure it is sufficient or effective?

Mr. Syz said his view at the time was that it was deficient with the really important things for providing the city with a water supply. The immediate area is important next to the pond and the streams; there is no question. He thinks much more land acquisition should take place for the benefit of the pond and the recharged waters, the groundwater which eventually comes into the ponds through the springs, wetlands, etc. Something needs to be done with respect to the water flowing from the streams underneath the Interstate.

Brian Pfeiffer, a resident of Plainfield but who works in Montpelier, so he drinks the water said he has spent a lot of time around Berlin Pond over the years guiding people on bird watching trips. He generally supports the ordinance but has some concerns and echoes some of what Steven said. He is a consulting field biologist. He works for municipalities, private landowners, timber companies and State of Vermont Fish and Wildlife Department doing field surveys of birds, butterflies and dragon flies mostly. He has actually done a bit of research around Berlin Pond over the years. He had permission to visit areas of the pond that are posted over the course of 25 years frequenting the shoreline.

In the city's desire to be unequivocal about protecting this incredible resource that they have created a bit of ambiguity here. Some of it has come up with what they were just discussing with Steven, and that is prohibiting researchers from even setting foot in one of the tributaries to the pond to conduct surveys for aquatic insects which tend to be good indicators for water quality. It's great to have language in here that would delineate some sort of clear procedure for getting permission. It would be good to have this so that in the future years from now they would know there was a procedure for us so we do it right when we go.

What probably is most troubling to him is Section 7-600 that incorporates the provisions of the Source Protection Plan, and he may be one of the few people who have actually read that plan. He was a volunteer member of a group that developed the Conservation Plan for Berlin Pond back in 2005 and they relied on that document. That is a bit troubling to him because in one paragraph to adopt the findings and analyses of that plan as they pertain to possible sources of pollution he would be uncomfortable declaring that as part of our statute or ordinance now. His guess is that there are a lot of people who live in Montpelier or Berlin who would probably agree with much of what is in the Source Protection Plan? To adopt it without really telling folks about it or reevaluating feels troublesome to him.

He thinks he would put brackets around Section 7-607. There are some uses delineated here but others that would seem appropriate that are not. If they had some means for defining getting permission it would help.

He makes his living showing people nature. He is actually not here because of that. He doesn't guide bird watching trips to the pond that much any more. His chief concern that there may indeed be other uses. There may be reasons to set foot in those waters that are not made clear here. Much of them have to do with research and goals of improving the quality of the watershed.

The Fish and Wildlife Department put up an osprey nesting platform. It was an issue before the Berlin Select Board, and he isn't sure that Montpelier had much of a say in it.

City Manager Fraser replied they did.

Mr. Pfeiffer said he as a bird watcher made a stink about it, and it came down mostly because he was making a lot of noise.

Council Member Jarvis said they probably should just have Paul Giuliani's legal opinion about making the Source Protection Plan a part of the Whereas clauses.

Mayor Hooper closed the Public Hearing at 7:50 P.M. She asked the Council Members if they were ready to set second reading.

Council Member Jarvis said she thinks it is appropriate to change Section 13-3(a) to specify that we are trying to exclude unauthorized persons or persons without permission conducting beneficial activities as determined by the city.

Motion was made by Council Member Jarvis, seconded by Council Member Sheridan to approve first reading and set second reading for the June 23rd Council Meeting.

Mayor Hooper said one of the issues she has is the Source Protection Plan. We are quite explicitly saying you cannot do certain things she isn't comfortable with. She is concerned about adopting an ordinance that we are prohibiting these activities without knowing where and what those activities are. She would suggest the notion of whether we incorporate this into the ordinance and how we do it is of concern. We also talked about making sure the Town of Berlin knew we were doing this. She would like to know affirmatively that the city is looking at doing this because we are talking about prohibiting people in Berlin from doing certain things.

City Manager Fraser said he e-mailed a copy of the ordinance to the Town Administrator.

Mayor Hooper said these are serious concerns they need to sort out before we actually adopt the ordinance.

Mayor Hooper called for a vote on the motion. The vote was 6-0, motion carried unanimously.

10-140 (B) Request for Outside Consumption Permits for the following:

McGillicuddy's Irish Pub on July 3, 2010 on Langdon Street from 5:00 P.M. to 1:30 A.M.

Mayor Hooper said on the application form from McGillicuddy's it indicates one closing time and on agenda item for the street closure requests it indicates another time. Langdon Street Café is closing at midnight and on the application from McGillicuddy's they were asking to be allowed to continue serving outside until 1:30 A.M. .

Council Member Hooper said Julio's was until 1:00 A.M. How can they serve outside after street closure? Langdon Street is only closed until 1:00 A.M.

Mayor Hooper said if you read the front it says the consumption time is until 1:30 A.M., and if you read the letter on the back they say until 12:30 A.M. If she understands this correctly, they want to keep the bar open until 1:30 A.M.

Council Member Jarvis said he is asking for more time between when the music ends and when the consumption ends.

Motion was made by Council Member Jarvis to approve it from 5:00 P.M. to 1:00 A.M. for the outside consumption permit. Council Member Hooper seconded the motion. The vote was 6-0, motion carried unanimously.

Mayor Hooper said they should note there have been issues of rowdiness associated with some drinking in the city and she is a little concerned that this not be an issue that evening on that street.

10-140 (A) North Street Retaining Wall Reconstruction Bid Results

There were questions about costs and the urgency.

Council Member Golonka said he is concerned about the costs overall. Is there a possibility of scaling back? What is the urgency?

Todd Law, Director of Public Works said they did scale back on the project, but as Tom McArdle outlined in his memo asbestos was found on the back side of the wall. They have to actually stabilize the water main. They have applied for additional grant monies from VTTrans to increase our cost share. They will give us 80 to 90 percent towards the cost of this in a structuring grant. It was based off the old estimate. In the past other municipalities will turn it in or won't do certain projects though there are sufficient monies at times. They haven't applied for that, but this is essentially the project that can be built. There has been a lot of erosion in that area and it is a fairly significant wall. It holds up North Street. There is one house that is within a driveway away, 15 feet from the wall.

Council Member Golonka said his concern is our priority projects have always been these exit roads outside of town to benefit outside communities, whether it is East Montpelier or Middlesex. This one seems to be over budget.

Public Works Director Law said the other side of it is on our retaining walls the retaining wall on Nelson Street was substantially over budget, and a lot of that was because of the severity of that wall. They don't build them like they used to, which is a good thing.

Mayor Hooper said there are probably 15 houses on North Street in Montpelier above the retaining wall, and there are probably 50 or 60 in East

Montpelier. We have rebuilt the upper part of North Street about 10 years ago and we spent \$300,000 serving those 15 houses as opposed to all of those 50 or 60 people who use it on a daily basis when they are coming in to Montpelier. She thinks that is an important and interesting question.

Public Works Director Law said the only revenue we receive is grant money from VTrans and the Legislature.

Council Member Hooper said given the proximity of the two low bids, is his preference to go with the lower of the two?

Public Works Director Law said they are both reputable companies. They have worked with both of them in the past.

Motion was made by Council Member Golonka, seconded by Council Member Hooper to award the contract to the low bidder Hebert Excavation, Inc in the amount of \$158,820.00 and authorize the city manager to sign the necessary documents. The vote was 6-0, motion carried unanimously.

Council Member Jarvis said the City Manager said in his memo that he would ask the Council to ratify the contract with DuBois & King for the Turntable Park .

Mayor Hooper asked if the Council would like to ratify the approval of the contract.

Motion was made by Council Member Sheridan, seconded by Council Member Sherman add consideration of ratification of the approval of the contract for Turntable Park. The vote was 6-0, motion carried unanimously.

10-143 (A) Ratification of approving a contract for the Turntable Park.

Council Member Jarvis said this has the potential to be a great project and a really nice way to clean up that area and celebrate a historic element of Montpelier. She is concerned because of the uncertainty of Stone Cutters Way with the increase of rail traffic and the possibility of a siting there. The idea of expending a pretty significant amount of money and staff time to do this work concerns her. Six months down the road it could be a really loud, noisy and smelly place to hang out. We already have concerns about the

money we have already invested in the area so the notion of investing more when there still is that uncertainty is something that concerns her.

Council Member Golonka said he thought the authorization was just to add it to the Consent Agenda and not to approve. He is concerned about getting notices in their Friday packets, which maybe he doesn't read until Tuesday afternoon and suddenly he has to give a response. He brings it up as an issue. He agrees with Sarah that there are a lot of unknowns in the area. He is concerned if they add more money and suddenly have to rip it up that maybe they should use this as an opportunity to change the lease with the state or use this as an opportunity to get a 30 year lease instead of a 3 year lease. It seems a little rushed to him.

Council Member Jarvis said if they decide they want to go forward the very least they need to do is send another letter to the Senate Transportation Committee and the Agency of Transportation and our Congressional representatives to say we are doing this. They have given us the indications they are not looking at Stone Cutters Way for a siting and they are going forward and expending serious state and municipal funds and for them to tell us now if we shouldn't do it.

Mayor Hooper said that is an excellent idea.

Council Member Sheridan asked what they do if they don't say anything.

City Manager Fraser said it shows we are considering this as long term. A lot of the work is already done.

Public Works Director Law said they started the survey work this week.

City Manager Fraser said they could stop the work. There have been downtown grant funds for a number of years. This project was actually in the original plan for Stone Cutters Way from the beginning and it got scaled down as cost realities became clearer and it became a much more modest and affordable package. They have the funds and the Council has approved them all. It really isn't the safest place in town and does need to be cleaned up. We have the grant funds and will lose the funds this year. They have until December to use the funding. If the city were to opt not to do it because of our own reasons that is fine but we should understand that we will be forfeiting any funds we have.

Council Member Sheridan asked if he could remind them what that figure is.

City Manager Fraser replied it is over \$200,000 and at least half of it is from outside funds. If we write or call the state and ask if they could guarantee there won't be a rail site he doesn't believe they can do that. He believes the state will say they offered to get the city this land so they could build this project. They would give us the land. He believes they will say any rail siting or anything they are considering doing won't encroach into the Turntable Park. Then, it becomes the issue that if that were to occur does that make the park less likely to be used because people won't want to hang out there. There are other parts of Stone Cutters Way they are talking about.

He said with Attorney Giuliani's assistance they sent a letter to the Senators, the state and others staking our claim as to why we believe we have solid leasehold on Stone Cutters Way, but they haven't heard back in any official way from them yet and not sure they will. The Secretary of Transportation did send him a personal e-mail saying he didn't agree with this but it's a non-issue because they don't have any plans to do anything with Stone Cutters Way. He believes from the message they received from the Senate Transportation Committee and whether they will prevail 100 percent in their argument but they do have a case to survive a motion to dismiss which means the city has put them on notice. This means the whole premise of them wanting to put a rail site in rather quickly would mean they could spend two years in court.

He spoke to Fred Connor who has been trying to acquire the property adjacent to that and he told him today he is going ahead and planning to close with the state. His take of this is that it isn't going to happen. The bigger question they are going to face is that if there is going to be a siting they are going to look to the bike path. They own that and it's longer and there is no development along the way right now. There is no existing bike path there. He likes Sarah's idea of saying we are going to move ahead and understand there isn't going to be a siting and tell us if we are wrong because we are about to spend the state's money and ours.

Council Member Golonka asked if there were any issues with this grant specifically that would trigger a pay back of funds for the Stone Cutters Way project.

City Manager Fraser said it is downtown transportation money. It's a fair concern and it is the state themselves that have tripped us up in spite of having worked with them to develop this area.

Council Member Weiss asked if they could divide this agreement into two parts. Under the agreement it says the consultant will conduct engineering investigations to develop plans, specifications and estimates. We could eliminate at this point to provide engineering services during the construction phase because he doesn't know that there is any agreement yet on the construction phase. Why then are we considering an agreement which includes that provision?

City Manager Fraser said they are into June now and we are cutting ourselves short in trying to get it constructed this season. We are looking for a consultant to develop the project and shepherd it all the way through completion, and those are the services they sought when seeking a bid. They didn't want to break it up and then have to go through another process. Garth Genge, Tom McArdle and Todd Law have worked closely in developing this and understanding the timelines and they want to have this ready to go by the time snow comes.

Council Member Weiss asked if there were implications if the Council approves the agreement that automatically we will go ahead with construction.

City Manager Fraser replied no because they will still have to get construction bids and weigh those against the budget.

Council Member Weiss said if the bids come in too high they are still paying \$16,000 to somebody who is not going to be responsible for the construction.

City Manager Fraser said they will be hired to see that it can be built on time and not to exceed \$16,000.

Mayor Hooper said one thing she would like to add about this proposal is that one of the property owners that is on the city side of the park redeveloped their property with the expectation there was going to be a park there. They have said from day one that it is an eyesore. She would suggest with the so called Pylisk property it was the same expectation. In addition to the citizenry, the grants and protecting the river we have an obligation to the property owners on either side of that property and it will continue to be of value to them. She would hope the city would go ahead with the project. This will also be one of the very few places along the river that there will be visual and public access to the river which was important to the citizens a long time ago. It is important to members of the community to have some access to the river, if it is only visual.

Motion was made and seconded by Council Members Sherman and Hooper to approve the contract for the Turntable Park work with Marsh Engineering Services. The vote was 5-1, with Council Member Sheridan voting against the motion.

- 10-140. (C) Consideration of approval of a contract with DuBois & King for \$240,640 to perform “local share” consultant services connected with the Army Corps of Engineers Flood Mitigation Study. Funds have been allocated in the city’s capital plan and costs are being shared equally with the State of Vermont. Copies of the proposed agreement were sent to the City Council on Monday.

Recommendation: Authorize the City Manager to sign the contract (and any related documents) as presented.

Mayor Hooper said the other contract they want to discuss is the consideration of approval for DuBois & King to perform the local share of consulting services with the Army Corps of Engineers Flood Mitigation Study, and the local share is \$240,640.

City Manager Fraser said some of the city’s share will be performed by the Army Corps of Engineers. When they looked at the total project and divided up the tasks the city can pay its share either in cash to the Army Corps of Engineers or through in-kind services. These are services the Corps would not have to do themselves and the city could do them. We obviously don’t have the personnel to do that. The Corps gives you credit for in-kind services at the rate they would charge. The value of this work that is \$240,000 they will give us credit for at least \$338,000 or perhaps even more. It is a pretty substantial savings that the city is getting that we would have to write a check for to the Corps. The city and the state are saving the difference between what the Corps’ value of this work is and what we are actually paying out by doing it local.

Mayor Hooper inquired what the total study costs were going to be.

Council Member Hooper said it is \$1.3 million.

City Manager Fraser said it went up a little because we have \$350,000 to \$400,000 they set aside in the capital plan over the last two or three years for this. We are in for half of this, which is about \$650,000 which is split with the state. Actually, it is \$700,000 and the city is in for \$350,000. The \$400,000 is what they could have done for that amount of work for

\$240,000 and still get credit for matching \$400,000, so they would split the savings with the state. They decided to divide the contract with DuBois & King and anything that is not being done by them would be done by the Army Corps of Engineers.

Public Works Director Law said some of it is a benefit cost analysis. You have to do an analysis to make sure what you are doing will benefit the community as a whole, and some of that is culture. That is a Corps requirement.

Motion was made by Council Member Jarvis, seconded by Council Member Sheridan to approve the contract with DuBois & King for \$240,640, and authorize the city manager to sign the necessary documents. The vote was 6-0, motion carried unanimously.

Attorney Paul Giuliani had arrived so the council return to agenda item 10-143, First Reading of Proposed Ordinances concerning Berlin Pond to gather more information.

10-143. First Reading of Proposed Ordinances Concerning Berlin Pond.

City Attorney Giuliani said Steve Syz and he had a very good discussion and Steve had some very thoughtful observations. He would leave with the Council some red lined amendments of what they have. They attempt to clarify and are an attempt to make the ordinance a little tighter.

City Manager Fraser said there was a substantive question that came up which had to do with the wisdom of incorporating the whole Source Protection Plan in the ordinance as opposed to a reference to it and it has made these findings. Another person who testified in favor of the ordinance suggested it should be included. What does that mean to make that an ordinance as opposed to saying the ordinance is based on the Plan's findings?

Attorney Giuliani said in order to enact the ordinance, and more particularly to enact a health order, findings have to be made. There has to be some objective things in the record and rather than just reciting an Executive Summary from the Plan there is no problem with incorporating it. Those are the findings and conclusion. The Council just didn't pluck this out of the air and there was some objective verifiable data that can be looked at. The conclusions in the Source Protection Plan has some predicate for what they are doing here, so by incorporating it as a reference is fine.

Council Member Jarvis asked if it had to be a health order. Couldn't they just do this by ordinance rather than by health order?

Attorney Giuliani said let's assume a situation develops and some condition occurs on the pond when you have a health order on the books as a finding by the Council that the condition that now exists is now an imminent peril to health and safety the city can act as a Board of Health immediately and not going through the whole enforcement process of an ordinance. The health order can be acted on in very short notice. The people who the health order is directed at have a right of appeal to the City Council. There is plenty of due process. It's just a much quicker way to get the relief. If something happens they aren't going to have the luxury of time to act. It will be pretty catastrophic he would think. They don't want to have some sort of an ad hoc reaction and you really want this on the shelf in case something really happens.

Mayor Hooper asked if the city had the authority if there is an imminent health hazard to act on an issue.

Attorney Giuliani said they do but they have to convene as a local Board of Health and make all of the findings that are in the ordinance right now. From an administrative and an enforcement point it will be a lot easier. Just pray you never have to use it but it will be there.

Mayor Hooper said she was initially concerned about adopting the whole thing by reference, but they do have to adopt it.

Attorney Giuliani said he would like to second the suggestion about sending the letter to the state. You want to set up what is called a Gestapo. You want the state to know that you are relying upon what they have done or not done. Just put them on notice that the city is doing something.

Council Member Jarvis said they have set the ordinance for Second Reading but do they also need to convene themselves as the Board of Health?

Attorney Giuliani replied at that time, yes. It probably should be on the agenda. When it comes up somebody could make a motion to convene as a local Board of Health jointly with the City Council.

- 10-144. Consideration of Transfer of \$182,000 from General Fund to the Capital Fund. Staff has identified projected operations budget savings due, primarily, to the mild winter weather.

Recommendation: Transfer \$182,000 from the General Fund to the Capital Fund for use on specific projects as outlined.

City Manager Fraser said the actual amount they recommend being transferred from the General Fund into the Capital Fund is \$207,000. Technically, it doesn't need the Council's vote because it is going from the equipment fund to the equipment fund. There was the sale of the vactor and then they received grant monies through error for the new one so their proposal for that particular case was to take that equipment revenue to buy the second half of the dump truck, which they approved the first half in the budget for this coming year.

City Manager Fraser said they found themselves in an unusual and positive situation where there were some savings in the department budget, and overall there might be an additional \$30,000 or \$40,000 net savings because of weather related savings. The savings this year were all weather related savings. It was a mild winter. They are not the kind of sustainable savings they will have year in and year out. They caught a break this year.

What they are trying to do is take a look at the Public Works weather related savings, not savings because of health insurance or other operational changes that are budgeted. They want to convert public works savings to public works projects and convert City Hall savings to City Hall projects so they are still in the areas that we allocated the funds. The main reason for the Council's vote is because they are transferring it from one fund to another and by doing that it goes into the capital fund and carries forward into the fund balance.

Their proposed allocations is a debt that we paid but it shows as a minus \$22,000 for our August 2008 storm damage where we received a lot of FEMA and other monies.

Finance Director Gallup said it was \$234,000 and about 10 percent of it was the City's. All but \$22,000 was reimbursed to us from outside sources and they finally reconciled all of that money. Again, that is a weather related public works bill that has come and gone. They have already talked about the retaining walls, and that is a pressing need. Their suggestion was both paving and the sidewalks were areas that came up during the capital discussions and areas we wish we could put more money into. They have applied for enhancement grants for sidewalks which will require a local match, and that is why they selected \$50,000 there.

Jumping down to the City Hall projects we need to have rails in the proper spaces. Then, there were discussions on the ADA Committee that by law we need to make certain improvements. There is \$5,000 in the budget and this was a chance to get to some of those things to come into compliance. Last, but not least, several years ago they renovated all of the Planning Offices because there were some serious mold issues downstairs. At that time it was also an issue for the Public Works Offices so they are proposing they take some of this year's heat savings and address the mold issue and get it done.

Council Member Golonka told Finance Director Gallup and City Manager Fraser he wanted to thank them for coming to the Council with savings. He applauds their efforts. His concern is this. We are outside of the budget season and there are significant issues out there with 58 Barre Street, the water fund deficit and other projects that may come up. By just sort of reallocating money like this sounds like automatically prioritizing these projects before we even have a process. He thinks they may be faced with significant expenses coming up, and they may very well be projects they will need to approve before budget season and he would like a separate agenda on each of them. He is concerned they are just zeroing out our savings without having a discussion of goals and priorities for the budget. Obviously, they did allocate some for the retaining wall on North Street as he recalls, about \$48,000. Some of these sound like we are going to have to do anyway, whether it is the mold or front step railing. He doesn't like zeroing out every dime in savings before the end of the year. He would like to get first of all some credit into the press that we did have surplus in our budget, and if we have to use the entire reserve funds for these projects that is fine.

Finance Director Gallup said this is just a part of the General Fund budget and it is the first time they have seen the weather cooperate. The General Fund budget has another whole story to it this year. We are over in revenue about \$62,000 mostly due to ambulance. Then, in expenditures we are just about \$35,000 over which you can point to some legal costs, the survey and video archive. This is a piece of the budget that is related to weather and it is unusual and an opportunity that we won't have very often to take money from the DPW area and spend it in the DPW area.

Council Member Golonka said he would prefer it going to the reserve fund and have the staff get the credit in the press that we actually had a budget savings that were under budget.

Public Works Director Law said the City Manager would have liked to look at some of the projects that hadn't been discussed and prioritized, but the fact was they were looking at the paving projects as an addition to the monies that were already allocated to paving in the capital improvements plan. We applied for a grant and this is the additional monies to meet that \$80,000 local match for that grant. The transportation enhancement grant of \$50,000 they figured would stretch their money; it's a 50/50 match to cover all of the sidewalk improvements they looked at last year.

City Manager Fraser said it really is the Council's call. This money all lapses into the fund balance and they have to spend it as it comes up; that's fine. They were only recommending the weather related savings because the timing is such that it is now June and they have a handle on where the budget stands but it has to be transferred into the capital fund by June 30 or it does lapse. In terms of the priorities, from their perspective the \$22,000 is really spent. The \$90,000 really needs to be spent on the retaining walls, the front step railing. ADA repairs and the mold they should take care of. It leaves the \$70,000 which we could let lapse and then use as necessary. Their team's perspective was that the Council had said loud and clearly during the budget process that paving and sidewalks are areas you felt were under funded.

Council Member Sheridan said the Citizens' Survey talked about roads and paving. He doesn't see anything superfluous here. Mostly, it is stuff they have delayed over the years and we will probably never have a winter like this where we can catch up on some of these delays. He sees it as a chance to catch up on areas we have cut.

Council Member Golonka said his point is that it is in a vacuum. They aren't looking at the budget as a whole yet you are making budgetary decisions, and that is why he doesn't like it. He would rather have the General Fund increase our Fund Balance and these come up as emergency or agenda items. He doesn't like doing budget decisions in a vacuum and that is why he doesn't support it in this manner.

City Manager Fraser said they have submitted an enhancement grant application. It was one the Council approved last year and we didn't get funded so we just resubmitted it for sidewalk extensions and that kind of work. That was the city's share.

Mayor Hooper said this is a question of whether we look at it retrospectively. If we had these questions before the Council during the budget season for the current year that has generated the fund her guess is

they would have waited and come out pretty close to the way the recommendation is being made to the Council.

City Manager Fraser said they saw this as an opportunity to get ahead in some areas. They never have all of the cards on the table, even at budget time. They don't know when the storms are going to come or grant opportunities are coming up.

Council Member Hooper asked if the grants for paving the sidewalk are in hand or on the books.

Public Works Director Law said they have applied for them.

City Manager Fraser said the other policy piece is that it would be transferred to the capital plan and the grants would be available for other uses.

Council Member Golonka said it is the first time since he has been here that they have swapped things in the middle of the budget year. What if we were in a deficit? Would they then come to the Council and say here is what we will cut so we won't have a deficit? He would rather have these as different agenda items as they come up and keep it separate from the issue that we are in a surplus.

City Manager Fraser said the reason it is here is because the Council has to approve anything that goes from one fund to another. For the last several years they have put the brakes on spending and made their own internal cuts and not have surpluses based on the priorities the Council has articulated. There is no reason why they couldn't have spent the money in the same fiscal year.

Council Member Golonka said he would rather see the reserve fund start to build and have any type of spending out of it be a conscious decision by the Council as a separate agenda item. These may mean six different agenda items they have.

Council Member Sheridan asked if he wanted to do them one by one now.

Council Member Golonka said they don't have any details on the 58 Barre Street building. They had a meeting of the Water Rate Committee and they are facing a huge deficit there.

Council Member Sheridan inquired if this could be moved into the water fund.

City Manager Fraser said he didn't know the legal answer to that.

Finance Director Gallup said it is different users.

City Manager Fraser said the main issue is that there are people who pay taxes into the general fund that are not water or sewer users and sewer and water users that are not the same. They have in the past loaned money from one fund to another and actually signed notes with interest rates and paid them off. The water fund is now paying the general fund interest because it is a defacto loan.

Council Member Sherman said with respect to Council Member Golonka's suggestion she moved the Council proceed with the recommended allocation of savings to the projects listed in the Public Works Department and in City Hall in the amount of \$207,000. Council Member Sheridan seconded the motion.

The vote on the motion was in favor 4 to 2 with Council Members Golonka and Weiss voting against the motion.

Finance Director Gallup said the description in the agenda was different than what she had planned tonight. Therefore, there was more information than this just one sheet. She had promised to come to the Council with the balances of all of the funds as presented at audit time. She will present the short version. She said the city needs to get better about what are reserve funds. They say their unrestricted funds are reserve. In accounting terms they aren't. The whole spreadsheet is fund balance for general fund. Totals at the end of last June are at the very bottom - \$1,373,000. Of that \$623,000 is unreserved and undesignated, and that is what she holds on to. That is what the Council is calling reserve money. It is the surplus and what is carried forward year to year and has no restrictions on it, but there is a lot of money above it that does have some kind of restrictions. Some are because of accounting procedures. Other items are restricted like the Tree Board and the Conservation Commission because they don't spend their line items and she carries it over year to year. These are designated funds for specific purposes. That's the general fund.

Finance Director Gallup said there are two other major governmental funds. One of them is community development. They don't talk about community development funds much but there is \$3,200,000 there. In

notes receivable there is \$2.8 million. That is over 90 loans out to residents, businesses and nonprofit organizations. There are a lot of different kind of restrictions on how those are paid back and how they received the money in the first place. This means the city acts as a bank in many ways.

Mayor Hooper said it is a very important asset in the community in terms of people improving the values of their property and making investments in the community.

Finance Director Gallup said the third largest major government fund is capital projects. When they look at the balances on this towards the end of June the Route 2/302 Roundabout is really causing havoc. There is a deficit there because there was a collection of a grant receivable for \$713,000 that didn't come in within 60 days, and there are some different revenue issues.

She said she knows there are some questions on traffic impact fees. That is part of the capital projects, and the end of 2009 it is only \$28,000. There has been some talk about running out of time to spend that money. Most of that money came in during 2007 and there is a six year time clock on that.

There are three major enterprise funds and they are accounted for differently. The Water and Sewer Committee is working very hard and the Council should be hearing from them soon. They are the water fund, sewer fund and parking fund. Accounting for them is different than for governmental funds. It is called unreserved money, and for the water fund it says \$634,000 in deficit. She would add that includes the pension which is not due until 2017. \$297,000 comes off that, so there is a deficit in the water fund of \$336,000. It is the same thing with sewer. It isn't \$782,000 but \$379,000, and there is a plan to deal with that. For parking it says that has a \$95,000 deficit, but when you take the pension fund into account we are really almost \$100,000 to the good in parking. The enterprise funds have been doing pretty well the last few years.

There are many funds here and some are more complicated than others.

10-145. Discussion of City Council's goals, priorities and objectives for 2010-11.

On April 5, 2010 the Council conducted a workshop to discuss goals, priorities and objectives for the upcoming year. At that meeting an outline of key issues was developed. The outline is enclosed.

Recommendation: Complete discussion, adopt final version or provide direction to staff.

Council Member Weiss moved to readopt 2009-10 goals and priorities and in November 2010 validate the status of each statement. Council Member Golonka seconded the motion.

City Manager Fraser asked if he would accept a friendly amendment that anything that has already been completed that is on the list be removed.

Council Member Weiss replied yes.

Mayor Hooper said they never completed the work on this but did a laundry list and she wanted this in front of the Council because of her concern that the Council isn't getting at the most important issues. For her a lot of this is economic development questions.

Council Member Weiss said in defense of the motion which has been made and seconded he wants to give an example. It says: Transit Center – continue developing project. There are a minimum of six alternatives to what the present path might be. They could spend an hour just defining that one. He doesn't think the effort is worth it right now.

City Manager Fraser replied one thing they could do is to pull out the "Must Do" items. The Carr Lot, Transit Center, 58 Barre Street are on that list along with the district heating project and water fund deficit. There are some other actions. There is the ordinance committee, the Recreation Department, economic development, TIF District and housing. Someone suggested a review of the committees and commissions, regional shared services, street lights, bike path and a charter commission. The question for the staff is how they fall in priority with the group.

Council Member Jarvis said she thinks it is important to prioritize. The Recreation Department issue is an issue and they need to lean very hard on the School Department and tell them we don't think they are doing their fiduciary obligation to the taxpayers if they don't pay closer attention to the budget. Right now we don't have the capacity to even think about taking over the Recreation Department. We don't have our hands around the Senior Center and she doesn't think it would be doing any service to the taxpayers of the city taking it over.

Mayor Hooper said that is our problem. We need to figure out how to prioritize the list.

Council Member Golonka said after listening to Council Member Jarvis talk about the Recreation Department he thinks they need to prioritize so he would be inclined to withdraw his second to the motion.

Council Member Sherman said they could proceed with Sarah's methodology and eliminate things and take off what isn't critical.

Mayor Hooper said there are about 7 things on the list that are related to economic development. She doesn't think they were willing to consider a change in how we raise our revenues or think about what we are doing. She heard from the Expense/Revenue Committee that we weren't going to take a look at expenses and revenues until we did a management study, that they wanted to be able to stand up in front of the people of Montpelier and say we have looked at this as carefully as we can.

Council Member Weiss said on a personal note he wanted to have the minutes reflect that at 9:30 P.M. Alan Weiss excused himself from the rest of the meeting.

Mayor Hooper said let's have a discussion on whether or not they want to do a management study, what we mean by it and have that discussion.

Council Member Jarvis said maybe they could say their top priority is economic development this year and incorporate affordability into that as well. She thinks about economic development mostly in terms of how we make Montpelier a more affordable place to live and consider growth.

City Manager Fraser said they are soon to have a lengthy and robust discussion about the Master Plan and there are goals and strategies in there. There are a lot that deal with land use, growth and policies. That is really the forum to say what you want to do.

Mayor Hooper asked if they were all in favor of eliminating the Recreation Department.

Council Member Jarvis added with the provision that they press the School Department.

Council Member Golonka said he is on the merger committee with U-32 and Montpelier, and that is going forward. There is a big gaping hole with what happens with the Recreation Department so if we don't continue that discussion over this period it may just be thrust upon the Council.

City Manager Fraser said he has met with the new superintendent and told them our concerns and he said he was going to look at it. He thinks they should put themselves in the position to say that if the school and U-32 do reach a point where they are ready to take that bold step with merging that at that point the city ought to be in the position to take over the Recreation Department.

Council Member Golonka said he thinks they need to continue the dialogue and having one agenda item to discuss that would probably solve that.

Mayor Hooper said that brings us back to the issue of affordability and what are we going to do about that. She doesn't think having a meeting with CDEC gets into it. We need to figure out how to put more property on the grand list and build Stone Cutters Way. By building Stone Cutters Way there is another couple of million dollars on the grand list. She tried to do it with Sabin's Pasture so she doesn't want to lose sight of that.

Council Member Jarvis said there is the item on economic development but what comes after it does not encompass what we mean by prioritizing economic development. She would also like to see them work closer with Montpelier Alive and other business associations in terms of that. She went on to say there is Sabin's Pasture to consider and other housing development issues.

City Manager Fraser said what is included here is a list of Council Member's priorities.

Mayor Hooper said she would suggest that at an upcoming meeting they really do spend an hour talking about what we mean about affordability. She is talking about economic development and meeting with CVEDC.

City Manager Fraser said it is fair to come out of this meeting and say our top priority is economic development and our second is x and y. When you talk to a community about affordability and economic development it means different things to people. Economic development he believes would be seen much in the way it was a few years ago when they talked about economic development and received back lashes. What kind of economic development are we talking about? What are we doing to make the community more affordable? Are we trying to create more affordable housing? What do we mean by those terms?

Council Member Jarvis said she thinks they need to have another workshop session as a separate meeting, or meet earlier. What about meeting on June 23rd at 6:00 to discuss what we mean by economic development.

Council Member Golonka said they could never eliminate our fiduciary responsibility about the Recreation Department because it is in the charter.

Mayor Hooper said they need to do their meeting schedule. The next regularly scheduled meeting is June 23rd. The City Manager is not going to be here and Bev will be here instead. Does the Council want to have meetings during July or August?

Council Member Sheridan said there should be two meetings in July.

Mayor Hooper said there would be two meetings in July and one in August. The meetings for July and August are July 14th and 28th and August 11th. She said this is a little frustrating because when they met way back in April they didn't finish because everybody wanted to leave. Now April, May and June we haven't moved and now we are talking about waiting until July to do this. Maybe she and Bill can put together some form of structure before meeting on this. The Council agreed that they would meet an hour early on July 14th to finalize the goals.

10-146. Council Reports.

Council Member Sheridan reported it is nice to have the Mountaineers back and the Fashion Show was great. The ADA Committee met on Tuesday and the transition plan has already started and their next meeting will be towards the end of July. They are still moving forward on bathrooms.

Council Member Sherman said she is receiving several calls about the new pedestrian signs and the neon green signs that cover up the buildings. She spoke about the free shuttle on Independence Day July 3rd. Montpelier did it exactly right in applying to GMTA a month in advance for an event that has wide regional appeal. The Transportation Advisory Committee is also going to start a Montpelier Circulator sometime this summer, and they are planning a route. It will be at no cost with some funds being reallocated from other projects that will go through the city picking up people and dropping them off. She attended the meeting on sidewalks and they have a lot of people reporting falls and concerned about sidewalk quality, especially in the winter when the snow gets plowed on to the sidewalks.

Council Member Jarvis said she would like to vote Tom Golonka to the Board of Trustees of VMERS if he is willing. He needs five signatures.

Council Member Golonka said he wanted to thank Tony, Cheryl, Ges and Bob Gowans for showing up at the regional shared services meeting on last Thursday. It was a difficult meeting, mainly because they were asking employees who would be affected by this type of merger to give them their opinions. Hopefully, it allayed some of the fears in the community that this is very preliminary and it isn't going to happen in the very near future. What came out of that meeting was really a recommendation that if we do want to pursue anything that it would be advantageous to pursue dispatch first. The question then comes up, is it worth it to go through the whole process of creating a regional entity just for dispatch? He thought the meeting went well. Jim Sheridan also attended.

10-147. Mayor's Report

Mayor Hooper reported she had a conversation with members of the community about an opportunity for the City of Montpelier to participate in a power purchase agreement with All Earth Renewables which is a firm that essentially takes advantage of state and federal tax credits available for renewable resources. It is able to sell to municipalities that can't take the tax advantage. The renewable equipment is at a much lower price than you can purchase on the market. There are only so many state tax dollars that are available for the different firms to take advantage of. All Earth Renewables is essentially putting together a package for solar equipment. It actually attracts the sun so it is more efficient. They put together a package that is right below a threshold of the Public Service Department certificate of need that moves you into a whole different arena and they get the certificate of need for whoever wants to do this. In this case it could be the City of Montpelier. For \$1,000 you can buy a large array of solar collectors that you would have the use of for the next 6 or 7 years, at the end of which you would buy them at a reduced price from this firm. They are supposed to last for 25 years and the payoff for this is in 7 or 8 years so you have essentially free electricity. Todd Law spoke with the City Manager about it and he is meeting with a representative of this firm shortly. If it is something that looks viable then we need to figure out if we want to dive into it. Todd thought this might work at the water treatment plant.

Mayor Hooper said she wanted to repeat the confidence on the reappraisal. She had her informal hearing today and was impressed and continues to hear only positive things. She also thanked the Council for their work on

the Vermont Compost decision. It took a lot of our time but was worth it in her opinion.

She thinks there is something they can do about the downtown signs and Montpelier Alive needs to take the bull by the horns. We can have designated downtown directional signs. There is a provision in the statute that allows that. She wasn't the one who wanted to pull the paper signs down. In fact, she thought they added something to the community and the liveliness of postering.

10-148. Report by the City Clerk-Treasurer.

City Clerk-Treasurer Hoyt reminded folks that the water and sewer bills are due on Tuesday, June 15th. She also reminded the Council of the Board of Civil Authority training being held on June 15th at 6:00 P.M.

10-149. Status Reports by the City Manager:

City Manager Fraser said there is an executive session request.

The Water Rate Committee just met to talk about water and sewer rates and there will be some recommendations at future meetings. The good news for right now is that sewer looks pretty good and the recommendation for this year is there will be no change at all in the sewer rate. Because of the change in the grand list the 2 cents on the sewer benefit charge and reducing the CSO charge from 10 to 7 cents were able to raise enough money to basically eliminate the deficit in the sewer fund over the next two years.

Water is a lot more challenging. They had a little more difficulty coming to a consensus on water. First of all, the deficit is larger. Secondly, it has such high fixed costs that what they are seeing is as they keep raising rates to the point of elasticity and demand, people are fleeing the rates. They are seeking alternatives. Most recently National Life just reduced their use by 30 to 40 percent by pressure treating their whole building, but that is lost revenue to the city. There is a real incentive if you are a high user to seek alternatives. On the other hand, we have fixed costs we have to cover. They talked about reducing the top rate, but that really shifts the burden on to the smaller user. What the Water Rate Committee has agreed on is figuring out a way to beef up the fixed rate portion of the rates because that is a fixed cost we have to deal with. It is the cost of the debt. Right now we

call it the readiness to serve charge. That is a cost we have no matter whether somebody uses the water or not. It wouldn't just be raising the current charge but coming up with a usury scheme. The members of the committee were unanimous on that and one wanted to retain a consultant to help us to do that. The suggestion is they would not want to do anything with rates right now and see if they could have a proposal for September 1 and tell the community we are undergoing this effort and it will be to deal with fixed costs and a fixed portion of the rate. The committee is struggling with this and they want to make a very thoughtful recommendation to the Council and public.

City Manager Fraser said he just learned late this afternoon about a possible dilemma with the Carr Lot and the District Energy Project. It may well require an agenda item at the next meeting. With the Carr Lot we have the potential issue about the floodway and we have filed an appeal to that. They are actually meeting with Senator Leahy's Office on Monday to see if we can expedite the decision. In anticipation that it might go bad for the city and not use the Carr Lot, Gwen suggested we might look at a possible combined use with the District Energy Plant. She did a great deal of work with both the Department of Energy and the Federal Transportation Agency. The Department of Energy is concerned that any waiting on the Carr Lot will hold up the district energy project, and they don't want anything to delay the project. With the Carr Lot the FTA people are saying they thought we had switched to the other site and we told them they were only considering it. Because it is the federal government and they are so flexible they are saying they need the environmental assessment for the project they want. Basically, the FTA folks are sick of all of the issues that had to do with the Carr Lot. They don't like the retaining wall; they don't like the contamination issues; they don't like the acquisition issues. They want us to move the whole project. We can tell them the Council will discuss this issue in two weeks when it has been duly warned and the public has a chance to come and talk about it. There is work that has to be done for the District Energy Plant anyway. In terms of an environmental assessment there is a lot of work to be done on the site. What we are waiting for now is information from FEMA and EPA, and with the Transit Center they are now threatening to take the money away if we don't get moving. There is a meeting scheduled Monday at Senator Leahy's Office to talk about speeding up the decision with FEMA.

This will be on the agenda for the next meeting.

Discussion of summer meeting schedule.

This was considered earlier in the meeting. The decision was to hold the meeting on July 14th, July 28th and August 11th.

Update on collective bargaining with the police union. Possible executive session under 1 VSA 313 (a) (1) where premature public knowledge would clearly place the city at a substantial disadvantage.

Motion was made by Council Member Jarvis, seconded by Council Member Sherman to go into executive session at 10:13 P.M. in accordance with 1 VSA 313(a) 1 to consider a collective bargaining issue with the police union where premature public knowledge would clearly place the city at a substantial disadvantage. The vote was 5-0, motion carried unanimously.

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

After motion duly made and seconded by Council Members Jarvis and Sherman the council came out of executive session in accordance with 1 VSA 313(a) whereby they had discussed a collective bargaining issue with the police union.

Adjournment:

Motion was made by Council Member Jarvis, seconded by Council Member Sherman to adjourn the meeting. Motion carried unanimously.

Transcribed by: Joan Clack

Attest _____
Charlotte L. Hoyt, City Clerk

CITY COUNCIL MEETING STATED MEETING & PUBLIC HEARING JUNE 23, 2010

On Wednesday evening, June 23, 2010, the city council members met in the Council Chamber.

Present: Mayor Hooper; Council Members Weiss, Sheridan, Sherman, Hooper, Golonka and Jarvis; also Assistant City Manager Hill. City Manager Fraser was on vacation.

- 10-151. Call to Order by the Mayor.

Mayor Hooper called the meeting to order at 7:03 P.M.

- 10-152. General Business and Appearances.

None.

- 10-153. Consideration of the Consent Agenda:

Consideration of the Minutes from the May 26th, 2010 Regular Meeting.

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

Ratification of a catering permit issued to Vermont Hospitality Management d/b/a New England Culinary Institute to cater a reception and dinner at Hopkins House at National Life on Wednesday, June 16, 2010 from 4 p.m. to 9 p.m. for sixteen people.

Consideration of awarding the bid for a Tax Anticipation Line of Credit for \$4,000,000. For FY'11 (July 1, 2010 to June 30, 2011) to cover the expenses for the City's General Fund, School Department and Recreation Department. Bids on the interest rate were received on Thursday, June 17, 2010. A tabulation sheet listing the results has been provided to the Council.

Staff recommends that we accept the bid for a Tax Anticipation Line of Credit from Merchants Bank at the rate of 1.84% and authorize the Mayor, City Council and Treasurer to sign the necessary documents.

Consideration of awarding of Bid for Trash & Recycling Barrels Maintenance.

Bid documents were sent to three vendors. One bid was received from the current vendor, Lloyd Franks of Plainfield, with whom the department has had an excellent working relationship since 1993.

Staff recommends awarding the trash and recycling barrels maintenance contract award to Lloyd Franks for \$10,813.40 with the condition that all material collected be disposed of at the Public Works Garage, and to authorize the City Manager to sign all contracts and other documents.

Consideration of awarding of bid for Maintenance of the Public Works Building.

Four bids were received; council has been provided with tabulation sheet. Low bid was submitted by A+ Touch Custodial, our current vendor.

Staff recommends awarding the bid to A+ Touch Custodial of Northfields Falls, Vermont, for maintenance of the Public Works Building at 783 Dog river Road, in the amount of \$5,700 and to authorize the City Manager to sign all contracts and other documents.

Awarding of Bid for Police Cruiser to Cody Chevrolet for \$20,753.

This amount is less than proposed in the 2011 Fiscal Year Budget.

Approval of contract for Services with Time Banks USA (TBUSA) for the Community Innovations for Aging in Place (CIAIP) REACH Project.

Approval of contract for Services with Kathleen A. Maloy, JD, PhD, Principal Strategic Consulting for Equity in Health for the Community Innovations for Aging in Place (CIAIP) REACH.

Approval of payroll and bills.

General Fund Warrant dated June 16, 2010, in the amount of \$640,305.90.

General Fund Warrant dated June 17, 2010, in the amount of \$2,039,120.69.

Payroll Warrant dated June 24, 2010, in the amount of \$27,851.71 and \$109,970.47.

Upon request by council members the tax anticipation line of credit, bid for trash & recycling barrel maintenance, contract of services with Time Banks USA and services with Kathleen A. Maloy were removed from the consent agenda to be considered separately.

Motion was made and seconded by Council Members Sheridan and Sherman, to approve the remainder of the consent agenda. The vote was 6-0, motion carried unanimously.

- 10-153(a) Consideration of awarding the bid for a Tax Anticipation Line of Credit for \$4,000,000. For FY'11 (July 1, 2010 to June 30, 2011) to cover the expenses for the City's General Fund, School Department and Recreation Department. Bids on the interest rate were received on Thursday, June 17, 2010. A tabulation sheet listing the results has been provided to the Council.

Staff recommends that we accept the bid for a Tax Anticipation Line of Credit from Merchants Bank at the rate of 1.84% and authorize the Mayor, City Council and Treasurer to sign the necessary documents.

Council Member Golonka thanked Finance Director Gallup for the information she had provided to him. He wasn't against this, but was concerned that we were doubling the request from last year. He spoke about the interest expense for this past year and that this type of expense takes away from our budget. He was wondering if there was a way of delaying payments and asked if staff had looked at that.

Finance Director Gallup said City Treasurer Hoyt deals with the cash flow on a daily basis and comes up with the amount that the city needs to borrow. She went on to say that the last time the city went through a reappraisal and tax bills were sent out late we borrowed between \$3 and \$3.5 million dollars. This request reflects that the tax bills will be going out late and the Montpelier School Systems tends to draw down heavily before the first tax installments are received. We normally don't pay the outside agencies until the first installment comes in. She would need to look at that process.

Council Member Golonka said this was a prime example of why we need to build up our reserve funds.

Finance Director Gallup clarified that it was not just the general fund, but all the funds including the water and sewer fund. We did have interest income of approximately \$15,000 this year.

City Treasurer Hoyt explained that she had gone with the line of credit instead of a tax anticipation note because with a note you have to take the full amount up front and you might be able to pay it off a month or two in advance, but you do have that interest expense for that ten month time period. Right now for investment purposes the rates are not that good. With a line of credit the plan is to only take what we need until the tax revenues start coming in hopefully in late September. This tax anticipation note also covers the recreation and school departments. During the first two months last year the school department alone requested over \$2.5 million dollars.

Mayor Hooper suggested working with the school.

City Treasurer Hoyt said City Manager Fraser has sent an e-mail to the Superintendent and School Business Manager explaining the situation and asked for their assistance. A cash flow from the school had also been requested, but had not been received at this time.

Mayor Hooper suggested that if they were going any further with this perhaps we need to have an agenda item, because the Mayor and other Council Members had not received the information that Council Member Golonka has received so they were at a disadvantage.

Council Member Golonka said he was concerned and felt it needed to be discussed.

Assistant City Manager Hill said City Treasurer Hoyt plans to only drawdown on the line of credit as needed. Finance Director Gallup will be looking at ways to delay payments as needed.

Mayor Hooper suggested setting up a meeting to discuss this at a later date and included school representatives as well.

Motion was made by Council Member Hooper, seconded by Council Member Jarvis to award the bid for a Tax Anticipation Line of Credit for \$4,000,000 for FY11 to Merchants Bank at the rate of 1.84% and authorize the Mayor, City Council and Treasurer to sign the necessary documents. The vote was 6-0, motion carried unanimously.

10-153(b) Consideration of awarding of Bid for Trash & Recycling Barrels Maintenance.

Bid documents were sent to three vendors. One bid was received from the current vendor, Lloyd Franks of Plainfield, with whom the department has had an excellent working relationship since 1993.

Staff recommends awarding the trash and recycling barrels maintenance contract award to Lloyd Franks for \$10,813.40 with the condition that all material collected be disposed of at the Public Works Garage, and to authorize the City Manager to sign all contracts and other documents.

Council Member Weiss said on the agenda item it listed a price of \$10,813.40 and on the tabulation sheet it shows a figure of \$34,307.

Assistant City Manager Hill explained that the \$34,307 figure was if he disposed the trash at the landfill. The accepted bid was with disposal at the city garage.

Motion was made by Council Member Weiss, seconded by Council Member Sherman to award the trash and recycling barrels maintenance contract to Lloyd Franks in the amount of \$10,813.40. The vote was 6-0, motion carried unanimously.

10-153© Approval of contract for Services with Time Banks USA (TBUSA) for the Community Innovations for Aging in Place (CIAIP) REACH Project.

Approval of contract for Services with Kathleen A. Maloy, JD, PhD, Principal Strategic Consulting for Equity in Health for the Community Innovations for Aging in Place (CIAIP) REACH.

Council Member Weiss said he didn't understand this because we are approving this tonight and if you look at the payment schedule one started in April, 2010 and the other is November, 2009.

Planning & Development Director Hallsmith explained that these contract are part of the REACH Program. The reason that they were not approved sooner was due to her medical leave over the winter. The grant projects had to continue so they were working on an as needed basis without a contract.

Council Member Weiss asked if this was federal money?

Planning and Development Director Hallsmith replied yes.

Council Member Weiss said aren't there federal regulation on paying someone retroactively.

Planning and Development Director Hallsmith replied these contractors were submitted as part of the grant. The contract is more a city formality.

Motion was made by Council Member Weiss, seconded by Council Member Hooper to approve the contract for services with Time Bank USA and Kathleen A. Maloy, JD, PhD.

Council Member Jarvis inquired if entering into these contracts would prevent the city from outsourcing these programs in the future. The response was no.

Mayor Hooper called for a vote on the motion. The vote was 6-0, motion carried unanimously.

Mayor Hooper returned to General Business and Appearances as Calvin Smith had arrived and would like to address the council.

10-152. General Business and Appearances.

Calvin Smith, River Station Condominium Owners Association, Vice President told the council that he appreciated there service to the community.

He submitted a letter from the association supporting the completion of Turntable Park. They felt it was an important part of the city's long term plan. A copy of the letter will be attached to the minutes.

Mayor Hooper reminded the council that they needed to do an add on item for the nomination to the Vermont Municipal Employees Retirement System.

Council members referred to a memorandum from Todd Law, Public Works Director regarding the SCADA issue and asked if this needed to be added to the agenda.

Assistant City Manager Hill said she didn't think that it needed to be acted upon tonight. She went on to say that they could add it if they felt comfortable doing so.

10-154. Second Reading of Proposed Ordinances Concerning Berlin Pond.

City Attorney Paul Giuliani has recommended two ordinance amendments relating to use of Berlin Pond. The amendments were discussed at the June 9, 2010 meeting. The City council voted unanimously to proceed with the second public hearing process for adoption.

Staff has provided Council with a revised draft by Attorney Paul Guiliani, dated 06-10-10.

Mayor Hooper opened the public hearing at 7:24 P.M., no one came forward to comment and the public hearing was closed.

Council Member Jarvis questioned if they needed to convene as the Board of Health and had it been properly noticed. She was going to research state statute.

Mayor Hooper said a revision to the ordinance had been provided to council members by email. She referred to Sec. 7-605 adding "and as generally defined in the plan as a 200' zone around the pond and its tributaries" and at the end of that section

“or scientific investigation. The City Manager shall approve any access”.

Council Members accept the additional wording.

Council Member Golonka questioned the definition of human activity.

Mayor Hooper indicated that the definition was in the source protection plan. A discussion followed.

Mayor Hooper asked Council Members if they needed more time to sit with the plan to understand what it is they are doing. She would note that the plan has been their working document for how we do things around the pond since 1997.

Council Member Golonka said he is concerned over one section. The rest seems reasonable to him.

Mayor Hooper said somewhere in there is explicit language about existing activities are allowed unless they are found to be creating a health hazard.

Council Member Sheridan moved the second reading with the added language as proposed. Council Member Jarvis seconded the motion.

Mayor Hooper said maybe they need to go back and convene as a Board of Health even though it has not been noticed and make the finding. Alternatively, they could adopt the ordinance. They could warn their meeting as the Board of Health for the next meeting and make the finding. A third way would be to table it, warn as the Board of Health and do both at the same time.

Assistant Manager Bev Hill said the next Council meeting is July 14th.

Motion was made by Council Member Jarvis, seconded by Council Member Sherman to table this agenda item. The vote was 6-0, motion carried unanimously.

- 10-155. City Council requested that time be allotted for a general discussion of our policies regarding penalties and interest for late payment of taxes, water and sewer.

Staff has provided council with a copy of the ordinance, Chapter 16, Article I. General Taxation, Sec. 16-1 through 16-8. Staff has also provided a memo of various ways that other communities handle this, as well as the revenue implications.

Recommendation: Discussion, direction to staff.

Mayor Hooper said in their packets was a memo from Bev Hill. She had spoken with Steve Jeffrey this afternoon and forwarded to Council Members some of the things he sent her. She and the City Clerk received a letter from an individual who had requested relief from the Board of Abatement and he was reiterating his concerns about the city's procedure and his frustration.

Assistant City Manager Hill said she tried to give the Council a range from charging no penalties at all to a neighboring community who actually charges less for the first 30 days but thereafter charges more. She also wanted to tell them how state statute works when you don't have a charter that specifies the process. In the state statute no penalty can be charged until the final payment. Her concern there is if you don't have your money in August and you don't get a penalty because your finances got turned around, but somebody else had the money in August but maybe they had a glitch in their finances and they are going to get a penalty. She would hope they would not adopt that type of a route. Whether or not they want to charge less in the first 30 days is something for their consideration. There are those who know they are going to be late and don't challenge it. Others like the business that requested an abatement because they were one day late is something that angers people. She personally doesn't have the ability to waive the penalty. She was directed when she was hired not to waive penalty fees but she does have the ability to waive interest.

The only time she has waived the penalty is in a situations where there have been confusions. Three years ago when they changed the due date on the first installment they made an administrative decision that we would be lenient because people were confused, and they anticipate some of that this time. They aren't only changing the due date to a different month but the day of the month.

She reviewed the revenue piece with the Council. On average there are about 200 accounts that go delinquent each quarter and probably 50 of those are a dollar short and a day late type situations. She would recommend against doing a grace period because they tried that years ago and you simply face the same question 30 or even 10 days later.

Council Member Golonka explained that the case before the Board of Civil Authority was the issue of a person who has paid taxes every time on time regularly for years and never had a problem and suddenly they missed a payment by a day. If we make in the policy that people who potentially have one shot. You automatically extend them a late fee if they are late, but if they never had an issue and this is the first time on their property she would have the ability if they do pay within a day or two to waive the penalty. Would she like that flexibility? He doesn't want to make Bev judge and jury.

Assistant City Manager Hill said the city's existing software lets her go back 10 years or more. If you said you have not been delinquent within the last five or ten years that is a guideline for her and then she is not being judge and jury. She is following a policy that the Council has established.

Council Member Golonka said he doesn't want to extend it more than a certain number of days. He doesn't want to have a grace period. It just sets the bar 30 days later and you have the same issue. If she had the flexibility if somebody appeals the fine and she had the ability to look back at certain parameters would she be interested in something like that?

Mayor Hooper said she wanted to offer a little more factual information of what she gathered from Steve Jeffrey from the League of Cities and Towns. They annually survey their communities on a full range of things. Of the 203 towns that responded most recently, which was in 2008, 198 of them have the 8 percent penalty which is what Montpelier has. State law provides for that to be reduced and 5 towns have reduced it. They are concerned that delinquencies might be a real problem if they took it down to 0 percent. Then, there are a dozen or so towns that have charters that allow them to do things differently. Barre City and Town, South Burlington and Colchester follow exactly the same process we do with the same 8 percent.

Assistant City Manager Hill said she understood that Barre Town was 5% for the first thirty days and after thirty days an additional 8% thereafter.

Mayor Hooper said Newport, St. Albans, Vergennes and Bennington follow the state law. Because they don't have charters they are required to follow the state law. He said Burlington was hard to figure out. Rutland has a 5 percent delinquent rate. If it is not paid for a year they add another 5 percent, and then there was something about 3 percent. The first question is do we want to change. If they do, what do they want to consider? She would suggest that what Tom is suggesting they would want some legal advice. Would they have to change the charter?

Council Member Golonka said he wasn't saying to change anything but to give Bev a little flexibility with strict parameters.

Mayor Hooper said the charter says you do it this way. We don't get to say we don't mean that so they would have to change the charter. It is quite explicit. They heard from a residential property owner four or five years ago the same story that they have been here forever.

Assistant City Manager Hill said only the Board of Abatement can waive fees.

Council Member Golonka said they said at the Board of Abatement they couldn't waive fees.

Mayor Hooper said the Board of Abatement can only follow the statute which says you can only be abated for those seven reasons listed in the statute. Unfortunately, he wasn't looking at what the statute was saying. He was just saying we were unfair.

Council Member Sherman said she wonders if there is a way to be preventive and advertise the due date more vigorously so that people don't forget.

Council Member Jarvis said they could put a sign board out in front of City Hall stating there is a meeting tonight and taxes are due on such and such a date.

Mayor Hooper said that in fact is what a lot of towns do.

Assistant City Manager Hill said it is in the newspaper and on the radio. There are people who say to us they wish we would send them a bill every quarter but that becomes expense.

Council Member Weiss said Gwen is going to be discussing with the Council this evening about possible charter changes relating to biomass. He would not like to see in November any more charter changes except those which are specifically relevant to that issue which has to do with biomass and other charter changes could wait until March.

Council Member Golonka said he doesn't think they need to change the charter for this. It says in the charter under delinquent taxes penalties and interest as provided by ordinance and by law shall be added to each delinquent tax. It doesn't say you can't have an ordinance that specifies different changes.

Mayor Hooper said they would have to change the ordinance and not the charter. She comes back to the question, is this something the Council would wish to consider? This is only the second time out of thousands of payments that property taxpayers have made.

Assistant City Manager Hill said a lot more people have suggested some form of revision to both the City Clerk-Treasurer and her but have not wanting to go public and discuss it with the Council.

Council Member Sheridan said Tom doesn't want to draw down credit and this is set up to prevent things like that.

Council Member Golonka said he isn't looking to change it but to give Bev a little bit of flexibility in the extreme situation such as that gentleman. If they missed it one time in 10 years she would have the ability if it was paid within a five day period – he would still get the notice and the fee. He would want it to be very focused and defined to give Bev a little bit of leeway in those extreme situations and not to change the rule and keep the 8 percent.

Council Member Sheridan said if they don't define that real tight it's going to be picked and nibbled around the edges constantly, and it will create more problems for Bev than she has now.

Mayor Hooper said one of her questions about the process he suggested is, what if she just moved into town and only been here a year? She has no record. My burden and need is just as great so we are only going to allow long term property owners that sort of special privilege and not newcomers.

Council Member Weiss said in 2009 he missed his property tax payment by one day and he paid the tax and paid the penalty. Is he entitled to have some type of flexibility?

Council Member Sheridan said this came up early on when he was sitting here and they had a long discussion about it then, and it got real complicated and in the end everybody just let it go.

Council Member Jarvis said her inclination would be not to touch it.

Council Member Sheridan said if you can't be responsible for when your payments are due is the City supposed to hold their hand. If you can't trust yourself set it up for automatic deduction. Things are in place for that.

Mayor Hooper asked if there was a consensus on this.

Elizabeth Dodge from Freedom Drive and she was delinquent tax collector in Berlin for sixteen years. She would be very hesitant to give any kind of an okay to letting people be late on paying without penalty. Judging from her experience she thinks there would be a fairly good number of people who would come in and say they shouldn't have to pay the penalty.

Council Member Sherman spoke about the drop box and she knows lots of things get dropped in the post office box after the last pickup, and she has done that. She thinks they need to hold firm on this also. When the drop box gets opened and when the mail gets delivered there may be some opportunity for small variations, but we

should keep the rules.

Mayor Hooper recognized Fred Skeels.

Fred Skeels said he was present about the SCADA issues and upgrades. It was supposed to go on the consent agenda. The system is failing. They are all interconnected and they automate pump stations, receiving stations, chemical additives, and if it goes south or if the whole thing crashes then there will be potential fines.

Mayor Hooper said one of the issues was they hadn't budgeted enough and it is about \$10,000 more than they had anticipated.

Council Member Jarvis said the upgrades it is \$54,573 and we had budgeted \$12,000 in the capital budget FY 11 and established probable savings in items that will not be purchased/performed to compensate for the additional costs necessary to upgrade the status systems.

Motion was made by Council Member Golonka, seconded by Council Member Sherman to add this item to the agenda. The vote was 6-0, motion carried unanimously.

- 10-155(a) Consideration of upgrades to the SCADA system in the amount of \$54,573.
(See attached memorandum from Todd Law, Public Works Director to City Manager Fraser for information and recommendation on this item)

Council Member Jarvis moved that the Council authorize the City Manager to approve the expenditure of approximately \$55,000 for the upgrade of the SCADA systems for the water and sewer utilities. Council Member Hooper seconded the motion.

Council Member Sheridan asked if the computers were \$5,000 each.

Mr. Skeels replied yes, they are actually servers.

Mayor Hooper called for a vote on the motion. The vote was 5-1, Council Member Weiss voted against the motion he felt this was very sloppy financial management.

- 10-156. Update on Transit Center and District Energy

The City is waiting for a floodway determination from FEMA with regard to the Carr Lot property which is the planned location of the Transit Center.

As a possible alternative (depending on the floodway decision), the City has explored co-locating the transit center with the District Energy Plant.

The Department of Energy (DOE) and Federal Transit Agency (FTA) have agreed upon a joint Environmental Assessment (EA) process.

DOE has scheduled a public hearing on the proposed project for July 27th in Montpelier.

Both DOE and FTA are encouraging the City to make a final decision about the transit center location.

Planning Director Gwendolyn Hallsmith will update the Council on the process to date on how both projects may or may not interrelate.

Recommendation: Receive the update, provide direction as necessary.

Planning & Development Director Hallsmith said the Transit Center and District Energy is what they are going to talk about more than either one individually. To give a quick update on the District Energy project the environmental assessment process the Council approved has begun. They are having regular meetings with the Department of Energy (DOE) and the Federal Transportation Agency (FTA). The contractor is doing a great job keeping informed about that. The letter that is going out to a lot of the agencies describing the process has been issued by now and they are planning a public meeting on the subject to inform the public of the environmental assessment and to give them an overview of the project on August 3rd.

As she has talked before the floodway ruling by FEMA has caused them to rethink how they are going to handle the Transit Center. Part of the idea of combining the two projects had to do with what amounts to a contingency plan for the Transit Center should their appeal with FEMA fail. They don't have word on the appeal with FEMA, although the City Manager and DuBois & King met with Senator Leahy's Office last week. Senator Leahy sent a letter to FEMA asking that our appeal be moved to the top of the pile so we can continue with these projects knowing whether that lot is classified as floodway or not because that is a critical issue at this point.

They had been talking to DOE and FTA about whether the environmental assessment that they have currently underway could be used for both projects that

was another critical path item as they were selecting a consultant to perform the environmental assessment and moving forward. They agreed that both projects could be considered under the same environmental assessment, and it is her opinion that the FTA was rather happy with that eventuality because the Carr Lot has really been one problem after another. There are a lot of issues that have come up so moving it off the Carr Lot made them quite happy. She doesn't think they fully understood the fact that we were talking about a contingency plan based on the FEMA ruling so when she reminded them of that they asked her to ask the Council for a resolution stating that the combination project is our preferred alternative. They have discussed this and she thinks it is a favorably considered alternative as a contingency plan to the Carr Lot project. She doesn't think any of them, and especially the Council, have said this would be a preferred alternative without the Carr Lot project involved and it is probably premature to say that. It might help the situation with the federal agencies if tonight the Council could say if the FEMA ruling fails, if the appeal with FEMA fails, then the combination project is the preferred alternative. They are looking for more clarity from the city on where the combined project stands in planning for both of these facilities.

Council Member Sheridan asked if they combine the projects how does it affect the \$800,000 bond vote which is specifically about the Carr Lot.

Planning & Development Director Hallsmith said the \$800,000 bond vote was specifically about the Carr Lot, and it is an important part of our match for the facility. If they combine the two projects she believes that our legal counsel will tell us that we need to put that up for another vote to redirect that money to the combined project to provide the match and the support that we need to continue with it on the other site because she believes the original bond language included language about that specific property.

Council Member Sheridan said that was voted with a specific purpose in mind ten years ago, and they would have to do that over regardless of what Council says.

Planning & Development Director Hallsmith said even legal counsel would tell you that would be required.

Council Member Sherman asked what the State of Vermont think about this. They are very fond of their parking lot where this would stand to occupy and displace their parking.

Planning & Development Director Hallsmith said in some ways the combination of the projects might help us solve the parking problem because it would bring some of the funding for alternative parking to the new project. The energy plant will already

displace about 50 spaces of state parking, and without us controlling the nearest open parking that would be the Carr Lot we can't promise to build spaces anywhere. What they have been exploring with their consultants on a preliminary design basis is what if the Transit Center occupied the ground level of the western part of the site, which is the backup oil storage and generation facility for the state plant, and we built parking on top of that and moving the parking vertically instead of trying to replace it on the level ground. This project if we relocate to the new facility might solve that problem while we are still working on two projects.

When they met with Jerry Myers at the Building and General Services Department he saw that potential benefit as a positive thing, although it still needs to be fully designed and evaluated as to how it would work on the ground. Their preliminary meeting with Jerry Myers on that was received favorably because of the potential for the parking that could be developed as a result of the combined projects.

Mayor Hooper asked if there was a draft Letter of Intent with them.

Planning & Development Director Hallsmith replied we do.

Harold Garabedian said it doesn't get into a level of detail but it certainly does talk about the Transit Center.

Council Member Weiss said he has a great concern. There are fourteen people in this room and come November the Montpelier voters are going to be asked to vote \$800,000; \$20 million there and a charter change here, and a district establishment. What we need to do is not to answer the theoretical question of how nice it would be to put a Transit Authority building along the biomass building behind the Education Department building, but what are the political realities? If we put two major items like the Transit Center and the Biomass we could lose the whole thing. We need politically to take time, and when you consider that our next meeting is not until the 14th of July that in August we really have to begin to plan all of the detail that goes into anything dealing with the charter because we have to be prepared 90 days in advance and a bond is 60 days in advance. He would like us to discuss this seriously not from a philosophical point of view but from a political view of how we are going to get enough people informed in this city so they will support the 4 or 5 key items.

Council Member Golonka asked when they anticipated the floodway designation determination coming. If we receive a negative on that, is the Carr Lot dead?

Planning & Development Director Hallsmith said if we lose our appeal on the floodway designation then at least the transit center portion of the Carr Lot cannot continue because that is a building. There is another part of the Carr Lot project that

is flat land. That is the Confluence Park, the bike path and the parking. That is a perfectly legitimate use of that land even if it is a floodway so the entire project isn't gone but at least the part that was the Transit Center is gone.

Council Member Golonka asked when the feds will take the money back.

Planning & Development Director Hallsmith said that is the other bit of time pressure they are under because there is legislation being considered at the national level that the staffers at the various Congressional offices fondly refer to as the "Club Act of Earmarks." The money that has come to us on the Transit Center is earmarked funding and is well overdue for being spent, and if you don't manage to get it obligated in a relatively reasonable period of time it is likely that we will lose that money. Council Member Weiss is absolutely right, that we have the same time pressure with the ARA funding that we received for the energy plant. In fact, that was one of the key concerns that the DOE raised with us when we talked about combining the projects because they don't want the combination of projects to interfere with the timing of either of them. We are under a very similar time pressure for both of them, and that is why they combined the environmental assessment so that we would be moving forward with a joint consideration and might have some of the answers they needed in a timely fashion. To answer part of Alan's concern they are also very mindful of the need to execute a very extension public participation process, and they have meetings this week and next week to do that. They are preparing materials, engaging consultants and going to be moving forward with a public process in helping people understand what it is we are proposing. That is the most important part of this project.

They are under a lot of time pressure with both projects. They are both very complex projects with a lot of moving parts, many of which we do not control because it is on state land and the State Buildings and General Facilities Offices through the Legislature has the ultimate say on what happens on that land. There are all kinds of trip wires in this system that could make us lose any of the 18 different types of funding we have directed at both of these projects. They are just trying to do their best to keep all of this money in the city of Montpelier. There is \$8 million dedicated from DOE; another \$7 million in both FHW and FTA funding for the transit facility. They are just trying to execute a plan that will keep it here.

There are alternatives on the Transit Center. She doesn't ever want to lead them to believe that combining it with the energy plant is the only way to go. Another possible alternative is to find an existing building that could serve as a transit center and redevelop an existing building for that purpose because under that scenario we could get a categorical exclusion from the environmental impact requirements. That would also be able to proceed in a relatively rapid fashion. The issue really is if we

redevelop new land then we have to perform an environmental assessment and possibly an environmental impact statement if enough issues turn up in the initial assessment to prove we need to do that. While we were under way with an existing environmental assessment on a site it seemed sensible to her, especially given the proximity of the energy plant to the visitor center and a relatively central location to all of downtown, it seemed a reasonable thing to consider. She doesn't have a realistic alternative even though she has thought of many existing buildings. Maybe we could use the video store but that would dedicate some of our downtown retail space to a transit facility which isn't the best use of our downtown retail space. There is the existing Amtrak station but that is way out of town.

Harold Garabedian said the decision by FEMA is really what is going to take some of the options off the table.

Council Member Sheridan said first of all they don't know if they are the only letter to FEMA being asked to be placed at the top. Every other project there may be a Congressman writing a similar letter. There could be 50 of these requests. We could hardly find a place for the bus to stop, and now we are going to try to find a transit center downtown. He hates to see our staff wasting our time on a dream chase. If the floodway designation fails you are going to ask us to take the Carr Lot by eminent domain for just a bike path.

Planning & Development Director Hallsmith said she didn't say that.

Council Member Sheridan said that is how they would have to take it. To him that suddenly gets a lot harder to say this is something we have to do. It is one thing if they are going to put a transit center there, but if we are going to put a single lane bike path and park. He wasn't going to vote for eminent domain with a building, and he certainly isn't going to vote for it for a bike path.

Planning & Development Director Hallsmith said she wasn't suggesting they would do that. She was just trying to be very clear on what part of the project would be a problem if the floodway stands because the other parts of the project would still be allowable under the floodway rules.

Mayor Hooper said she had a couple of thoughts about the possibility of putting in a transit center on state property down where the district energy plant will be. When we were having the Carr Lot conversation there was a great deal of discussion about wanting to have the transit center accessible to the downtown, that we were interested in providing service to folks who use the city of Montpelier. At that point we did talk with the state about paving on state property and the state said no, we couldn't use their property in that way. Her recollection is that we were more interested in having

it down here. She is wondering why we would want to spend whatever the local match is to locate a transit center that would principally serve the State of Vermont as opposed to being the direct benefit to our community is somewhat lessened. There are some really high hurdles to overcome in terms of the state figuring out if it wants to participate in locating it there. She had been thinking there was going to be a reaction by people who care about the Capitol Complex of having a building behind 120 State which is the large marble building in front of the State House. The energy plant is already an issue. What she hadn't thought about was the view shed driving into the city. The Capitol Complex Commission was in fact created when the Stockyard Restaurant was sold and the Credit Union was built because it blocked the principle view of the Capitol as you were driving into town. That was a long way of saying there are going to be very strong reactions with influential people within the state complex saying that the view shed is going to be a big problem.

Harold Garabedian said they have recognized that and had some conversation about the view shed. One of the opportunities is to actually design this building in a way that it looks to the river as an asset as opposed to having the river in back of everything. It is certainly a question they recognize. It is a very complex project.

Planning & Development Director Hallsmith said part of what will make even the energy plant on its own difficult is the amount of parking it takes up. Her secret hope is to combine the projects so they might be able to address part of that parking issue that comes with the energy plant on its own.

Mayor Hooper said this in fact would become replacement parking for the parking that is lost because we are putting the energy plant there and not that we are creating any additional parking.

Planning & Development Director Hallsmith said they would be trying to create additional parking for the service to the transit center and for the needs of the energy plant. In the process she is hoping they will be able to create the parking that would be needed to eliminate the loss of parking from the energy plant. It's a complex project.

These are both two long standing projects for the city. Both of them have been on the boards for 10 years so bringing them to completion would also be a step forward for the city as well. They might both come to completion together instead of separately.

Mayor Hooper said she wants to come back to the point someone made about what the plans are and what the expectations are for the development of the Carr Lot, which was the Transit Center and additional parking, the bridge across the North

Branch and the completion of the bike path. She thinks that is the reason the whole community could get behind it. She suspects if they only did one of those things there would be a lot less strong interest in it, but now we are talking about not doing some of those things.

Harold Garabedian said the critical element is what decision FEMA makes on the appeal. It is recognized that this is the community's first choice there, and if the FEMA appeal is overturned that is the way the project is going. They are just planning for the alternative.

Mayor Hooper said if she understood them correctly they are asking the Council to pass a resolution this evening saying we support moving the transit center.

Planning & Development Director Hallsmith said that is what the FTA would like them to get the Council to say. She also has a hard time asking that herself because she wants to know the outcome of the FEMA ruling before she asks the Council to make that decision. If the FEMA ruling is such that the floodway stands then their preferred option is to combine the projects. That might be something we consider as an option, but without seeing plans for what we are talking about with the Transit Center combined, which they are still working on themselves, she wouldn't blame them if they said to come back after the FEMA ruling.

Council Member Jarvis said as resolutions go she doesn't see any harm in the Council passing it. Saying this is our preferred alternative, what does that really mean?

Harold Garabedian said it is just a public acknowledgment. They are looking at a contingency, and that is the responsible thing to do.

Council Member Weiss asked if they were going to meet with the state on Friday. Before he would consider a resolution on somebody else's property to build something he would suggest they have a friendly off the record discussion with the state saying the Council is considering this and what would their attitude be. For the Council to publicly approve or vote for a resolution with somebody else's property doesn't sit well.

Mayor Hooper said she believes Council Member Weiss is suggesting they continue having these conversations and the sense of the group is they may consider it a little later.

Harold Garabedian said they can go back and recognize they have had this public conversation and contingency planning is the sensible thing to do given the situation to get there.

Council Member Sherman said she believes they received positive response from the Council as they laid out the complexities of this option.

Council Member Weiss said he would like this on the agenda for the July 14th meeting because this is a topic that should not run afoul. They will be meeting with the state and have some new information, and they may hear from FEMA and they may also want to talk about political considerations.

Planning & Development Director Hallsmith said the other thing that should be on the July 14th agenda is the appointment of the Energy Committee.

Planning & Development Director Hallsmith said she would like to report on their proposed journeys next week. Kristen and Erin are going to the Netherlands, and there will be an article about that in the paper tomorrow and she will be in Singapore speaking to the World Cities Congress and the U.N. Convention on Biological Diversity about the work that Montpelier has done on our Master Plan and efforts to preserve our biological diversity in the city. They are paying her way there. There has been a wonderful outpouring of support from people in the community that have helped subsidize Kristen and Erin's air fare to the Netherlands. They have been working as VISTA volunteers for the city. Kristen has been working for two years living on poverty level wages working on the Master Plan. Erin has been here for a year. She is really pleased they have this opportunity. They will be talking about our process with cities in the Netherlands who are trying to begin the same kind of process themselves. They will have an interesting time as ambassadors for the City of Montpelier. They will be leaving in August, but they have two new VISTAs who will work on helping us implement the Master Plan. One has a master's degree in land use planning and will help with the zoning. The city received the municipal planning grant in the amount of \$15,000 from the state to help with that process.

- 10-157. Senior Center – Review Draft proposal prepared by Councilor Jarvis and consider request for a 501(c) (3) Friends of MSAC designation for Seniors to conduct a Capital Campaign to raise funds for the Center renovation project.

Staff has provided copies of correspondence with Attorney Robert Gensburg regarding the 501(c)(3) designation. Councilor Jarvis draft has been included in packets.

Direct Staff.

Mayor Hooper said Council Members have received correspondence and information in their packets, and there is also a memo from Council Member Jarvis about the work that the Advisory Committee has done.

Motion was made and seconded by Council Members Sheridan and Jarvis to authorize the request for the Montpelier Senior Activity Center to form a Section 501(c)(3).

Council Member Weiss said he would like to ask Council Member Sheridan about the minutes of the May 26th meeting where he quoted going through the Montpelier Foundation without a 501(c)(3). What is the gap?

Council Member Sheridan said they have been advised by a lawyer that it would be better to separate it. A concern by people is that the city will take the money and use it for something else, and this will guarantee that doesn't happen. They don't want to discourage anybody who is worried about how their money will be used from not giving.

Council Member Jarvis said the thought about setting up this entity is that it is not just for the capital campaign but an entity that would continue to exist and continue to do fundraising and be an entity to receive donations as well.

Council Member Weiss asked if there was any significance to something being completed on behalf of this project by the end of this calendar year.

Council Member Jarvis replied yes, absolutely. The thought is that the capital campaign will be completed by the end of the calendar year.

Council Member Weiss asked if they needed to have a 501(c)(3).

Council Member Jarvis said donations that are made before the 501(c)(3) is established actually qualify retroactively or prospectively.

Assistant City Manager Hill said Attorney Gensburg said if they form the 501(c)(3) tomorrow and he gives \$100 on Friday and it gets tax exempt status in September the \$100 is deductible to him and not effectively income to the new entity.

Council Member Golonka asked if it was the intention that this group would do all of the future filings and no city employees will be responsible for filing the tax filings for the 501(c)(3). He doesn't want to see this as another account for our Finance Director.

Council Member Sheridan asked Council Member Golonka if the city took over the Senior Center.

Council Member Golonka replied they did but they didn't take over this. This is a separate entity.

Council Member Jarvis said there is no "they" and this is only separate for fundraising purposes.

Council Member Golonka said for fundraising purposes there is a lot of administrative accounting. There are also tax filing issues that come up on a year to year basis. Is this city going to be responsible for all of that?

Council Member Jarvis replied in the end she imagines yes. Their hope is that they would be able to work closely enough with the Senior Center.

Council Member Sheridan asked Council Member Golonka if he wanted to create a new position in the Senior Center to deal with it.

Council Member Golonka replied he doesn't.

Council Member Jarvis said at this point there really isn't the capacity for them to handle all of the logistics.

Council Member Golonka said this is adding an extra layer that Sandy Gallup is going to have to deal with in terms of tax filings in the city while we are doing the whole process with the audit and it is an extra staffing load.

Council Member Sheridan said they just hired extra help in that department.

Mayor Hooper suggested they bring the discussion back to the question in front of them. An issue has been raised as to whether or not we are creating an additional workload that we did not anticipate and don't have the capacity to deal with.

Assistant Manager Hill said it is staff understanding that the attorney will be doing the paperwork.

Council Member Jarvis replied that is only for setting up the 501(c)(3).

Council Member Golonka said he has been involved with a 501(c)(3), and it is a pain to send out all of the thank you letters, send out all of the tax notices for all of the contributions for the year. Let's say there are 1,000 donations throughout the year

and they will have to send out tax forms and do a tax filing.

Assistant City Manager Hill said they are required to send people a letter, but she believes that the auditors will require that all monies be accounted for through the city oversight.

Jane Osgartharp, Advisory Board Member for the Senior Center, and she is co-chairing the capital campaign when they get it off the ground. There is software for this purpose, and it is the kind of software where they can generate the thank you letters, etc. out of the Senior Center. What they won't be able to do is the actual accounting that goes into filing the tax return.

Assistant City Manager Hill said that will have to be done by the Finance Office.

Ms. Osgartharp said the paperwork involved in soliciting contributions, accounting the contributions received and sending the individuals who have contributed a thank you letter that is involved in the software. It is going to be a learning curve because they haven't used it yet, but they expect to be able to do that.

Mayor Hooper said what they come back to is the issue of the annual filing, which is a separate filing that will have to be made.

Council Member Sheridan said everything they do adds work to somebody.

Council Member Golonka said there are a lot of complications. He has run capital campaigns for the past 10 years for St. Michael's School, and it is a lot more work than they are implying. He hopes this is extremely successful and they get a lot of money for it, but he thinks it is going to put a lot of work on city staff. If we are going to put a lot of work on city staff why are we bothering to set up a separate entity? That is his concern.

Council Member Jarvis said they have legal advice that it will be easier to manage and cleaner.

Council Member Weiss said he would like to ask Council Member Jarvis another question. Is there any possibility that before the Section 501(c)(3) application is submitted it can come back to the Council for review. His major reason for asking this is there are two different 501(c)(3) tracks, and it is going to be very important for whoever is leading the project to make a determination as to which track is going to be followed and either one has implications for the city. Is there any possibility we could look at this before it is submitted?

Council Member Jarvis said she didn't see why not.

Mayor Hooper said alternatively do they need to be looking at it as opposed to providing direction as to what we want to see happen. She doesn't want to rework somebody's work.

Assistant City Manager Hill said she believes they could advise Attorney Gensburg of the concern of the fact that 501(c)(3) could have two different tracks and the Council is concerned that both could have implications and ask him to speak to that and let us know how he is going to approach it.

Council Member Weiss said the Internal Revenue Service says under the Paper Reduction Act it takes 100 hours to prepare and submit a 501(c)(3) application and there is a \$750 filing fee that goes with it.

Assistant City Manager Hill said he estimates it is going to take \$1,000 in legal fees, \$750 filing fee and about two days accounting work for Garth Genge.

Mayor Hooper said in order to make the Montpelier Senior Activity Center work at 58 Barre Street a sum of money needs to be raised and we don't want to see that coming out of the city's capital budget and we have been explicit with the seniors that we are shifting that burden to them. They need a vehicle to accomplish this. We have to help the seniors raise the money and create a process for them to do this.

Ms. Osgatharp said from her perspective she really likes the idea of a 501(c)(3). She thinks it is clean and solves a lot of messy bookkeeping problems. She agrees with what Jim Sheridan said because she has heard it herself that people would be more willing to donate if they didn't think the greedy city of Montpelier was going to get their personal hands on their money. She really hopes the 501(c)(3) process goes into effect because it will be a major asset for their process.

Mayor Hooper called for a vote on the motion. The vote was 4-2, with Council Members Golonka and Hooper voting against the motion.

The next part of this discussion is the memo from Council Member Jarvis.

Council Member Jarvis said her wish is to put the discussion of her memo off so that others in the community would have a chance to react to it.

Council Member Hooper said in the second e-mail exchange from Jeffrey Kantor it says they understand there have been two groups formed, one the nonprofit and also the Senior Center Board.

Assistant City Manager Hill said that is a proposed board that would come between the Council and the Senior Center Advisory Board. It would be a board to look at bigger picture items that Sarah has pointed out in her draft.

Mayor Hooper said they will have that conversation on July 14th

10-158. Council Reports

Council Member Sheridan said he wanted to thank Sarah Jarvis for sitting in for him at the Annual Meeting for the Senior Center. He sat in for Sarah on the Housing Task Force. He hasn't sat in on at one of those meetings for a long time so it was good to be among them. He isn't sure he heard anything he didn't already know about why we aren't getting development in. They were very frank in their discussions. It may be awhile before we see any major development in this city. It looks like we can do infill and that is the best way to start but it doesn't look like anybody wants to do any major projects here.

Council Member Sherman reported that both she and Sarah received a call from a resident on Barre Street who is having issues with neighbors. She talked to Sarah first and Sarah directed her to the Justice Center, and that was exactly the place for them to go.

Council Member Jarvis said it was great to be able to refer her to them because it wasn't really a police matter and it wasn't really a council matter, so it was great to have that resource. She believes the Council needs to vote on the VMERS candidate.

Council Member Golonka updated the Council on the Library endowment. They received all of the money back from the Vermont Community Foundation so the Library has the complete control of the endowment for the first time in ten years. He is extremely pleased that it is no longer outside of their control.

Mayor Hooper asked if someone would like to make a motion to add the VMERS nomination to the agenda. Council Member Jarvis said potentially it isn't a nomination but a vote on the nominated candidate. What was passed around at the beginning of the meeting was information from the Vermont Municipal Employees Retirement System. There are three individuals who have been nominated and we can vote for one person.

Council Member Weiss said because of the delicacy of this matter and the fact we are involved with personality do we need to go into Executive Session to discuss this.

10-158(a) Consideration of casting a vote for a candidate for the position of Employer Trustee

on the Vermont Municipal Employees Retirement System.

Council Member Jarvis moved that the Council cast their one vote for Thomas Golonka. Council Member Sherman seconded the motion. The vote was 5-0, with Council Member Golonka abstaining.

10-159. Mayor's Report

Mayor Hooper reported there is a parade on July 3rd and she hopes everyone will attend.

Assistant City Manager Hill said there will be a packet from Montpelier Alive in the Council packets detailing the days events.

10-160. Report by the City Clerk-Treasurer

City Clerk & Treasurer Hoyt had nothing to report this evening.

10-161. Status Reports by the City Manager

Assistant City Manager Hill reported that Jane was here to meet the June 24th deadline. She has been commended before, but nobody can say enough for what that girl does. She is a very good employee. We are meeting our deadlines. Tomorrow is the date we have to file our grand list with the State of Vermont. The formal notices will be mailed out, and most should have them by Saturday. Some of the people who went through the informal process may see changes in their values. The process was very helpful. The notices that go out will be signed in time and set in statute about when they can come in and what they have to do to officially grieve it as well as the timeframes for the appointments. It is all set out in statute. Because it is a reappraisal time the deadline for us getting out tax bills by July 15th will not happen because that is when the formal grievance process will be begin. Charlotte, Jane, Steve and Sandy and she have talked and the earliest they will be able to have those in the mail will be the last week of August. Charlotte would like to have them out before the 20th because there is a primary election this year on August 24th. They are hoping that the first due date to help with cash flow can be made October 1st. This does make the first and second payments close together. No matter what we do it will help some and make it harder for others. They hope to have the tax bills out so they can have the first tax payment due October 1st.

10-162. Agenda Reports by the City Manager

Adjournment:

After motion duly made and seconded by Council Members Sheridan and Sherman, the council meeting adjourned at 9:00 P.M. Motion carried unanimously.

Transcribed by: Joan Clack

Attest: _____
Charlotte L. Hoyt, City Clerk

CITY COUNCIL MEETING STATED MEETING & PUBLIC HEARING JUNE 23, 2010

On Wednesday evening, June 23, 2010, the city council members met in the Council Chamber.

Present: Mayor Hooper; Council Members Weiss, Sheridan, Sherman, Hooper, Golonka and Jarvis; also Assistant City Manager Hill. City Manager Fraser was on vacation.

10-151. Call to Order by the Mayor.

Mayor Hooper called the meeting to order at 7:03 P.M.

10-152. General Business and Appearances.

None.

10-153. Consideration of the Consent Agenda:

Consideration of the Minutes from the May 26th, 2010 Regular Meeting.

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

Ratification of a catering permit issued to Vermont Hospitality Management d/b/a New England Culinary Institute to cater a reception and dinner at Hopkins House at National Life on Wednesday, June 16, 2010 from 4 p.m. to 9 p.m. for sixteen people.

Consideration of awarding the bid for a Tax Anticipation Line of Credit for \$4,000,000. For FY'11 (July 1, 2010 to June 30, 2011) to cover the expenses for the City's General Fund, School Department and Recreation Department. Bids on the interest rate were received on Thursday, June 17, 2010. A tabulation sheet listing the results has been provided to the Council.

Staff recommends that we accept the bid for a Tax Anticipation Line of Credit from Merchants Bank at the rate of 1.84% and authorize the Mayor, City Council and Treasurer to sign the necessary documents.

Consideration of awarding of Bid for Trash & Recycling Barrels Maintenance.

Bid documents were sent to three vendors. One bid was received from the current vendor, Lloyd Franks of Plainfield, with whom the department has had an excellent working relationship since 1993.

Staff recommends awarding the trash and recycling barrels maintenance contract award to Lloyd Franks for \$10,813.40 with the condition that all material collected be disposed of at the Public Works Garage, and to authorize the City Manager to sign all contracts and other documents.

Consideration of awarding of bid for Maintenance of the Public Works Building.

Four bids were received; council has been provided with tabulation sheet. Low bid was submitted by A+ Touch Custodial, our current vendor.

Staff recommends awarding the bid to A+ Touch Custodial of Northfields Falls, Vermont, for maintenance of the Public Works Building at 783 Dog river Road, in the amount of \$5,700 and to authorize the City Manager to sign all contracts and other documents.

Awarding of Bid for Police Cruiser to Cody Chevrolet for \$20,753.

This amount is less than proposed in the 2011 Fiscal Year Budget.

Approval of contract for Services with Time Banks USA (TBUSA) for the Community Innovations for Aging in Place (CIAIP) REACH Project.

Approval of contract for Services with Kathleen A. Maloy, JD, PhD, Principal Strategic Consulting for Equity in Health for the Community Innovations for Aging in Place (CIAIP) REACH.

Approval of payroll and bills.

General Fund Warrant dated June 16, 2010, in the amount of \$640,305.90.

General Fund Warrant dated June 17, 2010, in the amount of \$2,039,120.69.

Payroll Warrant dated June 24, 2010, in the amount of \$27,851.71 and \$109,970.47.

Upon request by council members the tax anticipation line of credit, bid for trash & recycling barrel maintenance, contract of services with Time Banks USA and services with Kathleen A. Maloy were removed from the consent agenda to be considered separately.

Motion was made and seconded by Council Members Sheridan and Sherman, to approve the remainder of the consent agenda. The vote was 6-0, motion carried unanimously.

- 10-153(a) Consideration of awarding the bid for a Tax Anticipation Line of Credit for \$4,000,000. For FY'11 (July 1, 2010 to June 30, 2011) to cover the expenses for the City's General Fund, School Department and Recreation Department. Bids on the interest rate were received on Thursday, June 17, 2010. A tabulation sheet listing the results has been provided to the Council.

Staff recommends that we accept the bid for a Tax Anticipation Line of Credit from Merchants Bank at the rate of 1.84% and authorize the Mayor, City Council and Treasurer to sign the necessary documents.

Council Member Golonka thanked Finance Director Gallup for the information she had provided to him. He wasn't against this, but was concerned that we were doubling the request from last year. He spoke about the interest expense for this past year and that this type of expense takes away from our budget. He was wondering if there was a way of delaying payments and asked if staff had looked at that.

Finance Director Gallup said City Treasurer Hoyt deals with the cash flow on a daily basis and comes up with the amount that the city needs to borrow. She went on to say that the last time the city went through a reappraisal and tax bills were sent out late we borrowed between \$3 and \$3.5 million dollars. This request reflects that the tax bills will be going out late and the Montpelier School Systems tends to draw down heavily before the first tax installments are received. We normally don't pay the outside agencies until the first installment comes in. She would need to look at that process.

Council Member Golonka said this was a prime example of why we need to build up our reserve funds.

Finance Director Gallup clarified that it was not just the general fund, but all the funds including the water and sewer fund. We did have interest income of approximately \$15,000 this year.

City Treasurer Hoyt explained that she had gone with the line of credit instead of a tax anticipation note because with a note you have to take the full amount up front and you might be able to pay it off a month or two in advance, but you do have that interest expense for that ten month time period. Right now for investment purposes the rates are not that good. With a line of credit the plan is to only take what we need until the tax revenues start coming in hopefully in late September. This tax anticipation note also covers the recreation and school departments. During the first two months last year the school department alone requested over \$2.5 million dollars.

Mayor Hooper suggested working with the school.

City Treasurer Hoyt said City Manager Fraser has sent an e-mail to the Superintendent and School Business Manager explaining the situation and asked for their assistance. A cash flow from the school had also been requested, but had not been received at this time.

Mayor Hooper suggested that if they were going any further with this perhaps we need to have an agenda item, because the Mayor and other Council Members had not received the information that Council Member Golonka has received so they were at a disadvantage.

Council Member Golonka said he was concerned and felt it needed to be discussed.

Assistant City Manager Hill said City Treasurer Hoyt plans to only drawdown on the line of credit as needed. Finance Director Gallup will be looking at ways to delay payments as needed.

Mayor Hooper suggested setting up a meeting to discuss this at a later date and included school representatives as well.

Motion was made by Council Member Hooper, seconded by Council Member Jarvis to award the bid for a Tax Anticipation Line of Credit for \$4,000,000 for FY11 to Merchants Bank at the rate of 1.84% and authorize the Mayor, City Council and Treasurer to sign the necessary documents. The vote was 6-0, motion carried unanimously.

10-153(b) Consideration of awarding of Bid for Trash & Recycling Barrels Maintenance.

Bid documents were sent to three vendors. One bid was received from the current vendor, Lloyd Franks of Plainfield, with whom the department has had an excellent working relationship since 1993.

Staff recommends awarding the trash and recycling barrels maintenance contract award to Lloyd Franks for \$10,813.40 with the condition that all material collected be disposed of at the Public Works Garage, and to authorize the City Manager to sign all contracts and other documents.

Council Member Weiss said on the agenda item it listed a price of \$10,813.40 and on the tabulation sheet it shows a figure of \$34,307.

Assistant City Manager Hill explained that the \$34,307 figure was if he disposed the trash at the landfill. The accepted bid was with disposal at the city garage.

Motion was made by Council Member Weiss, seconded by Council Member Sherman to award the trash and recycling barrels maintenance contract to Lloyd Franks in the amount of \$10,813.40. The vote was 6-0, motion carried unanimously.

10-153© Approval of contract for Services with Time Banks USA (TBUSA) for the Community Innovations for Aging in Place (CIAIP) REACH Project.

Approval of contract for Services with Kathleen A. Maloy, JD, PhD, Principal Strategic Consulting for Equity in Health for the Community Innovations for Aging in Place (CIAIP) REACH.

Council Member Weiss said he didn't understand this because we are approving this tonight and if you look at the payment schedule one started in April, 2010 and the other is November, 2009.

Planning & Development Director Hallsmith explained that these contract are part of the REACH Program. The reason that they were not approved sooner was due to her medical leave over the winter. The grant projects had to continue so they were working on an as needed basis without a contract.

Council Member Weiss asked if this was federal money?

Planning and Development Director Hallsmith replied yes.

Council Member Weiss said aren't there federal regulation on paying someone retroactively.

Planning and Development Director Hallsmith replied these contractors were submitted as part of the grant. The contract is more a city formality.

Motion was made by Council Member Weiss, seconded by Council Member Hooper to approve the contract for services with Time Bank USA and Kathleen A. Maloy, JD, PhD.

Council Member Jarvis inquired if entering into these contracts would prevent the city from outsourcing these programs in the future. The response was no.

Mayor Hooper called for a vote on the motion. The vote was 6-0, motion carried unanimously.

Mayor Hooper returned to General Business and Appearances as Calvin Smith had arrived and would like to address the council.

10-152. General Business and Appearances.

Calvin Smith, River Station Condominium Owners Association, Vice President told the council that he appreciated there service to the community.

He submitted a letter from the association supporting the completion of Turntable Park. They felt it was an important part of the city's long term plan. A copy of the letter will be attached to the minutes.

Mayor Hooper reminded the council that they needed to do an add on item for the nomination to the Vermont Municipal Employees Retirement System.

Council members referred to a memorandum from Todd Law, Public Works Director regarding the SCADA issue and asked if this needed to be added to the agenda.

Assistant City Manager Hill said she didn't think that it needed to be acted upon tonight. She went on to say that they could add it if they felt comfortable doing so.

10-154. Second Reading of Proposed Ordinances Concerning Berlin Pond.

City Attorney Paul Giuliani has recommended two ordinance amendments relating to use of Berlin Pond. The amendments were discussed at the June 9, 2010 meeting. The City council voted unanimously to proceed with the second public hearing process for adoption.

Staff has provided Council with a revised draft by Attorney Paul Guiliani, dated 06-10-10.

Mayor Hooper opened the public hearing at 7:24 P.M., no one came forward to comment and the public hearing was closed.

Council Member Jarvis questioned if they needed to convene as the Board of Health and had it been properly noticed. She was going to research state statute.

Mayor Hooper said a revision to the ordinance had been provided to council members by email. She referred to Sec. 7-605 adding "and as generally defined in the plan as a 200' zone around the pond and its tributaries" and at the end of that section

“or scientific investigation. The City Manager shall approve any access”.

Council Members accept the additional wording.

Council Member Golonka questioned the definition of human activity.

Mayor Hooper indicated that the definition was in the source protection plan. A discussion followed.

Mayor Hooper asked Council Members if they needed more time to sit with the plan to understand what it is they are doing. She would note that the plan has been their working document for how we do things around the pond since 1997.

Council Member Golonka said he is concerned over one section. The rest seems reasonable to him.

Mayor Hooper said somewhere in there is explicit language about existing activities are allowed unless they are found to be creating a health hazard.

Council Member Sheridan moved the second reading with the added language as proposed. Council Member Jarvis seconded the motion.

Mayor Hooper said maybe they need to go back and convene as a Board of Health even though it has not been noticed and make the finding. Alternatively, they could adopt the ordinance. They could warn their meeting as the Board of Health for the next meeting and make the finding. A third way would be to table it, warn as the Board of Health and do both at the same time.

Assistant Manager Bev Hill said the next Council meeting is July 14th.

Motion was made by Council Member Jarvis, seconded by Council Member Sherman to table this agenda item. The vote was 6-0, motion carried unanimously.

- 10-155. City Council requested that time be allotted for a general discussion of our policies regarding penalties and interest for late payment of taxes, water and sewer.

Staff has provided council with a copy of the ordinance, Chapter 16, Article I. General Taxation, Sec. 16-1 through 16-8. Staff has also provided a memo of various ways that other communities handle this, as well as the revenue implications.

Recommendation: Discussion, direction to staff.

Mayor Hooper said in their packets was a memo from Bev Hill. She had spoken with Steve Jeffrey this afternoon and forwarded to Council Members some of the things he sent her. She and the City Clerk received a letter from an individual who had requested relief from the Board of Abatement and he was reiterating his concerns about the city's procedure and his frustration.

Assistant City Manager Hill said she tried to give the Council a range from charging no penalties at all to a neighboring community who actually charges less for the first 30 days but thereafter charges more. She also wanted to tell them how state statute works when you don't have a charter that specifies the process. In the state statute no penalty can be charged until the final payment. Her concern there is if you don't have your money in August and you don't get a penalty because your finances got turned around, but somebody else had the money in August but maybe they had a glitch in their finances and they are going to get a penalty. She would hope they would not adopt that type of a route. Whether or not they want to charge less in the first 30 days is something for their consideration. There are those who know they are going to be late and don't challenge it. Others like the business that requested an abatement because they were one day late is something that angers people. She personally doesn't have the ability to waive the penalty. She was directed when she was hired not to waive penalty fees but she does have the ability to waive interest.

The only time she has waived the penalty is in a situations where there have been confusions. Three years ago when they changed the due date on the first installment they made an administrative decision that we would be lenient because people were confused, and they anticipate some of that this time. They aren't only changing the due date to a different month but the day of the month.

She reviewed the revenue piece with the Council. On average there are about 200 accounts that go delinquent each quarter and probably 50 of those are a dollar short and a day late type situations. She would recommend against doing a grace period because they tried that years ago and you simply face the same question 30 or even 10 days later.

Council Member Golonka explained that the case before the Board of Civil Authority was the issue of a person who has paid taxes every time on time regularly for years and never had a problem and suddenly they missed a payment by a day. If we make in the policy that people who potentially have one shot. You automatically extend them a late fee if they are late, but if they never had an issue and this is the first time on their property she would have the ability if they do pay within a day or two to waive the penalty. Would she like that flexibility? He doesn't want to make Bev judge and jury.

Assistant City Manager Hill said the city's existing software lets her go back 10 years or more. If you said you have not been delinquent within the last five or ten years that is a guideline for her and then she is not being judge and jury. She is following a policy that the Council has established.

Council Member Golonka said he doesn't want to extend it more than a certain number of days. He doesn't want to have a grace period. It just sets the bar 30 days later and you have the same issue. If she had the flexibility if somebody appeals the fine and she had the ability to look back at certain parameters would she be interested in something like that?

Mayor Hooper said she wanted to offer a little more factual information of what she gathered from Steve Jeffrey from the League of Cities and Towns. They annually survey their communities on a full range of things. Of the 203 towns that responded most recently, which was in 2008, 198 of them have the 8 percent penalty which is what Montpelier has. State law provides for that to be reduced and 5 towns have reduced it. They are concerned that delinquencies might be a real problem if they took it down to 0 percent. Then, there are a dozen or so towns that have charters that allow them to do things differently. Barre City and Town, South Burlington and Colchester follow exactly the same process we do with the same 8 percent.

Assistant City Manager Hill said she understood that Barre Town was 5% for the first thirty days and after thirty days an additional 8% thereafter.

Mayor Hooper said Newport, St. Albans, Vergennes and Bennington follow the state law. Because they don't have charters they are required to follow the state law. He said Burlington was hard to figure out. Rutland has a 5 percent delinquent rate. If it is not paid for a year they add another 5 percent, and then there was something about 3 percent. The first question is do we want to change. If they do, what do they want to consider? She would suggest that what Tom is suggesting they would want some legal advice. Would they have to change the charter?

Council Member Golonka said he wasn't saying to change anything but to give Bev a little flexibility with strict parameters.

Mayor Hooper said the charter says you do it this way. We don't get to say we don't mean that so they would have to change the charter. It is quite explicit. They heard from a residential property owner four or five years ago the same story that they have been here forever.

Assistant City Manager Hill said only the Board of Abatement can waive fees.

Council Member Golonka said they said at the Board of Abatement they couldn't waive fees.

Mayor Hooper said the Board of Abatement can only follow the statute which says you can only be abated for those seven reasons listed in the statute. Unfortunately, he wasn't looking at what the statute was saying. He was just saying we were unfair.

Council Member Sherman said she wonders if there is a way to be preventive and advertise the due date more vigorously so that people don't forget.

Council Member Jarvis said they could put a sign board out in front of City Hall stating there is a meeting tonight and taxes are due on such and such a date.

Mayor Hooper said that in fact is what a lot of towns do.

Assistant City Manager Hill said it is in the newspaper and on the radio. There are people who say to us they wish we would send them a bill every quarter but that becomes expense.

Council Member Weiss said Gwen is going to be discussing with the Council this evening about possible charter changes relating to biomass. He would not like to see in November any more charter changes except those which are specifically relevant to that issue which has to do with biomass and other charter changes could wait until March.

Council Member Golonka said he doesn't think they need to change the charter for this. It says in the charter under delinquent taxes penalties and interest as provided by ordinance and by law shall be added to each delinquent tax. It doesn't say you can't have an ordinance that specifies different changes.

Mayor Hooper said they would have to change the ordinance and not the charter. She comes back to the question, is this something the Council would wish to consider? This is only the second time out of thousands of payments that property taxpayers have made.

Assistant City Manager Hill said a lot more people have suggested some form of revision to both the City Clerk-Treasurer and her but have not wanting to go public and discuss it with the Council.

Council Member Sheridan said Tom doesn't want to draw down credit and this is set up to prevent things like that.

Council Member Golonka said he isn't looking to change it but to give Bev a little bit of flexibility in the extreme situation such as that gentleman. If they missed it one time in 10 years she would have the ability if it was paid within a five day period – he would still get the notice and the fee. He would want it to be very focused and defined to give Bev a little bit of leeway in those extreme situations and not to change the rule and keep the 8 percent.

Council Member Sheridan said if they don't define that real tight it's going to be picked and nibbled around the edges constantly, and it will create more problems for Bev than she has now.

Mayor Hooper said one of her questions about the process he suggested is, what if she just moved into town and only been here a year? She has no record. My burden and need is just as great so we are only going to allow long term property owners that sort of special privilege and not newcomers.

Council Member Weiss said in 2009 he missed his property tax payment by one day and he paid the tax and paid the penalty. Is he entitled to have some type of flexibility?

Council Member Sheridan said this came up early on when he was sitting here and they had a long discussion about it then, and it got real complicated and in the end everybody just let it go.

Council Member Jarvis said her inclination would be not to touch it.

Council Member Sheridan said if you can't be responsible for when your payments are due is the City supposed to hold their hand. If you can't trust yourself set it up for automatic deduction. Things are in place for that.

Mayor Hooper asked if there was a consensus on this.

Elizabeth Dodge from Freedom Drive and she was delinquent tax collector in Berlin for sixteen years. She would be very hesitant to give any kind of an okay to letting people be late on paying without penalty. Judging from her experience she thinks there would be a fairly good number of people who would come in and say they shouldn't have to pay the penalty.

Council Member Sherman spoke about the drop box and she knows lots of things get dropped in the post office box after the last pickup, and she has done that. She thinks they need to hold firm on this also. When the drop box gets opened and when the mail gets delivered there may be some opportunity for small variations, but we

should keep the rules.

Mayor Hooper recognized Fred Skeels.

Fred Skeels said he was present about the SCADA issues and upgrades. It was supposed to go on the consent agenda. The system is failing. They are all interconnected and they automate pump stations, receiving stations, chemical additives, and if it goes south or if the whole thing crashes then there will be potential fines.

Mayor Hooper said one of the issues was they hadn't budgeted enough and it is about \$10,000 more than they had anticipated.

Council Member Jarvis said the upgrades it is \$54,573 and we had budgeted \$12,000 in the capital budget FY 11 and established probable savings in items that will not be purchased/performed to compensate for the additional costs necessary to upgrade the status systems.

Motion was made by Council Member Golonka, seconded by Council Member Sherman to add this item to the agenda. The vote was 6-0, motion carried unanimously.

- 10-155(a) Consideration of upgrades to the SCADA system in the amount of \$54,573.
(See attached memorandum from Todd Law, Public Works Director to City Manager Fraser for information and recommendation on this item)

Council Member Jarvis moved that the Council authorize the City Manager to approve the expenditure of approximately \$55,000 for the upgrade of the SCADA systems for the water and sewer utilities. Council Member Hooper seconded the motion.

Council Member Sheridan asked if the computers were \$5,000 each.

Mr. Skeels replied yes, they are actually servers.

Mayor Hooper called for a vote on the motion. The vote was 5-1, Council Member Weiss voted against the motion he felt this was very sloppy financial management.

- 10-156. Update on Transit Center and District Energy

The City is waiting for a floodway determination from FEMA with regard to the Carr Lot property which is the planned location of the Transit Center.

As a possible alternative (depending on the floodway decision), the City has explored co-locating the transit center with the District Energy Plant.

The Department of Energy (DOE) and Federal Transit Agency (FTA) have agreed upon a joint Environmental Assessment (EA) process.

DOE has scheduled a public hearing on the proposed project for July 27th in Montpelier.

Both DOE and FTA are encouraging the City to make a final decision about the transit center location.

Planning Director Gwendolyn Hallsmith will update the Council on the process to date on how both projects may or may not interrelate.

Recommendation: Receive the update, provide direction as necessary.

Planning & Development Director Hallsmith said the Transit Center and District Energy is what they are going to talk about more than either one individually. To give a quick update on the District Energy project the environmental assessment process the Council approved has begun. They are having regular meetings with the Department of Energy (DOE) and the Federal Transportation Agency (FTA). The contractor is doing a great job keeping informed about that. The letter that is going out to a lot of the agencies describing the process has been issued by now and they are planning a public meeting on the subject to inform the public of the environmental assessment and to give them an overview of the project on August 3rd.

As she has talked before the floodway ruling by FEMA has caused them to rethink how they are going to handle the Transit Center. Part of the idea of combining the two projects had to do with what amounts to a contingency plan for the Transit Center should their appeal with FEMA fail. They don't have word on the appeal with FEMA, although the City Manager and DuBois & King met with Senator Leahy's Office last week. Senator Leahy sent a letter to FEMA asking that our appeal be moved to the top of the pile so we can continue with these projects knowing whether that lot is classified as floodway or not because that is a critical issue at this point.

They had been talking to DOE and FTA about whether the environmental assessment that they have currently underway could be used for both projects that

was another critical path item as they were selecting a consultant to perform the environmental assessment and moving forward. They agreed that both projects could be considered under the same environmental assessment, and it is her opinion that the FTA was rather happy with that eventuality because the Carr Lot has really been one problem after another. There are a lot of issues that have come up so moving it off the Carr Lot made them quite happy. She doesn't think they fully understood the fact that we were talking about a contingency plan based on the FEMA ruling so when she reminded them of that they asked her to ask the Council for a resolution stating that the combination project is our preferred alternative. They have discussed this and she thinks it is a favorably considered alternative as a contingency plan to the Carr Lot project. She doesn't think any of them, and especially the Council, have said this would be a preferred alternative without the Carr Lot project involved and it is probably premature to say that. It might help the situation with the federal agencies if tonight the Council could say if the FEMA ruling fails, if the appeal with FEMA fails, then the combination project is the preferred alternative. They are looking for more clarity from the city on where the combined project stands in planning for both of these facilities.

Council Member Sheridan asked if they combine the projects how does it affect the \$800,000 bond vote which is specifically about the Carr Lot.

Planning & Development Director Hallsmith said the \$800,000 bond vote was specifically about the Carr Lot, and it is an important part of our match for the facility. If they combine the two projects she believes that our legal counsel will tell us that we need to put that up for another vote to redirect that money to the combined project to provide the match and the support that we need to continue with it on the other site because she believes the original bond language included language about that specific property.

Council Member Sheridan said that was voted with a specific purpose in mind ten years ago, and they would have to do that over regardless of what Council says.

Planning & Development Director Hallsmith said even legal counsel would tell you that would be required.

Council Member Sherman asked what the State of Vermont think about this. They are very fond of their parking lot where this would stand to occupy and displace their parking.

Planning & Development Director Hallsmith said in some ways the combination of the projects might help us solve the parking problem because it would bring some of the funding for alternative parking to the new project. The energy plant will already

displace about 50 spaces of state parking, and without us controlling the nearest open parking that would be the Carr Lot we can't promise to build spaces anywhere. What they have been exploring with their consultants on a preliminary design basis is what if the Transit Center occupied the ground level of the western part of the site, which is the backup oil storage and generation facility for the state plant, and we built parking on top of that and moving the parking vertically instead of trying to replace it on the level ground. This project if we relocate to the new facility might solve that problem while we are still working on two projects.

When they met with Jerry Myers at the Building and General Services Department he saw that potential benefit as a positive thing, although it still needs to be fully designed and evaluated as to how it would work on the ground. Their preliminary meeting with Jerry Myers on that was received favorably because of the potential for the parking that could be developed as a result of the combined projects.

Mayor Hooper asked if there was a draft Letter of Intent with them.

Planning & Development Director Hallsmith replied we do.

Harold Garabedian said it doesn't get into a level of detail but it certainly does talk about the Transit Center.

Council Member Weiss said he has a great concern. There are fourteen people in this room and come November the Montpelier voters are going to be asked to vote \$800,000; \$20 million there and a charter change here, and a district establishment. What we need to do is not to answer the theoretical question of how nice it would be to put a Transit Authority building along the biomass building behind the Education Department building, but what are the political realities? If we put two major items like the Transit Center and the Biomass we could lose the whole thing. We need politically to take time, and when you consider that our next meeting is not until the 14th of July that in August we really have to begin to plan all of the detail that goes into anything dealing with the charter because we have to be prepared 90 days in advance and a bond is 60 days in advance. He would like us to discuss this seriously not from a philosophical point of view but from a political view of how we are going to get enough people informed in this city so they will support the 4 or 5 key items.

Council Member Golonka asked when they anticipated the floodway designation determination coming. If we receive a negative on that, is the Carr Lot dead?

Planning & Development Director Hallsmith said if we lose our appeal on the floodway designation then at least the transit center portion of the Carr Lot cannot continue because that is a building. There is another part of the Carr Lot project that

is flat land. That is the Confluence Park, the bike path and the parking. That is a perfectly legitimate use of that land even if it is a floodway so the entire project isn't gone but at least the part that was the Transit Center is gone.

Council Member Golonka asked when the feds will take the money back.

Planning & Development Director Hallsmith said that is the other bit of time pressure they are under because there is legislation being considered at the national level that the staffers at the various Congressional offices fondly refer to as the "Club Act of Earmarks." The money that has come to us on the Transit Center is earmarked funding and is well overdue for being spent, and if you don't manage to get it obligated in a relatively reasonable period of time it is likely that we will lose that money. Council Member Weiss is absolutely right, that we have the same time pressure with the ARA funding that we received for the energy plant. In fact, that was one of the key concerns that the DOE raised with us when we talked about combining the projects because they don't want the combination of projects to interfere with the timing of either of them. We are under a very similar time pressure for both of them, and that is why they combined the environmental assessment so that we would be moving forward with a joint consideration and might have some of the answers they needed in a timely fashion. To answer part of Alan's concern they are also very mindful of the need to execute a very extension public participation process, and they have meetings this week and next week to do that. They are preparing materials, engaging consultants and going to be moving forward with a public process in helping people understand what it is we are proposing. That is the most important part of this project.

They are under a lot of time pressure with both projects. They are both very complex projects with a lot of moving parts, many of which we do not control because it is on state land and the State Buildings and General Facilities Offices through the Legislature has the ultimate say on what happens on that land. There are all kinds of trip wires in this system that could make us lose any of the 18 different types of funding we have directed at both of these projects. They are just trying to do their best to keep all of this money in the city of Montpelier. There is \$8 million dedicated from DOE; another \$7 million in both FHW and FTA funding for the transit facility. They are just trying to execute a plan that will keep it here.

There are alternatives on the Transit Center. She doesn't ever want to lead them to believe that combining it with the energy plant is the only way to go. Another possible alternative is to find an existing building that could serve as a transit center and redevelop an existing building for that purpose because under that scenario we could get a categorical exclusion from the environmental impact requirements. That would also be able to proceed in a relatively rapid fashion. The issue really is if we

redevelop new land then we have to perform an environmental assessment and possibly an environmental impact statement if enough issues turn up in the initial assessment to prove we need to do that. While we were under way with an existing environmental assessment on a site it seemed sensible to her, especially given the proximity of the energy plant to the visitor center and a relatively central location to all of downtown, it seemed a reasonable thing to consider. She doesn't have a realistic alternative even though she has thought of many existing buildings. Maybe we could use the video store but that would dedicate some of our downtown retail space to a transit facility which isn't the best use of our downtown retail space. There is the existing Amtrak station but that is way out of town.

Harold Garabedian said the decision by FEMA is really what is going to take some of the options off the table.

Council Member Sheridan said first of all they don't know if they are the only letter to FEMA being asked to be placed at the top. Every other project there may be a Congressman writing a similar letter. There could be 50 of these requests. We could hardly find a place for the bus to stop, and now we are going to try to find a transit center downtown. He hates to see our staff wasting our time on a dream chase. If the floodway designation fails you are going to ask us to take the Carr Lot by eminent domain for just a bike path.

Planning & Development Director Hallsmith said she didn't say that.

Council Member Sheridan said that is how they would have to take it. To him that suddenly gets a lot harder to say this is something we have to do. It is one thing if they are going to put a transit center there, but if we are going to put a single lane bike path and park. He wasn't going to vote for eminent domain with a building, and he certainly isn't going to vote for it for a bike path.

Planning & Development Director Hallsmith said she wasn't suggesting they would do that. She was just trying to be very clear on what part of the project would be a problem if the floodway stands because the other parts of the project would still be allowable under the floodway rules.

Mayor Hooper said she had a couple of thoughts about the possibility of putting in a transit center on state property down where the district energy plant will be. When we were having the Carr Lot conversation there was a great deal of discussion about wanting to have the transit center accessible to the downtown, that we were interested in providing service to folks who use the city of Montpelier. At that point we did talk with the state about paving on state property and the state said no, we couldn't use their property in that way. Her recollection is that we were more interested in having

it down here. She is wondering why we would want to spend whatever the local match is to locate a transit center that would principally serve the State of Vermont as opposed to being the direct benefit to our community is somewhat lessened. There are some really high hurdles to overcome in terms of the state figuring out if it wants to participate in locating it there. She had been thinking there was going to be a reaction by people who care about the Capitol Complex of having a building behind 120 State which is the large marble building in front of the State House. The energy plant is already an issue. What she hadn't thought about was the view shed driving into the city. The Capitol Complex Commission was in fact created when the Stockyard Restaurant was sold and the Credit Union was built because it blocked the principle view of the Capitol as you were driving into town. That was a long way of saying there are going to be very strong reactions with influential people within the state complex saying that the view shed is going to be a big problem.

Harold Garabedian said they have recognized that and had some conversation about the view shed. One of the opportunities is to actually design this building in a way that it looks to the river as an asset as opposed to having the river in back of everything. It is certainly a question they recognize. It is a very complex project.

Planning & Development Director Hallsmith said part of what will make even the energy plant on its own difficult is the amount of parking it takes up. Her secret hope is to combine the projects so they might be able to address part of that parking issue that comes with the energy plant on its own.

Mayor Hooper said this in fact would become replacement parking for the parking that is lost because we are putting the energy plant there and not that we are creating any additional parking.

Planning & Development Director Hallsmith said they would be trying to create additional parking for the service to the transit center and for the needs of the energy plant. In the process she is hoping they will be able to create the parking that would be needed to eliminate the loss of parking from the energy plant. It's a complex project.

These are both two long standing projects for the city. Both of them have been on the boards for 10 years so bringing them to completion would also be a step forward for the city as well. They might both come to completion together instead of separately.

Mayor Hooper said she wants to come back to the point someone made about what the plans are and what the expectations are for the development of the Carr Lot, which was the Transit Center and additional parking, the bridge across the North

Branch and the completion of the bike path. She thinks that is the reason the whole community could get behind it. She suspects if they only did one of those things there would be a lot less strong interest in it, but now we are talking about not doing some of those things.

Harold Garabedian said the critical element is what decision FEMA makes on the appeal. It is recognized that this is the community's first choice there, and if the FEMA appeal is overturned that is the way the project is going. They are just planning for the alternative.

Mayor Hooper said if she understood them correctly they are asking the Council to pass a resolution this evening saying we support moving the transit center.

Planning & Development Director Hallsmith said that is what the FTA would like them to get the Council to say. She also has a hard time asking that herself because she wants to know the outcome of the FEMA ruling before she asks the Council to make that decision. If the FEMA ruling is such that the floodway stands then their preferred option is to combine the projects. That might be something we consider as an option, but without seeing plans for what we are talking about with the Transit Center combined, which they are still working on themselves, she wouldn't blame them if they said to come back after the FEMA ruling.

Council Member Jarvis said as resolutions go she doesn't see any harm in the Council passing it. Saying this is our preferred alternative, what does that really mean?

Harold Garabedian said it is just a public acknowledgment. They are looking at a contingency, and that is the responsible thing to do.

Council Member Weiss asked if they were going to meet with the state on Friday. Before he would consider a resolution on somebody else's property to build something he would suggest they have a friendly off the record discussion with the state saying the Council is considering this and what would their attitude be. For the Council to publicly approve or vote for a resolution with somebody else's property doesn't sit well.

Mayor Hooper said she believes Council Member Weiss is suggesting they continue having these conversations and the sense of the group is they may consider it a little later.

Harold Garabedian said they can go back and recognize they have had this public conversation and contingency planning is the sensible thing to do given the situation to get there.

Council Member Sherman said she believes they received positive response from the Council as they laid out the complexities of this option.

Council Member Weiss said he would like this on the agenda for the July 14th meeting because this is a topic that should not run afoul. They will be meeting with the state and have some new information, and they may hear from FEMA and they may also want to talk about political considerations.

Planning & Development Director Hallsmith said the other thing that should be on the July 14th agenda is the appointment of the Energy Committee.

Planning & Development Director Hallsmith said she would like to report on their proposed journeys next week. Kristen and Erin are going to the Netherlands, and there will be an article about that in the paper tomorrow and she will be in Singapore speaking to the World Cities Congress and the U.N. Convention on Biological Diversity about the work that Montpelier has done on our Master Plan and efforts to preserve our biological diversity in the city. They are paying her way there. There has been a wonderful outpouring of support from people in the community that have helped subsidize Kristen and Erin's air fare to the Netherlands. They have been working as VISTA volunteers for the city. Kristen has been working for two years living on poverty level wages working on the Master Plan. Erin has been here for a year. She is really pleased they have this opportunity. They will be talking about our process with cities in the Netherlands who are trying to begin the same kind of process themselves. They will have an interesting time as ambassadors for the City of Montpelier. They will be leaving in August, but they have two new VISTAs who will work on helping us implement the Master Plan. One has a master's degree in land use planning and will help with the zoning. The city received the municipal planning grant in the amount of \$15,000 from the state to help with that process.

- 10-157. Senior Center – Review Draft proposal prepared by Councilor Jarvis and consider request for a 501(c) (3) Friends of MSAC designation for Seniors to conduct a Capital Campaign to raise funds for the Center renovation project.

Staff has provided copies of correspondence with Attorney Robert Gensburg regarding the 501(c)(3) designation. Councilor Jarvis draft has been included in packets.

Direct Staff.

Mayor Hooper said Council Members have received correspondence and information in their packets, and there is also a memo from Council Member Jarvis about the work that the Advisory Committee has done.

Motion was made and seconded by Council Members Sheridan and Jarvis to authorize the request for the Montpelier Senior Activity Center to form a Section 501(c)(3).

Council Member Weiss said he would like to ask Council Member Sheridan about the minutes of the May 26th meeting where he quoted going through the Montpelier Foundation without a 501(c)(3). What is the gap?

Council Member Sheridan said they have been advised by a lawyer that it would be better to separate it. A concern by people is that the city will take the money and use it for something else, and this will guarantee that doesn't happen. They don't want to discourage anybody who is worried about how their money will be used from not giving.

Council Member Jarvis said the thought about setting up this entity is that it is not just for the capital campaign but an entity that would continue to exist and continue to do fundraising and be an entity to receive donations as well.

Council Member Weiss asked if there was any significance to something being completed on behalf of this project by the end of this calendar year.

Council Member Jarvis replied yes, absolutely. The thought is that the capital campaign will be completed by the end of the calendar year.

Council Member Weiss asked if they needed to have a 501(c)(3).

Council Member Jarvis said donations that are made before the 501(c)(3) is established actually qualify retroactively or prospectively.

Assistant City Manager Hill said Attorney Gensburg said if they form the 501(c)(3) tomorrow and he gives \$100 on Friday and it gets tax exempt status in September the \$100 is deductible to him and not effectively income to the new entity.

Council Member Golonka asked if it was the intention that this group would do all of the future filings and no city employees will be responsible for filing the tax filings for the 501(c)(3). He doesn't want to see this as another account for our Finance Director.

Council Member Sheridan asked Council Member Golonka if the city took over the Senior Center.

Council Member Golonka replied they did but they didn't take over this. This is a separate entity.

Council Member Jarvis said there is no "they" and this is only separate for fundraising purposes.

Council Member Golonka said for fundraising purposes there is a lot of administrative accounting. There are also tax filing issues that come up on a year to year basis. Is this city going to be responsible for all of that?

Council Member Jarvis replied in the end she imagines yes. Their hope is that they would be able to work closely enough with the Senior Center.

Council Member Sheridan asked Council Member Golonka if he wanted to create a new position in the Senior Center to deal with it.

Council Member Golonka replied he doesn't.

Council Member Jarvis said at this point there really isn't the capacity for them to handle all of the logistics.

Council Member Golonka said this is adding an extra layer that Sandy Gallup is going to have to deal with in terms of tax filings in the city while we are doing the whole process with the audit and it is an extra staffing load.

Council Member Sheridan said they just hired extra help in that department.

Mayor Hooper suggested they bring the discussion back to the question in front of them. An issue has been raised as to whether or not we are creating an additional workload that we did not anticipate and don't have the capacity to deal with.

Assistant Manager Hill said it is staff understanding that the attorney will be doing the paperwork.

Council Member Jarvis replied that is only for setting up the 501(c)(3).

Council Member Golonka said he has been involved with a 501(c)(3), and it is a pain to send out all of the thank you letters, send out all of the tax notices for all of the

contributions for the year. Let's say there are 1,000 donations throughout the year and they will have to send out tax forms and do a tax filing.

Assistant City Manager Hill said they are required to send people a letter, but she believes that the auditors will require that all monies be accounted for through the city oversight.

Jane Osgartharp, Advisory Board Member for the Senior Center, and she is co-chairing the capital campaign when they get it off the ground. There is software for this purpose, and it is the kind of software where they can generate the thank you letters, etc. out of the Senior Center. What they won't be able to do is the actual accounting that goes into filing the tax return.

Assistant City Manager Hill said that will have to be done by the Finance Office.

Ms. Osgartharp said the paperwork involved in soliciting contributions, accounting the contributions received and sending the individuals who have contributed a thank you letter that is involved in the software. It is going to be a learning curve because they haven't used it yet, but they expect to be able to do that.

Mayor Hooper said what they come back to is the issue of the annual filing, which is a separate filing that will have to be made.

Council Member Sheridan said everything they do adds work to somebody.

Council Member Golonka said there are a lot of complications. He has run capital campaigns for the past 10 years for St. Michael's School, and it is a lot more work than they are implying. He hopes this is extremely successful and they get a lot of money for it, but he thinks it is going to put a lot of work on city staff. If we are going to put a lot of work on city staff why are we bothering to set up a separate entity? That is his concern.

Council Member Jarvis said they have legal advice that it will be easier to manage and cleaner.

Council Member Weiss said he would like to ask Council Member Jarvis another question. Is there any possibility that before the Section 501(c)(3) application is submitted it can come back to the Council for review. His major reason for asking this is there are two different 501(c)(3) tracks, and it is going to be very important for whoever is leading the project to make a determination as to which track is going to be followed and either one has implications for the city. Is there any possibility we could look at this before it is submitted?

Council Member Jarvis said she didn't see why not.

Mayor Hooper said alternatively do they need to be looking at it as opposed to providing direction as to what we want to see happen. She doesn't want to rework somebody's work.

Assistant City Manager Hill said she believes they could advise Attorney Gensburg of the concern of the fact that 501(c)(3) could have two different tracks and the Council is concerned that both could have implications and ask him to speak to that and let us know how he is going to approach it.

Council Member Weiss said the Internal Revenue Service says under the Paper Reduction Act it takes 100 hours to prepare and submit a 501(c)(3) application and there is a \$750 filing fee that goes with it.

Assistant City Manager Hill said he estimates it is going to take \$1,000 in legal fees, \$750 filing fee and about two days accounting work for Garth Genge.

Mayor Hooper said in order to make the Montpelier Senior Activity Center work at 58 Barre Street a sum of money needs to be raised and we don't want to see that coming out of the city's capital budget and we have been explicit with the seniors that we are shifting that burden to them. They need a vehicle to accomplish this. We have to help the seniors raise the money and create a process for them to do this.

Ms. Osgatharp said from her perspective she really likes the idea of a 501(c)(3). She thinks it is clean and solves a lot of messy bookkeeping problems. She agrees with what Jim Sheridan said because she has heard it herself that people would be more willing to donate if they didn't think the greedy city of Montpelier was going to get their personal hands on their money. She really hopes the 501(c)(3) process goes into effect because it will be a major asset for their process.

Mayor Hooper called for a vote on the motion. The vote was 4-2, with Council Members Golonka and Hooper voting against the motion.

The next part of this discussion is the memo from Council Member Jarvis.

Council Member Jarvis said her wish is to put the discussion of her memo off so that others in the community would have a chance to react to it.

Council Member Hooper said in the second e-mail exchange from Jeffrey Kantor it says they understand there have been two groups formed, one the nonprofit and also the Senior Center Board.

Assistant City Manager Hill said that is a proposed board that would come between the Council and the Senior Center Advisory Board. It would be a board to look at bigger picture items that Sarah has pointed out in her draft.

Mayor Hooper said they will have that conversation on July 14th

10-158. Council Reports

Council Member Sheridan said he wanted to thank Sarah Jarvis for sitting in for him at the Annual Meeting for the Senior Center. He sat in for Sarah on the Housing Task Force. He hasn't sat in on at one of those meetings for a long time so it was good to be among them. He isn't sure he heard anything he didn't already know about why we aren't getting development in. They were very frank in their discussions. It may be awhile before we see any major development in this city. It looks like we can do infill and that is the best way to start but it doesn't look like anybody wants to do any major projects here.

Council Member Sherman reported that both she and Sarah received a call from a resident on Barre Street who is having issues with neighbors. She talked to Sarah first and Sarah directed her to the Justice Center, and that was exactly the place for them to go.

Council Member Jarvis said it was great to be able to refer her to them because it wasn't really a police matter and it wasn't really a council matter, so it was great to have that resource. She believes the Council needs to vote on the VMERS candidate.

Council Member Golonka updated the Council on the Library endowment. They received all of the money back from the Vermont Community Foundation so the Library has the complete control of the endowment for the first time in ten years. He is extremely pleased that it is no longer outside of their control.

Mayor Hooper asked if someone would like to make a motion to add the VMERS nomination to the agenda. Council Member Jarvis said potentially it isn't a nomination but a vote on the nominated candidate. What was passed around at the beginning of the meeting was information from the Vermont Municipal Employees Retirement System. There are three individuals who have been nominated and we can vote for one person.

Council Member Weiss said because of the delicacy of this matter and the fact we are involved with personality do we need to go into Executive Session to discuss this.

- 10-158(a) Consideration of casting a vote for a candidate for the position of Employer Trustee on the Vermont Municipal Employees Retirement System.

Council Member Jarvis moved that the Council cast their one vote for Thomas Golonka. Council Member Sherman seconded the motion. The vote was 5-0, with Council Member Golonka abstaining.

- 10-159. Mayor's Report

Mayor Hooper reported there is a parade on July 3rd and she hopes everyone will attend.

Assistant City Manager Hill said there will be a packet from Montpelier Alive in the Council packets detailing the days events.

- 10-160. Report by the City Clerk-Treasurer

City Clerk & Treasurer Hoyt had nothing to report this evening.

- 10-161. Status Reports by the City Manager

Assistant City Manager Hill reported that Jane was here to meet the June 24th deadline. She has been commended before, but nobody can say enough for what that girl does. She is a very good employee. We are meeting our deadlines. Tomorrow is the date we have to file our grand list with the State of Vermont. The formal notices will be mailed out, and most should have them by Saturday. Some of the people who went through the informal process may see changes in their values. The process was very helpful. The notices that go out will be signed in time and set in statute about when they can come in and what they have to do to officially grieve it as well as the timeframes for the appointments. It is all set out in statute. Because it is a reappraisal time the deadline for us getting out tax bills by July 15th will not happen because that is when the formal grievance process will be begin. Charlotte, Jane, Steve and Sandy and she have talked and the earliest they will be able to have those in the mail will be the last week of August. Charlotte would like to have them out before the 20th because there is a primary election this year on August 24th. They are hoping that the first due date to help with cash flow can be made October 1st. This does make the first and second payments close together. No matter what we do it will help some and make it harder for others. They hope to have the tax bills out so they can have the first tax payment due October 1st.

10-162. Agenda Reports by the City Manager

Adjournment:

After motion duly made and seconded by Council Members Sheridan and Sherman, the council meeting adjourned at 9:00 P.M. Motion carried unanimously.

Transcribed by: Joan Clack

Attest: _____
Charlotte L. Hoyt, City Clerk

Beverlee Hill

From: William Fraser
Sent: Tuesday, June 22, 2010 10:34 AM
To: Beverlee Hill; Audra Brown
Subject: Fwd: Development Review Board

Begin forwarded message:

From: Daniel Richardson <DRichardson@tgrvt.com>
Date: June 22, 2010 9:51:22 AM EDT
To: William Fraser <WFraser@montpelier-vt.org>, Clancy DeSmet
<CDeSmet@montpelier-vt.org>
Subject: Development Review Board

Dear Bill,

I know this is somewhat early, but please consider this my notification that I am interested in renewing for another 3-year term on the Development Review Board when my current term ends in August.

Thank you.

Dan

Daniel P. Richardson
Tarrant, Gillies, Merriman, & Richardson
44 East State Street
P.O. Box 1440
Montpelier, Vt. 05601-1440
(802) 223-1112 ext. 105
drichardson@tgrvt.com
www.tgrvt.com

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DJR Letterhead

Paul Conner
Director of Planning and Zoning
575 Dorset Street
South Burlington, VT 05403

Re: SolarGMP

Dear Paul:

Thank you for your inquiry about Green Mountain Power's SolarGMP program. I understand that you have a question about GMP's intention to continue this program in future years.

SolarGMP is a current program offered by GMP to our customers as a tariffed service, which means it is approved by our regulators, the Vermont Public Service Board. We are pleased to be able to offer this program and we intend to continue to do so as long as it is consistent with our legal and regulatory obligations. Like all of GMP's tariffs, SolarGMP is subject to review and modification in accordance with the laws and rules that govern our tariffs and services. Any changes to our services, including GMPSolar, must be approved by the Public Service Board.

We have no present plans to change our SolarGMP program. Although this program cannot be guaranteed for any specific period of time, we understand that many of our customers rely on this program to help pay down the cost of their investment in solar equipment. Accordingly, before modifying this program, we would advocate to grandfather the program and current rate for any customer for a period of up to 5 years.

I hope this responds to your concerns. If you have additional questions or require additional information, please feel free to contact me or Don Lorraine at 802-655-8531.

Thank you.

DJR

Cc: MGP, DL, D Martin, S Lucia, P Collins, R Dostis

Donna Collette

From: garthgence@comcast.net
Sent: Friday, July 09, 2010 3:36 PM
To: Donna Collette
Subject: Fw: Grant

Please acknowledge receipt.
Sent from my Verizon Wireless BlackBerry

-----Original Message-----

From: garthgence@comcast.net
Date: Fri, 9 Jul 2010 18:25:57
To: Beverly Pembroke Hill<bhill@montpelier-vt.org>
Reply-To: garthgence@comcast.net
Subject: Grant

Hi Bev

The application will be for a Vermont Community Development Block Grant for 58 Barre St. A combined application for both the housing portion and the MSAC. Public hearing to be held the week of 8/23. Amount to be determined once final insurance settlement made. Estimated total of \$550,000 with the maximum amount allowed for MSAC being \$300,000 Sent from my Verizon Wireless BlackBerry

June 15, 2010

To the members of the Montpelier City Council:

I am writing to ask the Montpelier City Council to place my request on the June 23, 2010 or July 14, 2010 city council agenda for a street closure permit of the westbound lane of State Street between 130 State Street and Governor Davis Avenue, leaving the east bound lane open for emergency vehicles and allowing access to state parking lots for the date of August 15, 2010. I am spearheading an effort called "The Great Vermont Community Picnic." I am planning for sales of tickets for up to 2000 participants and 250 volunteers. Food will be prepared and served by New England Culinary Institute and local restaurants volunteering their energy and resources. This is a family oriented event that is alcohol free. Entertainment will be provided with games and music. The street closure would take place between 2 PM and 10 PM allowing for sufficient time to set up and breakdown the event. The actual picnic would take place from 4 PM to 8 PM.

Because tickets will be sold and then collected at the gate, the Buildings, Grounds and Maintenance Use Agreement for the State Capitol stipulates that money (or in this case, tickets) may not be collected on the grounds and therefore must occur off property. Traditionally this has occurred on the westbound lane of State Street. I have also requested closure of Governor Aiken Ave as a food preparation and sanitation/rest area. The Building and Grounds Committee have approved this request.

The purpose of the picnic is to raise money and awareness around participation within one's community, to revitalize the traditions of small town American around food and local community such as a town picnic, and simply to have a good time while raising money for a local organization like the Vermont Foodbank.

I am hoping that this event will become an annual community and summer food event with local sponsorship, and will spread throughout Vermont and eventually go nation-wide. Currently, New England Culinary Institute, Montpelier Alive, Vermont Fresh Network, American Culinary Federation, Slow Food Vermont, Slow Food NECI and Out for Good, along with numerous food producers plan on participating in this year's event.

I would very much appreciate your consideration in this event and hope that the City Council sees the value of building community events around local food, local families and local service.

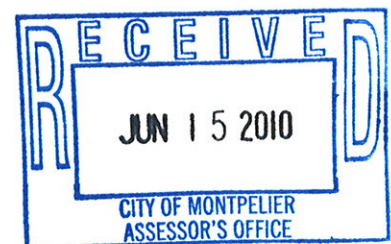
Respectfully,



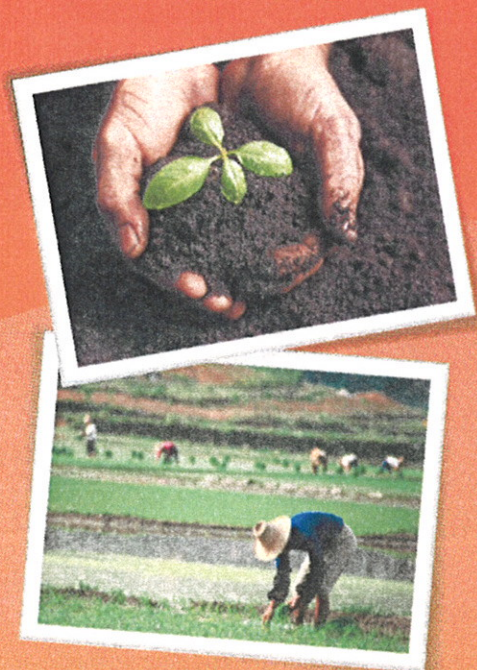
Tom Bivins, ← 363-1919

Executive Chef

New England Culinary Institute



Where you learn it by living it • www.neci.edu



The Great Vermont Community Picnic

is a collaborative community based project whose mission is to promote the mission and financial health of a local organizations focused on food security issues such as a local food bank. The concept is to pull together like -minded organizations such as local restaurants, food producers and farmers to work in conjunction with other organizations such as schools, colleges and universities or non-government organizations and with the assistance of state and local services to pool resources for an event utilizing the talents of all these disparate organizations to meet a common goal.

The Annual Community Picnic once was a common seasonal event in most small rural communities in the United States. Its purpose was to promote community cohesion, boost local businesses civic involvement, to celebrate the bounty of the summer or fall season, and to bring together all members of the community regardless of perceived or socially arbitrary differences. The Annual Community Picnic was a way to celebrate common interests and goals, and build a sense of connectedness for future generations. It was not uncommon for folks who might have left the community to return for the annual picnic. The event was centered around local food, games, shared history, and music.

As more people become disconnected from their community and neighbors, it becomes more important to remind them of the value of these common interests and goals. That is the mission of The Great Vermont Community Picnic.

Sharing

When: August 15, 2010 from
4:30- 9 PM

Where: Statehouse Lawn,
Montpelier, VT

Current Participants

New England Culinary Institute
Vermont Fresh Network
Vermont Food Bank
Misty Knoll Chicken
Montpelier Downtown Business Association
Edible Green Mountains
WCAX Television
Out for Good

Community

Local Food

Neighbors helping neighbors

Food Security

What is food security? For thousands of Vermonters, getting adequate or nutritious food is a daily struggle. While there are some safety government nets available, not all families are adequately accommodated in for. Everyone agrees that feeding our families healthy, safe and adequately supplied foods creates a stronger, smarter and healthier community. Food security for everyone including those who are not in a daily struggle for food resources is also dependent upon local food production resources, agricultural land use, water resources, energy supply, plant and seed diversity, and soil care. As consumers we need to be

concern
ed with



New Friends

Thanks to community organizations such as Vermont Food Bank and local town food shelves, many Vermonters find help, assistance and training to avoid or mitigate their food security issues. But the year-round struggle to stock shelves and assist those in need is a costly undertaking. The Vermont Foodbank is fortunate to have friends who can assist in making their mission a reality, but there is always more help needed as neighbors struggle to keep food on the table. The funding supplied from The Great Vermont Community Picnic will support the Vermont Foodbank in its endeavors to end hunger in our communities across the state.

The Great Vermont Community Picnic is being built as a template that will be available to each community in the entire state to create their own community based celebration to support local food needs. Hopefully, The Great Vermont Community Picnic will one day become The Great American Community Picnic and non-profit food organizations across the country will be the recipients

Community Activism

where our food is produced, how it is produced, and how we safeguard future food resources.

Local Culture

Local Flavor



How will it work?

companies who are already committed to local service work.

How You Can Participate

If you are interested in partnering as a volunteer or having your service organization volunteers participate, donating vital services or providing sponsorship of this event, contact Tom Bivins at tom.bivins@necf.edu or at 802-431-0555 or 802-225-3636.



Building community

Though the combined commitments of volunteer workers, volunteering resources, donations of products and services, partnerships, and sponsorship dollars the picnic will take place. The collected revenue will be given to the Vermont Foodbank general operating fund on behalf of the sponsors, donors, partners and picnic participants. Tickets will be sold prior to the event for a reasonable donation price of \$15 per individual or \$55 for family passes up to 4 individuals. Total ticket sold will number 2000 with 500 volunteer, sponsor and donor passes handed out for a total of 2500 people on the statehouse lawn.

Every attempt will be made to find sponsors and partners to donate product or services to the community picnic. Necessary services include event tenting, hygiene stations, water stations, composting sites, refuse collection sites, cooking equipment and cold storage equipment, marketing and public relations, publicity coverage, ticket sales management, public management, musical entertainment, public address system, signage and partner/sponsor represented by local companies already providing these services or in conjunction with currently planned events on the Vermont Statehouse Lawn. The goal is to utilize local

Beverlee Hill

From: gwenhs@gmail.com on behalf of Gwendolyn Hallsmith [ghallsmith@montpelier-vt.org]
Sent: Thursday, July 08, 2010 3:44 PM
To: Beverlee Hill; William Fraser; Donna Collette
Subject: Supporting Materials for HUD/DOT Grant
Attachments: HUD - DOT Grant Opportunity.doc

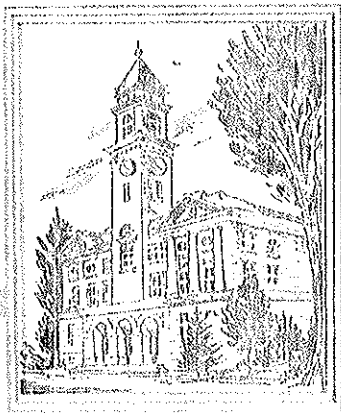
Here is what I could cobble together for the City Council agenda materials. Hope it's OK. A bit longer than a page, but it's better than 20.

Cheers, Gwen.

--

Gwendolyn Hallsmith, Director
Department of Planning and Community Development
City Hall
39 Main Street
Montpelier, VT 05602
ghallsmith@montpelier-vt.org
802-223-9506

7/9/2010



CITY HALL

CITY of MONTPELIER

Vermont

THE CAPITAL CITY OF THE STATE OF VERMONT

MEMO

TO: City Council
FROM: Gwendolyn Hallsmith
RE: HUD/DOT Grant Opportunity
DATE: July 8, 2010

We have been made aware of a new grant opportunity from the federal government that could be used to address some of the serious problems we have in the Barre & Main Street section of downtown. The maximum grant request is \$3 million, and the good news is that "not less than \$140 million of the project funds is to be used for projects in rural areas" and the 20% match requirement doesn't apply to rural projects. The definition of a rural area, as far as I can tell, is a place of 50,000 or more.

As with all these federal grants, the deadline is looming. Preliminary applications are due by July 21st, with a final application due by August 23rd. It will take a team all the time we can muster to get it done, but I think it's worth a try. There are people at the State of Vermont who are willing to help with the application; I'm meeting with them on July 15th if we have the go ahead from you to apply.

Here are the activities allowed by the grants:

1. Eligible Activities. In order to explain the variety of activities eligible for funding under this joint notice, the activities are described in three groupings:
 - a. TIGER II Planning Grants: Activities related to the planning, preparation, or design of surface transportation projects, including, but not limited to:
 - (1) Highway or bridge projects eligible under Title 23, United States Code;
 - (2) Public transportation projects eligible under Chapter 53 of Title 49, United States Code;
 - (3) Passenger and freight rail transportation projects; and
 - (4) Port infrastructure investments.
 - b. Community Challenge Planning Grants: Activities related to the following:
 - (1) Development of master plans or comprehensive plans that promote affordable housing co-located and/or well-connected with retail and business development and discourage development not aligned with sustainable transportation plans or disaster mitigation analyses;

- (2) Development and implementation of local, corridor or district plans and strategies that promote livability and sustainability (see the Livability Principles in Section V);
- (3) Revisions to zoning codes, ordinances, building standards, or other laws to remove barriers and promote sustainable and mixed-use development and to overcome the effects of impediments to fair housing choice in local zoning codes and other land use laws, including form-based codes and inclusionary zoning ordinances to promote accessible, permanently affordable housing that reduces racial and poverty housing concentration and expands fair housing choice for low-income minorities;
- (4) Revisions to building codes to promote the energy-efficient rehabilitation of older structures in order to create affordable and healthy housing;
- (5) Strategies for creating or preserving affordable housing for low-, very low-, and extremely low-income families or individuals in mixed-income, mixed-use neighborhoods along an existing or planned transit corridor;
- (6) Strategies to bring additional affordable housing to areas that have few affordable housing opportunities and are close to suburban job clusters; and
- (7) Planning, establishing, and maintaining acquisition funds and/or land banks for development, redevelopment, and revitalization that reserve property for the development of affordable housing within the context of sustainable development

c. Combination of TIGER II Planning Grant and Community Challenge Planning Grant activities. There are a variety of projects that may include eligible activities under both the TIGER II Planning Grants and the Community Challenge Planning Grants programs. Rather than have applicants proceed through two separate grant application procedures, this joint NOFA is intended to create one point of entry to Federal resources to support related components of a single project. To illustrate the possible combination of activities, please consider the following examples:

- (1) Planning activities related to the development of a particular transportation corridor or regional transportation system that promotes mixed-use, transit-oriented development with an affordable housing component.
- (2) Planning activities related to the development of a freight corridor that seeks to reduce conflicts with residential areas and with passenger and non motorized traffic. In this type of project, DOT might fund the transportation planning activities along the corridor, and HUD may fund changes in the zoning code to support appropriate siting of freight facilities and route the freight traffic around town centers, residential areas, and schools.
- (3) Developing expanded public transportation options, including accessible public transportation and para-transit services for individuals with disabilities, to allow individuals to live in diverse, high opportunity neighborhoods and communities and to commute to areas with greater employment and educational opportunities.

14 Loomis Street
Montpelier, Vermont 05602

2 July 2010

Montpelier City Council
39 Main Street
Montpelier, Vermont 05602

Dear Members of the City Council,

Some friends and I would like to apply for a permit to have a block party Saturday, 28 August, from 4 pm until 8 pm. This will be the eighth annual block party for our neighborhood. It is essentially a private party for our family and neighbors; several Loomis Street families are organizing the event.

Since we plan to have a band play at the party, we would like to apply for a noise waiver. The band will start at 4 pm and play until 8 pm.

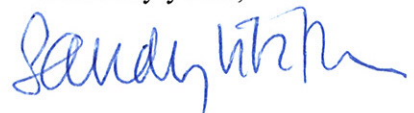
We would also be grateful if we could close the road from Park Avenue to Liberty Street from 4 pm until 8 pm. The signs might say something like "Closed to Through Traffic" so that cars could get to driveways on either side of the party. Front yards are not very big on Loomis Street, so it would be really nice to let the party spill out onto the street.

Because we were rained out in 2007, we would like to schedule a raindate of Sunday, 29 August, from 2 pm to 6 pm at the same location. If this happens, we'd like to be able to close off the road at that time.

I have circulated flyers to all residences that would be affected by this road closure, letting them know of this appearance asking for permission. One of the flyers is attached.

This family-oriented party will be a great neighborhood-building experience. We very much appreciate your support!

Sincerely yours,



Sandy Vitzthum
223-1806

15 June 2010

Dear Neighbor,

*We wanted to let you know ahead of the
invitations...*

EIGHTH ANNUAL BLOCK PARTY

Saturday, 28 August, from 4 pm - 8 pm

14 Loomis Street front lawn

(raindate: Sunday 8/29, 2-6 pm, same place)

*We will be appearing before the City Council
July 14 to ask for permission to close Loomis
Street from Park Avenue to Liberty Street for
the length of the party. We'd like to continue
our tradition of kids' games in the street. Local
traffic will be allowed through.*

Any questions? Call Sandy Vitzthum, 223-1806

S. MARK SCIARROTTA

9 Clarendon Avenue ❖ Montpelier, Vermont 05602 ❖ [802] 282-3812

July 8, 2010

William J. Fraser
Office of the City Manager
Montpelier City Hall
39 Main Street
Montpelier, VT 05602

Re: DRB opening

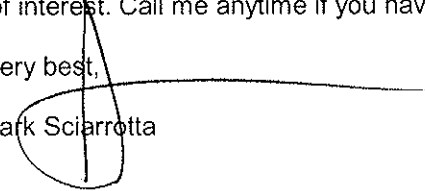
Dear Bill:

Please accept this letter together with the enclosed resume as my letter of interest in filling one regular position on the City's Development Review Board. I have some zoning experience and am familiar with the types of duties and proceedings carried out by the Board. I think I have a reputation for being fair-minded, unbiased, and diligent.

Thank you for considering this letter of interest. Call me anytime if you have questions, etc.

My very best,

S. Mark Sciarrotta



S. MARK SCIARROTTA

9 Clarendon Avenue ❖ Montpelier, Vermont 05602 ❖ [802] 282-3812

EXPERIENCE:

Vermont Electric Power Company
Senior Counsel

Rutland, Vermont
January 2008 - present

- Provide legal support on all key business initiatives and projects for the country's fastest growing bulk electric transmission provider, including: right of way acquisition, condemnation proceedings, construction issues and environmental and tax compliance. Supervise outside litigation counsel, draft and review litigation pleadings, settlement documents, and deeds. Identify legal issues requiring involvement of Chief Legal and other corporate officers. Testify before legislative committees on legislation impacting construction of reliable, efficient electric transmission systems.

Office of the Vermont Attorney General
Assistant Attorney General

Montpelier, Vermont
September 1999 – January 2008

- Lead counsel for the state in all aspects of complex civil and criminal litigation in state and federal courts, including trials, depositions, discovery, and motion practice. Defended state in takings claims, permit appeals, and constitutional challenges. Prosecuted significant environmental crimes and civil violations. Primary practice areas included: state and federal environmental law (particularly water law), health law (lead paint law enforcement), constitutional law, criminal law, torts, and administrative law.
- Successfully briefed and argued numerous appeals before the Vermont Supreme Court and Second Circuit Court of Appeals. Co-authored an *amicus* brief on behalf of eleven states in the United States Supreme Court case of *Kelo v. City of New London*, 545 U.S. 469 (2005).
- Helped initiate Vermont's "Get the Lead Out" Task Force; chaired Lead in Housing Committee; authored the committee's report, which served as a foundation for a bill to revise Vermont's childhood lead poisoning prevention laws; drafted legislation; appointed to inter-agency enforcement team to formulate a comprehensive plan for enforcement of Vermont's lead laws public health bills.
- Counseled state environmental and health agencies and officials on jurisdictional issues, drafting of regulations, and open government matters. Testified before legislative committees on constitutional, environmental and health issues.
- Sample of reported cases: *In re Stormwater NPDES Petition*, 910 A.2d 824, 2006 VT 91 (obtained reversal of Water Resources Board decision limiting ANR's authority under the Clean Water Act); *Beyers v. Vermont Water Resources Bd.*, 910 A.2d 810, 2006 VT 65 (successfully defended Water Resources Board rule banning waterskiing at the Chittenden Reservoir); *In re Clyde River Hydroelectric Project*, 895 A.2d 736, 2006 VT 11 (defended ANR-imposed flow requirements in bypass reach of hydroelectric project); and *Department of Forests, Parks and Recreation v. Town of Ludlow Zoning Bd.*, 177 Vt. 623, 869 A.2d 603 (2004) (obtained reversal of six-figure "takings" judgment and established new law on statute of limitations applicable to takings claims).

Honorable Ben W. Joseph
Law Clerk

Hyde Park, Vermont
Aug. 1998 - Aug. 1999

- Assisted judge by researching and composing opinions, orders, jury instructions, and bench memoranda in civil, criminal, and family court trials and hearings.

Martin Clearwater and Bell

New York, New York

Associate

Dec. 1996-Aug. 1998

- Represented and advised doctors, hospitals and medical professionals in all pretrial aspects of malpractice litigation including discovery, depositions, motion practice and hearings/conferences. Examined and analyzed medical records for medical and legal significance.
- Trained and managed new associates in the firm's answer/pre-answer motion department.

St. Paul Fire and Marine Insurance Company

Fairfax, Virginia

Claims Representative

Jan. 1992 - Sept. 1993

- Investigated personal injury, medical malpractice and property damage claims. Assessed coverage and liability exposure. Settled cases and engaged in alternative dispute resolution. *Service Excellence Award*, June 1993.

EDUCATION:

Vermont Law School, South Royalton, Vermont, J.D., May 1996

Rider University, Lawrenceville, New Jersey, B.S., Business Administration, February, 1992

- *magna cum laude*, graduated 11th in class

PROFESSIONAL ASSOCIATIONS and ACTIVITIES:

President, Vermont Alumni Association, 2007-present

Vice-Chair, Government Practice Division, Vermont Bar Association, 2007-present

Chair of Young Lawyers Division, Vermont Bar Association, 2005-2006

Board of Bar Managers, Vermont Bar Association 2004-2007

Guest lecturer, Middlebury College, Environmental Law (topic: *Penn-Central and takings jurisprudence*), 2004

Guest lecturer, Vermont Community College, Political Science *Judicial Branch and litigation fundamentals*) 2002-2006

ADMITTED:

State of Vermont, United States District Court, District of Vermont

State of New York, United States District Courts, Southern and Eastern Districts of New York

Second Circuit Court of Appeals

INTERESTS: Flyfishing, ice hockey, motorcycling and old home restoration.

Beverlee Hill

From: Yvonne Byrd
Sent: Wednesday, June 30, 2010 5:46 PM
To: Beverlee Hill
Subject: FW: Offender Reentry and Keeping People from Entering the Adult Criminal Justice System RFP
Attachments: 650K Proposal Draft.doc

Bev,
The RFP for the grant that we will be applying for is attached. You can circulate this to the Council in advance of the meeting on the 14th. Here is a blurb you can use to describe why we are there:

The MCJC is seeking approval to submit a grant for expanding its Restorative Reentry Program in response to this RFP. While the proposal has not yet been drafted, the Directors of the MCJC and GBCJC have met with the Joanne Pereira and Tom Dunn of Probation and Parole, the Montpelier and Barre Chiefs of Police, and State's Attorney Tom Kelly to determine their priorities regarding who to serve. The consensus was to develop a program for offenders reentering the community from prison that would be less intensive than the current Circles of Support and Accountability (COSAs) and more intensive than the Reparative Probation Program that would help people become productive citizens, cease causing harm, and work their way back into the good graces of the community. The DOC, Police, and State's Attorney also feel it is important to serve people throughout the county and use the results to develop support for the CJs from other communities.

Thanks,
Yvonne

From: Johnson, Hans [mailto:Hans.Johnson@ahs.state.vt.us]
Sent: Tuesday, June 22, 2010 11:53 AM
To: Claudia Schlieman; Larry Hames; Karen Vastine; Deb Hamel; Lori Baker; Carol Plante; Martha McLafferty; Yvonne Byrd; Jesse Tatum; Randolph Restorative Justice Program; runcjclw@comcast.net; Springfield Justice Center; Marc Wennberg; Dinah Yessne; susan deacon; S. Blanton; Adine Panitch; Janelle Gilbert; ruthskiff@yahoo.com; mlarkin@sbschools.net; Lynda Day Martin; lindseyt@sover.net; Christopher Bataille
Cc: Johnson, Hans
Subject: Offender Reentry and Keeping People from Entering the Adult Criminal Justice System RFP

Hi Everyone,

The \$650K new appropriation RFP has been posted on the State's Electronic Bulletin Board and also on the Department of Corrections Public website. I've also attached a copy.

Proposals are due by 1:30 PM ET on Friday July 23rd.

Hans

NEWSPAPER & BULLETIN BOARD ADVERTISEMENT

**Department of Corrections
Offender Reentry
&
Keeping People from Entering the Adult Criminal Justice System**



The Vermont Department of Corrections is soliciting proposals to provide a continuum of services which aim to prevent people from entering the criminal justice system and to help offenders reentering the community after a period of incarceration.

For submission format and guidelines contact Hans Johnson (802) 786-5034,
Department of Corrections, 92 State Street, Rutland, VT 05702

STATE OF VERMONT
AGENCY OF HUMAN SERVICES
DEPARTMENT OF CORRECTIONS

103 South Main Street
Waterbury, VT 05671-1001

OFFENDER REENTRY
and
KEEPING PEOPLE FROM
ENTERING THE ADULT
CRIMINAL JUSTICE SYSTEM

Request for Proposals (RFP)

July 2010

Table of Contents

- 1. Overview**
 - 1.1 Background**
 - 1.2 Objectives of the RFP**
- 2. Procurement Overview**
 - 2.1 General Information**
 - 2.2 Point of Contact**
 - 2.3 Submission Deadline and Address**
 - 2.4 Request for Proposal Amendments**
 - 2.5 Appeal of Decision**
- 3. Proposal Submission Requirements**
 - 3.1 General**
 - 3.2 Proposal Format**
 - 3.3 Proposal Contents**
- 4. Evaluation Criteria**
- 5. Proposal Process**
 - 5.1 Acceptance of Proposals**
 - 5.2 Proposal Amendment and Rules for Withdrawal**
 - 5.3 Cost of Preparing Proposals**
 - 5.4 Disposition of Proposals**
 - 5.5 Freedom of Information and Privacy Act**
 - 5.6 Vermont Tax ID Number**
 - 5.7 Use of Subgrantees**
 - 5.8 Bid and Performance Bond Requirements**

1. Overview

The Vermont Department of Corrections (DOC) is seeking proposals to provide for a continuum of services which aim to prevent people from entering the criminal justice system and to help offenders reentering the community after a period of incarceration. It is the intent of the general assembly that these funds shall be for community justice centers in counties where they are established, and for similar restorative justice programs in counties which do not have a community justice center. The Department has an appropriation of \$650,000.00 to fund proposed initiatives.

Grants may be awarded to municipally based community justice centers and other organizations. To the degree possible, grantees should seek the support and buy-in of host communities. Priority will be given to projects located in communities that have a high percentage per capita of people under DOC supervision or custody. In addition to programs and services which focus on preventing people from entering the criminal justice system, DOC is requesting project proposals which facilitate the successful transition of adult offenders from incarceration to community supervision.

1.1 Background

In the 2010 legislative session, three key pieces of legislation impacted the Department of Corrections. They are S286, S292 and H792, all of which focus on reducing the unsustainable Corrections budget and the need to develop programs and services which will achieve long term reductions in offender recidivism and savings. The Vermont Department of Corrections recognizes the need to develop community partnerships in order that men and women leaving its facilities successfully transition back to the community. In addition, the DOC recognizes the need for programs and partnerships which prevent people from needing state level services.

1.2 Objectives of the RFP

Through direct grants or through sub-granting, the Department will fund supportive services and programs which deflect individuals from the corrections system or address the needs of eligible offenders who are released from correctional facilities. Programs and services may include: community release plan development facilitation, community resources and services access navigation; referral services; vocational and employment skill development and assistance; job placement; transportation; mentoring; education; training; recreation; supervision; case management; circles of support and accountability, housing support; pre- and post-adjudication diversion services; basic life skills; restorative conflict resolution services such as conferencing; and, other services including gender-responsive services. The proposed programs and services may involve partnering with existing community-based organizations providing supportive services. Partnerships among local agencies are highly encouraged in order to promote efficiency, to avoid duplication of services, to benefit from experience and expertise and to enhance sustainability.

The Department of Corrections will give priority to programs and services which address the special needs of youthful offenders and those with health, developmental disabilities, substance abuse, a history of violence and sex offenders.

To the degree possible, all proposals should be evidence based.

Inmates being released from prison and keeping individuals out of the corrections system are the priority target population. However, the Department will consider funding projects that serve certain populations in the community who are at risk of being returned to incarceration.

Grantees will be expected to work closely with the Vermont Department of Corrections and its service delivery system in order to integrate services and programs with the Department's offender programming and supervision authority.

Grantees are strongly encouraged to involve local government and law enforcement in the program or service proposal as appropriate, as well as forming partnerships with other local agencies and associated initiatives.

Grantees will be expected to report monthly on activities and progress toward reaching the project goals. A final report will be due within 90 days upon the grant's expiration.

2. Procurement Overview

2.1 General Information

The Department intends to award grants for the fiscal year 2011. Standard conditions by which the grant will be governed are detailed in Appendix 1.

2.2 Point of Contact

Questions concerning this Request for Proposals must be directed in writing by mail, e-mail or fax to:

Hans Johnson, Regional Director
Community and Restorative Justice
Department of Corrections
92 State Street
Rutland, VT 05702
Fax #: 802-786-5145
Hans.Johnson@ahs.state.vt.us

2.3 Submission Deadline and Address

To be considered a valid proposal, one original and 6 duplicates must be received at the following address no later than **1:30 PM ET on Friday July 23, 2010. Faxes and late responses will not be accepted.**

Hans Johnson, Regional Director
Community and Restorative Justice
Department of Corrections
92 State Street
Rutland, VT 05702

Also, it is required to send a copy as an e-mail attachment to:

Hans.Johnson@ahs.state.vt.us

The Department reserves the right to reject, in whole or in part, any and all proposals received by reason of this Request for Proposals. The Department will not pay for any information herein requested nor will the Department be responsible for any costs incurred by the proposer. All proposals shall become the property of the Department upon submission. The Department reserves the right to negotiate final price and terms during the grant negotiation phase. Any proprietary information offered by proposer should be clearly indicated and the basis, upon which such proprietary interest is asserted.

2.4 Request for Proposal Amendments

The State reserves the right to amend the RFP at any time prior to the proposal due date by issuing written addenda. All written addenda to the RFP will become part of the grant.

2.5 Appeal of Decision

Proposers who are dissatisfied with the outcome of the decision may appeal to:

Andrew Pallito, Commissioner
Department of Corrections
103 South Main Street
Waterbury, VT 05671-1001

3. Proposal Submission Requirements

3.1 General

The proposer and all subgrantees, if any, must furnish evidence of experience in providing these services. Preference will be given to proposers with relevant experience.

In addition, priority will be given to communities with a high per capita percentage of offenders under DOC supervision or custody. It is the intent of the general assembly that these funds shall be for community justice centers in counties where they are established, and for similar restorative justice programs in counties which do not have a community justice center.

3.2 Proposal Format

3.2.1

These instructions, formats and approaches for the development and presentation of proposal information are designed to ensure the submission of data essential to the understanding and comprehensive evaluation of the vendor's proposal. There is no intent to limit the content of the proposals or in any way inhibit a presentation in other than the vendor's favor. The vendor may include such additional information or data as may be appropriate, but may not exclude any portion requested in this document.

3.2.2

Proposals should be submitted on double-sided (8 ½" x 11") paper without permanent binding; loose-leaf binding is permissible. Any attachments or exhibits must be reduced to letter size. Ink and paper colors must not prevent entire proposal from being photocopied.

3.2.3

Proposers must submit an original and 6 copies of the proposal. The original should be clearly marked on the outside cover as such.

3.3 Proposal Contents

Applicants are required to work with their local DOC Probation and Parole District Manager or designee in preparing this proposal. Describe how this was done. Proposals will include a full description of the components of the program or service and must include:

- 1) Population profile served;
- 2) Offender eligibility and acceptance criteria; exclusionary criteria;
- 3) Description of services and resources and how they will be delivered;
- 4) The number of offenders served;
- 5) Community partnerships that will enhance the program or service; the degree of community support and commitment;
- 6) Information sharing process between the proposer, community-based partners and the Department;
- 7) Identification and description of important stakeholders and how they will be informed and/or involved;

- 8) Description of other potential resources for program enhancement;
- 9) Identification of start-up requirements;
- 10) Additional sources of support, both cash and in kind;
- 11) Total program line item budget, including per capita costs and cost benefits/cost avoidance impact;
- 12) Description of the agency's experience with adult and youthful offenders and/or methodologies used to achieve programs or services goals;
- 13) Identify measurable project outcomes and the timeline for their accomplishment.

Every page of the proposal must be numbered sequentially, including attachments and appendices.

3.3.1 Transmittal Letter

A transmittal letter must accompany the proposal. The letter must be in the form of a standard, business letter signed in blue ink by an individual authorized to legally enter into a contract on behalf of the proposer. The transmittal letter must include a statement indicating that the vendor is a corporation or legal entity. The transmittal letter must identify individuals involved in the preparation of the proposal. The transmittal letter must contain a statement identifying any subgrantee that will be used in their project. If a subgrantee is used, a transmittal letter must be signed by them indicating the scope of their work to be performed and their qualification. The transmittal letter must contain a statement acknowledging the Customary State Grant provisions described in Appendix 1 Attachment C. The transmittal letter must state the proposer has read, understands and is able to comply with all standards and participation requirements described in the RFP. It must include a statement of acceptance, without qualification, of all terms and conditions outlined in this RFP. Any suggestions for alternate language, which the Department is under no obligation to accept, must be clearly stated.

The transmittal letter must state the proposer has sole and complete responsibility for the completion of all services provided under the grant, including any and all subgrantees, except for those items specifically defined by as Department responsibilities. The transmittal letter must contain a statement in which the proposer certifies that, in connection with this grant, the proposal was developed independently, without collusion, conflict of interest, consultation, communications, or agreement for the purpose of restricting competition, as to any matter relating to the proposal of any other proposer or competitor. In addition, the proposer must state the prices quoted have not been knowingly disclosed by the proposer prior to award, either directly or indirectly, to any other proposer or competitor. The transmittal letter must contain a statement attesting to the accuracy and truthfulness of all information contained in the proposal. The transmittal letter must also contain information regarding any state statutes or other applicable provision of law that may at any level impact the requirements of services to be performed pursuant to this agreement.

The transmittal letter must contain a statement of Affirmative Action that the proposer does not discriminate in its employment practices with regard to race, color, religion, age (except as provided by law), sex, sexual orientation, marital status, political affiliation, national origin, or handicap and complies with all applicable provisions of Public Law 101-336, American Disabilities Act.

3.3.2 Executive Summary

The Executive Summary should provide an overview of the proposing organization and a general description of the approach to meet the requirements of the RFP. It should also identify the proposer's primary contact, their address, telephone number and fax number. (The Executive Summary is generally no longer than two single-spaced pages.) It must briefly state the proposer's understanding of the project objective, and the role and responsibility of the proposer in meeting the objectives. Subgrantees must provide an Executive Summary as well.

3.3.3 Corporate Background and Experience

Provide a synopsis of the organization, years in operation, experience with the service proposed, special areas of expertise, etc. Subgrantees must provide the same information.

3.3.4 Financial Stability

In addition to the bonding and insurance requirements that will be required of successful candidates, the proposal must demonstrate that the proposer is currently financially stable and the future financial conditions are not likely to jeopardize the proposer's ability to provide service to the Department. This may be in the form of Audited Annual Financial Statements. If not available, documents showing comparable information are acceptable, which may include the most recent federal/state tax return. Subgrantees must also provide evidence of financial stability.

4. Evaluation Criteria

A grant award will be made to the proposers whose proposals are determined to be the most advantageous to the State, taking into account price and other evaluation criteria as set forth in this RFP. Staff of other agencies and consultants may be involved in the evaluation of the proposals. The DOC reserves the right to reject any and all proposals submitted in response to this RFP.

During the evaluation process, proposers may be contacted for the purpose of obtaining clarification of their response. However, no clarification will be sought if a proposer completely fails to address a feature contained in the RFP document. If the failure was in response to a mandatory feature, the proposer may be disqualified.

Proposals will then be evaluated and weighted using the following distribution between experience, technical and price:

Experience	40%
Technical	30%
Cost	30%

The six criteria below are listed in no particular order and will be given significant consideration. Although the criteria below are material factors, they are not the sole, or necessarily, the determining factors in proposal evaluation. The entire proposal package will be examined and the proposals satisfying most of the Department's needs will be awarded the grant.

- 1) Experience in providing adult and youthful pre-charge and pre-adjudication services.
- 2) Experience in providing adult and youthful offender reentry services.
- 3) The quality and completeness of the structured activities, services and programs proposed.
- 4) The number, quality, and type of collaborative alliance with partners involved, which includes but is not limited to volunteers, DOC staff and community providers.
- 5) The documentation of activities and measurement of program and service goals.
- 6) The per capita costs of the services and programs provided.

As part of its evaluation, the State may conduct interviews with one or more proposers. In such an event, proposers may be required to travel to Waterbury, Vermont, at their own expense, to participate in an on-site interview. Conversely, the State may elect to travel to the proposer's headquarters to conduct the interview, as well as tour its facilities.

Upon completion of the evaluation process, the Commissioner of the Department of Corrections may select a proposer(s) with which to negotiate a grant, based on the evaluation findings and other such criteria as deemed relevant for ensuring that the decision is made in the best interest of the State. In the event the State is successful in negotiating with the proposer(s), the State will issue a notice of award. In the event the State is not successful in negotiating a grant with a particular proposer, the State reserves the option of negotiating with another proposer. The State may cancel the procurement and make no award, if that is determined to be in the State's best interest.

5. Proposal Process

5.1 Acceptance of Proposals

5.1.1

Each proposer may submit one (1) proposal. Alternate proposals will not be allowed and will cause the rejections of the alternate proposal and any other proposal submitted by the proposer.

5.1.2

The State will accept all proposals properly submitted. After receipt of proposals, the State reserves the right to sign a grant, without negotiation, based on terms, conditions and premises of the RFP and the proposal of the selected proposer. Proposals must be responsive to all requirements in the RFP in order to be considered for grant award.

5.1.3

The proposal and its conditions must remain valid for two (2) months from the date of proposal submission.

5.1.4

The State reserves the right to waive minor irregularities in proposals, providing such action is in the best interest of the State. Where the State may waive minor irregularities, such waiver shall in no way modify the RFP requirements or excuse the proposer from full compliance with RFP and other contract requirements if the proposer is awarded the grant.

5.1.5

The State also reserves the right to request proposal clarification or correction, reject any or all proposals received, or cancel the procurement, according to the best interest of the State.

5.2 Proposal Amendment and Rules for Withdrawal

5.2.1

Prior to the proposal due date a submitted proposal may be withdrawn by submitting a written request to the point of contact identified in section 2.2 of this RFP. Withdrawal notice must be signed by the proposer's authorized agent.

5.2.2

Proposers are allowed to make amendments to their proposals if the change is submitted by the proposal due date subject to the conditions outlined in section 3. The submission should be clearly labeled as Amendment to Proposal. Unless requested by Vermont DOC, the State will not accept any amendments, revisions, or alterations to proposals after the proposal due date.

5.3 Cost of Preparing Proposals

All costs incurred by the proposers during the preparation of their proposals and for other procurement related activities will be the sole responsibility of the proposers. The State will not reimburse the proposers for any such costs.

5.4 Disposition of Proposals

5.4.1

The successful proposal will be incorporated by reference into the resulting grant and will be a matter of public record. If the proposal includes material that is considered by the proposer proprietary and confidential under Vermont law, the proposer shall clearly designate the material as such, explaining why such material should be considered confidential.

5.4.2

The proposer must identify each page or section of the proposal that they believe is proprietary and confidential, with sufficient grounds to justify each exemption from release, including the prospective harm to the competitive position of the proposer if the identified material were to be released. A general statement that an entire proposal is proprietary is not acceptable.

5.4.3

All material submitted by proposers becomes the property of the State of Vermont, which is under no obligation to return any material submitted by a proposer in response to this RFP. The State shall have the right to use all systems concepts, or adaptations of those ideas, contained in any proposal, and this right will not be affected by selection or rejection of the proposal.

5.5 Freedom of Information and Privacy Act

Proposers should be aware that all materials associated with the procurement are subject to the terms of the Freedom of Information Act, the Privacy Act and all rules, regulations and interpretations of these Acts. By submission of a proposal, the proposer agrees that the Privacy Act of 1974, Public Law 93-579, and the Regulations and General

Instructions issued pursuant thereto, are applicable to this grant, and all subgrantees hereunder.

5.6 Vermont Tax ID Number

A Vermont business account tax number is required if the grantee is a corporation or if the Contractor, under whatever form of business, has employees who are subject to Federal Income tax withholding and who perform their services within the State of Vermont. Grants cannot be executed without a Vermont Tax ID.

5.7 Use of Subgrantees

The prime grantee will be responsible for all the work to be performed under this grant. Proposers must identify proposed subgrantees in their proposals, in the manner described within the proposal submission instructions. NOTE: In the event that a grant is procured, the grantee shall not assign or subgrant the performance of this agreement or any portion thereof to any other grantee without the written approval of the State of Vermont. See Appendix 1, Attachment C, paragraph 13.

5.8 Bid and Performance Bond Requirements

The selected Grantee may be required to provide a performance bond before the effective date of the grant. The performance bond may be in the form of a surety bond from a company qualified to do business in the State of Vermont. More information regarding bond requirements will be provided during grant negotiations.

APPENDIX 1

ATTACHMENT C CUSTOMARY PROVISIONS FOR CONTRACTS AND GRANTS

1. **Entire Agreement.** This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. **Applicable Law.** This Agreement will be governed by the laws of the State of Vermont.
3. **Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.
4. **Appropriations:** If appropriations are insufficient to support this Agreement, the State may cancel on a date agreed to by the parties or upon the expiration or reduction of existing appropriation authority. In the case that this Agreement is funded in whole or in part by federal or other non-State funds, and in the event those funds become unavailable or reduced, the State may suspend or cancel this Agreement immediately, and the State shall have no obligation to fund this Agreement from State revenues.
5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The Party shall notify its insurance company and the State within 10 days of receiving any claim for damages, notice of claims, pre-claims, or service of judgments or claims, for any act or omissions in the performance of this Agreement.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party. The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

7. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverage is in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations
Products and Completed Operations
Personal Injury Liability
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence
\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than:
\$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Professional Liability: Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain

professional liability insurance for any and all services performed under this Agreement, with minimum coverage of \$N/A per occurrence, and \$N/A aggregate.

8. **Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.
9. **Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and if this Subrecipient expends \$500,000 or more in federal assistance during its fiscal year, the Subrecipient is required to have a single audit conducted in accordance with the Single Audit Act, except when it elects to have a program specific audit.

The Subrecipient may elect to have a program specific audit if it expends funds under only one federal program and the federal program's laws, regulating or grant agreements do not require a financial statement audit of the Party.

A Subrecipient is exempt if the Party expends less than \$500,000 in total federal assistance in one year.

The Subrecipient will complete the Certification of Audit Requirement annually within 45 days after its fiscal year end. If a single audit is required, the sub-recipient will submit a copy of the audit report to the primary pass-through Party and any other pass-through Party that requests it within 9 months. If a single audit is not required, the Subrecipient will submit the Schedule of Federal Expenditures within 45 days. These forms will be mailed to the Subrecipient by the Department of Finance and Management near the end of its fiscal year. These forms are also available on the Finance & Management Web page at: <http://finance.vermont.gov/forms>

10. **Records Available for Audit:** The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.
11. **Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of Title 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990 that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.

12. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

13. Taxes Due to the State:

- a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.

Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

14. Child Support: (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:

- a. is not under any obligation to pay child support; or
- b. is under such an obligation and is in good standing with respect to that obligation; or
- c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

15. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of his Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

Notwithstanding the foregoing, the State agrees that the Party may assign this agreement, including all of the Party's rights and obligations hereunder, to any successor in interest to the Party arising out of the sale of or reorganization of the Party.

16. **No Gifts or Gratuities:** Party shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.
17. **Copies:** All written reports prepared under this Agreement will be printed using both sides of the paper.
18. **Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs or programs supported in whole or in part by federal funds.

State of Vermont — Attachment C
Revised AHS - 4-06-09

For assistance or additional information on Appendix 1 (Attachment C), please contact:

Ira Sollace, DOC Management Executive
103 South Main St. Waterbury, VT 05671
Telephone: 802-241-4220

June 24, 2010
City of Montpelier Mayor and City Council Members
C/o William J. Fraser, City Manager
Montpelier City Hall
39 Main Street
Montpelier, Vermont 05602

Re: Permission to close Summer Street

Dear Mayor and City Council Members:

The residents of the "*Meadow*" neighborhood have been coming together each summer for over twenty years to enjoy each other's company and to preserve a sense of neighborhood unity for ourselves and our children. These yearly "block parties" consist of family activities at the Summer Street Park, a slowest bike race, a kids' parade around the neighborhood, a pot luck dinner, and a talent show followed by music and dancing.

In the interest of safety, we are requesting permission from you to block off a portion of Summer Street during our activities on **Saturday, July 31, 2010, from 3:00 P.M. to 10:00 P.M.**, with a rain date of Saturday, August 7. We propose to close off Summer Street from Spring Street to Winter Street using DPW road work barriers.

To comply with the City of Montpelier's noise ordinance we will distribute a "Meadow Noise Notice" to all residents surrounding the party location. We ask the council for a variance to this ordinance for a one-hour period between 9:00 PM and 10:00 PM.

We would provide access to emergency vehicles and residents who wish to enter this area. If you have any questions or concerns, please call Steve Pitonyak at 229-4671 or Julie Smart at 229-6847.

Thank you for your consideration of this request.

Sincerely,



Julie Smart & Steve Pitonyak
Meadow Neighborhood Party Committee

Meadow Noise Notice

Please be advised that the Meadow Neighborhood Committee is planning the Neighborhood Block Party for Saturday, July 31, 2010, from 3:00 PM to 10:00 PM at the Summer Street Park, featuring a slowest bike race, kids' parade, potluck dinner and dancing.

Saturday, August 7th, will be the rain date.

We need to receive a variance to the City of Montpelier's noise ordinance to play music from 9:00 PM until 10:00 PM.

Accordingly, we ask that you take the time to consider whether the music planned for the dance will be objectionable to you and your family after 9:00 PM. The purpose of the noise ordinance is to protect the public tranquility and peace. We make it a point to end the music sharply at 10:00 PM. If you do not wish us to play music in the park after 9:00 PM on July 31st, please notify the City Manager's Office at 223- 9502, Steve Pitonyak (Summer Street) at 229-4671, or Julie Smart (10 Summer Street) at 229-6847.

The Montpelier City Council will likely consider our request to close the street and grant a variance on Tuesday,

July ~~6~~, 2010 at 7:00 PM.

14 JS

For more information, contact Steve Pitonyak at 229-4671 or Julie Smart 229-6847.

Thank you for your time and continued support of our efforts to make the "Meadow" a safe, supportive and fun neighborhood for all of us to live in.

**Request to Cater Malt and
Vinous Beverages &
Spirituos Liquors**

Caterer's Permit Number 1488.005 catrol

APPROVED

DISAPPROVED

Date: _____

Reason: _____

(for department use only)

To: Board of Selectmen/Alderman at catered location and Vermont Liquor Control Board.
From: Licensee name: Vermont Hospitality Management
d/b/a: New England Culinary Institute
Street: 576 College Street Town/City: Montpelier
Contact name and phone number: Erica Kaskel (802) 225-3334
Email or Fax # erica.kaskel@neci.edu

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: Reception
2. Location of catered party (street, town or city; if no address, describe location):
Nobel Lounge / VCFA
3. Date of catered party (not more than five days, unless specifically authorized: 7/17/10
4. Hours of operation: Beginning 8:30pm hrs. Ending 11:30pm hrs. No. of Persons _____

Signed: _____

(caterer)

Date: 7/15/10

We recommend: _____ approval _____ disapproved _____

If you recommend disapproval, please state reason(s): _____

Town/City Clerk's signature
Of CATERED location.

Town/City
Fax Number or email address: _____

Date

SUBMIT AT LEAST 5 DAYS PRIOR TO DATE OF FUNCTION

Submit to Town/City Clerk for recommendation.

Town/City Clerk will email, fax or mail to Vermont Liquor Control Board, 13 Green Mountain Drive, Montpelier, VT 05602 email address: { HYPERLINK "mailto:DLC-Licensing@state.vt.us" } Fax number is 802-828-1031

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.

**Request to Cater Malt and
Vinous Beverages &
Spirituos Liquors**

Caterer's Permit Number 1488.005 catrol

APPROVED

DISAPPROVED

Date: _____

Reason: _____

(for department use only)

To: Board of Selectmen/Alderman at catered location and Vermont Liquor Control Board.
From: Licensee name: Vermont Hospitality Management
d/b/a: New England Culinary Institute
Street: 56 College Street Town/City: Montpelier
Contact name and phone number: Erica Kaskel (802) 225-3334
Email or Fax # erica.kaskel@neci.edu

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: Reception
2. Location of catered party (street, town or city; if no address, describe location): _____
T.W. Wood Art Gallery / VCFA
3. Date of catered party (not more than five days, unless specifically authorized: 7/16/10)
4. Hours of operation: Beginning 4pm hrs. Ending 5pm hrs. No. of Persons 100

Signed: _____

(caterer)

Date: 7/5/10

We recommend: _____ approval _____ disapproved _____

If you recommend disapproval, please state reason(s): _____

Town/City Clerk's signature
Of CATERED location.

Town/City
Fax Number or email address: _____

Date _____

SUBMIT AT LEAST 5 DAYS PRIOR TO DATE OF FUNCTION

Submit to Town/City Clerk for recommendation.

Town/City Clerk will email, fax or mail to Vermont Liquor Control Board, 13 Green Mountain Drive, Montpelier, VT 05602 email address: { [HYPERLINK "mailto:DLC-Licensing@state.vt.us"](mailto:DLC-Licensing@state.vt.us) } Fax number is 802-828-1031

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 - 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.

Beverlee Hill

From: William Fraser
Sent: Thursday, July 08, 2010 3:20 PM
To: L-Council
Cc: Beverlee Hill
Subject: FW: Berlin Pond Ordinances
FYI

From: jpglaw@comcast.net [mailto:jpglaw@comcast.net]
Sent: Thursday, July 08, 2010 3:18 PM
To: William Fraser
Subject: Berlin Pond Ordinances

I took another look at Sec. 7-600 of the proposed ordinance. I have no problem with deleting the present text and substituting the following: "Reference is made to the Source Protection Plan (WSID #5272) prepared by Dufresne & Associates, dated February 23, 2001, and approved by the Vermont Department of Environmental Conservation." This gets us the benefits of the findings without having to deal with incorporating by reference an extraneous document. This change also leads naturally to Sec. 7-601.

Regarding adoption the ordinance, the following procedure takes into account that action is will be taken by the City Council and the Local Board of Health:

- (1) After the Council is called to order, a motion is made to re-conven as the Local Board of Health. Be sure that the Health Officer is present because he is a voting member of the Local Board of Health.
- (2) The Local Board of Health takes up the draft "Ordinance Relating to the Protection of Berlin Pond". A motion is made to accept its findings and to enact the ordinance as a health order. Once the motion carries, a motion is made to re-convene as the City Council.
- (3) The Council takes up for second reading the draft Ordinance. Amendments are made and considered, leading to a motion to approve the Ordinance as amended.
- (4) Before moving on to the next agenda item, I think it would be a good idea for the record to reflect that the Clerk will distribute copies of the ordinance in accordance with Sec. 7-612 after its effective date.

When you get a chance, can you send me what you have for proposed amendments. I saw the one dealing with "human activity", and the suggested change is fine.

Adoption of the trespass ordinance is much simpler. Second reading and consideration of amendments, followed by a motion to approve.

J. Paul Giuliani
McKee Giuliani & Cleveland, PC
94 Main Street
P. O. Box 1455
Montpelier, VT 05601-1455
802-223-3479
802-223-0247(f)

7/9/2010

**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: June 21, 2010
SUBJECT: Highway Pavement Markings Contract Award

On June 18, 2010, we opened bids for Centerline and Sideline Pavement Markings for City streets. Bids were received from three vendors. After reviewing the bids submitted, we recommend that the bid from Hi-Way Safety Systems, Inc. of Rockland, MA, in the amount of \$6,127.21 be accepted. \$10,000 is included in the FY11 budget for this purpose.

Attached is a tabulation of the bids. I request that you seek Council authorization on the next available Consent Agenda to sign the contract with Hi-Way Safety Systems, Inc., suggested wording as follows:

To accept the bid submitted by Hi-Way Safety Systems, Inc., for Highway Pavement Markings on City streets, and authorize the City Manager to sign all contracts and other documents.

If you would like to review any of the quotes received, please feel free to request the file from our office.

attachment

c: Michael Garand, Streets Supervisor

CITY OF MONTPELIER, Vermont
Department of Public Works

Highway Pavement Markings
July 1, 2010-June 30, 2011

Bid Opening: June 18, 2010

Appropriation #105100.56.05
Budget: \$10,000

Item Description	Hi-Way Safety Systems Rockland, MA		Markings, Inc. Pembroke, MA		Poirier Guidelines Athol, MA	
	Unit Price	Annual Price	Unit Price	Annual Price	Unit Price	Annual Price
1 4" Double Yellow Center Line (est. 30,000 Linear Feet)	\$0.074	\$2,220.00	\$0.09	\$2,670.00	\$0.10	\$3,000.00
2 4" White Edge Line (est. 95,000 LF)	\$0.037	\$3,515.00	\$0.05	\$4,750.00	\$0.06	\$5,700.00
3 4" White Lane Divide (est. 3,275 LF)	\$0.037	\$121.18	\$0.06	\$196.50	\$0.06	\$196.50
4 4" White Skip/Dashed Lane Divide (est. 7,325 LF)	\$0.037	\$271.03	\$0.06	\$439.50	\$0.06	\$439.50
TOTAL CONTRACT BID AMOUNT		\$6,127.20		\$8,056.00		\$9,336.00

AllSun Tracker Power Purchase Agreement (PPA) Analysis for

Sandy's Assumptions: 4% increase in GMP rates
and \$.20 cap on savings with \$.04 incentive

Town of Montpelier

AllSun Tracker Info:

Model	6000 Watt				Avg \$ / kWh	\$ 0.1305	
Price	\$ 44,640	Per Tracker					
kWh /yr	8,120	Per Tracker	Estimated annual GMP rate increase			4%	
Power Rate during first 5 years	\$ 0.19	/kWh					
Estimated Fair Market Value, end of year 5	30%	(= sale price to City per depreciated Tracker of \$13392)					
Utility Solar Incentive	\$ 0.06	/kWh					
	Qty	10					
	At install	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6+
Upfront Cost	(\$1,000)						
Equipment Purchase						(\$132,920)	
PPA Payment		(\$15,428)	(\$15,428)	(\$15,428)	(\$15,428)	(\$15,428)	
kWh produced / year		81,200	81,200	81,200	81,200	81,200	81,200
Savings on Electric Bill		\$10,597	\$11,020	\$11,461	\$11,920	\$12,397	\$12,892
GMP incentive (\$0.06/kWh)		\$4,872	\$4,872	\$4,872	\$4,872	\$4,872	\$4,872
Annual Cash Flow	(\$1,000)	\$41	\$464	\$905	\$1,364	(\$131,079)	\$17,764
Payback	(1,000)	(959)	(495)	410	1,774	(129,305)	(111,541)
Years	1	1	1	1	1	1	1
Cost of power over 25 years	\$0.016	/kWh					
Annual Rate of Return over 25 years	14.0%						

	Total Costs over 25 years	\$/kWh
PPA Payments & Tracker Purchase	\$211,060	\$0.10
Utility Solar Benefit	-\$61,140	-\$0.06
Avoided Cost (Savings on Utility bill)	-\$441,305	-\$0.22
Savings over 25 years	(\$291,385)	(\$0.17)

Beverlee Hill

From: William Fraser
Sent: Monday, June 28, 2010 1:03 PM
To: Beverlee Hill
Subject: Fwd: DRB vacancy
Attachments: Sabina Haskell Resume.doc; ATT10096.htm

Begin forwarded message:

From: Sabina Haskell <sabinahl@gmail.com>
Date: June 25, 2010 3:01:07 PM EDT
To: wfraser@montpelier-vt.org
Subject: DRB vacancy

June 23, 2010

Mr. Bill Fraser

Montpelier City Manager

via e-mail

Dear Bill,

I am writing to express my interest in the Development Review Board vacancy.

You may remember me from our several meetings when I was deputy secretary at the Agency of Natural Resources. I've since moved on to FairPoint Communications where I am the PR manager for Vermont.

I also have served on local boards in Vermont. I was the chairwoman of the Sunderland School Board back in the 1990s. I have a keen interest in the workings of local government, both as a participant and as a long-time reporter with three of Vermont's daily newspapers.

I have attached my resume and hope I will be considered for the position. I will attend the City Council meeting on July 14.

Many thanks.

Sabina Haskell

sabinahl@gmail.com

*802-379-1989
Phone # for Sabina*



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

TO: City Council Members
William J. Fraser, City Manager

FROM: Sandy Gallup, Finance Director

DATE: July 9, 2010

SUBJECT: Analysis on AllSun Tracker Power Purchase Agreement

I have reviewed the Montpelier's Energy Term information on the AllSun Tracker Power Purchase for 10 solar trackers to be located at the proposed Water Treatment Plant Site.

First Five Years:

Confirmation of Incentive Revenue:

Based on my conversations with Don Lorraine I believe that Green Mountain Power plans to continue to offer the \$.06 Solar Incentive program but cannot guarantee this payment. (see enclosed GMP Letter to Paul Conner of S. Burlington) It is possible that the incentive will be adjusted but if GMP initiates a \$.24 cap on the total value from a solar kWh, the City will be credited enough for the power generated (revenue) to cover the annual PPA Payment (expenditure). (see enclosed Sandy's Analysis Worksheet)

I adjusted the 5% annual GMP increase down to 4% based on my conversations with GMP.

For the first five years the City "breaks even" on the solar panels project.

At the end of five years there are three options:

(See Power Purchase Agreement)

- 1) Purchase the solar panels for \$132,920. With the cost of financing, insurance and maintenance (all which are not known at this time) the payback on the panels is estimated to be in Year 14.
- 2) Renew the Power Purchase Agreement at a revised rate of GMP's new residential rate plus \$.04.
- 3) Have the solar trackers removed at the cost of \$3000 each.

Summary:

In the first five years revenue and expenditures projections are solid and should be a break even financial situation. At the end of five years there are more unknowns – GMP rates, GMP incentives, maintenance costs, financing costs, insurance costs, and actual solar kWh production.

Note: The timing on this request to participate in the State's Business Solar Tax Credit may pose a problem. The deadline of July 11 for the Certificate of Public Good was missed so the City's application is late. I believe there is substantial competition for these solar tax credits and the applications may be processed on a first come, first serve basis. We may not be awarded this tax credit if we vote to go ahead with the program.

am attaching the the City of Montpelier June 30, 2009 Fund Balance Worksheet. It is organized by Funds, with details on the specific reserves, restricted or designated funds. Some of the restricted funds are required by accounting practices, some from donations for specific purposes. Many are accounts established by city management and the city council to carry forward funds to be used in future years.

This information is almost a year old. Many of the actual reserve balances have changed. These changes will be reported as of June 30, 2010 and be part of the FY10 audit,

The following reserved funds are necessary to comply with Generally Accepted Accounting Practices:

<u>General Fund:</u>	<u>Water , Sewer and Parking Funds</u>
Inventory	Fixed Assets (Invested in Cap Assets)
Inventory-Equipment	
Records Restoration	<u>Community Development</u>
Armory note Receivable	Reserved for Com Dev
Prepaid Expenses	Reserved for Note Rec
<u>Senior Center</u>	
Reserved for Corey Fund	
<u>Non-Expend-Permanent Funds</u>	<u>Cemetery</u>
Cemetery non-exp Trust	Cemetery exp Trust
G. Blanchard non exp trust	
Hubbard non exp trust	

The following reserved funds have been/will be zeroed out with FY10 & FY11 transactions:

General Fund
VMERS Paydown “surplus”
Equipment Reserve-Police
Equipment Reserve-Fire
Vactor Reserve
Parks
Tower Reserve

I am recommending unrestricting (zeroing out) the following reserve funds:

General Fund
Parks Wetlands \$140
City Hall Plaza \$191.65

Inside Agencies Fund
Fall Celebration \$58.56

Flags \$-33.22

Plaza Pavers \$125

Please review the attached worksheets and let me know if you have questions regarding individual reserve account. I will be presenting this information at the June 9th City Council meeting.

From: [UncommonMarket](#)
To: [Audra Brown](#)
Cc: [Donna Collette](#)
Subject: Uncommon Market BBQ Request City Council
Date: Monday, July 12, 2010 2:19:55 PM

To: Montpelier City Council
From: The Uncommon Market
Re: Request for use of a parking space
Date: July 12, 2010

The Uncommon Market is requesting the use of one parking space (the last one on Elm street before the intersection of Elm and School), so that we can barbecue on the following dates:

All dates are for Thursday and Friday.

July 29 and 30
August 19 and 20
Sept 16 and 17
Oct 7 and 8

We expect the bbq to run from 10:30am to 4:30 pm. The grill is placed in the parking space allowing pedestrian use of the sidewalk and vehicular use of the road. There is no music. When we did this last year the city asked us to place cones on the road side of the parking spot and angled to meet the corner. See attached drawing. We fully intend to use the cones we purchased last year in the same configuration.

The placement of the grill keeps enough space between the building and the grill to keep the fire inspector happy and doesn't block the roadway or the sidewalk, keeping the dept of public works happy.

We have spoken with our neighbors and all agree that anything that draws people down Elm street is good for all the businesses in this area.

We look forward to answering any questions you might have.

Sharon Allen and Peter Foote

The Uncommon Market
802.223.7051
Sharon cell 802.522.2339