



**CITY OF
MONTPELIER
MONTPELIER,
VERMONT**

Agenda for City
Council Meeting
Wednesday, March
23, 2011
07:00 P.M.

- 1) Call to Order by the Mayor
- 2) 11-081. General Business and Appearances
 - a) Police Officer Kevin Moulton will take this opportunity to introduce the Department's newest employee ? Kevin's canine, Jake.
- 3) 11-082. Consideration of the Consent Agenda:
 - a) Consideration of the Minutes from the January 12th and January 24th, 2011, City Council Meetings.
 - b) Consideration of the following requests from Anne-Marie Keppel, Coordinator for the 7th Annual Montpelier Fashion Show:
 - 1) permission to close State Street (from Main to Elm) on Saturday, June 4th, from 7:00 A.M. to 5:00 P.M.;
 - 2) authorization to work under the City's insurance policy as in years past; and
 - 3) approval of waiving Vendors' fees for one day only (Saturday, June 4th).
 - c) Consideration of becoming the Liquor Control Commission for the purpose of acting on the following:

- 1) Ratification of the issuance of a Catering Permit to 10 Gems, LLC, d/b/a The Black Door, for a Green Mountain Film Festival Reception held on Thursday, March 17th, from 5:00 to 7:30 P.M. at the Wood Art Gallery.
- 2) Application for an Educational Sampling Event Permit from David E. Woinar/Distilled Spirits Council (from Washington, D.C.) for an Educational Sampling Event for Members of the Vermont Legislature scheduled to be held on Thursday, April 21st, from 5:00 to 7:00 P.M. at the Capitol Plaza.
- 3) Annual renewal of Liquor Licenses (City Clerk will distribute list of applications at the meeting.)
- 4) Annual renewal of Tobacco Licenses (City Clerk will distribute the list of applications at the meeting.)

d) Payroll and Bills

- 4) 11-083. Opportunity for Richard Sheir to discuss (in his words), "the collective tax rate on the City's schools and the impact of a serious decline of the City's schools on the city as a whole in the longer term."

a) Mr. Sheir requested that he be placed on the agenda for this evening's meeting.

b) Recommendation: Receive Mr. Sheir's comments; discussion.

- 5) 11-084. GMTA Update

a) City Councilor Nancy Sherman requested time on this evening's agenda for Tawnya Kristen, Public Outreach Coordinator for GMTA, to discuss the formation of a Circulator Bus Committee to work with GMTA on designing this new service, as well as introduce proposed public hearing dates in April to receive citizen input ? possibly April 13th and 20th.

b) The vision of the committee is to have Council representation (two

members), along with any other major stakeholders such as the Senior Center; Beverlee Pembroke Hill has requested to be involved with the route development on behalf of the Senior Center.

- c) Recommendation: Receive update; discuss; and appoint members to the Circulator Bus Committee.

6) 11-085. Workshop to discuss Department Heads' goals and concerns.

- a) City Council Members have set the date of March 30th for their Goal-setting Workshop; instead of including the Department Heads on the 30th, Council chose to have their discussion with Department Heads at this meeting.
- b) The Police, Fire, Public Works, Finance and Planning Departments will be represented; some of the smaller departments were encouraged to submit their lists, in writing, for distribution.
- c) Recommendation: Receive reports from the Department Heads; with discussion following each.

7) 11-086. District Energy Project Update

8) 11-087. Mayor's Report

9) 11-088. Report by the City Clerk-Treasurer

10) 11-089. Status Reports by the City Manager

11) 11-090. Agenda Reports by the City Manager

- a) Update on Union Negotiations (Council may vote to enter into an Executive Session in accordance with Title I, VSA §313, Executive Sessions, (a) (1) "Contracts, labor relations agreements with employees, arbitration, mediation, grievances, civil actions, or prosecutions by the state, where premature general public knowledge would clearly place the state, municipality or other public body, or person involved at a substantial disadvantage.")

Adjournment

**Request to Cater Malt and
Vinous Beverages &
Spirituos Liguors**

Caterer's Permit Number Cater 01

APPROVED

DISAPPROVED

Date: _____

Reason: _____

(for department use only)

To: Board of Selectmen/Alderman at catered location and Vermont Liquor Control Board.

From: Licensee name: 10 Gens LLC

d/b/a: Black Door

Street: 44 Main St Town/City: Montpelier

Contact name and phone number: Phil Gentile 272-1223

Email or Fax # philgentile@gmail.com

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: Green Mtn. Film Fest Reception
 2. Location of catered party (street, town or city; if no address, describe location): Wood Art Gallery - Montpelier, VT
 3. Date of catered party (not more than five days, unless specifically authorized): 3/17/11
 4. Hours of operation: Beginning 5:00 pm hrs. Ending 7:30 pm hrs. No. of Persons 60
- Signed: Phil Gentile Date: 3/12/11
(caterer)

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

LIQUOR CONTROL BOARD'S PROCEDURAL REQUIREMENTS FOR CATERER'S PERMIT HOLDERS:

1. All liquor control laws and regulations that apply to 1st and 3rd class licenses also apply to caterer's permits.
2. Before a catered event is approved in any open area, the following requirements must be fulfilled:
 - a) A defined area, for serving and consumption of alcohol beverages, designated with physical barriers.
 - b) Separate toilet and lavatory facilities available for both men and women.

Sandy Pitonyak

To: L-Council
Subject: Catering Permit

10 Gems, LLC, is requesting a Catering Permit for a Green Mtn. Film Festival Reception scheduled to be held this Thursday, March 17th, from 5:00 to 7:30 P.M. at the Wood Art Gallery.

Angela ... When Charlotte gets these applications for an event that is happening before, or very close to, the next Council Meeting, I poll you all and then it's put on the next agenda for ratification. I just need an e-mail back from you as to how you want to vote.

Sandy Pitonyak

From: Nancy Sherman [nsherman@cvcoa.org]
Sent: Monday, March 14, 2011 3:49 PM
To: Sandy Pitonyak; L-Council
Subject: RE: Catering Permit

This permit is OK with me.
-Nancy

From: Andy Hooper [tah@thatitguy.com]
Sent: Monday, March 14, 2011 3:53 PM
To: Sandy Pitonyak
Subject: RE: Catering Permit

Do it.

From: Tom Golonka [tomgolonka@comcast.net]
Sent: Monday, March 14, 2011 5:30 PM
To: Sandy Pitonyak
Cc: L-Council
Subject: Re: Catering Permit

Ok with me
Tom

From: Sarah Jarvis [sarahvermont@yahoo.com]
Sent: Monday, March 14, 2011 7:52 PM
To: Sandy Pitonyak
Cc: L-Council
Subject: Re: Catering Permit

I approve.
~ Sarah

From: Angela Timpone [angelatimpone@gmail.com]
Sent: Monday, March 14, 2011 10:03 PM
To: Sarah Jarvis-Yahoo
Cc: Sandy Pitonyak; L-Council
Subject: Re: Catering Permit

I approve.



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Adjournment

On Monday morning, January 24, 2011, the City Council Members met in the Council Chamber.

Present: Council Members Weiss, Sheridan, Sherman, Hooper, Jarvis and Golonka. Mayor Hooper arrived shortly after the meeting began.

Call to Order by the Mayor

President of the Board Jarvis called the meeting to order at 8:30 A.M.

11-037. Finalize the Warning for the March 1, 2011 Annual City Meeting

Motion was made by Council Member Sheridan, seconded by Council Member Sherman to approve the warning for the March 1, 2011 Annual City Meeting. The vote was 6-0, motion carried unanimously.

Adjournment.

After motion was duly made and seconded by Council Members Sheridan and Hooper the council meeting adjourned.

Attest: _____
City Clerk

CITY COUNCIL MEETING STATED MEETING & PUBLIC HEARING JANUARY 12, 2011

On Wednesday evening, January 12, 2011, the City Council met in the Council Chamber.

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

Call to Order by the Mayor.

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

Mayor Hooper said they have changed the order of the agenda. Most are here for the discussion on the city's consideration of using tazers and they would be taking that up earlier.

11-012. General Business and Appearances.

None.

11-013. Consideration of the Consent Agenda

- a) Consideration of Minutes from the November 17, 2010 City Council Meeting.
- b) Consideration of granting a permanent access easement to Byndle, LLC for the construction of a driveway and bridge across a portion of the City of Montpelier's land on City Dump Road. Brindle, LLC, represented by William Field, Esq., submitted a request to formalize a long standing access arrangement through the conveyance of an easement to formally connect a parcel with the public highway known as City Dump Road. A recent survey revealed that the Bryndle property is separated from City Dump Road by a 30' +/- wide strip of land owned by the City of Montpelier as part of the so-called "Stump Dump" parcel. In response to a subdivision application submitted by Doug Hill, DBA, Bryndle, LLC, the Public Works Department consulted with the City Attorney to verify that City Dump Road is considered a Class 4 public highway. As a Class 4 public highway, the City may allow a private party to upgrade the road to a Class 3 highway for four-

season public travel. The formal statutory process for the reclassification of a public highway will be presented at a later date for consideration when the work has been satisfactorily completed.

Recommendation: Review the Public Works memo, legal correspondence and project plans; discussion; grant the permanent easement to Bryndle, LLC with conditions. Grant preliminary approval to allow City Dump Road to be upgraded and reclassified as a Class 3 public highway as recommended by the Public Works Director. Designate the City Manager as the duly authorized agent to execute the easement documents on behalf of the City Council.

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

- 1) Application for a Catering Permit from Valley Bowl, Inc., for a Legislative Reception scheduled to be held on Tuesday, January 18, 2011 from 5:00 to 8:00 P.M. at the Vermont State Employees' Association Office Building, 155 State Street.

The following applications were added to the consent agenda.

- 2) Application for Vermont Hospitality Management d/b/a New England Culinary Institute to cater a reception at the Vermont College of Fine Arts at Noble Hall on Saturday, January 15, 2011 from 8:00 P.M. to 1:00 A.M.
- 3) Application for Vermont Hospitality Management d/b/a New England Culinary Institute to cater a reception at the T.W. Wood Art Gallery at Vermont College of Fine Arts on Wednesday, January 19, 2011, from 2:00 P.M. to 6:00 P.M.

d) Payroll and Bills

Payroll warrant dated January 6, 2011 in the amount of \$29,121.20 and \$112,731.38.

Council Member Jarvis requested that the granting of the easement be removed from the consent agenda.

Motion was made by Council Member Weiss, seconded by Council Member Sheridan to approve the consent agenda after removing consideration of the easement. The vote was 6-0, motion carried unanimously .

- 11-013(a) Consideration of granting a permanent access easement to Byndle, LLC for the construction of a driveway and bridge across a portion of the City of Montpelier's land on City Dump Road. Brindle, LLC, represented by William

Field, Esq., submitted a request to formalize a long standing access arrangement through the conveyance of an easement to formally connect a parcel with the public highway known as City Dump Road. A recent survey revealed that the Bryndle property is separated from City Dump Road by a 30' +/- wide strip of land owned by the City of Montpelier as part of the so-called "Stump Dump" parcel. In response to a subdivision application submitted by Doug Hill, DBA, Bryndle, LLC, the Public Works Department consulted with the City Attorney to verify that City Dump Road is considered a Class 4 public highway. As a Class 4 public highway, the City may allow a private party to upgrade the road to a Class 3 highway for four-season public travel. The formal statutory process for the reclassification of a public highway will be presented at a later date for consideration when the work has been satisfactorily completed.

Recommendation: Review the Public Works memo, legal correspondence and project plans; discussion; grant the permanent easement to Bryndle, LLC with conditions. Grant preliminary approval to allow City Dump Road to be upgraded and reclassified as a Class 3 public highway as recommended by the Public Works Director. Designate the City Manager as the duly authorized agent to execute the easement documents on behalf of the City Council.

Council Member Jarvis said she had questions about the e-mail from Tom McArdle. In terms of the easement itself she just wants the Council to be clear that the City is not assuming the obligations of bridge maintenance and repair. From Tom McArdle's response it looks like the bridge was actually built by the private landowner but it is on city property. She just wanted to be totally clear that they aren't making any changes to that arrangement and that the property owner will continue to carry those obligations. They are going to have to go through the statutory process of reclassification but this easement is granted with an understanding that they are reclassifying the roads. She just wants it on the record that we aren't guaranteeing that we are classifying the road because the city does have to go through that process and can't just say it is going to happen. The other question she had was whether it would change our obligations about maintenance but they can talk about that when they go through the classification process. With those things being stated Council Member Jarvis move approval of granting the permanent easement to Bryndle, LLC with conditions. Council Member Hooper seconded the motion.

Mayor Hooper asked that part of the easement be an explicit statement with regards to maintenance and whose obligations those are.

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

11-014. Appointments to Montpelier's Business Loan Fund Committee

- a) Two seats became vacant as of January 10, 2011; staff advertised and the following individuals responded: Beth Boutin (seeking reappointment) and Claude Stone (seeking reappointment)
- b) Recommendation: Appointments; both are 2-year terms.

Neither applicant could make the meeting tonight but expressed interest in serving to Council Members.

Motion was made by Council Member Sheridan, seconded by Council Member Sherman to reappoint Beth Boutin and Claude Stone to the Montpelier Business Loan Fund Committee. The vote was 6-0, motion carried unanimously.

11-018. Taser Policy Decision

- a) Police Chief will provide information and answer questions from Council Members and concerned citizens.
- b) Recommendation: Discussion; possible direction to staff.

Mayor Hooper said they had a conversation earlier in the day about whether or not they would cancel the Council meeting because of the poor weather. She is well aware that there may be folks who have an interest in this issue or would have had a desire to be present but were concerned about the roads. It was her opinion that they should keep this conversation open until they have their next meeting on Thursday, January 20th. The Council is conducting their first budget hearing this evening and a second budget hearing on Thursday, January 20th.

The other observation she wanted to make is she thinks our principal obligation as the City Council and city government is to provide for the safety and welfare of the citizens and visitors to this community. Their interest with regard to this conversation is learning how the use of these electronic devices will provide for the safety and welfare of the citizens and visitors to this community or will not. It is a learning process the Council is going through and looks forward to the community engaging in that conversation. She thinks this conversation in no way is about the qualifications of our police officers. She is very proud of the

city's Police Department. She thinks we are very well served by the folks who have dedicated their lives to law enforcement in Montpelier and she doesn't want this to be some sort of referendum on the good people who are serving this community in that capacity. She knows there are questions about law enforcement uses these devices and she wants folks to look at what is happening in Montpelier and the quality of the individuals who are serving our community, which she personally thinks is very high, so she invites a conversation around recognizing that and the individuals who are serving us.

Police Chief Facos said this is a controversial issue. This is one area of law enforcement in response to resistance or use of force that across the country requires a great deal of community input and interaction dialogue. This is formally the third time that the Montpelier Police Department has asked for this tool. Chief Hoyt first asked for them in 2006. He asked again in 2007, and a lot has changed from 2007. Since that time the Vermont Attorney General had issued a report looking at least lethal force in the state of Vermont as well as the tazer issue in particular. It was also looking at reviewing a very well known tazer incident in Brattleboro, Vermont. One of the most significant training achievements related to the use of force and how the men and women of the Montpelier Police Department interact with all members of our community with the Law Enforcement Mental Health Advisory Group, which there are several members in the audience here tonight. What this group was tasked with doing for the Attorney General's Office was guiding and coming up with curriculum for police officers on recognizing, interacting and how most effectively dealing with people who are suffering with either cognizant disabilities, mental illness, or crisis triggering that. The most important thing they walked away with that is slowing things down and finding out what is going on to solve the problem. They are at 100% with all of their officers in Montpelier with this training. This curriculum is not yet required in the state of Vermont like domestic violence or firearms; however, it is now standard training that all basic recruits at the Police Academy do receive. He is also proud to say that they are the first dispatch center, and to his knowledge the only one, that has all full-time emergency dispatchers having this training as well because in many cases as a former negotiator he has had to have a handoff from a dispatcher into a negotiation over the phone. They also deal with walk-in traffic so it is a no-brainer to make sure they are well trained to recognize how to render assistance to people who may be in crisis.

In his memorandum that went out there were several documents that were made available. (Attached hereto and made a permanent part of the record.) One is the Current Use of Force Policy that does not have the tazer in it. None of them are certified to use the tazer. In 2007 he did some training in Massachusetts on liability and risk management of the tazer device. That training was paid for by

the Vermont League of Cities and Towns but it was a tazer international school. There were presenters from the National ACLU and covered a variety of topics. Under a federal mandate Mr. Greenwood was required to assist the City of Cincinnati years ago and rewriting their Use of Force Policy because things were so bad. In any use of force issue there needs to be sound policy, training and full accountability, whether it is the devices, what is the thought process, why do they choose one type of firearm versus another. As a Police Chief he relies heavily on his colleagues across the country and up in Canada as well as the National Association of Chiefs of Police, the FBI and National Academy Associates and even the Police Executive Research Forum in Washington, D.C. It is his responsibility to always look at what are the best practices. None of these things are without risk.

The tazer is potentially a very dangerous weapon. However, when used appropriately it can be life saving in a situation. It can always be a much safer way to resolve a situation than some of the responses they currently have hands-on, impact weapons and even OC spray or a pepper ball launcher.

There is a new proposed policy which is a Response to Resistance Policy. That is from the Vermont League of Cities and that is a project that was undertaken by the League, Vermont Peace Association and the Liability and Risk and Management Institute. Jack Ryan was the lawyer who worked on it. He is a national consultant and lawyer that does audits for police departments. He also does the audits which law enforcement accreditation agencies. He is making sure that these model policies that the League has compiled for us that are not yet in place are based on the latest state law and national trends. The fact that this policy is called Use of Force is a response to resistance. When they employ the lawful use of force it is because they have to respond to something and obviously they use all they can with their training to deescalate a situation.

They also have to work closely with their partners in the community. He would like to introduce Mary Moulton who works at Washington County Mental Health who is a partner with the Montpelier Police Department as part of their crisis intervention team. Mary is not here to say that tazers are the way to go or not, and he would not ask her to do that. She is here to talk about her 20 year relationship with the Montpelier Police Department and their crisis intervention philosophy, operations, training and how they carry out that duty.

Mary Moulton said the Chief asked her to come and speak to their work together as a mental health crisis team that works in the field.

He asked her knowing that she isn't a solid proponent of tazers to say the least. Some of that is very personal in that she had been struck by lightning a long time ago.

She has worked for Washington County Mental Health for 20 years and has worked on a crisis team with the Montpelier Police force and other police in this area. Just to give a sense of how often they work together between police and crisis teams, they take probably about 60 calls from the community police every month. In November and December, while they took 1,200 calls on their crisis line about 20 percent of those they go out to see face to face and about 40 percent of those calls come either as a result of either police calling their crisis team to let them know it seems as though someone might be in distress or else they are calling the police to assist them in situations where they believe people might be in distress.

Her screening team, of which there are 10, has always been very impressed with the Montpelier Police Department. It is a philosophy that has embedded itself. While the Chief comes here and tells you about the work it is important to hear from another person working in the field that indeed the Montpelier Police as far as part of a crisis team respond with them view this police force as going into situations to help, being cautious, being smart, acting humanely and being very well trained. Those are very important components when you are responding. As they respond with the police that is what she hears from her screeners all of the time and that has been her experience for 20 years working with the Montpelier Police Department.

She recognizes that it is difficult to have to make these decisions, and as far as tazer use goes. She is glad this is such an open and inviting discussion for the community because it is very vital we realize that it is very difficult when you have someone who may be approaching you with intent to do harm. She has been in those situations herself, and she has been extremely appreciative of the police in those situations and she cannot say enough about how communication really plays a role. The one thing she would stress, and what Chief Facos is talking about, is guidelines are so important because the players change as time goes by. It is really important to be thinking about what those guidelines would look like. What she always worries about in these situations are that they would ever replace excellent communication and the things they talked about with tools. She thinks they all share that concern and Chief Facos has assured her that is his concern as well.

Police Chief Facos said stressing the importance again of the mental health community because many times people in crisis find themselves in a confrontational environment with law enforcement, and that is why again the

most valuable tool they have is their ability to be patient, listen, try to effectively communicate to the person in crisis what is happening why they are there and to deescalate. As a negotiator listening is so important. One thing that is a regular topic amongst the Act 80 Advisory Group is just taking the time to let somebody vent and let the situation start calming down, and time is such an important element to that.

Sergeant Cochran is one of their uses of force instructors. He is senior fire arms instructor and also their training sergeant so it is his responsibility to make sure that they have their mandated training hours and tallies what training as they assess their departmental needs.

He is very proud of their training team which involves Sergeant Cleveland and also Sergeant Cochran. Sergeant Cleveland is also an instructor for act to shoot response. Corporal Nysley who is currently their overall less lethal instructor teaches the hands-on and defensive tactics as well as the pepper ball launcher as an impact weapon. This winter will be their third year of doing a very intense training these instructors have put together. It is a very basic physically painful exercise and he goes through it as well as all of the instructors rotate through. It's not the same training every year and the scenarios come from real incidents they have actually encountered in the field to very tragic incidents that have happened around the country. Last year's training they dealt with an ambush scenario similar to what happened in Washington State last year. For this training they have safety people in place and they use an actual modified Glock firearm which shoots modified wax bullets. It is an explosive charge. They are fortunate to borrow those from another law enforcement agency because they do not have those. They use protective gear and bullet proof vests as well as special safety equipment when utilizing these weapons. With the pepper ball launcher they use rounds and in some situations where it could be a hands-on defensive tactics training. They wear a padded suit. Just like the military you are only going to be as effective in a fight if you train at full speed. They all get hurt and their volunteer role players are from the Fire Department usually and they get hurt as well. It is important because they cannot replicate that exhaustion and pain. The first year they did a scenarios involving an edge weapon. The training environment they have used courtesy of Mayor Lauzon the last few years is the former Hull Printing facility up by the airport. This scenario was a two officer response. They generally have the information they would receive on a radio call. Those two officers would go in, one would have a pepper ball launcher based on the information they were given and they would both have modified firearms. They would walk in and the scenario was an agitated individual that is in crisis pacing back and forth with a rubber knife, not threatening the officers with no one else around but just pacing back and forth and making gestures. He wasn't acknowledging the presence of the officers. In trying to resolve that

problem they would see two classic mistakes. They have taken the Act 80 training and incorporated that into their physical skill training. One thing they would see is like on TV with somebody in crisis and all of the cops are screaming at the individual to drop the weapon, and their officers did the same thing as well. One person always communicates. Act 80 training is to deescalate. They are also watching how the weapon is handles. Are they in a safe place where they can effectively use lethal force to stop this if need be?

The other thing they saw time and time again on some teams – they talk about the 21 foot rule. The key is if someone has an edged weapon what is the distance that they can become a lethal threat to you or your partner, and they need to maintain that gap. Some officers would say he has a knife and they have weapon systems where he is not dropping the knife and are moving closer. Now they have created potentially a lethal force situation. Coming back to all of their training and looking at that, so they slow it down and one person talks and one person maintain that distance just keeps talking. The person who is going to end a life right in front of you at least you have done everything you possibly could to resolve that. He is trying to make the point of how they infuse what they learned from the mental health training to real world patrol tactics to what they do out in the streets and encounter similar situations. He has negotiated with somebody with a knife and they sit and talk and talk.

They don't have tazers in Montpelier so one other person he has asked to speak who is uniquely qualified to talk about this region and as a police administrator who was at one point not supportive of the tazer, and that is Trevor Whipple. He is Chief of the South Burlington Police Department that is a nationally accredited police department that has the tazer. He is going to talk very briefly about his role as an administrator.

South Burlington Police Chief Whipple said he has been in law enforcement forever. He started in 1978 in New Hampshire, came to Barre in 1983 and finished his career there in 2006 after serving as the Chief for seven and half years. Since that time he had been the South Burlington Police Chief. While he was in Barre he certainly saw a number of events, incidents and a number of tragedies and during his time as Chief there was one particular officer that was continually requesting tazers. His concern was what the Council will hear which is concern about the risks associated with it and how the officers will use it. Will they be used appropriately? Because of that there was a delayed decision to move forward with tazers in Barre. Particularly not having a strong knowledge himself and there was no agency nearby that was using them and that just continued to get put on the shelf and not addressed. Now after coming to South Burlington that was an agency that had been using tazers for two years and one of the first in the state of Vermont. When he arrived in 2006 there was about an

85 percent issuance rate. All of the road officers had them and some of the supplemental force and detectives were not completely outfitted. They are now completely 100 percent outfitted and every officer in the department has a tazer.

In order to be tazer trained they require officers to experience a tazer from both ends as they get certified so not only do they practice using the tazer they practice receiving it. He wants folks to experience it and know what it is like. He wants them to know what they are doing to another individual. He also wants them to know if the tazer is taken away from them and used on them what they will experience and what the recovery is. Now that he has seen both sides he regrets not making the move to go to tazers when he was in Barre. He thinks of all of the violent encounters they had and himself included. He was held at gun point twice while he was in Barre as an officer and he thinks about the opportunity he might have had to remedy that situation without further danger to individuals. He thinks both those times he put himself at risk because he did not use deadly force. Had he had a tazer maybe it would have been different. He also thinks of the officers he has seen injured. Particularly with his time in Barre he thinks about the defendants he has seen injured. When they have to attempt to restrain or arrest an individual who is taken into custody who is uncooperative, intoxicated, impaired they aren't always reasonable and not always are they successful in convincing them to willingly come with them, and then they resort to other training they have had. That can be using a baton, pepper spray, hands on nonlethal force. He thinks of the complaints he has seen particularly in Barre of excessive force by individuals who after an encounter with the police wake up the next morning in jail who are battered, bruised and show signs of a struggle with police. He looks at South Burlington he has no complaints of that nature. They don't use the tazer often. They don't hear concerns from the community and don't hear concerns from the recipients of the tazings. In 2008 they made 886 arrests. During those 886 arrests 16 times they removed the tazer from the holster and that in itself was enough to convince the individual to acquiesce and agree to come with them. Once the community knew they had tazers there is a huge respect for the tazer. People know it isn't a comfortable experience and that it is effective and incapacitates very quickly. Out of 886 times there are only 6 times they pulled the trigger on the tazer; 16 times just showing it was enough to end the encounter.

In 2009 they did 963 arrests with fewer tazer deployments. There were 11 times when they just showed it to somebody and they gave up; four times when they used the tazer. Just last year they had 1,061 arrests as of the end of December. They displayed the tazer only six times last year where it was simply taking it out and the person acquiesced. Five times they deployed the probes.

In the four years he has been in South Burlington he has only had one individual come in and ask to speak to him about tazer use. That individual came in and thanked him for having the tazers because he is an individual who has a problem with alcohol and becomes violent and 100 percent noncompliant and the only way to deal with him is through force to take him into custody. He had been arrested a number of times by an agency that didn't have tazers and commented he would wake up in the morning beaten and bruised because he wrestled with the officers in the middle of the road and the night prior he had encountered their officers and resisted their attempts to take him into custody and they tazed him, which incapacitated him, and while he was incapacitated they put the handcuffs on him and commended their officers for using the tazer because he had no marks. Maybe next time he will get drunk in South Burlington because it doesn't hurt so much.

Police Chief Whipple said he very much commends the Council and the community because this is what tazers are about; it's about community dialogue. It isn't about forcing something down one's throat or the arm militia. It's community collaboration and understanding what they do and how they do it with the tools that are available to them. You are already developing a policy. The League of Cities and Towns insures both communities. From a risk management standpoint if they thought these were bad devices he isn't sure they would be handing them policies that include the tazer but discouraging them from their use. The Attorney General has just recently issued a model tazer policy.

Training – Chief Facos is a good friend of his. They grew up together in the law enforcement world and he greatly respects his leadership and respects him as a colleague. He guarantees that the Montpelier Police Department will have the appropriate training and the training necessary for people to understand what the capacities of these devices are. He has been tazed and it's not comfortable or fun. If an officer was trying to arrest him and he saw the head of a tazer the game would be over. He knows how effective it is and how well it works.

Accountability – they are hearing about that. That's what they do in their agency. They have 40 officers in South Burlington with tazers. Their school resource officers carry them in the schools. People are oblivious to them because it is just another tool on their belts. They have them available all the time just in case they should need them. They have a very good policy. They were fully accredited. His City Council removed funding from his budget so they are not able to continue accreditation but their policy is an accredited policy. They hold their officers very accountable for every use of force, not just tazer but pepper spray and even hands on. If they have to take someone to the ground physically a use of force report is completed and forwarded to the chain of command.

Every time they use force the officer completes the report, reviewed by that officer's shift sergeant, reviewed by a lieutenant and reviewed by the Deputy

Chief and reviewed by him. They have four levels of checks and balances in their system. If there is anything suspicious in that they are called to question. He has through their policy the ability to muster a use of force committee to review the use of force to make sure it was pursuant to current training and appropriate according to their policy. If it wasn't they would be held accountable. They would be disciplined and held as a personnel action.

The unfortunate thing is that the officers across the country who misuse tazers are no different than anything else. The City of Boston killed a young woman at the Red Sox celebration with a pepper ball launcher. That was inappropriate use and they were held accountable. That officer was held accountable. They need to train with everything they have and just consider it one more level in the arsenal.

Out of 1,061 arrests they actually applied the tazer 11 times. They get involved as all law enforcement agencies do with some rather violent encounters and their officers have learned, as Montpelier officers have learned, that communications are far the best way. They don't want to go hands-on with people if they don't have to.

They have seen a reduction in worker's compensation claims because of tazers and see officers being injured less because they don't need to wrestle in the gutter with somebody as often. They do have this device that can be used from a distance away. There was a case just a month ago with an 18-year old man and he is convinced that if they did not have tazers they would have had a dead 18 year old in their community. He had a knife and was suicidal. They went in with a crisis worker who was a mental health clinician and tried to negotiate with this young man. Fortunately, an officer was able to circle around him and an officer in front with a firearm drawn because this young man had a knife to his throat but was also threatening the officer and the clinician. Without notice and without provocation he suddenly – and he is sure it was a suicide by cop situation – lunged the officer with the knife. Fortunately, the officer behind him had a tazer drawn, tazed him and in five seconds it was over and he was in the emergency room being evaluated. Absent the tazer in that encounter he is 99 percent certain the officer would have had to use a firearm to end that situation.

Being in this agency for four and a half years and seeing them used with appropriate restraint, training, policy and accountability to back them up, receiving a tazer himself, he is a 100% believer that they work but you need to

have policy and accountability. Despite what the courts say he sees there are some officers who use them inappropriately.

Police Chief Facos said he wanted to give them a little deeper insight about the Montpelier Police Department. Years ago there was a fatal shooting down in Brattleboro in a church environment. The subject was again armed with an edged weapon and officers engaged with firearms having ending the situation. He remembers Chief Hoyt coming to them and saying if this happened today in Montpelier what their response was going to be. At that time they just had a can of OC spray, shotguns and handguns. They did not have batons but a baton wouldn't have worked. They had nothing besides negotiating skills for lethal force available to them to resolve that. That is a pretty big gap. At that point Sergeant Gavin was instrumental in looking at a variety of weapon systems. Tazer technology at that time was much younger so what they looked at e-bag rounds fired from a 12 gauge shotgun, pepper ball launchers, etc. and adopted the pepper ball launcher. October of 2010 they had a situation that involved their mental health crisis team, local psychiatrist and our EMS personnel to resolve a situation for an individual that was a direct threat to himself and to others. He was in his residence and they needed to secure him in protective custody. There were threats made and paperwork was signed under state law to get him into protective custody. The supervisor made a decision to take it one step further and get judicial approval to get a search warrant. The sergeant had a very effective operational plan. They had the pepper ball launcher, which is a large device, there were six officers with Montpelier Ambulance standing by, their entry tools in case they had to make a forceable entry, which did need to occur, and also one of the officers wore a microphone from his cruiser. This is still an ongoing criminal case. They tried to negotiate the door and the officers had to go in. They were immediately met and charged with someone swinging a 2 x 4. A can of pepper spray would not have solved that problem. That was the first time they had to shoot somebody multiple times with the pepper ball launcher. The room rapidly filled with the chemical agent. They did not wear gas masks. Listening to the audio there was one officer providing the commands, "Drop the weapon; drop the weapon." There were two firearms covering that individual as well as the other officer using the pepper ball launcher and that subject was safely taken into custody. Within seconds the officers came and effectively communicated with another because of the pepper spray and pepper powder in the air, but they resolved that incident because of that weapon. There is no question in his mind that Chief Hoyt's decision back in 2001 to adopt that weapon system saved a life because without that the response would have been firearms.

He is going to let Sergeant Cochran explain about the firearms training which they do quarterly. That is a federal standard. Many departments don't do it but they do.

Sergeant Cochran said he is a firearm instructor and he takes a lot of pride in it. It takes a lot of time to come up with the different scenario based training. They go through cases they have dealt with through the years and cases from other states. When they go to the range they don't just stand on the line and fire away at a target but go over policy. After the policy review they officers are given a test. When they do step up to the line it is weapon familiarization form, skill building and situations with live ammunition for the officers to decided whether to shoot or not shoot. It makes them think about it. Night shoots are scary because a lot of them work nights. There is no light and they work with their flashlights. .

Police Chief Facos said they don't just go to the range. They talk about policy with less lethal force. Policies are integrated into their training. In that real life scenario he really commends Sergeant Nordenson who was the supervisor that night in October. That is an example of the real world and learns from mistakes that were made which were identified from training.

Another incident in Brattleboro which involved a Montpelier resident jumped back to the forefront of his mind as to why this department needs to have the tazer. That was an incident that didn't involve deadly force that was resolved by a tazer. Tazer is not an either/or for a firearm. If officers have to use deadly force they have lights which are very expensive holographic site systems on their carbines because they need to hit their targets effectively and rapidly. This device is just another option and a tool that fills a void. It is not the magic bullet, and it is not without risk and he isn't going into this blindly.

There is a lot of information out there from all sides. We all need to look at Amnesty International's numbers. The concern that the Vermont ACLU has about tazers need to be looked at. The Maryland Attorney General's report established a task force which is more in depth than what the Vermont Attorney General had. The parallels outline the building blocks they have put in place in Montpelier in both of these, and that is a good selection of police officers, vigorous training and scenario based training. The last thing he wants to do is to alienate in any way the Montpelier Police Department with this community. We are your police department and this is a public discussion. The mental health community and any other vulnerable populations that could have a higher incidence of being involved with a use of force situation with police and both of these reports do support the use of tazer acknowledging the risks that there are some harms that occur. Both of these reports refer to some work done by Dr.

Bozeman of Wake Force Medical which is so far to his knowledge the only independent medical review of the tazer. In the policy information you received from the International Chiefs of Police you will see the parallels that in both of these policies of cautious prohibition of the use of tazers in certain populations such as people of small stature, children, elderly and pregnant individuals, people from heights, people in a water environment. If you are going to deploy tazers with those scenarios knowing that information is it a deadly force situation? It does not mean that a tazer could not be used but by utilizing the tazer by this resistance has risen to a level of deadly force use of tazer and not just responding to an active aggressive resistant person. Dr. Bozeman's work on tazer use is some of the best they have come up and has some credibility, because it was independent. It was referenced both in the Maryland report as well as the Vermont Attorney General's report as guidance.

There are a lot of facets to this discussion. Sergeant Cochran was tasked in preparation of this discussion of what is happening in the state of Vermont.

Sergeant Cochran and Police Chief Facos said they came up with six different questions that they thought very informative for everybody to know about the tazers, but his goal is to try to call all 54 police agencies that were listed on the Academy web site. He talked to approximately 30 and out of that 21 agencies carry the tazer. The questions they came up with to ask them were:

1. When did your agency acquire them?
2. Which range?
3. He asked most of the Chiefs or representatives from the agencies if their agency saw a decrease in subjects challenging their officers. Some said right away they noticed that and some Chiefs said that it was a learning process. People would learn they had them, display them and then the people would back down.
4. Were officers seeing an immediate compliance? After that educational period of time, absolutely. A lot said they have two different colors, a yellow and a black. Some said they went to a yellow just so they could see them on their belt and that worked as a deterrent.
5. Have their agencies seen a decrease in worker's compensation claims of carrying the tazers? Though most of the Chiefs or representatives could not give him numbers they strongly replied yes. One Chief who was from Morristown was able to give him a number, and the Newport Police Chief hadn't had a workman's compensation that he might have had otherwise had he not had the tazers as a tool for his officers to use.
6. Who carries them? Most agencies said most everyone carries them. Some of our neighboring agencies even their detectives have them although he doubts they carry them on their belts.

7. How many times in the term of the year and month their agency was using them? The number was fairly low. Rutland sent him their fact sheets. What they said was as soon as a tazer would be pulled out in a situation where they might have to use it they would gain compliance. That was good to hear.

Police Chief Facos said there were two he didn't make contact with that he followed up with. He spoke with Deputy Chief Decker, from the Burlington Police Department, who also serves on the Act 80 Advisory Group representing law enforcement, and their statistics were enclosed in the Council's packets. Deputy Chief Decker said they have had the tazer since 2006 and they have not had one officer lose one minute of time due to a combative related injury. When he spoke to the Council back in November he referenced two former Burlington police officers who are permanently disabled from doing police work ever again because of combative related injuries. The number of tazers fired and deployed in the City of Burlington were displayed alone 37 times and fired or deployed 10 of those times in 2009.

He also spoke with the UVM Police Services about tazers and on average UVM actually deploys or engages a tazer about two times per year now in their population. They have a unique campus population that is ever changing.

In Sergeant Cochran's study they definitely hit all agencies that were Montpelier's size or a little smaller and all of the larger ones. One thing that has changed since November is that the Vermont State Police were planning to purchase and train officers beyond the tactical services unit so that would be the acquisition of 260 tazers for all road troopers and personnel. He has been told that has been put on hold until the new Commissioner is in place.

Two other departments our size that do not have the tazer, the Police Chief of Middlebury said he supports them but they aren't quite there with the need but he does it as a valuable tool. Police Chief Kirker in Colchester said it is a financial decision whether to purchase or not.

The Times Argus when they talked about this meeting tonight referenced to a tazer incident of an individual who died in Cleveland, Ohio. They don't have the autopsy report. It is an approximate cause issue. In other words, what was the person's blood alcohol level? Any drugs in his system? What was his mental status? What is happening with them at the time they are in crisis and at the time they are combated?

Mayor Hooper said there are a couple of people who have studied this issue from a different viewpoint and she is going to ask them to speak to the Council before opening it up more broadly.

Council Member Jarvis said the Police Department's Use of Force Policy he provided does not include tazers at this point. He also provided the Council with the League of Cities and Towns Use of Force Response to Resistance.

Would it be his intention to basically adopt what they are suggesting as the appropriate policy in terms of electronic devices?

Police Chief Facos replied yes, this policy is a comprehensive set of policies. The City Manager and he are scheduled to attend the training on the policy on January 19th in South Burlington.

Council Member Sherman said she is interested in the proposed Use of Force Policy because one view is that tazers reduce the use of lethal force, but it seems in this proposed policy it classifies electronic control devices as being at the same level as chemical spray.

Chief Facos replied that is correct.

Council Member Sherman said that would expand the use into areas.

Police Chief Facos said the tazer is not a direct replacement for use of force, and he wants to be very clear on that. A situation could be deadly force that they could still utilize a tazer. If somebody trying to assault an officer a tazer could stop that incident. Where the tazer potentially does fall into place it is a device that would be utilized in the case of active aggressive resistance. Not to pick on Brattleboro but passive resistance is not an appropriate use by this policy to use a tazer. There is something to say about not bringing a knife to a gun fight. The firearm is still there.

Council Member Golonka said if the Council does approve tazer use he is looking for community input. He noticed in the Attorney General's report that their number one recommendation is before you make tazers available you engage the community in determining the appropriate and inappropriate use of tazers. How would he do that? Would he intend to hold forums? What timeframe would we be looking at doing that?

Police Chief Facos said the Attorney General does not set policy but only provide guidance. That was the number one recommendation. This policy follows the Police Executive Research Forum, the guidance from the International Association of Chiefs of Police, the guidance from a company that the League of Cities and Towns hired that deals with risk management, law enforcement and training issues, which is the person who insures us. If he were

to deviate from this policy or modify it he doesn't want to do anything or takes away a protection or important element that is set by those standards.

Council Member Golonka said his concerns in moving forward particularly in the early stages of implementation is the policy and procedures haven't been institutionalized. Police Chief Whipple came from a situation in South Burlington where they already had tazers and policies in place. How do you intend on implementing the policy over what time? He feels that the problems associated with tazers would happen when it is new and when the policies weren't being followed correctly, and that is where they would run more of the risk.

They have learned from other agencies' mistakes. The City Manager said when he received feedback from some other capital cities, Concord and Augusta, they have seen a pattern. When they first adopted them they were used more frequently, and then when better standards came into play they were used less. His plan for implementation if the Council moves forward with the acquisition they would not have these devices in the field until they had full training on the policy, certification of every officer with a tazer and to make sure they are certified to the training standards set out by Tazer National for their product guidelines and also making sure that the officers understand fully how this policy works, what it means and any use of force that is required to be documented based on this policy what are they going to modify from their current policy.

Allen Gilbert, Executive Director of the American Civil Liberties Union of Vermont, with an office here in Montpelier and Dan Barrett who is their staff attorney and a resident of Montpelier. Dan has prepared a letter.
(A copy of the letter is attached and made a permanent part of the record.)

Attorney Barrett said in the letter there are really just two points they want to point out. Their principal concern with the use of these devices is what you might call function creep. Once the devices are in use the weapons become used for things other than simple replacement for lethal force. They do disagree with Chief Facos. They think there should be one to one substitution for firearms and nothing else. He highly encourages you to go out and watch videos of tazers being used because they have two methods of deploy. In the first, the probe mode, the tazer is shot from a distance and fish hooks into the target's skin and the target receives a jolt of electricity which turns him effectively into a sack of potatoes. He highly recommends they watch this on u-tube because it is fascinating to see. They have a second mode which is called "drive stun." That has the device as a cattle prod. When you hit the target with it the individual will start screaming and flailing around pretty much uncontrolled. It is incredibly painful. The problem they have seen even here in Vermont is that the use of

drive stun becomes a pain compliance device so you have a copy telling a person to stop resisting but yet they are being hit with this jolt of electricity which is the most painful experience. They saw this last spring in Barre where a short elderly woman was hit six times in drive stun mode because she was trespassing in broad daylight at a convenience store. The police officer's explanation was he didn't know what she was going to do so he decided to use his tazer. That is the ultimate nightmare. That is a complete breakdown in a democratic society where you have essentially an extremely painful devices being used on citizen for the mere failure to heed a law enforcement instruction. That is his concern with the policy and the use of the devices.

This is magnified in Vermont but complete lack of independent oversight of police forces in Vermont there is no way outside of the chain of commands to discipline police officers in Vermont. The state operates what they call the Criminal Justice Training Council which is in charge of a very primitive certification process and it can in theory yank the certification of a police officer in Vermont but only for conviction for a felony or failure to complete the required training; that's it. What you are left with is the police force controlling itself. He doesn't want to suggest that the Montpelier Police force can't control itself. As a Montpelier resident they seem to operate just fine, but there is nothing in the way of independent oversight and that worries us. If you have an officer who like the officer in Barre fairly plainly misused the tazer, and in Barre's case flatly contravened the written tazer policy. Yet a week later in the newspaper there is the Chief saying the officer did nothing wrong and won't be disciplined and that for them is a huge concern and why they think they would be best in Montpelier to skip it and not implement tazers.

The cost control arguments they find to be extremely unconvincing. Lord knows there are a million things we could do to make life cheaper for the city of Montpelier and perhaps less injury prone for cops, but that doesn't necessarily mean it's the best means of attacking the problem. Up until 1986 it was entirely permissible under the United States Constitution to shoot a fleeing suspect in the back and kill him. That would make life very cheap for police because they would never get injured. There would be very little paperwork. It turns out it is a horrible protocol idea and we now know it violates the Constitution. He thinks the same thing can be said for the way in which Tazer International sells their product by promising you a decrease in worker's comp claims. It is inappropriate to consider that when you are thinking about something as important and as game changing as using stun guns in Montpelier.

His only other point is as a Montpelier voter is to ask about the procedural posture. What happens next? If we leave this meeting and decide we don't like the way it is handled or wish that the Council would not permit the adoption of

tazers, will there be another opportunity for Montpelier voters to express themselves, or is their last recourse effectively to vote against the budget?

Mayor Hooper said next week on January the 20th at their second budget hearing there will be another opportunity to have this discussion. While technically there are two different issues, should we use the tazer and the budget, they have become tied together. There will be another opportunity to comment next week. If they are in the budget, then obviously we all will have our vote.

Attorney Barrett asked at what point will they know if they are in or out of the budget.

Mayor Hooper said the Council will vote next Thursday on the budget.

Allen Gilbert, Executive Director of the American Civil Liberties Union of Vermont, said he could sit here and elaborate on what Dan said why the ACLU is at this point opposed to tazers but he isn't sure how useful or productive that is. You are to be commended for having this discussion within the perimeters of your budget because one of the ways that tazers have become prevalent across this country is they have been bought with free federal dollars and that has led to a great number of these weapons being purchased by police departments around the country that he thinks in other circumstances never would have gone to voters and asked them for the money.

One of the most important things for a community that is trying to decide to approve the purchase of these weapons is to just think about what it says about the community that we are. What does it say that we are willing for the people who are charged with keeping the peace in town to be carrying a weapon that has been involved in the deaths of several hundred people? We don't know if the tazers caused the death or if there was some other condition that because the person was tazed caused the person to die. If we see Montpelier Police with tazers one of the things we have to accept is that at some point there might be an incident, just like there was in the Vancouver Airport several years ago when a man coming from Poland seemed to be agitated about not making a travel connection or being picked up by somebody, and for some reason this escalated into the man being tazed and eventually dying. That would be a very difficult thing for a small community like Montpelier to have to deal with, and the chances of it happening are very slim.

His final word as a School Board member is he would virtually beg them to prohibit police from carrying tazers within the school building. That is inhumane and is sending a horrible signal to children.

Attorney Barrett said our cops currently carry guns which are involved in tens of thousands of deaths. How is it worse to have a tazer than a gun in a school?

Mr. Gilbert said it is worse to have a tazer than a gun precisely because a tazer is not a gun but it can cause deaths. The attractive thing about a tazer is that somebody can very definitely say it has caused fewer deaths than guns have caused. He doesn't think there is any argument with that. The problem is that it has been involved in several hundred deaths, the exact causes of which they don't know. Because of those statistics it is much more likely that somebody is going to pull out a tazer and use it than they are going to pull out a gun and use it. Chances of somebody injured, even fatally, because of a gun being fired are much higher than the use of a tazer. Statistically, that is true, but there is still the chance it could result in injuries if not a fatality.

Mayor Hooper said she is curious how they would contrast the concern about the misuse of the devices with requirements to have good solid training and communications and the outline of the protocols that should be in place. Why isn't that sufficient to overcome the misuse of the devices?

Mr. Gilbert replied that one of the things is the Attorney General in his report of several years ago did not publish a model policy for tazer use. There is the expectation that the Attorney General created that would be the result of the report, but when the report came out there was not a model policy attached to it. There was a reference to good policies that some departments have, but the main recommendation was that if you have tazers to develop policies. There are a lot of good tazer policies out there. The problem is that people first of all have to be trained in them, then they have to follow them, and if they don't follow them they have to be sanctioned; there has to be disciplined. What we have seen, and Dan alluded to this in his description of what happened in Barre last year, was that even when it appears that the city's tazer policy was violated there was no sanction against the officer who used the tazer, and that is just completely unacceptable. One thing they will have to do as a City Council if the voters approve tazers is to set up a mechanism, and it should be outside of the department, that reviews when tazers are used and whether they were used appropriately. This is something that should really be outside of the chain of command and be left to the governing body of the city.

Mayor Hooper said she has a question of the notion of the function creep. She wonders if he would elaborate on it.

Attorney Barrett said it is giving in to normal human temptation to use a tool that is extremely effective. As the Chief set out if you own this magic device and every time you wave it around people drop before you even fire it. The

temptation to use it in normal situations becomes great. The thing they have seen nationwide is it becomes useful as an instant compliance device. In Barre the police were attempting to arrest somebody. He never even put his hands on the woman or put the cuffs on her. He simply pulled out his tazer and shot it because he knew if he hit her with it she would drop. What they are greatly concerned with is that the temptation of using this weapon that is so incredibly effective just on sight will mushroom into a situation in which it is used as a pain compliance device outside combative resistance by an individual. Knowing our experience nationally, and he urges them to look at videos, he doesn't think there is a police force in the country that sat in front of its City Council and said they are bigots who are poorly trained and we are going to shoot everything in sight so give us some money. They all sat here and told the same thing which is they have a great policy and they are going to train officers and yet students have been tazed and people have been tazed to death. There is a case where an individual who was a 7-month pregnant woman was tazed 8 or 9 times for failing to sign a traffic ticket. That is human nature. Given the tradeoff is that necessary here in Montpelier? He thinks the answer is no.

Mr. Gilbert said there are consumer versions of these weapons available for about \$350, but at some point as communities and average citizens we are going to be having these things. They aren't firearms. They are not regulated by any agency of the federal government. There have been a few incidents already around the country of everyday citizens using these and injuries resulting, and he thinks they will see more of that.

Jack McCullough said he has lived in Montpelier since 1983 and he is a lawyer at Legal Aid. He is not here representing Vermont Legal Aid. Vermont Legal Aid doesn't have a position on this. His experience informs his thinking on this because now and for the past 10 years or so the entirety of his law practice has been representing people who are or are believed to be mentally ill and it is very clear that population comes into frequent and often adversarial contact with the police. The first and most important point to make is that tazers are deadly force. There is no question about that. Attempts to gloss over that by calling tazers less than lethal or less lethal is really a matter of spin to try to gloss over the fact that there are hundreds of documented cases of deaths following the use of tazers. It is true that he hasn't looked at every one of those cases to tell you that medically the tazer was a direct cause of death, but there is strong evidence to at least exercise caution because it appears to be a contributing factor in a significant number of deaths.

Defenders of tazers will respond to that by saying when someone is hit by a tazer has died it is not because of the tazer but because that person had some previously unknown medical condition that reacted some way to the tazer. They

had a cardiac problem or whatever and the unfortunate result was the death of the individual. The problem with that is the police aren't going to know when they come upon an individual if that person has one of those dangerous medical conditions. Any time the police interact with someone and considering using a tazer on them there is a possibility that the tazer application could result in the death of that person even though it is not anywhere near the intent of the police to cause the death of the person. For all he knows he could have a medical condition that would kill him if he were tazed.

The deployment of tazers will lower the threshold of abuse. He knows that every police officer carries a firearm on duty. One of his uncles was a detective in the New York City Police Department for many years and every time he came to their house he had his gun with him. That doesn't concern him as much as tazers because he isn't really worried that the police in Montpelier are going off and shooting people in situations where deadly force isn't justified. It could happen but he doesn't really think it will happen whereas the policy that the Chief has put before the Council clearly contemplates the use of tazers in cases where deadly force would not be justified. Since tazers are deadly force he think it is very dangerous and should not be allowed to be used where deadly force is not justified. What they hear over and over from the supporters of tazers is tazers save lives. We heard Chief Whipple describe an anecdote of that nature. We heard Chief Facos describe an anecdote of that nature involving the pepper ball, but the cases where tazers saved a life of somebody is far fewer than the cases where someone is being a nuisance at Cumberland Farms and it is applied to them. It is inevitable if the police have tazers they will be used, and they will be used in times where it is not being used to protect the officer's life or the life of someone else.

He would like to talk a little bit about the standard for use. He has seen the draft policy published by the insurance company for the League of Cities and Towns. The policy on page 4 says that tazers are to be used in cases of active resistance or active aggression. Active aggression is not defined in the policy. Active resistance is defined on page 1 of the policy and it says: "The subject actively resists when they take affirmative action to defeat an officer's ability to take them into custody." The incident they have been talking about with the Barre Police Department at Cumberland Farms involved, according to the determination of the Barre Police, the application of the active resistance policy in Barre. What the police determined was that active resistance in that case meant that the woman they were interacting with was standing up and refusing to put her hands behind her back so they could handcuff her. The police in Barre determined that satisfied the standard for active resistance. There is nothing in the League of Cities and Towns' policy that would preclude a similar interpretation if that were

to happen in the future. If refusing to be handcuffed is active resistance, anything is active resistance.

In his experience representing hundreds of people who are believed to suffer from major mental illness he has seen inappropriate uses of force, including inappropriate uses of OC spray. He hasn't seen in any of his cases inappropriate uses of tazers. As we get into more and more deployments of tazers across the state they are going to see that because the police instructions might not be readily understood or perceived by the person they are interacting with and the police will conclude they have no choice but to deploy the tazer. He will even mention briefly the pepper ball incident that the Chief talked about. In his overview the Chief said what they tried to do and what they learned to do is try to slow things down, not be yelling at the person, and take the time to sort out the situation. He wasn't at the scene but what he said happened was they broke down the door and one of the officers was repeatedly screaming at the person drop the gun and they started shooting the pepper balls at him. They don't know what would have happened if maybe someone on the scene had decided to give the guy a little space and slow things down and avoid a violent incident. If tazers are on the belts of every officer in the department we are likely to see more, not fewer, incidents where force is used.

The previous speaker raised what he thinks a very important and Councilor Golonka raised what he thinks is a very important issue of municipal and police governance. When the Chief was speaking Councilor Golonka asked how you involve the public in the formulation of policy, and the reason they are doing this meeting to address it and basically they are going with the policy that the insurance carrier wants them to use. He doesn't think that is an appropriate way for a municipality to be making municipal policy. If we are going to have tazers, and he sincerely hope they do not, there should be a process to establish city policy for their deployment and use and that process should be that the Council takes up a proposed ordinance, holds public hearings and take testimony from the public and adopt an ordinance governing the use of tazers. Why does he think it is important to adopt an ordinance? He knows how that works and it is important that the policy as adopted be a legally binding policy that imposes enforceable obligations on the members of the police force. Secondly, if you look at the League of Cities and Towns' policy in the preamble across the top it appears to be pretty clear that it is not intended to be legally binding and to impose civil liability on anyone. That is concerning to him if there is going to be a policy that isn't going to be enforceable anyway. The substance of the policy should be straightforward. The substance of the policy should be that tazer use is prohibited except at times when other deadly force is also permitted like self defense and the defense of others.

If the Council thinks you should go forward with asking the voters to appropriate the money to purchase tazers and equip the police with them he encourages them to take the tazers out of the city budget and add them to the ballot as a separately warned item. That is the only way you are going to get an idea of how the voters feel about the development of tazers. What they know is that the voters of Montpelier support their city government. He doesn't recall they have ever turned down a municipal budget. There has been a few times when a school budget has been turned down but never a municipal budget. He has never voted against a city budget. If the tazer appropriation is in the city budget he will vote against it himself and encourage everybody else to vote against the city budget. This is a very important and dangerous thing. It is going down a road he doesn't think Montpelier should be going down.

Eric Esselstyn from North Montpelier and owner of property in Montpelier said he knows weapons and he knows violence. He was a three year Army volunteer in the 1960's and like many people he wore a uniform and was trained in the use of lethal firearms. He is present tonight as a citizen of Vermont and a taxpayer in Montpelier to lend his voice to those who feel that perhaps we can hold up for a while on tazers. If you go to google and just type in tazer deaths there are 279,000 hits. The tazer corporations want to make a profit for its shareholders, nothing else. It can be sued if it doesn't make a profit for its shareholders. What's its mission? To preserve the best possible light on the safety of this nonlethal weapon.

As far as he can tell there are close to 400 deaths in the United States which have followed very quickly after the use of a tazer. To maintain there is no connection between the use of a tazer and those 400 deaths is "Alice in Wonderland." The one study he could find, which was Norway Autopsy Deaths, 90 autopsy deaths with medical examiners from Norway, France, England and the United States examining the autopsy deaths the 90 they examined over half the medical examiner did not make a direct connection with tazers; there were drugs and other things involved. The other half the tazer was implicated as playing a role in the deaths of those folks who died shortly after being tazered. The word is out folks through the eyes of many medical examiners that tazers do indeed play a role in the deaths of people who receive the shock of a tazer.

A police officer could go out any time this evening and get in an altercation with a woman in a mink coat and not have a clue whether she was pregnant or not. There are so many records of stillborns shortly after being tazed. You wouldn't have ever shot that woman but you are happy to use a tazer. It is in the eyes of many a lethal weapon. The fact that it has been used on several children under the age of ten makes the word "training" just absurd in the English language. To

assume that many of those officers were trained and using them on a child under the age of ten puts enormous obligations on this city.

We are in the tobacco stage. For 40 or 50 years the tobacco companies would stand in front of Congress and look those people in the eye and say tobacco doesn't cause cancer. Why? Because millions of dollars were spent trying to establish that perhaps tobacco played a role could not be proven. Correlation is not causation.

Some day the subtle electrical paths that do cause deaths because of 50,000 volts will make it damned clear that this is a lethal weapon. If you are going to accept it, then accept it as a lethal weapon now. As a taxpayer in this town he doesn't want to pay for the big law suit when somebody nails a pregnant woman or an epileptic, a deaf person or somebody in a pool that then drowns. All right, we are in the tobacco stage right now. We don't now. But, by God, the correlation is overwhelming and lots of medical examiners feel it is a lethal weapon.

Mark Rippon, a Montpelier resident, said he does know what the Chief of Police would like to have and he believes he should be allowed to have tazers. He was trained in the use of a stun gun which is also 50,000 volts and he has used it once in three years. It is a deterrent. He believes he would rather have a tazer than a gun pointed at him. It is a deterrent and safer than a firearm.

Laura Ziegler said she lives in Plainfield and is a member of the Board of the Drop-In Center on Barre Street but she was not speaking in that capacity. Jack McCullough made most of the points she would have made around the draft policy. She is not sure if she agrees that tazer is deadly force. The problem is the definition of deadly force requires a substantial likelihood, and there is no room here for a significant likelihood; there is no middle ground just like there is no middle ground with the standard where as soon as you do something that can be construed as resistance, whether knowingly or not, you are fair game and it is entirely at the discretion of the officer. She spent part of the morning reading the use of force reports other than the one that was withheld concerning pepper ball. It was very heartening how few of them there are. On the other hand, there was one involving the bodily removal by three officers of a young girl. As she reads the draft policy they have the discretion to use a tazer on her if they saw fit. There was nothing to stop them other than that discretion because she was offering physical resistance.

There ought to be an element of aggression and meaningful risk in order to deploy a dangerous weapon with the potential of deadly harm. There has been a much sanitized presentation of tazer risks. She is reminded of the discussion on electro convulsive shock treatment which is also claimed to be safe and effective,

and there is another side to that. She would urge that the Council independently seek out that evidence before making a decision.

She noted that pepper spray was characterized in the current use policy as not having any lasting effects. She would say there is a lot of evidence to the contrary and it is certainly a controversial statement. She hasn't seen the same videos of tazer use that ACLU has referred to but she did see the tazer in person a few feet away. As she said to Chief Facos she would not insult him or the Montpelier Police Department by comparing them to NYPD but she is an ex-New Yorker and spent many years involved with issues around psychiatric disability and rights and was in a lot of situations, some of which were violent, where people were being contained. She has personally used force to prevent further violence. It is not something she liked doing but she can relate to officers who are put in the position where they must do this. On that occasion officers came and when they came nothing was going on because she had gotten the person who was flipped out quiet and under a blanket. They strolled through the apartment asking which one had the problem and then proceeded to cause a problem by getting very aggressive and intrusive with the person who then demonstrated she was pretty crazy and they decided to take her away. She argued with the Sergeant that she didn't think they had reached the legal thresholds. Someone else who was present and who had already escalated the police by playing games with them whether they could come in or not and they started breaking down the door, as he described it he didn't get out of the way when he knew they wanted him to. The next thing she knew he had been hit with a tazer and there was an officer kneeling on his back. She was a person groveling on the floor and was a purely visceral response. She dropped to the floor and took his hand because what she saw was someone being tortured. She did not see a legitimate basis for them using tazers. They charged him with felony assault and then the charges were dropped and he sued with a settlement resulting, which tells you something.

The thing she would like to point out is this was the specialty trained squad to deal with mental health situations. Training alone guarantees nothing. A policy does not guarantee that the policy will be followed. She spent a long time investigating and taking on the issue of pepper spray in the Corrections system. They had a directive. That directive was constantly being violated. It is not that the people who were subjected to those violations knew they had any recourse even in terms of where to go or that a complaint would be heard meaningful. There were two incidents she remembers very well. One was there was someone hit point blank, not three feet away which is supposed to be the minimum. "I held her head and they sprayed her again." This was a woman who was already on the ground. The other one had to do with contamination where the officer told someone she could wash her face after she behaved. If there are no

consequences for violating a policy, and if there are people who are subjected to it are people whose credibility is suspect, at least to the general public, and whose perceived human worth is also suspect these things happen, and they happen a lot more often than one would like to think. When it is people with psychiatric disabilities she is particularly concerned because there is not only an increased likelihood of these interactions but people are more vulnerable. Cardio toxic drugs make you a lot more vulnerable to a stimulus such as a tazer. The other is they will lower the seizure threshold for people who have co-occurrence disorders that again puts you at more risk.

She knows from the work she did in New York when they had these situations she was very afraid of the police. She was afraid to call the police. She doesn't think it is good for people to be afraid to call the police. It had an affect on some of the people who had encountered tazers. There was a young man who described to her after she heard his court hearing how he had supposedly charged the police. He said no and it was the opposite when he was running away when he saw the tazer on the officer's belt because he had been tazered when they came to do a mental health call and tazered for weeping. She did not find it difficult to believe him.

She would urge the Council to do what Jack urged them to do and came to that same conclusion independently of Jack. She doesn't think tazers have a place in the Montpelier arsenal at this time. But if the Council is going to seriously consider this it is a prerequisite there be an adopted policy that the Council has agreed to and a ton of public input on. She doesn't see that as the process that is being contemplated now.

Walter Hertz, a homeowner and resident in Montpelier, said he appreciated hearing from the person from Washington County Mental Health speaking in collaboration with the police. A friend of his had his life saved and people around him were kept safe by that kind of collaboration. He is speaking with a lot of appreciation for good training for people who can make good decisions in very risky and fast moving situations. He is really concerned about tazers coming into this community. Another concern that has come up several times is the lack of independent oversight. That is something that would be very important, especially in a transitional period if not something that would be implemented permanently. Unfortunately, there is a police officer from Barre who has resigned, allegedly having stolen a television and allegedly having had history with some interactions with police officers here in Montpelier, interactions and altercations having to do with alcohol use. He absolutely doesn't want to make the statement to defame the professionalism of any particular officer. It is an emphasis for him that without some oversight systematically sometimes things break down and maybe there just aren't the very

best people in those positions all the time, or even those people who are very good also at times break down. The Police Chief from South Burlington mentioned the chain of command of every time there is an incident and described the checks and balances. That isn't compelling to him. That is a checks and balances that are all in-house.

He doesn't think anyone would disagree that tazers coming into play really changes the threshold. He thinks officers might say for them it changes the threshold in a positive way. Here is an opportunity for compliance in a different way and here is an opportunity for better safety and better risk management. He is also wondering about how it can change that threshold for people on the other side of the tazer, particularly in a process which then it seems to him the discussion of creep. With tazers it potentially becomes an element that pushes toward solutions rather than process, compliance rather than further navigating a difficult situation. He has a heart condition. Would anyone assume that of him seeing him working out on his bike and his life as a professional carpenter? Does that put him in a threshold? It doesn't make him feel safer.

Joe Rooder said he has lived in Montpelier for about eight years. He works at the Vermont State Hospital as a psychiatric technician. For about four years at the State Hospital he taught something called non-abusive psychological and physical intervention. It is safety training for the staff. He has already seen a few people come into the State Hospital with injuries or trauma from tazers. One was the lady from Cumberland Farms in Barre. One point he would like to make about people who are mentally ill is a lot of times they are not processing reality the same as we do. It seems like with the police often it comes down to a confrontation for submission. Do what I say or they will hit or taze them. That is often not the best way to deal with someone who may be psychotic. From his training experience it isn't the right direction to go with more pain compliance. You can do a lot with non-pain compliance. If he had a couple of other well trained psych techs here anybody in this room could get violent and they could probably safely resolve the situation with words. If it came down to something physical maybe hold the person with one person each arm and they would not be bending them against the joints and in the end he could almost guarantee that nobody would get hurt. There are other directions to go with the training.

Barb Rippon, a resident and taxpayer of Montpelier, said she would echo many of the comments that Jack McCullough made. In our own city we should question what our society is looking at as far as tazers are concerned. Do we really want to be the kind of city that has that stigma which is out there already with the tazers? She would also ask they have a chance to look at the policy and for the voters to have a chance to vote on it.

Jeff Dworkin, a resident of Montpelier, said he found it interesting that the Police Chief's stories seemed to be almost all stories about situations that were so extreme that deadly force would have been justified and that is what made the stories so seductive and persuasive. Would Chief Facos support a binding policy for this community that tazers would only be used when deadly force would be justified?

Arthur Foelscher, a resident of Montpelier, said we trust our officers using deadly force or carrying deadly force every day so in some ways the difficulties of this question is more of a nuance and how our trust invested in them is used and implemented on a daily basis. That gets really complicated with tazers because the tazer is such a highly effective tool for making people comply or not do anything. That in his mind is one of the hardest pieces of this topic. The story that has come up several times tonight is what happened in Barre. How Barre's officers work versus ours he isn't sure is a conversation worth entertaining, but the reality is that a neighboring town to us has had from many peoples' opinions a very negative use of this tool we are considering adding into our officers set of tools. When we start looking at other stories of tazers around the country there are a number of instances in news culture, the incident in the airport, a student in a college auditorium who is tazed on camera, the person in the jail who is tazed repeatedly by the officer in the jail house, and in all of those incidences they see the tazer being used for something that it is not supposed to be used for according to the guidelines being set forth by the League of Cities and Towns. The concerns they are seeing here tonight from his perspective are the issues of this when it is misused. In the case of Barre there is seemingly no concern that it is being misused so in that regard he feels it makes sense to detach this from the budget to make its own issue so people can discuss it as an issue and not make it whether or not we have a budget for Montpelier.

Aaron Krumasch, a resident of Greensboro, said he sent each of the Council Members by e-mail a letter. He came down to talk about the topic because he became interested in it when the neighboring town of Hardwick decided to acquire tazers and there was very little discussion. As Mr. Gilbert of the ACLU explained those tazers were purchased with federal stimulus money so there was a simple requirement for a hearing on the grant used to buy the tazers and that hearing in Hardwick lasted all of 13 minutes with one person in attendance and no questions about tazers being asked. He thinks it is very good this discussion is happening in the context of the budget because we are actually having a discussion about it. In that respect he really endorses what Jack McCullough said about breaking out the tazer item into a separate item for the warning. Although there are some people who feel concerned enough about this to come out on a snowy evening you won't really get most people to do that. You have to make it very simple for them to express their opinion. One of the things he found in

talking to people in Greensboro and Hardwick about the issue was that they do have opinions about it and they really would have liked more of an opportunity to voice their opinions.

We have heard a lot of anecdotes on both sides of the issue. Police, because they have worked in the field for many years, have a lot of stories to tell, and people on the other side of the issue there is ample evidence of tazer abuse and misuse.

He went on to say as long as tazers operate the way they do and are sometimes unintentionally lethal we will just continue to see these kinds of things happening and will continue to hear these kinds of anecdotes because there is this systematic problem operating. He continued by commenting about the question on injuries from tazers.

The issue of litigation – he wants to point out that this is another very recent development in tazer use. While tazers have been around for about 25 years, it is only very recently that the company has started to lose lawsuits and pay claims. The first ever settlement they paid for a product liability lawsuit was only last August, and that was \$2.85 million. This is a new trend. If we are in the so-called tobacco phase of tazer use, then we are in the very early tobacco phase where we still haven't really defined the dangers and got the warning label on the product yet. Much later down the road we will get to the tobacco phase where there is a national settlement pool of money for tazer claims because there definitely is the potential for that kind of legal activity.

He thanked the Council for having this discussion and continuing it. He hopes they will take Mr. McCullough's suggestion to break out of the budget for tazers separately. It is the way you will get the ultimate public opinion on this issue.

Mayor Hooper said she is going to wrap up the discussion. They can continue the discussion next Thursday when they have their second budget hearing. She thanked everybody for the thoughtful considerate listening to each other. They have been given a lot to think about. They are not going to be able to think about and resolve it within the context of the push they have to get the budget done. There are charter requirements for finishing and warning their budget in a certain period of time. They have taken testimony and will take testimony next week. The five areas she has given herself to think about is the desire for a continued robust community discussion about why, if and how, a desire to really look at policies that have been proposed and assure they are the best they would want to have in their community. Training requirements, reporting and what the reporting chain is if we had tazers and how they would be used, and then the issue of review and what does that look like. She doesn't think the Council is going to figure that out between now and next Thursday in a meaningful and

appropriate way. She thinks the City Manager had a good recommendation to separate the two, have a good community discussion and proceed.

Council Member Jarvis said she is a little unclear on what she is suggesting. Is she suggesting they would have in the budget an amount of money that is allocated for the use of the Police Department, and then assuming the budget passes have a community forum and then make a decision about whether that money is used for tazers?

Mayor Hooper replied essentially, yes.

Council Member Jarvis said that does make a decision then that it is not a ballot item.

Mayor Hooper replied that is true.

Council Member Golonka said there are a lot of things he would like to read over before he makes a decision like that. They have a week to think about that. He is interested in a ballot item idea so he would like to pursue that. He would like to see if the public is interested or not on this policy. He did see the Attorney General recommending getting input and he can't see any other way to get input than have some type of public forum or public referendum on this issue.

Council Member Sherman said she is interested in keeping it in the budget. It is part of the city operations and needs to be in there. It has been in there for years, but she would agree they could have public discussion about the policy and the implementation. She wouldn't split part of the police budget into a separate item.

Council Member Golonka added that sometimes it might be needed.

Council Member Weiss said for next week he wants to know the true cost of tazers. He wants to know what additional equipment is needed, what the cost is for training, how you charge and what the costs are to keep these guns operational. He suspects they may be talking double the amount for full implementation in addition to the \$11,000 in the budget. He would like to see that cost. Whether it is in the budget or out of the budget is another matter. What is the true cost of the program?

Council Member Jarvis said she was concerned that there were some questions raised that we would like to give the Police Chief a chance to come back and respond. She felt that is an important part before they proceed.

Police Chief Facos asked if he would look at a policy where the tazer is only for a lethal force. He is going to be very cautious with that. There has been an evolution of use of force tactics, policy and better ways. He is certainly open to looking at all options. He is cautious to deviate from accepted practice that is tried and true to what community input should be when we are dealing with lives, and he will not take that lightly. There also might be a point where it isn't effective to have the device. The other models that would come to mind would be special tactical type units. They would have strategic response ability, but now

we are back to the pepper ball launcher. It is not an immediately available tool for every officer. Would we strap an M-4 or pepper ball launcher on their backs so it would be with them all the time even though they could only use it for certain periods? He would be cautious and certainly look at that. He highly recommends the Maryland Attorney General's report. It has some excellent information and it recognizes the tazer as a valuable tool with a lot of provisions in place.

We talk about training. He doesn't know what more he can do to describe their training records and what they do, and it is different. He can't speak for Barre City, Brattleboro or Burlington. All he can do is talk to the other Chiefs and some of this comes up with the Act 80 Advisory Group. He really respects Laura and Allen Gilbert for their input. They are looking at problem solving from different responsibilities. What is the common ground? His goal is the same as Allen's and Laura's from the Act 80 Group, and that is why that group was formed. He has seen the results of the officers and uses those examples in their training and a situation that really did occur and was a deadly force situation where the training paid off. There isn't much more he can but to stay on top of best practices and talking to his colleagues.

Council Member Weiss said Chief Whipple provided the Council with some excellent data about the number of times tazers were used over a three year period where they were actually fired or pointed. Those numbers appear to be going down. Then he also provided over the three year period that criminal activity within his city was increasing substantially. What is the correlation between tazers and the increase of crime?

Chief Whipple said he doesn't know if he can give one. Their crime rate is actually fairly stable but they are arresting more people. He can't give a correlation between arrest rate and tazer use. He isn't sure there is a connection.

Council Member Sheridan said he is agreeing with Nancy. He isn't for putting it on the ballot. The Council is elected to be leaders. Be leaders and don't be always putting your finger in the air trying to figure out which way the wind is

blowing. We can be leaders because we have more data than the average voter gets. They also talk to more people in the community so they hear many opinions. In his case he has had 12 years of experience making these decisions. You have elected the Council to be your leaders. If they don't think they can do the job capably what did they put them here for? He is interested in making decisions because they elected him to be a leader. He isn't for putting it on the ballot.

Council Member Hooper agreed with Jim Sheridan as well, that this is really something the Council should decide.

Mayor Hooper said she appreciates everybody being here and helping the Council think this question through. They make really great decisions when they have the support and help of the community guiding them through this sort of process. She really appreciates the Chief in bringing us back to what the common ground is, and what we are all talking about is how we provide for the safety and welfare of the folks who live here and visit our community. That is our common ground and we are going to work as hard as we can to figure out how to continue being there. There clearly is going to be another discussion about tazers next week. They have to make a decision about how they are going to manage it. They will just have to stay tuned and watch and participate as they figure that out in the next eight days with regards to the ballot and see how it proceeds from there.

Council Member Jarvis said she knows it is hard for the Chief to articulate exactly what the policy would be, but it would be really helpful to know a little bit more precisely about what kind of a tool this is because it matters to her, and it obviously matters to a lot of other people too, about whether this is a compliance tool, punitive tool, or whether this is a tool, as Jack suggested, that is only used in defense of self or others. His assumption is that the proposal is that it is a tool to be used when there is active aggressive resistance, which is different from active resistance, or there is a threat to the individual, the officer or to a third party. That matters to her as she goes forward. On the other hand, it makes sense to have this public process to figure out the policy and when the direction is for use and prohibitions. If that kind of thing were articulated it would help them a lot in their discussions.

11-016. Conduct First Public Hearing on Proposed FY12 Municipal Budget.

a) The City Manager presented a recommended budget on December 8, 2010.

- b) The Council conducted “budget workshops” as part of their meetings held on December 8, 15 and 22, 2010; and January 5, 2011.
- c) The proposed budget requires a two cent increase in the municipal tax rate (one cent for Capital Improvements and one cent for Equipment Purchases).
- d) Recommendation: Present budget to public; conduct public hearing; provide direction to staff as necessary.

Mayor Hooper said she wanted to thank the City Manager and their staff for the months’ long preparation to bring an excellent budget to the City Council along with the good hard work over the past month from the City Council. The Manager is going to do an overview and they will have the ability to take questions from members of the public who may be with them but also folks who wish to call in a question.

City Manager Fraser presented an overview of the budget. A copy of the presentation will be made a part of the permanent record.

Jack McCullough said he has been here in previous budget years to make the same comment. The annual salary for a member of the City Council is \$1,000. He thinks members of the Council are grossly underpaid at \$1,000 a year. Nobody runs for the City Council to get rich or to even make money but he spends a good share of time coming to City Council meetings on a whole range of different topics, but the amount of time he spends in City Council meetings is just a tiny fraction of the time they all spend in City Council and committee meetings and other work preparing for meetings. A thousand dollars just by any rational test is way too little for the work they do. He is concerned that having a rate of \$1,000 is a disincentive for people to serve on the Council. There are people who might want to be on the Council who would probably be good people but they either have a job where they are paid by the hour and have to give up hours to come to meetings and do other Council work and simply can’t afford to do it, or they would have child care obligations and the \$1,000 wouldn’t even pay for the babysitter. He thinks they are cutting people out of eligibility for service on the Council that really shouldn’t be. The \$6,000 that the Council is paid is a tiny fraction of the \$17 million budget and he would encourage them to put more money in the budget for compensation for Council members. He would probably at least triple it to \$3,000 a year. It is always difficult to go to voters in tough times and ask for more money for members of the Council, but he thinks they deserve it. The Council and the staff have done a great job of presenting a tight budget so even putting a little additional money into the budget they still won’t see the tax bills increase so even with tight times he thinks it is a good year to do it.

Council Member Sheridan said at the last meeting he proposed that salaries for Council members be increased on the ballot by \$2,000 per year. It is a disincentive for low income people to serve. He has been a low income person on the Council for the last few years and they probably won't ever get another one. He thanked Mr. McCullough for speaking up on behalf of the Council Members.

Council Member Golonka said he has been on the Council for a number of years so he would imagine there would be a turnover coming up. He sees the disincentive. He would be in favor of bumping it up. It should be higher because you don't get people running for the Council and you see it in the lack of contest every year. It should be bumped up to \$3,000 for Council Members and \$5,000 for the Mayor.

Council Member Hooper seconded the motion.

Council Member Sherman said tripling is a big number. How about just doubling it to \$2,000 and they could reconsider it annually.

Mayor Hooper said she attended 45 meetings between City Council and the Board of Civil Authority and inspections during the fall. How about \$1,000 for each?

Council Member Golonka said there was a motion for \$3,000 for Council Members and \$5,000 for the Mayor.

City Manager Fraser said it is a total of \$11,300. That would be included in the budget as well as the total on the ballot.

The motion was approved on a vote of 4 to 2 with Council Members Weiss and Jarvis voting against the motion.

Council Member Weiss said he would vote to amend. The amendment would be that whatever the increase is it has to come out as a reduction within the operating budget and not an add-on to the budget.

Marilyn Mode, a resident of Summer Street, said she wants the Council to consider putting aside funds for a circulating bus that would go around the city, a route that would be decided by the citizens. It would be very helpful for senior citizens and good for business. You might have people traveling to some of the outlying businesses they don't necessarily get to and it would be a good community thing that would speak well for Montpelier. She understands that

Green Mountain Transit has about \$140,000 that could be used towards this and the city's contribution would be less than a third of that.

Mayor Hooper said they voted on the circulator bus at the last meeting and for the Council to reconsider that someone who voted in the affirmative would need to move that.

Council Member Jarvis said they didn't vote. In the context of the budget where you are conducting your first public hearing it seems that everything is on the table again. She can't imagine they would say something is not up for discussion.

Council Member Sherman said if they do include the \$40,000 we then work with the Council, Green Mountain Transit and the public to devise a starter route. If we don't like the route or don't get something that works then we won't lose the money, but if they make the money available it keeps the process going. It is gone and the matching money from GMTA is gone if we don't do anything. In Montpelier we talk about a vibrant downtown and being people and pedestrian friendly and energy efficient. This would be moving in a direction that is quite appropriate and in line with our Master Plan.

Council Member Sheridan said he would like to talk about a part of the budget that he doesn't believe is realistic and that is the salary increases. He mentioned it last time. The fact we have nothing in the budget for Police or Public Works but we have 1 percent in the budget for the non-union people, when you put 1 percent for somebody else you are automatically giving away 1 percent to the others. Employees talk amongst themselves and know within a day what another is being offered. The City Manager talked about the others being behind and they wanted to bring them up, but he would suggest that the jobs they have certainly do not constitute the danger on the police or fire or ambulance, or don't constitute the harsher conditions on Public Works so he isn't sure why they need to be brought up. Police are in danger and so are fire and ambulance; public works employees are out on cold days digging frozen ground for burst water pipes. You will not get zero percent compliance from the unions when you are offering somebody else 1 percent so they aren't looking at that part realistically in his opinion. He would propose they not offer a raise to anybody.

City Manager Fraser said they looked at a lot of options when they did the budget and they have 3.5 percent in for the Fire Department which is a signed contract. There have often been different rates in for different groups. Council Member Jarvis asked the question last week of how the non-union employees had fared and he thinks over the years they have not fared as well as the unions in some cases. More importantly, the cost of living this year was about 1 percent

so their plan was to put in the cost of living for the non-unions and not bargain with ourselves at all with the unions and not indicate directly what they were going to do directly in the budget. They have obviously honored whatever they negotiated and made funds available for that. They had a long talk at the staff level about how to handle this particular situation. He doesn't think anyone would argue that the Police, Fire and Public Works are arguably more dangerous jobs. What you really have to compare every position to be its own demand on the market and how difficult it is to fill. They try to keep the city's positions competitive with the market and this was their best analysis of how to approach that this year.

Council Member Sherman asked the City Manager what it would add to the budget if they added 1 percent for union employees.

City Manager Fraser replied he doesn't think that is necessary.

Council Member Weiss asked Council Member Sheridan as one who sits in on a negotiation how do you justify saying to these folks you are only going to get 1 percent and they say the Council just voted themselves a 200 percent increase.

Council Member Sheridan said his immediate response would be they went 12 years without a raise. Would they accept for the next 12 years no raise?

Mayor Hooper said she would like to stay within what they have in the budget.

Mayor Hooper closed the public hearing.

Council Member Weiss said he wanted the record to be clear that he will vote no on the budget. He will not support a 1.6 increase in the budget. He started out asking for a 3 cent deduction and there was no support for that. The point is they thought about a zero increase budget and 1.6 violates that principle for him. He cannot support any budget which has a percentage increase to it.

Council Member Sheridan added he would join Council Member Weiss. He told Council Member Weiss that last week he showed more courage than any of them. He just watched again the average median income go down another year. He supports the increase in equipment and supports the capital budget. He thinks they ought to take a one percent cut across the board to all departments and maybe throw in some more from the Reserve Fund. He would love to see it at zero.

Council Member Sherman said she supports the budget.

Mayor Hooper said they need to hold the public hearing on the Warning.

11-106. Conduct First Public Hearing on Warning for March 1, 2011 Annual City Meeting.

- a) A draft warning of ballot items for the Annual City Meeting is being prepared and will be available in advance of the meeting.
- b) Recommendation: Conduct Public Hearing; provide direction to staff as necessary.

Mayor Hooper said they have already set the second Public Hearing date. They need to insert the numbers on the warning.

Council Member Jarvis inquired why the Senior Center has its own article. It seems like they did it last year because it was new and they wanted everyone to know what was going on but it is a city department now.

City Manager Fraser said the Senior Center has been its own article for as long as it has been in existence.

Council Member Jarvis said her impression last year of it being its own article on the ballot was that it was a one-time thing.

Council Member Hooper added that was his sense, too, and he was surprised to see it on the ballot.

Mayor Hooper said she is wondering what peoples' reaction would be. They are used to traditionally seeing the Senior Center on the ballot. They are going to move the Senior Center into the budget.

Council Members Golonka said his question is on Article 9 which is the school article. Every other article lists a dollar amount and this one doesn't. He wondered if they could ask them to put in what as of June 30, 2009 it was for an audited amount. The reason is so people can make sense of it with a dollar amount. That sounds very confusing. It says: "Shall the voters authorize the Board to hold any unaudited or audited fund balance as of June 30, 2011?" Last year it was about \$600,000. People deserve to know what that number has historically been. Every other article on this ballot lists an amount. This is a charter requirement to allow them to control that money.

Finance Director Gallup said for consistency throughout the state this is how they usually word their articles so they can use and reserve their fund balance rather than return it every year.

Council Member Weiss told Council Member Golonka to read Article 4. It is the same thing applied to the huge surplus at the Recreation Board. That is about \$300,000. They probably don't even have an article that should roll it over.

City Manager Fraser said there was a discussion and for the same reason the city maintains a fund balance they have it there in case a boiler breaks down.

Council Member Golonka said the article has to have more information. The article about the Recreation Board should be there that lists the Recreation Departments reserve fund. If we are going to leave that in their control people should vote on it and know what it is.

Mayor Hooper asked what the consequence of it being moved to us was.

City Manager Fraser said they would just have to get the Council's permission to use it. They get monies from different sources. It isn't all property tax money.

Mayor Hooper said they are not voting to set the warning and just considering it this evening.

11-017. Set Date and Time for Annual City Meeting.

- a) Recommendation: Set date for the Annual City Meeting on Tuesday, March 1, 2011, from 7:00 A.M. to 7:00 P.M.

Motion was made by Council Member Weiss, seconded by Council Member Jarvis to set the date and time for the annual city meeting for Tuesday, March 1, 2011, from 7:00 A.M. to 7:00 P.M. The vote was 6-0, motion carried unanimously.

11-019. Reports by City Council.

Council Member Golonka reported they had their regional public service meeting last Thursday and their next step is to wait for the report from Brown and Searles and getting budgets from the four communities and creating their own spreadsheets. There should be something to report in early to mid February.

Council Member Hooper said at the Town Fair he attended there were several towns talking about how to use social media. There are a lot of very small towns that have very high rates of subscription to their twitter feeds. It would be nice to quickly disseminate information back to the newspapers. That could be useful.

Council Member Weiss said in the City Manager's Report it has February 23rd blank. City Manager Fraser reported that is school vacation week and right now there isn't anything for the agenda.

Council Member Sherman reported she may miss a February meeting because she is having knee replacement surgery.

11-020. Mayor's Report.

Mayor Hoper said she was asked to wear her legislative hat to represent the Institutions and Corrections Committee at the meeting convened over in Barre regarding correctional services in that community. It was interesting. The Deputy Secretary Patrick Flood subsequently said to the Institutions Committee that he was very excited about the city coming to them with their problems. She told him that many other cities had in fact stepped up and taken care of their own problems and were actively dealing with it. She found it somewhat unfortunate there was an inequity with the way things were being created and he hadn't realized how much the City of Montpelier was doing to address a very similar set of issues and had been very proactive over the years dealing with this.

11-021. Report by the City Clerk-Treasurer.

None.

11-022. Status Reports by the City Manager.

City Manager Fraser said he was pleasantly surprised to be contacted by Secretary Searle's Office wanting to meet with us. He has also been notified they have the public information we requested. He reminded folks that next Wednesday the 19th of January is the deadline for our proposals for the consultant. We already have one in. There has been more interest than he expected. They are supposed to be meeting with the state on Friday.

Adjournment:

Upon a motion made by Council Member Jarvis the City Council adjourned.

Transcribed by: Joan Clack

Attest: _____
Charlotte L. Hoyt, City Clerk-Treasurer

**Request for Educational Sampling
Event Permit Application**

APPROVED

DISAPPROVED

Date: _____

Reason: _____

Applicant Name: David E. Wojnar/Distilled Spirits Council

Street: 1250 Eye Street, N.W. Suite 400

Town/City: Washington State: DC

Mailing Address (if different from above): _____

Email Address DWojnar@discus.org

1. Describe type of event: Educational sampling event for members of the
Vermont legislature

2. Name of Event: _____

3. Location of event (street, town or city; if no address, describe location): _____

Capitol Plaza, 100 State Street, Montpelier, VT

4. Date of event (not more than four consecutive days): April 21, 2011

5. Hours of operation: Beginning 5 p.m. hrs. Ending 7 p.m. hrs.

We recommend: Approval Disapproval

If you recommend disapproval, please state reason(s): _____

Town/City Clerk's Signature
of Event location.

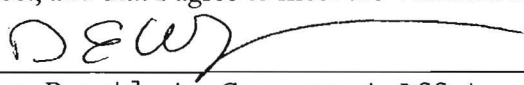
Town/City

Date

List on the back of this form the names and addresses of any Manufacturer, Bottler, Certificate of Approval holder, Wholesale Dealer, or Importer involved with this event. Attach a list of the alcoholic beverages to be acquired for sampling at the event.

By filing this application, I agree to operate in Vermont under the requirements of Title 7 and all other applicable Vermont Laws and Regulations.

By signing this, I, David E. Wojnar acknowledge that all information provided is true and correct, and that I agree to meet the Vermont operating conditions specified above.

Signature: 

Title: Vice President, Government Affairs

Mail completed application to:

Vermont Department of Liquor Control
Education, Licensing & Enforcement Division
13 Green Mountain Drive
Montpelier, Vermont 05602

From: Tawnya Kristen [<mailto:tkristen@gmtaride.org>]
Sent: Friday, March 18, 2011 1:02 PM
To: Nancy Sherman
Cc: Tim Bradshaw; David Armstrong; Tawnya Kristen
Subject: FW: Info for Mplr City Council on Circulator process
Importance: High

3/23/11 Council Meeting Agenda Item

The Council and GMTA will start the process of planning for the Montpelier Circulator Route, approved by voters on March 1. GMTA representatives will be present to discuss the process. Council will establish a Circulator Committee consisting of GMTA staff, 2 members of the council and any additional members the council chooses to appoint. The Circulator Committee will begin gathering information and defining goals for the Montpelier Circulator Bus.

4/06 Circulator Committee reports to the Council on initial goals and objectives for the Montpelier Circulator Route to provide opportunity for comments from Council.

4/13 and 4/20 GMTA will be holding public hearings to identify initial public objectives, general design and areas served by the Montpelier Circulator service.

May/June: GMTA staff presents proposed route and schedule for Montpelier Circulator Bus to both public, through public hearings, and the Council for final approval.

6/2 GMTA Board of Directors review of service and final approval.

6/20 Anticipated start date: Montpelier Circulator Bus starts running

January 24, 2011

Dear Mr. Fraiser,

I'm very excited to bring the 7th Annual Montpelier Fashion Show to town on Saturday June 4, 2011! I am hoping to have State Street closed the day of the event from 7:00 am to 5:00 pm.

The day will look something like this:

7:00 am Street closure/meters bagged
7:15 am Tent set up
11:00 am Buskers, musical entertainers on street
12:30 pm Flash Mob Singers
12:45 pm Contemporary Dance Studio Flash Mob
1:00 pm Fashion Show
2:00 pm Live music
3:15 pm Wrap up/street clean up
5:00 pm Traffic resumes

As in years past, I will be fully responsible for the coordination, set up and break down of the event and I would be happy to meet with City Council to answer any questions they may have.

Sincerely,

Anne-Marie Keppel
(802) 279-5762

Sandy Pitonyak

From: Anne-Marie Keppel [info@montpelierfashionshow.org]
Sent: Wednesday, March 02, 2011 7:59 PM
To: Sandy Pitonyak
Subject: Re: March 9th Council Meeting

Hello Sandy!

I was under the impression that the fashion show was to be brought up at the meeting toward the end of March- Offhand I think it was the 23rd (not at my calendar at the moment). This extra time was to allow for me to drop off letters at each of the downtown businesses in case they had an objection with the fashion show so they could attend the council meeting. I have the letter written but have not delivered it yet.

Also, in years past, I have received permission from the town first, and then approached fire, police and public works. But I am happy to roll that all into the request for the city if necessary.

These are the requests I have for the city:

- 1) State Street closure from Main to Elm on Saturday June 4th, 2011 from 7 am to 5 pm
- 2) For the Montpelier Fashion Show to work under the city's insurance policy as in years past. It is understood that any buskers whose performance is potentially dangerous (fire dancers, tightwire etc) carry their own insurance. Each performer will provide proof of insurance prior to the event which I will present to the city. (Fire dancer was an example- there will be no fire dancers. Other performers have not yet been contracted.)
- 3) To wave the vendors fees as in years past for one day only (Saturday June 4th, 2011). I would like to invite non-profits and organizations who are doing good for the community such as Vermont Foodbank and the Central Vermont Humane Society to will set up 10x10 pop up tents along State Street.

If I am mistaken and the fashion show is to be on the agenda for this coming week, I will be happy to speed along the delivery of the letters and other permissions. Just let me know!

Thanks so much!

Anne-Marie
802-279-5762

Sandy Pitonyak

From: Anne-Marie Keppel [info@montpelierfashionshow.org]
Sent: Thursday, March 17, 2011 11:57 AM
To: Anthony Facos; Ginny Mackey; Gesualdo Schneider
Cc: Sandy Pitonyak; William Fraser; Phayvanh Luekhamhan-MontAlive
Subject: Saturday June 4 Fashion Show

Hello!

I stopped into each of your departments a couple of weeks ago to give you the head up about the Montpelier Fashion show, but I wanted to touch base via email as well. **The Montpelier Fashion Show will be on Saturday June 4th. It will take place as usual on State Street (between Main and Elm) and the road will be closed from 7 am to 5 pm.** I will have everything under control as far as staffing and organizing the event but below are the few things that I need the town to help out with.

Public Works:

Extra garbage cans on State Street would be helpful- Or, cleaning them out directly after so there is no trash spilling on to the street.

Blockade State Street beginning at 7 am.

One question: Will there be work being done on the road around the beginning of June? I've noticed many pot holes and wondered when they were going to be filled. Town trucks in the middle of the Fashion Show would be no fun! (haha)

Police Department:

Bag meters at 6 am

Bag 3 meters in Jacobs parking lot for performing artists to have parking.

Fire Department:

I will be sure to leave a minimum of 13 feet on State Street so that a fire truck may pass through.

Thank you, kindly. Please do not hesitate to contact me with any questions.

Sincerely,

Anne-Marie Keppel
Event Coordinator
(802) 279-5762