

On Wednesday evening, November 11, 2009, the City Council Members met in the Council Chamber.

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

Call to Order by the Mayor:

Mayor Hooper called the meeting to order at 7:00 P.M. Since the Council was meeting on Veterans Day, November 11th, she would like to take a moment of silence to honor the veterans.

09-280. General Business and Appearances

Gary Schy, 22 Hubbard Street, Montpelier, said he couldn't stay for tonight's meeting. He wanted to reiterate again that he feels you cannot have a complete independent look at this entire process with Scott Construction and the City Council looking at its own decisions and trying to look at all of the different issues from within without a citizens' committee. He felt it would be very difficult for the city council to look at itself because they were a part of it. There are a lot of different questions that keep coming up and he feels that a body just focusing on this will be able to shed the type of light that really needs to be shed on this issue. This group could bring all of the pieces of information they are generating together and be the liaison between the public and the city council. He would like to request again that at some time in the future the City Council consider forming a citizen committee.

Mayor Hooper said they will be considering that this evening. That is specifically what the Auditor of Accounts is going to be speaking to the Council about.

Mayor Hooper said they would do the Consent Agenda at the end of the meeting.

(Reading of a Proclamation for Montpelier Housing Task Force 10th Anniversary Achievement and Awareness Week)

Council Member Jarvis read the Proclamation for the Montpelier Housing Task Force celebrating their 10th Year Anniversary Achievement and Awareness Week, a copy of which is attached to the permanent minutes.

Mayor Hooper said what is remarkable to her is of that original group of people that you all have been so dedicated to remain with us through all of this work. We have JoAnn Troiano, Ellen Tyrell, Polly Nichol, Jim Libby, Rick DeAngelis and Jack McCullough with us this evening. It is because of their work and the efforts of their colleagues that she thinks Montpelier is one of the leading communities in the state of Vermont in terms of its awareness of housing issues and its support of having all rungs on the ladder of housing opportunities available to our citizens. We are very grateful to the leadership that has been shown throughout the community in recognizing how incredibly important it is to have safe affordable housing for all of the members of our community.

Jim Libby said it is an honor to be a part of the Housing Task Force. There are a lot of reasons why they have had some success. The City Council, particularly those who have been on the Housing Task Force and Tom Golonka who is on the Trust Fund Advisory Committee, has really supported the efforts in Montpelier to make housing more affordable. He said he wanted to thank the voters. They went to them five years ago with a proposal to add a penny to the tax roles for the Housing Trust Fund and the voters for three or four years in a row have said yes, and then last year the city included that in its budget. That is something to be

very proud of. As far as he knows Burlington is the only other municipality that has a Housing Trust Fund and it really distinguishes Montpelier in a positive way. The city staff has been great.

09-282.

Thomas M. Salmon, Vermont State Auditor of Accounts, will be in attendance to provide an update on a financial services review process.

Mayor Hooper said they are deeply grateful to the Auditor of Accounts for rearranging his schedule and his understanding that we need some help in the community. A good deal of his work is working with communities and understanding financial issues. He brought with him Joseph Juhasz, the Deputy Auditor of Accounts.

State Auditor of Accounts Thomas Salmon said he is also a recovering Selectman from Rockingham. Municipal government is also dear in Joe's heart because he was a Selectman in Townsend. In fact he helped them in Rockingham when they were hiring a finance director after having a couple of years of horrible audits, five material weaknesses, fifteen reportable conditions. They took the whole connection between the citizens and the board members into account. They have had some pain here. They have been to communities where there has been pain, and there is a lot of pain out there that doesn't even get reported, especially when it is investigated through the Attorney General's Office. He has had some pain himself. He woke up this morning and was reminded of some pain of a bad investment several years ago, but a year ago he was in Iraq and a bad day here is better than a good day over there, or in Afghanistan. The silver lining here is that difficulty prepares us for opportunity, and he sees what has happened in Montpelier as an opportunity to not only help other towns and cities but also help formalize our relationship with the Auditor's Office. In 1967, the Vermont League of Cities and Towns was formed. Up until then the Auditor's Office performed municipal audits. He doesn't know if there were budget cuts, but that is when it changed. When Joe and he came along in 2007 they started doing trainings from Milton to Manchester with the League of Cities and Towns at the Capitol Plaza focusing on everything from policies and procedures to internal controls, ethics and government, transparent government, and all of the things that are near and dear to the citizens as well as the boards.

Auditor of Accounts Salmon said they were encouraged in this case. This was a case where Montpelier had a devastating situation related to a transaction and the citizens contacted them as well as boards and management and encouraged them to be here tonight. They were called because citizens, the board and management wanted to know if they could help. The answer is yes. No, they don't come over and do a state funded audit. It isn't part of their latitude. They ask if they are here because there is a problem. Is it a general agreement there is an apparent problem? Is there the willingness to fix the problem? Is there a willingness among the citizens, the board and the management to get a grip on what the real problem is, not the apparent problem? He knows they have already gone through a process of collecting things you would like to see answered, and that speaks to the number one priority of restoring public confidence.

He was invited here tonight to talk about what he or Joe may be able to do as well as the office. They have established there is a problem and there are a lot of problems across the state in municipal and school financial management. We have also agreed that there is a willingness to solve the problem. If you are not willing to really commit to a process of sustained attention to fix the problem they are going to move because they have other items on the agenda. When they came into state government there were 36 material weaknesses and findings, many of them chronic so they had to get their house in order and Joe became the Czar over audit findings. It was really getting to the point of going to the agencies and departments and asking if they were aware of the problem, did they want to fix it, do they have the capacity and who is going to fix it. Give them the name or the body.

Two years ago Fair Haven had a million dollar variance and their citizens were very upset and needed a process. They formed a small committee and he attended the meeting and assessed what the issue was with

them. They basically wanted a sense of what happened with certain transactions. What was the delay? What were the situations with the policies and oversight? Some of these things that can be flushed out

here, and he isn't going to presuppose what the questions are here in Montpelier. They committed to a timeline and product to give to the public.

Joe Juhasz, Deputy Auditor of Accounts, said the Fair Haven process is like any problem solving process. He's not an auditor but a chemical engineer. When Tom got elected he said he wanted a problem solver to work for him and that is how he ended up in the Auditor's Office. They didn't know why they had this variance. Variances don't happen by accident. You either collected money you didn't spend or you didn't spend what you budgeted, but there aren't too many ways you can wind up with a surplus of a million dollars over a number of years. They wanted an explanation of how that happened. It was reported in their annual audits every year that they had rolling unrestricted funds that no one paid any attention to. The auditor came in who had gone over the audits and did some agreed upon procedures with them to identify exactly where those funds came from. Some were transportation funds that weren't spent and there were a number of other issues. Once they established where the funds came from then they had to decide how they were going to address that matter going forward. They formed another small committee afterwards to decide how they were going to spend those funds. Once they found where the funds were generated from they made a report to the town and that committee had then met its obligation and disbanded. They were formed for a very specific purpose and another committee was developed to find out how they were going to dispose of those funds.

Auditor of Accounts Salmon said he sees that as the opportunity here. What he would propose initially looking at the situation is that they have a short project run of a couple of months. They could create a financial review committee and he would help gather who the people are, one member of the board, and a small list of people who are sincerely interested in shaping what these questions are to help produce a document of what happened, why, how and any other process improvements and standards that need to be addressed. His expertise is that he can help shape that into a productive focused product. Montpelier needs to do what is good for Montpelier. He would attend all of the meetings which would be taped or have minutes taken. They were held in the municipal building and he was the guy who helped to remind people what they were doing and staying on course with civility and commitment to getting a handle on the situation. It wasn't driven by the board or the management but by the citizens committee with some oversight so it then produced a report people were happy with. Then, the committee would produce a product and a timeline beginning next Monday at 5:15 P.M. going successive Mondays until January 10th. He is looking at the citizens because this is for them to feel vested in the solution and for the management to work in unison with that solution. They are independent and have been in municipal government. A cost in Fair Haven for a product like this was between \$2,500 and \$3,000. It was an easier and smaller report. Depending on what questions you have you may have a budget that will be more.

Auditor of Accounts Salmon said he put that out for discussion. There are outside firms he could help contact. He feels that a CPA in Vermont is an independent body. They wouldn't be considering a Fothergill, Segale & Valley or Sullivan, Powers & Co. for this project. He has worked with both of those firms in the past and they have been very professional and deserve professional respect. Bill Hall from the Vermont League of Cities and Towns would be an asset as an advisory member to this committee. The silver lining of this process is how we strengthen municipal government and school government financially statewide without the top down heavy hand of Montpelier. They have been in dozens of municipal situations and it is mainly where they want to strengthen internal controls over the financial management. Some of the issues may not even be related to what is going on here. Ultimately, local people want management and have decentralized confidence over their finances and know what the situation is. One of the trainings they did was the audit as a management tool. There are findings in those audits in the management letters which then become a resource for the public as well as management and the board to know where the deficiencies are. They had five material weaknesses in Rockingham. There were 36

material weaknesses on the state level. Looking at Montpelier's last five years he doesn't think they have any material weaknesses in the management reports.

He believes he has covered how he would work if he was invited to help work with Montpelier over the next 8 or 9 weeks. One of the first things they would do in a meeting is to review the charge. Let's say the

charge came from the board or City Council. Let's say the charge was that a financial review committee was established and observed by the State Auditor to carry out review of the relevant financial transactions, controls and policies and hire a CPA firm for a fee not to exceed \$6,500 and authoring a public report by January 11, 2010. This is something he brings them as something to work with.

Deputy Auditor Juhasz said the goal always is to have the transparency and communication between the management and the citizens so everyone is comfortable with what is going on. The issue is to be sure you have established controls you review on a regular basis. Those controls aren't to be a barrier to a government. They protect the assets of the town and they also protect reputations and find honest mistakes much sooner than they do anything else, and that really is an important part of control. Not only to protect the assets of the town but to protect the reputations of the people who are doing the work on a daily basis in the towns. That should not be overlooked. It is important to have a dialogue on issues with the town as openly as you possibly can. The goal is transparency and accuracy, and sustained attention is what gets it done.

Auditor of Accounts Salmon said whatever process Montpelier undertakes here, both as a board, management and citizenry, is that it never happens again and you are on a sustained track that there is just a regular flow of transparent review and the citizens are involved. They are trying to find the best recipe for that, whether it is the audit itself, reviewing the audit, having a committee. Some towns don't even have the auditor come in and present. He thinks there is an opportunity here because there is pain and difficulty here.

Mayor Hooper thanked the Auditor of Accounts and said he had offered a template that she would like to work through this evening and reach agreement on the broad structure so that next Monday at 5:15 P.M. they can have their first meeting.

Francis Miller from Ewing Street said Tom Salmon did come to the meeting tonight and he thinks he said what the citizens have been trying to say and he hopes the Council listened. He thinks they can make progress on this.

Council Member Weiss asked what the criteria are and who establishes them to determine who is to serve on this committee.

Auditor of Accounts Salmon said in the case of Fair Haven it was common sense. In Fair Haven they already had two town auditors. They had one representative from the board. He was the watch dog and facilitator. He would appreciate that latitude to establish or help work with them if they collect names or citizens contact him at the office and then go forward. He would take input from the citizens.

Mr. Juhasz said diversity is important.

Mr. Miller inquired if Montpelier had a city auditor.

Mayor Hooper replied no.

Mr. Miller asked if that was because nobody had applied.

Mayor Hooper said Montpelier, unlike town government, our charter does not call for having appointed or elected auditors. No one has run for a number of years.

Auditor of Accounts Salmon said in some towns by statute they have been eliminated. In Fair Haven he went into a place that was pretty contentious and there were some pretty angry citizens. The two angriest ones were definitely on the committee and then there was some diversity around that. They didn't want anybody who had a real dog in this fight to work against what he said in the very beginning, which is this common commitment to really resolving and fixing the problem. Maybe there is a financial person in the building as well that would play a role on that committee. It's not because they don't value the Mayor and the City Manager, but in this committee structure they will be involved in the process later when the accountant comes into the building.

Council Member Weiss inquired if this was going to be the Auditor's Committee or the Council's Committee.

Auditor of Accounts Salmon said if they have one Councilor for independent purposes it would be good. It could be called the Financial Review Committee and the person ultimately responsible would be that one Council Member who is appointed to it.

Deputy Auditor Juhasz said the role they play is to keep the bus between the lines and not drive the bus.

Council Member Weiss said if these gentlemen are going to drive the bus then it is the Auditor's Committee. Whose committee is this?

Mayor Hooper said she would describe this as the Financial Management Committee that is being convened by the Auditor of Accounts and we all are inviting members of the community to participate in this process. We are asking the Auditor to look at the folks who are agreeing and volunteering to participate in the process and pick people based on their expertise.

Auditor of Accounts Salmon said in Fair Haven it was called the Surplus Committee.

Council Member Golonka asked who sets the charge for this committee. Is it the charge of the Council? The reason he ask is that there are certain charter responsibilities of the Council itself that he doesn't think he is willing to abrogate, one is potentially the review of the Manager, review of our legal staff. How do we set this committee charge from this level and let it go without it becoming this Pandora's box we may be opening up that we don't want or need at this point. How do you set the charge focused enough but address the specific concerns about Scott Construction at the same time?

Auditor of Accounts Salmon said the Council has collected some preliminary questions they wanted answered and the citizens were asked for some input on that. What happened with that Scott transaction? Why was there a delay? What safeguards are in place? Was there a review of our systems? This expanding balloon is where he pledges to the Council that this will be a focused scope to accomplish a goal by having a report by January 10th. In Fair Haven it was him saying to the board give a charge to this committee to do this analysis. If anything changes material to that focus, then it is the obligation of this committee to inform the board.

Mayor Hooper asked Council Members if they needed time to think about this. She is shooting for a November 16th meeting at 5:15 P.M. She asked the Auditor to read the draft charge.

Auditor of Accounts Salmon said a draft charge would be that the Council approve a Financial Review Committee observed by the State Auditor to carry out a review of relevant financial transactions, controls and policies, to hire a CPA firm for a fee not to exceed whatever the Council wants to put forth (\$6,500)

fostering a public report by January 10, 2010. He pledges to the Council that he feels they are giving him a lot of authority even though it is the Council's charge. With that authority would be an obligation to report to the Council in a weekly manner if need be. Part of this memo relates to cash management policies, system changes or improvements. He was very pleased they had citizens coming and information from the management and the board. This is why he stayed out of it. He didn't want to stick his nose in the situation in hopes that a locally driven solution would result.

Mr. Miller said using the Auditor's suggestions and those that the City Manager made also, along with any suggestions from the Council Members, the citizens group can put this together and make the first meeting one where we finalize what we are going to have for a scope. That way all of the Councilors can have a part in it as well as the citizens.

Mr. Miller asked the Auditor of Accounts how many he suggested serve on the committee.

Auditor of Accounts Salmon replied the fewer the better. It would be great if it was one Council Member and three to five citizens who are really interested in being on the committee. It doesn't mean they can't be in the room. Some have already put forth some input on this subject and what those questions are.

Deputy Auditor Juhasz said basically it is the management's committee and you have to have an agreement on what it is you want answers for. What meets the needs of the town? What are the questions you want to define? Then, you have to give up some of the authority to other members if you are going to get anything done. Smaller committees are more productive than bigger committees. When we talk to people and convince them to consider an audit committee or a finance committee they always recommend that smaller works better than a committee of 12 or 15. If you are talking about doing something in a fairly short timeframe then it is important to keep it small but make sure you meet your needs.

Council Member Sherman said that maybe a charge would be to hire a CPA firm but the whole set of questions would be put out for a CPA firm to answer.

Auditor of Accounts Salmon replied that was correct. You are framing what the project is and you are getting an independent CPA to come in and answer those questions.

Deputy Auditor Juhasz said they aren't doing an audit. They are coming in and looking at a very narrow range of questions that you determine are important.

Mayor Hooper asked the Council if they needed more time to think about this, or were they ready to make a motion.

Council Member Weiss reported he needed time. He was confused. He doesn't know what this committee is doing. On the one hand he heard the committee is going to make recommendations coming back to the Council and the Council will approve, and then the committee will go forward. On the other hand, he hears that the committee is going to work primarily with what the Manager has developed, coming up with questions and then we will hire an auditor to answer the questions. Therefore, what is the committee going to do?

Auditor of Accounts Salmon said there is some trust involved here. At the local level if they come in and tell them what they have to do, that is not how local government works. The ultimate responsibility is the City Council. Sometimes they come into places and go over the roles of each of the bodies just so it is clear whose role is what. In some cases the statutes are very vague when it comes to town auditors, but Montpelier doesn't have that issue. Happiness would be that the committee of interested people show up here Monday night for a working group meeting to review the questions to be answered by the CPA firm related to this report with a funding target of \$6,500. Then, those questions are brought to the City Council for final approval of the committee's intent, and with that approval the committee through their office will

garnish and gather some CPA quotes, bids and information. The committee will hire, select or recommend and the work begins. That work will begin with obviously a connection between the accountants and management, but in essence that product then is done and prepared in draft form for the committee to review. Then, in the case of Fair Haven there was a little additional work they needed done. The product was finished and presented to the City Council and the public at the same time. This project is farmed out to this committee really from beginning to end but intervention by the Council in order for checks, balances and understanding with an additional pledge he made to Council Member Golonka that if anything material other than what they are talking about here and these questions were to arise in the scope that first of all it has to come to the Council for final approval.

Deputy Auditor Juhasz said they have to look at this going backwards. What is it you want in the way of a product of this committee? What is it you want to achieve, and how can you get there? Sometimes you can get there more than one way, but first of all you have to decide what it is you want and what meets your needs and the needs of the citizens of Montpelier, and then figure out how to get there. Figuring out how to get there is mainly what the committee does.

Mayor Hooper said last week the City Council said fairly clearly they have a list of questions they would like to have answered. They were developed by the City Manager. What is now being suggested is that we have this wonderful opportunity to use an outside independent set of eyes to help shepherd this through the process. It is not that the City Council is giving up any of their roles and responsibilities; they wouldn't do that. We are creating a process where we can convene community members to look at additional questions, which the Council would hear about, and to shepherd it through a process so folks feel this is clearly independently looked at and the questions out there are being answered.

Council Member Hooper said he thought the Mayor asked earlier how the citizens would be asked to serve on this group. If we receive a dozen calls of interest tomorrow, how are the 3 to 5 members of the committee best chosen?

Council Member Golonka said they usually advertise and let people have the opportunity to know that there is a committee being formed. His fear is if they don't go through the process that they have held for any other committee they are running the risk of running afoul of our own rules and regulations. What they would normally do is advertise for the next Council meeting to appoint a committee. He can't see this happening by Monday.

Mayor Hooper said the other thing being suggested here is to let the Auditor of Accounts convene the committee, that in fact the City Council is blessing the process. We are asking to create a process, but because of the desire to have an independent process happening here we have found somebody to do that.

Council Member Golonka said he doesn't think they should reject the processes for the last 10 to 20 years in terms of setting up committees where we advertise. Some may be interested but not available next Monday. He thinks it is irresponsible to set up a committee without having due process and advertising for it. Maybe the applicants go to Mr. Salmon. That is to be discussed. He thinks they are rushing it, it's not going to be a good enough committee, and there will be problems and it will come back and bite the Council because of that. If the Council is doing this we should give a time frame where we can advertise in the paper and people apply and we can have that process like we do with every other committee.

Auditor of Accounts Salmon said it is multi-media advertising. Tonight we are advertising there is a committee and the Council has a process to form one. It's kind of an emergency committee in some regards, both with the accountant community and others in the sense you want a product pretty soon and there is a window of opportunity here. It doesn't mean that a committee has to be solidified Monday. He could come here in some sort of working group mind set where we are trying to collect information for the committee to review. We are really going through a process of taking people and pulling them together around these questions. This is a committee that some say shouldn't have citizens on it because it should

only be financially minded people because these are financial questions, but that's not the case. There are other pieces to this puzzle. There are other pieces of satisfying the concerns of the community that may not be just financial, and usually when you call for a committee you are drawing the people who have the most energy in the issue. This committee would be reviewing it like citizens would and not like a bunch of accountants and that is the big value here. The questions on the front end may be accountant types but when it comes back it is almost a preview of what the citizens are going to react to.

Council Member Golonka said he is concerned with rushing it. The damage has been done. A thorough review to him is more important than rushing this into next week.

Council Member Sherman said she had a question about the cost of this. She has heard a figure of \$6,500. What if the list of questions comes back and it's not possible to be done for that amount? Do we shrink the questions or stretch the budget? Who decides?

Auditor of Accounts Salmon said he would think this would be closer to \$5,000, this exercise based on some of the questions he has seen but also the concerns they have had from citizens and our own knowledge of the situation. It would be them coming back and informing the Council if there was something different with the scope. The key is that you are almost creating a group of people to facilitate or hire a professional firm to get to work on these concerns which seem to be fairly evident of what they are. It's a refining process that makes people vested that they are part of a refining and review process of a situation we are all in.

Council Member Jarvis said it also removes it from the Council, which is half of their concern in rebuilding trust. That is the main reason why she would like to put the formation of the committee on the Auditor's shoulders.

Council Member Weiss said the City Council is meeting on November 18th and it would be fair if they formed a committee that night.

Mayor Hooper asked if he was suggesting that the City Council form the committee rather than asking the Auditor to form the committee.

Council Member Weiss said whatever the process is it would be finalized on November 18th.

Jack Lindley said they had a citizens committee for the reappraisal. Didn't it work all right? It is essentially what they are saying here.

Council Member Golonka reminded Jack they advertised for that and it was a three week process. The Council then appointed people who came to that meeting.

Jack Lindley said he is suggesting that a meeting is called for Monday afternoon and any citizen from the City of Montpelier who is interested in the subject shows up they can produce a product that comes back to the City Council for its approval. To eliminate the citizens that want to show up and work on this particular problem by appointment is okay. Have you left somebody out? If someone has an interest, and they are interested enough to show up and they are a citizen of Montpelier they ought to have a seat at the table at the very beginning. If the City Council says it is totally unmanageable and you want to advertise and create some kind of a major committee, so be it, but that is at your next Council meeting after you see what citizens want to be involved. The Auditor is sitting there keeping things on task so citizens can make recommendations. Why do we kick this can down the road any longer? The citizens need the transparency. He thinks they would be willing to park their pitchforks so they aren't taking over the prerogative of the City Council Members or the Mayor but we get this problem understood and under control.

Mayor Hooper said she really appreciates to make sure we are fully informing the community of what we are trying to do.

Council Member Golonka said he wants to make sure there is transparency and there is a valid charge that comes back to the Council that they can agree on. If a charge is developed through this citizen committee that would be great and it will shine light on the issues and address Bill's memo.

Mayor Hooper said they could have a working group meeting on Monday at 5:15 P.M. Everybody will have the memo the Council working on and we want to see these questions answered. They can also go through their normal advertising process to let folks know. We can bring in other people at other times. The Auditor has said pretty clearly they are looking for a smaller group of people to shepherd this process and he is willing to manage that process going forward. That will be based on a charge the Council will establish

after having heard from them. Sometimes there are citizen groups with two or three tight friends and they all don't need to be on the committee.

Deputy Auditor Juhasz said if there are twenty people who all want to be on the committee you say the committee can only hold nine people they will let them sort out who they are going to be.

Mayor Hooper said they will see what happens on Monday night. The Council will hear about it on Wednesday and move forward.

- 09-283. Update from Mia Moore, the City's representative to the Central Vermont Solid Waste Management District Board; her intent is to provide a report of her first year on this board. She will also bring City Council Members up to speed, and solicit their input, regarding the FY 2011 budget for the District.

(VOTING ACTION)

Mia Moore thanked the Council for the opportunity to speak tonight and the chance to serve on the Central Vermont Solid Waste Management District Board of Supervisors. She was here to tell the Council what it has been like to be on the District Board of Supervisors for the last year and also give an update on the current crossroads that the District is at. Her first year was essentially a very short learning curve. She spent most of the board meetings just trying to figure out what was happening. As you might recall, her interest in serving on the Board of Supervisors rests on her passion for seeing zero waste and the District has already set a goal of zero waste, and she wanted to help see it through. She has been very impressed with the work the District is doing with the food scraps pick up at local schools, businesses and restaurants as well as their work to get ahead of the curve on new technologies.

Ms. Moore sits on the Finance Oversight Committee and she got involved with that because so much potential the District has as well as the locations the District has rest on the finances. She attended a couple of meetings and found herself serving as a member of the committee. She was involved in the process of establishing their budget for FY 2010, which was very challenging given the fiscal restrictions the District has because of the reduction in trash being thrown out and the shift in valuing recycling as a resource. We now have to pay to recycle. In determining the FY 2010 budget they definitely decided to keep moving forward on the organics program with the school pick up of food scraps, local businesses and restaurants because of its potential for growth as an operation and because of the way it coincides with the District's mission of achieving zero waste. They did cut back on all of the expenses they were able to and even decreased depot hours at first in order to keep a balanced budget. They increased the surcharge they charge to haulers who tip at landfills within the District, and this was the second time in nine years they did increase that surcharge. In the end throughout the entire process and finally with the product they came up with she felt was a very solid budget for the District to have for 2010. The result in the reduction of trash and increased cost of recycling has exceeded even their most conservative estimations. That, along with the increase in health care costs, has left the District with a big crisis situation as far as the budget is concerned.

The big thing she wants the Council's input on are the two options they have for FY 2011. They are starting the process very early because one of their options does require an increase in the per capita assessment which they need to give the city advance warning of. The two options they are facing regarding FY 2011 are that one would be to go with more of a foundational operations budget which would divorce the District from the operation of the depots they currently operate. The other option is to maintain the depots and maintain their current operations and that would cause a per capita surcharge for each of their 22 member towns of \$2 bringing the per capita charge to \$5.10 per person. She supports going with the foundational operations option for several reasons. One, it maintains the current per capita assessment. She doesn't see any reason to raise taxes if they don't have to. It would allow for new and/or expanded District programming such as more collections like the hazardous waste special collections they do throughout the summer, fall and spring, more outreach to towns regarding diversion opportunities and it also reinstates the Green Up Day grants which was actually one of the things they cut back on in 2009 because of the budget restrictions. It increases funding to the Lawrence Walbridge Reuse Fund which is a great program that the District operates to encourage local entrepreneurs to incorporate reuse and waste reduction opportunities within their businesses. It also gives them a financial buffer moving through the tough economic times that they won't be so close to the edge any more as they have been for the past year and a half. From a purely selfish standpoint Montpelier does not have a depot that the District runs so it doesn't make any sense to her to raise taxes or to raise the per capita assessment and to not be getting anything for it. The final reason for her is she believes the District's role is to push the envelope and drive local markets toward their zero waste goal and the depots have not been a part of fulfilling that role and they could do a lot more to do that if they were to divorce themselves from the depots.

She sent Council Members a lot of information about what we get because of the District and what is part of the per capita assessment. She would also like to receive input on weighing the two options.

Council Member Sherman asked who will run the depots. We know Casella runs the one in Montpelier.

Mia Moore said that is privately run. There are six depots that the District currently runs and three others they assist with. They have recently released an RFP to local haulers to seek information from them on their interest in doing it. They would entertain all sorts of suggestions. The most popular ones that have come from towns that do have depots was they would like to take it over and either run it themselves or subcontract to a hauler. When the RFP process is over they will have a lot of information about who is interested in running depots, either the whole network of them or individual ones.

Council Member Sherman said the cost of recycling then will probably go up.

Ms. Moore said recycling cannot go any higher than half of what it costs to throw away trash. Right now it is either \$4 or \$6, depending on the amount of trash they are throwing away, and for that exact same weight of recycling it can only be \$2 or \$3. That is an ordinance that the District decided so no hauler could increase it beyond that.

Mayor Hooper asked what is the current practice at the district run depots in terms of charging for waste disposal and recycling as opposed to what we do here in Montpelier?

Mia Moore said they just started charging for recycling as of November 1st. They hadn't been doing it up until then and they are hitting the cap of \$6 and \$3.

Mayor Hooper said until now people in other areas had free recycling where folks in Montpelier have been paying for it for a year or more.

Ms. Moore replied that was correct unless people in Montpelier were driving to Barre.

Council Member Jarvis asked what are the risks if we divorce ourselves from the depots. Her fear was that the prices would go up. Are there other risks we face?

Ms. Moore replied that some towns have voiced the concern that people would then just throw their trash over the side of the road and she doesn't really know the likelihood of that. If the facility isn't available to them some people might choose that, but there has been enough interest from the towns that currently have depots that are run by the District for taking them over or subcontracting them.

Council Member Hooper said this decision feels like a split between the bigger towns and the small towns. Montpelier benefits greatly from your connect hauling. There are a lot of businesses and schools that participate. He thinks if we do divorce ourselves from the depots it is likely there will be a mix up within the District on whether or not all of the towns are in there. That's a foundational issue. He is very concerned about dumping. He grew up in a very small town in Vermont where he would pick up a lot of bags of trash along the side of the road, but in Montpelier it isn't our issue. Our issue is the higher level of services that we would get with the organics program.

Ms. Moore said the District has done a lot with the smaller schools that are in the smaller towns. Going beyond even hauling the scraps or figuring out that solution they started investigating whether green cones are a possibility for the small schools. That is another thing she has been really excited about. If they were able to relieve themselves of the depots it would free up a lot of resources and be able to do a lot more of that and expand their hauling routes into the smaller towns and make that a lot more viable.

Council Member Hooper asked how much does the organics program cost.

Ms. Moore referred to documents provided said on the 2009 Profit and Loss Budget versus Actual, the far right column is the organics enterprise fund that is essentially the budget. That is something that is separate from current operations and foundational operations. They anticipate doing the organics enterprise fund no matter which path they take. If they go to the foundational operations it isn't necessarily next year they would be expanding our organics fund but it offers us the resources for 2012 and 2013.

Mayor Hooper said Andy's point is that the larger municipalities have more of the organics, which is true, because we have more restaurants but those restaurants serve the 20,000 people who come into Montpelier each day and not just the 8,000 people who live here. It is a community resource.

Council Member Jarvis asked if she was looking for feedback from the Council as to what option would make sense.

Ms. Moore said under the item where it says voting they are welcomed to vote if they would like and tell her what they think. Her recommendation is to go with the foundational operations budget.

Council Member Jarvis said it sounds like it would be best for the people in Montpelier.

Council Member Weiss said if they have the foundational operations budget, when he looks at the next column which is the organics enterprise, it balances and is really not costing anybody anything. There is \$377,000 income and roughly \$377,000 for organics. Would the foundational operation program also include the organics program?

Ms. Moore replied yes, and if they went with the current operations that would also include organics. The organics enterprise fund is going to happen no matter what.

Mayor Hooper asked Council Members what their pleasure was. Mia is telling us that they don't necessarily need to provide feedback right now.

Council Member Golonka said he supported Mia's recommendation.

Council Member Golonka moved that the Council support the recommendation to support the foundational operations budget. The motion was seconded by Council Member Weiss.

Council Member Sherman asked if they could also encourage her to have the District find other ways to conserve funds, possibly through greater participation in the health care costs and other appropriate measures.

Mia Moore said that is one of the things they have started to look into with the Finance Oversight Committee is the health care costs as they keep going up.

Mayor Hooper asked what the percent of increase was this year.

Ms. Moore said she believed it was 18%, and it happens in February.

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

09-284.

Consideration of a list of proposals/requests from the Capital City Farmers Market.

(POSSIBLE VOTING ACTION)

Mayor Hooper met with the board several weeks ago, and the Market's proposals were discussed.

Board members hoped that City staff could work through these requests with them but were informed that matters such as this needed to be dealt with at the Council level.

Board representatives, and possibly the Market Manager, will be present this evening to outline their proposals to the entire Council.

Recommendation: Receive and discuss the proposals as outlined in a letter from the Capital City Farmers Market Board of Directors; possible direction to the board and/or City staff.

Mayor Hooper said everyone knows the Council considered a request from the Farmer's Market before the last season began and said let's look at how this works for a year. The year is up and the Council would like to hear a presentation from members of the Farmer's Market and from other people in the community and then invite some guidance to the staff and to the market in terms of how we would like to proceed next year.

Carolyn Grodinsky is the new Manager. Boots Wardinski, President of the Board of the Capital City Farmer's Market, Gile Folscom, a member of the Board; Randy George, Treasurer of the Board; and Ann Towne, Secretary of the Board appeared before the Council.

Mr. Wardinski said they are back with essentially the same request they made at the beginning of the last season, which is to manage the whole 60 State Street lot. They did see some problems along Julio's wall this year and there were several incidences where people were driving in between 8:30 A.M. and even after 9:00 A.M. when the market started. He gave examples of several incidents. On September 5th a person who sells coffee drove in at 8:55 A.M. to unload his wares to sell. On September 12th there were people driving in at 8:45 A.M. On September 19th again after 9:00 A.M. and on September 26th there were three vendors who drove in after 8:30 A.M. The market has been going on since 9:00 A.M. Vendors are required to be in and out before 8:30 A.M., but they have no control over the people who come in and set up along Julio's wall. Some people even set up in the area between Julio's and what used to be the National Wildlife Center which they had agreed would be kept open for emergency vehicles. The Thai food guy who set up a food court essentially in that area, and it would potentially cause a problem if any kind of emergency vehicle had to get

in there in a hurry. There was one potential catastrophe which was averted but a pilot light went off in Julio's. If it had continued for another hour it would have reached the existing pilot lights and there would have been an explosion. If there had been people set up in that area and people had to get back there, it could have been a problem. Mr. Wardinski said there are potential safety issues being exacerbated by what is going on along Julio's wall.

There was another situation where they had come to the City Council and requested a specific date for the Children's Market and on that date vendors came to Julio's wall and set up. They asked them to leave and they refused so they had to reconfigure their kids' market to its detriment. Ben Matchstick came in to do things and he had to go somewhere else rather than where the kids were setting up. The other issue they are concerned about which was never resolved is the insurance issue. There is a policy that covers 60 State Street, but there is an area they have no control over along Julio's wall which they are still responsible for in their insurance policy. Since they can't enforce any safety concerns which they impose on their vendors regarding their tents and if they are selling food that has any heat they need to have fire extinguishers and a garbage receptacle. They can't do any of that along that area. That is a concern to them. Those are reasons they want to reiterate their request to manage the whole lot. With the same caveats they introduced last year with opening it to nonprofits and street performers, kids and politicians so they can set up as they have in the past and as they do within their market, but they can schedule it and control the traffic in and out. If they can do that they can alleviate any concerns about safety, pedestrian and vehicular traffic. There are the other issues they wanted to talk to the Council about regarding a toilet, storage areas and trash.

Mayor Hooper said their proposal is as they requested last year that the Farmer's Market be allowed to be in charge of the entire area of the market. There is also a list of other things they would like to have a conversation with the city about.

Mr. Wardinski said they would like to have some kind of permanent sign at the head of the market because they are somewhat out of view.

Council Member Hooper said when they were here the last time the Council suggested putting a barricade up when the market started so that cars couldn't go in and he didn't see that ever happen.

Mr. Wardinski said they did that a couple of times early in the season and it seemed to send a message to people that they didn't want them in there. Keeping vehicles out with a barricade also sends a message to people that we don't want them in there. Given the fact that there are vendors on both sides a barricade makes access very limited.

Council Member Weiss said he thinks the proposal by the Farmer's Market has equity and there are two examples which exist in this city which are working effectively. The first is the agreement that Lost Nation Theater has with the city for the upstairs space of City Hall and the second although it is not directly under the Council's supervision, is the agreement that the Mountaineers have with the Recreation Department for the use of the baseball field and the facilities out there. He strongly support that the Farmer's Market folks get together with the Council and City Manager and come up with a recommendation for a Memorandum of Understanding for the council's consideration.

Mayor Hooper said the owner of the lot is here and we have a lease with them. She didn't know if there were issues that he felt the Council should understand.

Tim Heney said there are no issues with him. The only thing that occurs to him is that there is an easement down the Julio side that goes to the Jacobs building, the old garage, in back of the buildings behind Julio's. He understands that needs to be kept open regardless of whoever uses 60 State Street.

Mr. Wardinski said he would also like to mention that John Mayfield is very much in support of the Farmer's Market managing the whole lot, and he has had several conversations with him. When they were

first proposing they would manage the whole lot they talked to John Mayfield and Restaurant Phoebe. One of his concerns was that we not establish a food court, and in fact there has been a food court established near the restaurants. In their bylaws they are limited in the number of prepared food vendors that they can admit to the market.

Mayor Hooper said one of the things he mentioned was that he would schedule the nonprofits in there.

Mr. Wardinski said they would contact the Market and they would let them know what is available, if it is available, and his sense is there is never a problem finding room for nonprofits along Julio's wall or what previously has been the market area. It is just a question of making sure that there isn't an over abundance of people wanting to come in there. It would essentially be on a first come, first serve basis. We would have to let them know because of the liability issues what they would have to do in order to set up a tent or whatever issues they may want to address so the safety concerns are met. Now there are no restrictions on anybody that sets up along Julio's wall.

Mayor Hooper said a concern she has is one of the great pleasures of the Farmer's Market in addition to its great vendors is the fact that it is a really extraordinary market and we are very fortunate to have them choosing to have their home in Montpelier on Saturday. Because it is well run it also has a sense of an organic quality, that there really is a kind of civic engagement area. The nonprofits can do their thing and people who want to talk about issues can come do their thing. She is really concerned about losing that sense of being a place to gather and talk to our neighbors and have community discussions. If she has to ask him permission to do certain things it feels like we may be losing something and this is something we

need to pay attention to. She is talking specifically about what goes on along Julio's wall. This changes the access that she as a community member would feel she has there.

Council Member Sheridan asked if the Farmer's Market was willing to pay for the additional things they were asking for?

Mr. Wardinski said they feel they need to have permission and a discussion on how to implement those. They would pay for the full cost. They don't feel they can put any kind of storage area. It obviously would be temporary for the market season. Where would it go and how would it impact the parking that goes on during the week? They would want the storage there for the whole season. They have three picnic tables that weigh a ton and right now they are storing them. They are just looking for guidance on how to implement those proposals.

Mayor Hooper said she understands the downtown organization Montpelier Alive has suggested that it could help sponsor a secondary market. There are folks who have wares to sell that for whatever reasons aren't able to participate in the Farmer's Market and are on the Julio's wall. There are also a lot of people over at Christ Church on a regular basis and Christ Church is presumably managing that. Montpelier Alive's offer to create another space where other people in the community could have an opportunity to do something was helpful. She is curious what the Farmer's Market response was to this suggestion.

Mr. Wardinski said they have heard about this. Whatever happens off the Market is of no concern to them. They are neither opposed nor unopposed.

Randy George said that is a great idea. The issue they are talking about here is sharing the same space with an unorganized group.

Council Member Golonka said one of the questions they had talked about at a prior meeting was the discussion about the Farmer's Market paying some type of rent to the city. Are they still open to that discussion? What are their thoughts on a rental arrangement with the city?

Mr. Wardinski said they are willing to talk about it. The CCFM is going to apply for nonprofit status.

Council Member Golonka said this is for individual members.

Mr. Wardinski said they are all there to make money.

Council Member Golonka said the city does incur costs with extra police presence and extra potential liabilities.

Mr. Wardinski said they had their annual meeting for the Market and one of the things they talked about briefly was a discussion with the Council tonight and they might have to come back in the spring with a revised budget reflecting more costs.

Council Member Sherman asked Mr. Wardinski to tell them who is allowed to sell in the market. It is clearly food, crafts and agriculture.

Mr. Wardinski said they have a breakdown of 60% agriculture and 40% prepared food and crafts.

Council Member Sherman inquired what the fee is to apply and enter the market.

Mr. Wardinski replied that the application fee is \$10. To become a member is \$30 per year and the fees for a 10 foot space were \$125 in the past.

Mr. George said they are also a winter market now. It will cost \$425 to be there in the summer because they are combining their operations, winter and summer. They are looking for just a little less than \$600 for the entire year including winter. You don't have to do the whole summer season or the whole winter season. They have vendors who come to selected markets.

Mr. Wardinski said they have their seasonal rates and their individual Saturday rates. There is a different rate for members who do volunteer work and for those who don't, and there is a different rate for people who have not paid the \$30 membership.

Mr. George said the individual market rate for vendors who want to sell at a single market will be \$18 per market.

Sarah Guyette said her mother is Darla Morrissette who sets up along Julio's wall. Regarding the safety issue, she has noted that at 1:00 P.M. when the market has essentially ended the big trucks for the produce are backing and driving down into the market while there are still people, children and animals all milling about. As a safety issue you need to look at that as well. Regarding the food court issue, there are several vendors in the market that sell food and there is a picnic table. As a taxpayer in Montpelier she isn't comfortable giving the Farmer's Market that much control of what is essentially city property because the city does lease it and pay money for it so it is the Market's sole control as to who can enter it. Her mother on two occasions has applied to be a member of the Farmer's Market. Once it was said they were too full and the second time she didn't meet the criteria although there was no explanation of what that criteria was. Several months ago they said she was just trying to get a free ride. She is not. She would gladly pay to be a member of the Market but was denied a place.

Darla Morrissette said she is rather surprised this has come up again. The only reason she knew about this was because Joe Keene informed her on Monday morning and said she should attend. He probably didn't come because he is so sick about the whole thing. To tell the truth she is. She thinks this is ridiculous and she feels guilty that they are taking up City Council time on this situation again. They have gone over it twice. She caused no problems this summer. She arrived at 7:00 A.M. to get her place, didn't drive down into the market and policed the entire area when other newcomers were coming in. She told newcomers

they couldn't drive down in. One day she said it to someone and they swore at her. It just doesn't seem fair because there are empty spaces. Most of the time during the summer there were 6 or 7 empty spaces yet she was denied. She doesn't think it is fair. She has done nothing wrong. The day they say the Children's Farmer's Market was displaced there were about 5 kids that showed up and there was plenty of room for the children. Boots Wardinski says he doesn't care what anyone does off the market space. Well, this is off the market space; it's Julio's wall. That isn't their space. They want it to be their space so they can have full control. She has been doing it for four years and she doesn't think that one group should have the right to shove her out. It is basically her they are after. There is no one else they really care about there. Maybe they are afraid she is making a little more money than they are some weeks. She does a pretty good business. She just hopes the Council will consider letting her stay along with the rest of the people along Julio's wall. They are doing nothing wrong. If anything, they are adding to the atmosphere. Everybody loves to be there and they come and hang around places on the wall. There are no problems. The Thai guy went down a few times, but he has a vendor's license from the city. He can go anywhere he wants. She just hopes the Council will consider letting this remain open for anyone, not just nonprofits, kids or politicians or whoever the Farmer's Market deems should be along the wall. She has put up with harassment this summer from different Market members. She had one woman come up in her face and told her she had some nerve setting up here when the rest of them have to pay. She told her she tried to be part of the market. She told her she would have to wait her turn. No, she doesn't have to wait her turn. They do not want her in the market. She doesn't think the Farmer's Market should have control of Julio's wall. They have plenty of space. Montpelier Alive is thinking of another place to put people like her. She doesn't want to be any other place. She wants to be where the action is. There's not even foot traffic in front of the Church. She has looked into that but there is a lot of flea market stuff there and it is pretty junky looking.

Mayor Hooper told Darla that she doesn't personally believe this is about her even though it feels that way. The questions and concerns she has are not about her business but just generally about the management of that area and the concern that it is well managed and not creating additional problems. Do we believe there are safety issues? Do we believe we are intruding on other people's properties? We have heard we have been in the fire lane and there are other issues. The Council has an obligation to consider that.

Andrea Tricklebuff said she is a member of the Farmer's Market and has been for ten years or more. She came to speak in favor of leaving Julio's wall a free space as it has always been. She agrees it enhances diversity, interest and more freedom. With the Farmer's Market there are rules and regulations and historically that wall has been a free space. She has not witnessed any of the car incidents. It has always been a happy and diverse place and people have been able to do whatever they wanted to do. The Azarians who have the Thai food place have not been any problem at all to anybody. There is food up and down the whole entire Farmer's Market. She came to speak in favor of leaving it a free space and she is a member of the Farmer's Market. It's a business opportunity for the Farmer's Market because they charge for their spaces and the people along the wall may not be able to afford that amount of money and have an opportunity to vend the day when people are around. That is an important opportunity for them. It is sort of like the affordable housing issue.

Doug Brosh from the Town of Calais said he would like to speak about keeping the free space open because there are a lot of people who can't get into the market, fledgling businesses, and people who want to start trying some crafts things and there isn't an opportunity for them. There is also a value on who can be in the market and who can't. He has heard a lot of reasons why people have been refused to be in the market. He thinks it helps the image of Montpelier to have an opportunity for street vendors and musicians. Remember the girl who played the clarinet around the city and some people were annoyed with her. She used that opportunity to play on the streets and got a music scholarship out of it.

Council Member Sheridan said he thinks they can all agree that we spend a fair amount of time in the neighborhood and probably understand our neighborhood better than others who don't live in our neighborhood. This is his neighborhood and there are far more safety issues in his neighborhood at the crosswalks than there are at the Farmer's Market. Cars just do not stop often for people, especially in the

morning. He goes to the Farmer's Market almost every week and he doesn't see the safety issues. There are always a lot of people there. He would like us to ask our police if we have ever had a major issue here in all of the years it has been there. There have been more issues in our crosswalks and at our intersections than we have there. That is where he sees the safety issues. He is sure something occasionally happens, but he really doesn't see the safety issues that have been talked about here. He has lived in this neighborhood for 16 years.

Mayor Hooper said she is really fond of Jim's neighborhood, especially Saturday mornings and Saturday afternoons at 1:00 P.M. She is one of the people who has had a concern about the congestion at the mouth of the parking lot on to State Street and actually spent several Saturday afternoons sitting on the Court House steps just watching what was going on over there and observing how people broke down the market. It strikes her as being very congested and she is concerned about something terrible happening there. Remember we prohibited cars in there because of this specific concern. Even though nothing bad had ever happened in our Farmer's Market there was the horrible tragedy out on the West Coast where somebody got tangled up on their accelerator and drove through a market and several people were seriously injured. She is worried about the safety at the mouth of the market when folks are breaking down. During the market time it is fine. She thinks there is a very real concern about maintaining fire access. We do know that people were setting up in the fire lanes. It isn't that they were or were not a food court and there is a need to move people rapidly if there is an issue. Last year the Council said very clearly at the city government level that we were not going to manage that, that we were not interested in being responsible for managing anything related to the market or outside of the market because we don't have the resources to do that. We aren't going to spend city resources to do that. The question is, is it working? And is there a way to make it work better? She was intrigued by the notion that Montpelier Alive put out that they could create an alternative space that would allow opportunities for people that want to be a part of the market that they could still totally be in the area. She totally gets it that it won't work, that it has to be in the vicinity and it has to be an attractive area that works for people. She was glad to hear that the Market doesn't have any concerns about that.

Mayor Hooper said she is a fan of the liveliness and chaos that comes when we have a lot of people doing things on the street. They were having a lot of people parking food vending carts where they really shouldn't be and in front of businesses they really shouldn't have been in front of. They have to come to a point where we are regulating vendors and explicitly saying where they can be and where they cannot be. The Church Street Market say there are several places where they will allow vendors and you have to look like this and be like this so they deal with the safety issues and the goods and services that are sold there. The city needs to look at that, too. In a way this is associated with this issue. We also need to figure out how we manage vendors.

Council Member Sheridan said he agreed about the break down but that really doesn't have anything to do with the issue of the people along the wall. That issue has to do with the break down of the entire market. That is going to be a safety issue whether we give them control of the whole market or not.

Mayor Hooper said it is an issue with folks in the market but also with folks who are not in the market. They are both trying to go through the same funnel at the same time.

Council Member Sheridan said the Council giving them control of the market is not going to change that. There is still going to be that rush to get out.

Giles Folsom said if someone who is a member of the market breaks a rule or does something they shouldn't do they can explain too them, but in the free zone they have no right to do that. They have no authority over them so that is why they are asking to manage that section.

Council Member Weiss asked if they have the right to revoke somebody's privilege to operate within the market if they violate a rule more than once.

Ms. Folscom said they do.

Council Member Golonka said he is concerned that this doesn't seem to be a material different discussion than the Council had a couple of months ago. Why are we talking about this unless one of the members in the affirmative voted to reconsider?

City Manager Fraser said they said at the time they would look at it at the end of the season.

Council Member Golonka said there is really no set proposal we can vote on. Obviously, there have been some questions raised in terms of paying or looking at the regulations. He thinks they are spinning their wheels here without having a concrete proposal. He would prefer this to go back to the City Manager and maybe have him give us a recommendation and then come back with something concrete that can incorporate some of these ideas. We have talked about this for six Council meetings.

Mayor Hooper said she was responsible for that. She sat down with the Market toward the end of the season and asked them to sit down with the City Manager to work out a proposal. Just last week Bill said he had this letter and needed to meet with them and she said they should get some direction from the City Council to see if they want to reconsider the fundamental plan. The Farmer's Market is asking for certain things the Council needs to address.

Council Member Sheridan said he would throw his hat in with Tom and let's talk about making some money on this.

Council Member Golonka said that would give him cause to reconsider. Ideas we talked about three months ago that would change his mind would be to talk about compensation issues, reimbursement to the city to help us pay for this lot, and safety issues.

Council Member Sherman said the Council has heard the Farmer's Market has a new market manager. Maybe it is possible that they will consider how they will include vendor applications in a different way. Maybe there is a way they can address some of the issues of how to get vendors who want to be in the market there. It sounds like their fee schedule is possibly different or more flexible. She thinks it is important to have an entity control the whole space but access to the market space is something the market should address in a more reasonable and open way. If we are going to add a tax element to it she would like to know what their policies about inclusion would be.

Council Member Jarvis said that is exactly what she wants to avoid. This is not our market. This is the Farmer's Market and they are the organization that controls it. She doesn't want to talk about this any more. She doesn't want to micro manage it. She wants to give them the whole lot. They can manage it. They know what the safety issues are, the liability issues; they can deal with the trash; they can deal with the traffic; they can reprimand people who violate the rules. It has taken a ridiculous amount of the council's time and city staff time. She doesn't see any reason for it.

Motion was made by Council Member Jarvis, seconded by Council Member Hooper to allow the Farmers Market to take over the entire 60 State Street lot next year.

Council Member Sheridan said if they are controlling it and somebody goes down there, do we need our police to straighten this out on the city's dollar.

Council Member Jarvis said there are always police issues even if a private entity is controlling the event.

Council Member Golonka said they aren't paying anything. That is the question he needs answered before he can vote on any motion, in terms of compensation to the city for giving up our rights and the citizens rights to this lot. That hasn't been addressed.

Council Member Sheridan said that is exactly why he is not ready to vote on it, either, because if somebody does go down there and something happens the city's police are going to have to go there to straighten it out. This is our lot that we aren't receiving any money for. Don't give away more than we are already giving. He would like to see the city stop giving away everything for a change.

Council Member Sherman said it is comparable to when we close a street for an event. Maybe how we do that cost sharing comes up later, but certainly they are related.

Council Member Hooper said he has changed his mind and is going to agree with Tom and Jim and will withdraw his second to the motion.

Council Member Weiss said the move for the motion is void unless there is a second to it.

Council Member Sherman seconded the motion.

Mayor Hooper said what she is hearing and what she thought they would get is a discussion of how fees would be charged for the use of that lot. Now she is hearing folks saying they would like to know more about the fees being charged for the use of that lot before you make a decision about how you want to proceed.

Council Member Jarvis said there are a lot more important issues the Council needs to be dealing with. There are really serious budget constraints this year we need to be talking about and we are spending hours and hours on this, and it's not okay.

Mayor Hooper said they are going to ask the City Manager to have a conversation with the Farmer's Market to look at the fees that can be charged for the whole lot or a portion of the lot.

Carolyn Grodinsky, Market Manager for the Farmer's Market, said one of the reasons she is excited about this job is that the Farmer's Market is huge for the city. It brings in so many people that are shopping and that should be part of the equation.

Mayor Hooper said the motion is for the city to work with the Farmer's Market to give them full control over the lot.

Council Member Weiss said the Lost Nation Theater pays a fee. The Mountaineer Baseball team pays a fee of \$1,500 a year and the Mountaineers bring in more people than the Farmer's Market could possibly bring in. He thinks a fee arrangement is fair. He thinks the motion is slightly premature but it is supportable as long as there is an agreement worked out which includes all of the points of the conversation tonight.

Mayor Hooper said the motion on the floor is to provide all of the space of the 60 State Street lot to the Farmer's Market for their management with the understanding that some sort of arrangement would be reached to deal with the cost of the city allowing the market to use that space.

Council Member Golonka felt this was premature. If somebody comes to us and we offer them services we don't agree to award that contract to them before we know the details of that contract. He can't support the motion without having that.

Council Member Jarvis said the Council very often gives authority to Bill to negotiate and then we can bring it back to the Council for the final say.

The motion failed on a vote of 2-4, with Council Member Weiss, Sheridan, Golonka and Hooper voting against the motion.

Council Member Jarvis said they can put it on the agenda for next week.

Mayor Hooper said that is a concern because in two weeks they are beginning the budget discussions. The Farmer's Market is going to be talking to its vendors in February or March about what is available. They need to know what we are doing, and the community needs to know what we are doing.

Council Member Sheridan said put it on the agenda for the December meeting. We will hear some kind of cost analysis. The Farmer's Market isn't going to start until next April or May.

Mayor Hooper asked if they were going to discuss the use of the entire lot, a portion of the lot. What is the direction to the staff for talking to the Farmer's Market?

Council Member Sheridan said the reason why Sarah's motion failed wasn't because we didn't want to discuss the control of the lot. It was because there were no figures given on the price.

Council Member Hooper said he didn't know any one on the Council who is opposed in theory to giving the Farmer's Market the control of the entire lot. He didn't hear that at all.

Council Member Golonka said he isn't ready to approve giving it away without seeing a proposal. He wants to know how much money they are going to make off this lot for the city. We are paying a lot of money for renting this property and he doesn't think it is appropriate not to get something out of it.

Council Member Jarvis said she would like to see a discussion about the whole Farmer's Market having a vendor's license. Anyone in that area who is going to be selling goods whether or not they are part of the market needs to have a vendor's license.

Mayor Hooper said she would extend that to revisiting the whole vendor's license management in the city. It is inadequate right now.

Council Member Jarvis said the city does have an ordinance that requires that food vendors be 50 feet from any restaurant or establishment that sells food.

09-285.

Update on the redevelopment options for the 55 and 58 Barre Street properties to house the Montpelier Senior Activities Center. **(POSSIBLE VOTING ACTION)**

City Council requested that staff provide the update this evening.

Staff has provided Council with the following references: a copy of the MSAC Facilities Study by Harold and Associates; a copy of the Gossens Bachman Architectural Plan; and a Predevelopment Budget as per the Vermont Community Development Program Grant Reapplication.

Excerpts from the VCDP Planning Grant Application, submitted on November 3, 2009, have also been provided to the Council.

Recommendation: Given the MSAC Advisory Board's request of the City Council to develop a plan that would allow them to remain in their present location, staff recommends that "proceeding with the predevelopment steps as outlined in the grant application to determine the best options for the redevelopment of the properties should proceed." Following an opportunity for discussion, direction to staff.

Garth Genge, Planning and Community Development Department, said members have received the two documents from Roberts & Associates and the architects who gave options for what could be done with the

buildings. You can see from the grant application the direction he was going. They are at the point now where the Senior Center has requested the City Council to give them support for staying in the same place and using the options. Probably the most pressing thing coming up is the Department of Public Service issuing the rules for the grants in the middle of November, but basically it is supposed to be committed grants directed towards energy efficiency improvements to municipal buildings. If you go for federal grant money which is coming through the state you are going to be constrained by the restrictions of the funds. The opportunity is coming up. If we wait to hear from VCDP again we are going farther down the line without getting much going. The VCDP planning grants are very competitive now. He understands the planning grants are down to 2% of the budget and they are very competitive, so even with this application reducing the amount and the fact we have two outstanding grants we have just been awarded, the Home Share and the Brownfields upgrade for Turntable Park. He is hoping for direction from the Council so he would know which next steps to pursue with the buildings.

Council Member Golonka asked Garth what the options on the building were. We can also get rid of it and put it back on the tax roles. Is that one of the options they still want to consider? One of the objectives of the planning grant was to get us more data so we could make a decision as to whether or not the Senior Center could stay in that building or not. He doesn't think they are at all ready to make a decision tonight whether or not they are going to support the Senior Center's desire to stay in that building. He isn't because they haven't seen any data other than what they have already seen. Is it going to cost \$3 million or \$4 million to renovate it? He doesn't see anything changing that right now, or how we would pay for it. Until he hears those two answers he doesn't know if he would recommend keeping 58 Barre Street or put it back on the tax roles.

Community Development Specialist Genge said that was one of the reasons he submitted the budget that went with the planning grant application. Those are the next steps he thinks that need to be taken to make that decision. We need a market study and the engineering analysis for the structure. We need to actually pin down the costs. The Gossens Bachman estimate is a pretty good one but it doesn't include any development costs. It would depend on whether it was a private sector option or a nonprofit development option. Emptying the building to try to put it on the market without more information is hard to make that judgment or recommendation. Is the city prepared to go forward with the next steps to evaluate what the disposal of the building would be?

Mayor Hooper said an associated piece of that is just to get through tomorrow or next month that building is in really rough shape. They didn't have heat for awhile. They have had people in and out trying to fix the heat, and the heat is working now. We're struggling to find money to get through the month. It really is an issue with making that building work to the point where it might be cheaper to move everybody out, but it might also be cheaper just to do some real basic work in there by weatherizing it and fixing the boiler. We need to make that decision.

Community Development Specialist Genge said estimating from the savings recommendations that were in the architectural reports if you do the basic upgrade the savings is approximately \$40,000 a year on energy savings for the combined buildings. That is for 58 Barre Street and guessing a little bit for across the street for the Recreation Center. He is assuming it is losing about the same in terms of inefficiencies. There is no insulation, the same way with 58 Barre Street. You have the potential of saving up to \$60,000 a year in operating for both. That is a decision if you want to keep the buildings and operate them. The direction for applying for grants, if you apply for the money from the Department of Public Service the odds are pretty low because the restrictions on it are going to keep it in municipal hands for a minimum of five years.

Mayor Hooper said the urgent issues associated with the building is the oil tank on both of the buildings are in a state of collapse and they believe they urgently must be replaced, which means cutting down trees that are growing on top of them. That has to be done. We have a delivery of oil. It's a 2,000 gallon tank that serves 58 Barre Street. We took a delivery of oil about the first of the month and it is basically gone now, 10 days later.

Community Development Specialist Genge said the windows in both buildings are deteriorating and need some substantial maintenance just to continue to exist. Talking with a consultant, both buildings, regardless of the funding, would have to be maintained the same. The longer they go without being repaired and maintained the more expensive it will be to repair.

Council Member Jarvis said she didn't suppose they had done any basic weatherization. Those huge windows on the second floor need plastic over them or calking.

Community Development Specialist Genge said the problem with both buildings is that there is absolutely no insulation in the roof. The heat is pouring out the roofs on both buildings.

Council Member Sheridan said if they were to repair the roof and insulate the ceiling, even if we decide to sell the building that will be a value that can be carried forth in the sale.

Community Development Specialist Genge said he had talked to people and looked at the numbers and if you did a basic upgrade to that building, keep the Senior Center there and try to sell the 14 units that are possible from the architectural evaluation they would have to go for about \$200,000 and he doesn't think that will happen in this present economy. Emptying the building out and selling it he doesn't know of a lot of people who will put the money up to buy it. There are not a lot of things you couldn't do with that building that will give you a return.

Council Member Sheridan said nobody is going to buy it if they think that leaking tank is there.

Community Development Specialist Genge said that is another issue. If you wait for the planning grant to come through and it doesn't they will be in the same position three months from now. Whether the city wants to make the commitment to go forward to at least evaluate the building so they will have the full picture – he'd hate to lose the opportunity for the municipal directed funds for municipal buildings because regardless of whatever development that happens later the city could possibly lease out the different sections after investing in the energy upgrades. There could be a lot of different ways of still developing it using those funds. He doesn't think that is a great building to put on the market right now to have someone do something with it. Having a building like that sitting out there empty unused is a deterrent to the city.

Elizabeth Dodge, Senior Center Advisory Board Member, asked if they couldn't have the tanks filled to only 4,000 gallons so we could figure out what was happening with the tanks.

Community Development Specialist Genge said he hasn't talked to Todd Law, Public Works Director about the tank situation.

Ms. Dodge said they have a date to go up to Swanton, November 30th, to see what they have done and they hope to come back with some good information. They have a combination senior center and housing.

Community Development Specialist Genge said the Swanton facility is a senior center, senior housing and a medical facility. It is the reutilization of a public school in the Town of Swanton. St. Albans has done something similar. It is a very common reutilization of school buildings as senior housing. The building's because of their style and the period rehabilitation almost takes public funding to be able to make it practical. That has been the solution for combinations of senior centers, housing, medical facilities, office space or educational facilities for the Abenaki, and that is what the Swanton School is. St. Albans is senior housing and senior center. Throughout the state there are other examples of similar projects being done.

Council Member Weiss said there may be a couple of downsides when the rules of funding are published, but he doesn't see a downside to submitting an application.

Community Development Specialist Genge said he doesn't know the timeframes for review and approval, but if they put the application in at the time of the award they would have the final decision as to whether they sent the award and go forward.

Council Member Weiss said he still thinks it would be worthwhile to approve the submission of the application.

Community Development Specialist Genge said he would still recommend the application on the items he had submitted to help clarify so it would be a real solid application to make sure there would be enough money to do it. Even if they go for the energy dollars one of the components is insulating the walls. If they insulated the walls before they determined what they were going to do with the building that could be problematic for installing pipes or electricity later on. That would also cost a little bit for an architect to evaluate. There is some information in there that would need to be pursued in conjunction with the grant application. His recommendation would be to spend the money and go through the steps he submitted in the application. If they get the VCDP grant he would have to see if they would allow us to credit money that has already been spent as our match, and if they give an award will they let us reimburse the city for monies already spent. In that estimate the \$5,000 for the architect was allowed originally and they have only spent \$2,800 of that so far. The \$4,000 for his time at the bottom is a guess of what his time would be to go through this step.

Council Member Golonka said it sounds like there is an emergency situation with regards to the boiler not working and the oil leaking. Have there been any contingency plans to moving the seniors for this winter and closing that building down completely? It may be our only option if this boiler dies. He doesn't see us putting \$200,000 into it just for a temporary solution.

City Manager Fraser said they have it in the capital budget and they are getting that evaluated now to see if that is something they have to do.

Council Member Golonka asked if anyone had spoken to him about renting the St. Michaels School next door.

Community Development Specialist Genge said they are open to any suggestions, but he hasn't pursued any specific options.

Council Member Golonka said he knows the school is still open to rental of that facility short term and/or long term.

Community Development Specialist Genge said even if they do the renovation they are going to have to move the Senior Center for a short period of time.

Council Member Jarvis said regardless of what action we take they need to get the Senior Center folks out of the building at least temporarily. We could conceivably not heat that building for the winter, or heat it minimally so the pipes don't freeze. She can't see putting a lot of money into it without knowing where we are going.

Council Member Golonka said he would rather shut it down and move on.

Community Development Specialist Genge said you can always shut down a building. It is really hard to shut down a building that has been operating so long you don't know where there are going to be pockets of water in the heating system. If you aren't tracking it on a regular basis, if there is a big snow storm and it gets below 30 degrees for three days your losses are much higher than if you winterize it.

Mayor Hooper asked if it was possible that it would cost more to rent another space, move away than it would be to do the simple renovations?

Community Development Specialist Genge said he doesn't know what it would cost to move the Senior Center. He heard some numbers at the meeting where they were talking about leasing the Elks Club as an option. He believes it was \$60,000 for the city for the year, and if we are spending \$80,000 by the time you move the seniors and make up for all of the difference in facilities with staff time and people time he doesn't see big savings. He could see maybe leasing something from St. Michaels next door and then being able to use it. It is going to limit their capacity for the programs and operations, but that may be more viable.

Council Member Jarvis said if they have a leaking oil tank we need to consider something else other than just finances.

Community Development Specialist Genge said with a leaking oil tank the longer you put it off you are just increasing the problem.

Council Member Golonka said it is also an environmental hazard and a potential health hazard for anyone in that building.

Community Development Specialist Genge replied there were options of disconnecting the tank, draining it and having a temporary exterior tank installed. There are different options to being able to keep the building open and contain the hazardous and toxic issues with the tank.

City Manager Fraser said they are just getting a handle on it. This is a tank that should have been replaced twelve years ago. They are just trying to get a sense of how bad it is. There is some sludge in it so they don't know if it is leaking or just not operating efficiently.

Council Member Golonka said they are also going to have issues with the state. The Agency of Environmental Conservation could come in and close the building down in 10 minutes if there is a serious issue.

Council Member Weiss said the city owns two buildings across the street from each other on Barre Street. Maybe they should seriously consider closing the Recreation building in its entirety, getting rid of the gym for awhile and move them back over to save money and not operating that particular building or close the building in which the Senior Center is now and move them over to the Recreation Center. Maybe we can save enough money if we think about the fact that we don't necessarily need two buildings simultaneously at this critical time.

Council Member Sheridan replied there is no kitchen in the gym.

Community Development Specialist Genge said it is also not ADA accessible.

Mayor Hooper said they are going to have a Senior Center. There are 400 Montpelier residents, 300 people from surrounding communities, who use that Center on a regular basis. If we rented a space to put all of those people in it would cost \$60,000 a year. If we don't have the Senior Center in the Senior Center where are we going to put them that is cheaper than where we have them? Let's fix the building so we aren't wasting the money.

Community Development Specialist Genge said even if they move the Senior Center out the city is still going to have to have a building. Unless somebody from the private sector purchases it they are still going to have to be looking at what the options are with the building and for whatever use it is going to be. Most of the recommended steps would have to be done regardless of the use. The report was based on having offices in the upper floors. The architect's report was based on apartments. Part of the market study is to

determine which one makes sense. What ownership format do you want? One of the potentials is that it could all be cooperative. The Senior Center could have one section they own and the apartments could have another section. The implications for the city would take more legal and financial advice than he could give the Council personally. Figure out what you want to do with this building.

Council Member Sherman asked if it was possible to keep the seniors in the building and do the most critical work, i.e. the roof, oil tanks and heat.

Community Development Specialist Genge said a lot of the work could be done. Get them through the winter and redo it in the spring time.

Tim Heney said they dealt with some of the same issues when he served on the School Board. They need to deal with the oil tank ASAP. The roof isn't leaking right now.

Community Development Specialist Genge said the warranty is gone on the Recreation Center's roof.

Mr. Heney said the heating system conversation really depends upon what you are going to use the building for. They need a system they can zone out, which the current system isn't. There is just one thermostat for the whole building. It needs to be zoned out so you can control it and make it efficient. It is worth the investment to take care of the oil tank and get the heat going.

Council Member Sheridan said he is ready to make a decision. He thinks they need to deal with the tank, the heat and the roof at 58 Barre Street. He isn't even thinking about 55 Barre Street except to shut it down. Where does the money come from? Those are three major issues on the building. They could take a chance going through the winter. He is at the building a lot and sees Todd racing in to look at the heating system.

Community Development Specialist Genge said the roof isn't actually leading so if they wanted to break it down into components with blown in insulation just to save the heat might be the most efficient. Doing things piecemeal ends up costing more money and being less efficient about doing the whole project, but it's a big building with a lot of problems.

City Manager Fraser said the components of doing some version of those three elements will result in operational savings.

Community Development Specialist Genge said Andy Shapiro did three stages of improvements. We can do in between his modest and his extreme. They aren't going to wrap the whole building with foam. That would bring the savings on that building alone close to \$60,000. The energy upgrades alone are some \$500,000 plus, including an entire new heating system.

Council Member Sherman said there was mention in one of the reports that if the roof or ceiling was insulated the snow wouldn't melt on top and it might result in damage because now the snow doesn't collect on the roof.

Community Development Specialist Genge said he met with the structural engineer to get an estimate and they didn't think it would be an issue. Any funding applications would have condition so that is why it is one of the steps. The roof on the Recreation Center is steel with wood and as long as the steel is in reasonable condition that would hold it. The framing on the 58 Barre Street is substantial enough and the present structural walls that go up through the hall should be adequate enough to pick it up. Somebody would have to make that determination.

City Manager Fraser said knowing the issue with the oil tank they know it is not functioning well. The Council needs to make an informed decision. They have identified it in the budget as a high priority issue in the capital plan. The notion of any other improvements that we are going to make would be wrapped up

into whatever big project and/or done with an energy efficiency kind of plan. What are the key things they can do that wouldn't preclude other future uses and generate a savings?

Community Development Specialist Genge said he has started working on a budget that would separate just the energy improvements out for both buildings. He is trying to put together a budget so they will be ready when the application is made. They are based this on \$3 per gallon for oil.

Elizabeth Dodge from the Senior Center Advisory Board said if they went along with Council Member Weiss' suggestion, would that mean the Recreation Department would move back?

City Manager Fraser said the Superintendent's Office wouldn't move back and they had the front part of the upstairs.

Mayor Hooper said she agrees with Council Member Sheridan in terms of the kind of priorities they need to be looking at. She thinks the Council needs some more information and numbers. Looking for some of the energy efficiency grants would be great. We understand the restrictions.

Community Development Specialist Genge said he doesn't think they are going to find a better location for the Senior Center over time. The combination of subsidized housing upstairs and the Senior Center downstairs it would most likely be an ownership situation that would put it on the tax roles because it would be tax credits and an income for the city.

Council Member Weiss said this will tie in with a couple of problems that any municipal board has. In two years we could end up with the Main Street School.

Mayor Hooper said Council Member Weiss raises an important question to consider which is if we are as concerned as we say we are with financial issues should we be running the Recreation Center.

09-286. Continued discussion of legal opinion concerning release of documents subject to attorney-client privilege. (This item was tabled from the City Council's November 4th meeting.) (POSSIBLE VOTING ACTION)

At their meeting of October 21, 2009, the City Council voted to waive attorney-client privilege on documents relating to Scott Construction, Inc. from October, 2006 to October, 2009.

The City has since publicly released all relevant documents except three.

Those three documents have been fully, or partially, withheld because they exceeded the scope of the October 21st waiver by including parties other than Scott Construction and/or they related to future collection efforts.

At their meeting of October 28, 2009, the City Council requested a second legal opinion concerning the status of these three documents.

The City Manager asked Attorney Glenn Howland from McKee, Giuliani & Cleveland to review the matter and provide the Council with an opinion regarding attorney-client privilege and these three documents.

Recommendation: Review opinion, discussion; direction to staff with regard to release of documents.

Mayor Hooper said they hoped they would hear from the Vermont League of Cities and Towns but haven't.

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

09-287. Other Business Related to Release of Documents:

(Mayor Hooper feels this might be a good opportunity to discuss the review of legal services as well.)

Mayor Hoper said one of the outstanding issues the Council wanted to talk about are those issues associated with our legal advice as it relates specifically to the Scott Construction overpayment. She would also like to talk about how we procure legal advice in general and who provides services to the city and how we decide who provides services to the city.

Council Member Golonka said with Scott Construction specifically he thinks they can break it down pretty easily. He thinks they need to review the different aspects of the legal advice they received at the different stages of Scott Construction issue. Beginning with when he stopped paying and perhaps when they had the legal advice in regards to the security interest. They all seemed to have different consequences. The first one in particular he is a little concerned because he remembers being advised that if they were to release information that we would be potentially held liable for any bankruptcy from Scott Construction which could cause liability for the city. That formed some of the basis for his original ideas with regards to why we keep some of this tight lipped. Was that good advice back then? Did the city receive good advice from Steve Stitzel? He doesn't want to micro manage Steve Stitzel because he thinks he did give good advice, but now that they are beyond that he would like some general overview as to how they made their decisions, where that legal advice came from and how they can improve on it in the future. He isn't saying they have any legal recourse against Steve Stitzel because he thinks that is wrong in this regard because the Council took that advice and it is their responsibility to own up to their own decisions. How did it affect their decisions over the past two years?

City Manager Fraser said he spoke to Steve about this when it first came up. He told him they were going to have someone come in and look at the finances. Steve said if the city feels it is important to go over what they did he would be happy to cooperate and talk to another attorney about what they advised and why. He wanted to do what would make the city comfortable and they would be happy to participate and cooperate in that.

Council Member Golonka told the City Manager that perhaps his answer to the second question is more important about how the city uses legal services. Maybe that would have helped us. The Council made its decisions based on what they were given for advice at the time. It is easy to second guess now versus what they were faced with two years ago. Would they have made different decisions? How do we procure legal advice and what is the proper procedure and policy we set up to have a lawyer? How many do we have? Is there just one we go to that coordinates everything?

City Manager Fraser replied there are many models for municipalities. The days of having the town lawyer are mostly gone just because of so many specialties and so many different issues involved. With attorneys there is a client relationship and communication ability so it's not something you want to be changing every couple of years. They put out a request for proposals and specifically broke it into certain categories. They talked about labor issues and personnel issues which Scott Cameron handles for us; that is a specialty. They looked at general contracts, easements, rights-of-way, and what do our ordinances say. Another category was land use, Act 250, zoning and planning, etc. The city received summaries of qualifications and at that point the Council selected Scott Cameron to do the labor work, Paul Giuliani to do the general legal work and Steve Stitzel to do the land use work. Paul Giuliani had a heart attack and was out of commission for awhile so during that time anything that was more complicated they started sending to Steve Stitzel. In this particular case he spoke to both Steve Stitzel and Glen Howland about the Scott Construction case. The conclusion after speaking to both of them was they should go with Attorney Stitzel. There are time when they have had attorney conflicts they have used other attorneys and have had assigned attorneys through our insurers. For district energy they used Dick Saudek because he provided that specific service.

Council Member Golonka inquired whether the city has one specific attorney on a retainer to coordinate this so they could be copied on anything that other lawyers who are working for the city.

City Manager Fraser said they don't have anyone on retainer and they pay them all on an hourly basis for work done. He said when he arrived on the job there was a retainer for Cheney, Brock & Saudek, and there was a combination of a retainer and an hourly rate.

Mayor Hooper said it seems to be agreed about the notion of reviewing how the city procures and perhaps considering a different model of the legal services we have in the future.

Council Member Sheridan said his concern is that society in general listens too much to lawyers. Lawyers are for courtrooms but don't give you good advice for general big picture because that isn't their specialty.

Mayor Hooper asked if he would have the city not contract with attorneys to help them with their work.

Council Member Sheridan said he didn't have an answer.

Council Member Sherman said they should take a look at this, but it shouldn't be on the high priority list. They should take care of the burning issues and be careful about how we use attorneys but abiding by the law is absolutely essential. She doesn't know the law and thinks the Council needs legal assistance.

Council Member Weiss said the job of the City Manager is to protect the city and protect the Council and it has to be in his judgment as to when we need a lawyer and what that area of specialization that lawyer contains and try to keep the price reasonable.

City Manager Fraser said according to the charter the appointment of the city attorney is an appointment of the City Council and not the City Manager. The Council agreed in the general areas of practice and then he decides the work based on those areas of practice. There have been times where there has been a conflict of interest or in cases like this have sought a second opinion.

Mayor Hooper said the other half of the question is reviewing the legal advice we received about Scott Construction.

Council Member Weiss said he doesn't want to do it. If a good baseball team plays a bad baseball team the good baseball team is at a disadvantage and if good lawyers are opposed by bad lawyers the good lawyers are disadvantaged, and that is what happened to the city.

Mayor Hooper said one of the reasons for her asking this question is there is also a question in the community about the Council's reliance on the legal information they received. Do you feel this is an issue we need to be addressing in a public way so that folks see and learn what the information was the Council had and understood to get at the trust issue?

Council Member Hooper said he thinks that was largely revealed in the documents that Bill published a couple of weeks ago. The advice we received over time was pretty well laid out.

Mayor Hooper said was the Council clear they understood the advice and acted to the best of our ability. The community also has questions about it.

City Manager Fraser said there are two different ways to go about this. Different attorneys or doctors can come up with any number of opinions about how they would handle things. It is tough to second guess the judgment. In terms of asking someone else three years after the fact to go back and recreate conversations they weren't part of to determine whether or not the Council made the right choices is very difficult. In

terms of people wishing they understood better he would be willing to sit down and talk or do an interview on cable to tell people what they thought they understood at the time.

Council Member Weiss said they received some great advice from three people who were here at a previous meeting. Paul Gillies said what we have to do is carefully articulate why you are going into executive session; your reasoning for going into that session is consistent with the law, and what you will do in executive session and what your responsibility is to come out. If we follow Paul's advice let's do it in an educational setting if we possibly can.

Council Member Golonka said he agreed because a lot of their decisions were made because they didn't do that correctly. The conversations unfortunately in executive session weren't recorded because then they could better recreate a lot of the Council's decision making. He thinks that is the core of their issues.

Agenda Report by the City Manager:

09-292. Update on policy for check warrant signing by Council.

Finance Director Gallup said the Council Members all received an e-mail with a listing of the vouchers. They would like to continue doing that with a timeline. The accounting clerk prints out the check listing and attaches it to the corresponding City of Montpelier voucher to be signed by the City Manager. The check listing report will be sent out to City Council members via e-mail. Invoices will be available in the Finance Office for Councilors' review. The Council Members and Mayor will sign the City of Montpelier voucher either at the Finance Office or at the next Council meeting. Once the City of Montpelier voucher is signed by the City Manager the checks are then delivered to the Treasurer. The checks are signed with a check signing machine that is kept in the Treasurer's Office with the signature plate and key that is kept in a locked drawer. All checks have the Treasurer's signature. Once the checks are signed they are given to the accounting clerk to prepare for mailing, and then the checks are returned to the Treasurer's Office for safe keeping. The checks will not be mailed until the following Monday to allow time for City Council Members to review the check listing report.

Council Member Hooper said he doesn't want to be more responsible for the accuracy of our checks.

Council Member Jarvis said it is not a meaningful financial control.

Council Member Golonka said he disagrees. When there is \$1.5 million going out it is nice to know what that \$1.5 million is paying.

Finance Director Gallup said City Treasurer Hoyt is working on making transfers to the schools that will not be on the Council Members' check warrants. This will get some of the larger number off the warrant.

City Manager Fraser said he cannot find in the charter where it talks about the Council approving payments anywhere. That is the good news. The bad news is that if it is not mentioned at all about check paying in the future then it defaults generally to statute. The statute says the Treasurer shall pay upon the orders of the selectmen. That's the law. Part of this is for the Council Members to have an opportunity to look at every check. Obviously, large checks are something they want to look at.

Council Member Hooper said if he has signed it and there is no way he examined it, then there is no way he is responsible for the accuracy of the check.

Finance Director Gallup said the staff in the Finance Office and the other department heads do not shirk their responsibility and the Council relies on them to pay bills correctly.

City Manager Fraser said the charter says:

The administration of all fiscal, prudential and municipal affairs of the city and the government thereof shall be vested in the mayor and council members, subject to the provision herein contained respecting a city manager. The city council shall have all of the powers of selectmen.

City Manager Fraser said they have received concerns from people saying they don't want to sign this if they haven't had a chance to look at so that is why this policy was drafted.

Council Member Sheridan said he is in favor of this.

Motion was made by Council Member Sheridan, seconded by Council Member Hooper to approve the policy for signing checks that was provided. The vote was 6-0, motion carried unanimously.

Finance Director Gallup handed out First Quarter Financial Reports to the council members. They recreated July and August. They wanted a whole year because they wanted the department heads to get good information. It doesn't look too bad; the year is okay so far. There hasn't been anything unusual in staffing. They haven't had energy costs and there haven't been any weather conditions. She feels relieved because there has been a delay in getting good financial reports for this year.

Council Member Weiss asked if the audit report for the year ending Jun 30th been submitted yet?

Finance Director Gallup said the auditors were here around the middle of October and they said they were going to fast track it. She knows they didn't change many numbers but she would like to wait for the final report before telling the Council how it ended in water, sewer and the general fund.

09-281.

Consideration of the Consent Agenda:

Consideration of the minutes from the October 21st and 28th City Council Meetings.

Consideration of a request from organizers of *The Touch of Vermont Holiday Gift Market* for a waiver of the fee for the use of the City Hall Auditorium for their event to be held on Saturday, December 12th, with set-up on Friday, December 11th. (This market is a "buy local" event that benefits O.U.R. House of Central Vermont which is an advocacy group for sexually abused children.)

Consideration of becoming the Liquor Control Commission for the purpose of receiving the following:

Application for a Catering Permit from Vermont Hospitality Management, Inc., d/b/a New England Culinary Institute, for a Reception scheduled to be held on Thursday, November 12th, from 4:00 to 8:00 P.M. at the National Life Hopkins House.

Also an additional Catering Permit request from Vermont Hospitality Management dba New England Culinary Institute to cater a reception and dinner at the National Life Cafeteria on November 13, 2009 from 5:30 P.M. to 10:00 P.M.

Application for a (State of Vermont) Special Event Permit from John and Katherine McCann, d/b/a North Branch Vineyards, in order to have a Wine Tasting Booth as part of the *Touch of Vermont Holiday Gift Market* scheduled to be held in the City Hall Auditorium on Saturday, December 12th, from 9:00 A.M. to 4:00 P.M.

Application for a (State of Vermont) Special Event Permit from Duncan's Spirits, d/b/a Vermont Spirits, in order to have a Vodka Tasting Booth as part of the *Touch of Vermont Holiday Gift Market* scheduled to be held in the City Hall Auditorium on Saturday, December 12th, from 9:00 A.M. to 4:00 P.M.

Approval of payroll and bills:

General Fund Warrants dated November 4, 2009, in the amount of \$1,895,984.52 and \$97,286.61.

Motion was made by Council Members Hooper, seconded by Council Member Sherman to approve the consent agenda with the added catering permit.

Council Member Weiss said he would like to pull down the minutes for a particular reason.

Also removed from the consent agenda was the request from the Touch of Vermont waiver feed and the two special permits for Duncan's Spirits and North Branch Vineyards.

Mayor Hooper said what is for the Council's consideration are the two permits from NECI and she called for a vote on the motion. The vote was 6 to 0, motion carried unanimously.

Council Member Weiss asked if they could split approval of the minutes because he has to abstain on one set and he believes Council Member Golonka would need to abstain on two sets.

Motion was made by Council Member Hooper, seconded by Council Member Sherman to approve the October 21st Council Meeting minutes. The vote was 4-2, with Council Member Weiss and Golonka abstaining.

Motion was made by Council Member Hooper, seconded by Council Member Sherman to approve the October 28th Council Meeting minutes. The vote was 5-1, with Council Member Golonka abstaining.

Council Member Hooper said they couldn't do this if they are serving alcohol.

Council Member Weiss said in the early part of the summer of this year this Council very bravely passed a motion unanimously which said there shall be no liquor sold in conjunction with a program offered on public property. He doesn't think they ought to provide an opportunity for these people to sell liquor upstairs period. It had to do with the Kellogg Hubbard Library wanting to sell liquor at the tennis courts. The Council said no and he is paraphrasing Council Member Hooper who said they can always sell hot dogs.

Council Member Jarvis said there are events upstairs with liquor all of the times with Lost Nation and parties. She thinks they are on a very different realm when they are here inside a building where it is a controlled area and not out in a recreation field where it is traditionally a place where families congregate.

Council Member Weiss said he doesn't want to approve any of them.

Motion was made by Council Members Hooper, seconded by Council Member Jarvis to approve the Special Event Permits for North Branch Vineyards and Duncan's Spirits. The vote was 5-1 with Council Member Weiss voting against the motion.

Council Member Hooper said he didn't think they could waive the fee for the Holiday Fair because of our current policy.

Motion was made by Council Members Hooper, seconded by Council Member Jarvis to waive the fee for use of the city hall auditorium. The vote was 1-5, with Council Member Sheridan voting in favor of the motion. The motion failed.

Mayor Hooper said we need to make sure they know that the Council didn't approve their request.

09-288. Report by the City Council

Council Member Sherman reported there was a fascinating project going on East State Street and they are taking down half of the hill. The enVision Montpelier process is moving ahead towards a new Master Plan. Economics and Livelihoods was discussed Monday. There is a lot of talking and sorting to do. Surveys are on the web site now.

Council Member Sheridan reported he has to be a pall bearer Friday and he may have to attend a wake tomorrow night so he may not make the consolidation meeting.

Council Member Jarvis reported the second Capital Improvement Projects meeting was held and she reported she had her reassessment visit today which was very professional and friendly. They are meeting Friday morning at the Library at 8:30 A.M.

Council Member Golonka reported tomorrow there is the regional planning meeting. He did like receiving the warrants. Last week they had asked the council to release e-mails with regards to Scott Construction and he did pull out a couple extra and e-mailed them to City Manager Fraser.

09-289. Mayor's Report:

Mayor Hooper spoke about the enVision process and her goal is to have the Planning Commission look at pulling out the priority items to be in the Master Plan. Her hope is that the Planning Commission will do a great job of that and present it to the Council. Council Member Sherman, Sheridan and she are on it so the rest of the Council needs to follow up. The Art of Action across the street is really worth going to. It is going to be gone after Sunday.

Council Member Sherman and she attended a meeting of the Council on Vermont Elders that at one moment she thought was going to be a City Council meeting because several people do live up in the Independence Green area. It was for elderly people and seniors from all over Vermont. There were a couple of people from the Independence Green area who talked about the inadequacy of public transportation up there and how difficult it was for members of our community moving around.

Mayor Hooper had attended the Annual Meeting of the Washington County Mental Health Agency who said there has been a 30 percent rise in their crisis calls. At Washington County they are talking about a very large portion of their folks live in our community, and they are deeply concerned that it is only going to get worse. They incidentally also saw their health insurance increase by 17%. Their annual increase was \$850,000 which is what we are paying our tax money to help support their health insurance costs.

She had a meeting with the North Street CAN Group to talk about the Scott Construction overpayment. Four people showed up who were very supportive.

She has been invited to attend dinner with Bernie Sanders, Bob Kiss, the President of UVM and representatives of the Sandia Lab, the national energy lab, because Bernie is trying to get them to come to Vermont and create a Sandia Lab here in conjunction with UVM that will be focused on alternative energy, specifically on biomass. She appreciated being a part of that.

09-290. Report by the City Clerk-Treasurer:

City Clerk-Treasurer Hoyt reminded member of the viewing public that property taxes are due on Monday, November 16th.

09-291. Status Reports by the City Manager

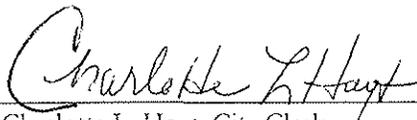
City Manager Fraser reported that tomorrow there was a meeting regarding the waste water treatment plant situation. There will be Todd Law, Steve Stitzel and he will be there talking to them about their concerns about our alleged violations. Tomorrow at 5:30 P.M. the Reappraisal Committee is meeting and receive an update on the process and progress. They hope to receive the final versions of the survey within a week.

There needs to be a final decision about the web casting proposal. One has more features and more options and they have more market saturation. One is based on the west coast. The other is based in New England and smaller. It looks like they have a good deal with ORCA to do some of the similar service in this region. We are definitely going to do this.

Adjournment

After motion was duly made and seconded by Council Members Weiss and Jarvis the City Council adjourned at 11:25 P.M.

Transcribed by Joan Clack

Attest: 
Charlotte L. Hoyt, City Clerk

CITY OF MONTPELIER
Capital City of the State of Vermont

PROCLAMATION
for
MONTPELIER HOUSING TASK FORCE
10th YEAR ANNIVERSARY ACHIEVEMENT AND AWARENESS WEEK

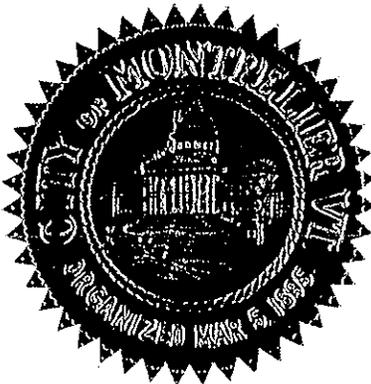
- WHEREAS,** November, 2009 is the 10th year anniversary of the formation of the Montpelier Housing Task Force; and,
- WHEREAS,** the Montpelier Housing Task Force was one of the earliest established in the state, ahead of the Vermont State Housing Task Force and the Burlington Housing Task Force; and,
- WHEREAS,** the Housing Task Force idea came out of the September, 1999 Housing Summit Meeting organized by Martin Hahn, Executive Director of the Central Vermont Community Land Trust, an organization with many achievements in providing affordable homes in Montpelier, and with active participation by Montpelier residents; and,
- WHEREAS,** founding members included Martin Hahn, Jim Libby, Rick DeAngelis, Polly Nichol, Ellen Tyrell, Hannie DeLeuw, Verna Mackenzie, Jim Sheridan, JoAnn Troiano, Liz Mineo, Ken Pearson, and Kitty Bammer; and,
- WHEREAS,** Jim Libby became the initial Chair and guided the Task Force through the early fractious years, and was joined by Jack McCullough as Co-chair in October, 2004; and,
- WHEREAS,** Liz Mineo was the initial VISTA AmeriCorps aide, followed by Nicole Davignon, Kelly Sewell, Clare Bootle, Susan Gillam, Patricia Rackas, and Megan Belser ... all of whom provided great support to the Task Force; and,
- WHEREAS,** Jim Sheridan led the effort to have the Task Force established as a committee of the Montpelier City Council in November, 2000, and became the first designated Council representative followed in succession by Chris Smart, Tom Golonka, and presently Sarah Jarvis; and,
- WHEREAS,** George Seiffert, Valerie Capels, Nina Thompson and, presently, Garth Genge have provided valuable support as City staff; and,
- WHEREAS,** initiatives that came out of the Task Force include the Home Share Program, One More Home Campaign, Housing Code Revisions, Fire Safety Inspection Brochure, Housing Resource Guide, "One Penny for Housing" ballot item and the Healthy Homes Workshop.

NOW, THEREFORE, IN HONOR OF THESE ACCOMPLISHMENTS, Mary Hooper, Mayor of the City of Montpelier, Vermont, hereby declares November 15-21, 2009 as

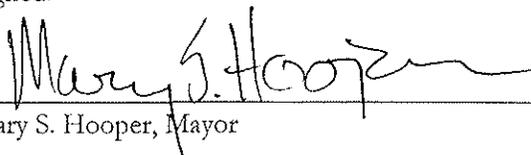
"MONTPELIER HOUSING TASK FORCE AWARENESS WEEK"

Signed and adopted this 11th day of November, 2009.

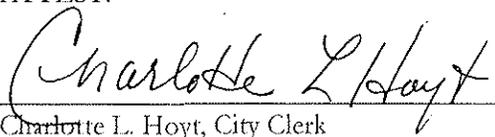
CITY SEAL:



Signed:


Mary S. Hooper, Mayor

ATTEST:


Charlotte L. Hoyt, City Clerk