

CITY MANAGER'S WEEKLY REPORT

November 20, 2015

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Illuzzi vs. City, Law, Motyka, Renaud Bros. – Motions have been filed; going into mediation. Represented by Constance Tryon Bell through VLCT.

Hallsmith Grievance Hearing wrapped up on November 18, 2015; each party has to submit their briefs and findings to the neutral hearing officer, Michael Marks, by the 25th of November. Although there is no set period of time in which Attorney Marks is required to provide his findings, City's counsel has indicated that Attorney Marks *might* possibly issue his findings within 30 days.

WEEKLY UPDATES FROM DEPARTMENT HEADS ...

Public Works Department

Main Street Water Main – Repairs on Saturday (between Jay Street & Loomis Street)

Another leak has developed but is not a total failure as it was on November 5th. To avoid service interruption at the Main Street Middle School during a normal school day, repairs are scheduled to begin tomorrow (Saturday, November 20th) at approximately 7:00 AM; it is expected the work will take about 8 hours to complete. Water service will be shut down between Liberty and Loomis Streets. Notices to customers have been delivered. The street will remain open while repairs take place, but travel will be restricted to one lane for alternating travel flow controlled by traffic flaggers.

New Vehicle Speed Electronic Display Signs

A Governor's Highway Safety Program grant was awarded to the Police Department which provided the majority of funds needed to purchase and install new vehicle speed display feedback signs on Elm Street. These signs, similar to those in use on Main Street near the middle school, detect a vehicle's travel speed by radar and electronically display the speed to the motorist to alert them that they may be exceeding the posted speed limit. The new signs (2) are being installed near the Pearl Street intersection for northbound traffic and near Cummings Street for southbound traffic.

The National Life Group awarded funding to the City through the Bicycle & Pedestrian Advisory Committees to install an additional speed display feedback sign on National Life Drive. This new sign is intended to serve as a supplementary safety measure for the new bike and pedestrian lanes marked on the street this summer.

Two of the 3 signs will be powered by solar panels. The equipment has been delivered and the pole bases were installed this week. Installation and set-up is scheduled to take place the week of November 30th.

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East State Street Retaining Wall Project

Work to stabilize and re-set the granite block wall located uphill of Cedar Street, in front of #55 East State Street, will begin next week. This work is expected to take about one week to complete. With continued good weather in the forecast, the project will begin this season and work to stabilize the upper slope and the landscape restoration will take place next summer. While work is underway, the sidewalk adjacent to the wall will be closed and a traffic control sign package will be utilized to maintain two-way vehicle travel.

2016 Construction Season Complete

The Public Works Department announces that the summer construction season for planned projects is now over with the exception of the East State Street retaining wall. The local hot mix plant is closing and all final paving and pothole patching is being completed. Hot mix will be available for a couple more weeks at the plant located in Chittenden County if the material is really needed and if the weather conditions are acceptable. Any remaining potholes within the streets or on the sidewalk network can still be reported to the Public Works office and will be addressed.

TOPICS FOR UPCOMING CITY COUNCIL MEETINGS ...

December 9

Budget
Adopt Charter Language for Pond (if proceeding)
Kellogg-Hubbard Library
Mountaineers Lease (tentative)

December 14

Continuation of Mowatt Hearing at 6:30 P.M.

December 16

Budget
Conservation Commission Update

January 6, 2016

Budget

January 13

1st Public Hearing on Budget
1st Public Hearing on Warning
Public Hearing on Charter Change
Necessity Resolution for Bond
Bond Public Hearing

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January 21 (Thursday)

2nd Public Hearing on Budget & Adoption
2nd Public Hearing on Warning & Adoption
Deadline for Petitioned Items
Bond Public Hearing



William J. Fraser
City Manager

RESOLUTION CREATING THE
CITY OF MONTPELIER
FOUNDATION AND PROVIDING
FOR ITS MANAGEMENT

WHEREAS, the City Council has found and determined that the undertaking of certain capital projects will place an undue burden on the taxpayers of the City of Montpelier; and

WHEREAS, the City Council is aware of a variety of capital projects which will be of benefit to the public if undertaken; and

WHEREAS, the City Council is aware that from time to time, the construction of desirable capital projects will come to the attention of the City and its inhabitants, for which funds will not be available from normal sources; and

WHEREAS, there has been expressed to the City Council a desire on the part of City inhabitants and others for the creation of a source of capital project funds as a complement to tax receipts, grants-in-aid and appropriations.

NOW THEREFORE, in consideration of the foregoing findings, be it resolved by the City Council that there is hereby established upon the books of account of the City of Montpelier a separate and distinct fund to be known as the MONTPELIER FOUNDATION (the "FUND") to be held, administered, managed and appropriated under the following terms and conditions:

(1) There shall be deposited in the FUND such gifts, bequests and donations of cash or property coming into the possession of the City which are specifically dedicated to the Fund or otherwise contributed to the City without limitation as to use, purpose or restriction. No sums shall be appropriated to such FUND out of revenue raised by taxation without approval of the City at an annual or special meeting thereof considering a specific Article of business relating to such appropriation.

(2) All matters relating to the administration, management and control of the FUND shall be under the direction of five Trustees, three of which to be appointed by the City Council, one Trustee to serve for an initial term of two years, one Trustee for an initial term of three years, and one Trustee who shall be a member of the City Council, and two of which to be appointed by the Board of School Commissioners, one Trustee who shall be a member of the Board of School Commissioners, and one Trustee for an initial term of one year. Subsequent appointments shall be for terms of three years. Each Trustee shall be eligible for re-appointment by the City Council or the Board of School Commissioners, as appropriate. Each Trustee shall be a resident of the City of Montpelier at the time of his or her appointment and shall maintain residency therein during his or her term. Vacancies created by the death, disability, resignation or ineligibility of a Trustee shall be filled by the appointing authority for the unexpired term of such Trustee.

(3) The FUND Trustees shall be deemed to be an agency, department or committee of the City for all purposes permitted by law.

(4) The FUND Trustees shall have the power and authority to invest, re-invest, account for and have possession and control of all FUND property, and shall account annually therefor to the City Council. The Fund Trustees shall have the power to appoint and constitute such committees and advisory boards as they deem appropriate.

(5) The Fund Trustees shall have power and authority to appropriate and spend such sums of money under their control for the propose of assisting in the construction, acquisition or undertaking of capital projects which, in the opinion of said Trustees, will conduce to the benefit of the inhabitants of the City; provided, however, that any such appropriation and expenditure shall be subject to approval by the City Council.

(6) Notwithstanding the foregoing, the FUND Trustees shall at all times comply with and abide by the donor-imposed terms, restrictions, conditions and prohibitions governing the management, investment and expenditure of any property coming into their possession.

(7) No part of the FUND may be expended at any time to pay for operating expenses associated with any department, agency or officer of the City of Montpelier.

(8) The City Treasurer is directed to establish separate books of account within the City's general ledger of income and expense for the purpose of implementing these presents; provided, however, that all matters relating to the deposit and investment of FUND monies and property shall be the exclusive responsibility of the FUND Trustees.

(9) The City shall exonerate and indemnify the FUND Trustees for any loss or damage to property coming into their possession not occasioned by criminal conduct or gross negligence.

(10) The FUND Trustees shall be authorized to solicit and accept on behalf of the City gifts, donations, bequests and contributions of every kind, nature and description for the purposes of these presents, and further are authorized, with the approval of the City Council, to pledge, mortgage or hypothecate the same for any purpose connected with these presents.

(11) The FUND shall be used to pay in whole or in part the costs associated with the design, construction or acquisition of educational, recreational, transportation, public safety, utility, conservation and preservation, and cultural improvements having a useful life of at least twenty years, unless otherwise designated by the donor.

(12) The FUND Trustees shall have the power to recognize significant benefactors.

Adopted at a regular meeting of the Montpelier City Council held the 26 day of January, 1994.

ATTEST

1s/Charlotte Hoyt
City Clerk

JPG:sw

BY-LAWS

of

THE MONTPELIER FOUNDATION

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ARTICLE I: Principal Office

The principal office of the Foundation shall be at Montpelier, Vermont, at the office of the Montpelier City Treasurer.

ARTICLE II: Meetings of Trustees

A. As soon as practicable after the creation of the Foundation by action of the City Council and appointment of Trustees thereto, a Trustee on no less than ten (10) days prior notice to all Trustees shall call a meeting thereof for the purpose of organizing the Foundation and electing the officers thereof.

B. An annual meeting of the Foundation shall be held on the first Thursday of June or on such other day during the first week of June as may be determined by the Board of Trustees at a place in the City of Montpelier to be designated and at such time as the Chairman of the Board of Trustees shall determine. The Secretary shall give each Trustee prior notice of the time and place of the meeting and shall provide for public notice of the same. The Trustees may provide by resolution the time, date and place for holding regular meetings without notice other than such resolution.

C. Special meetings of Foundation may be held whenever called by the Chairman, or any two (2) Trustees. The Secretary shall give at least three (3) days, but not more than ten (10) days, prior written notice of any special meeting. The person or persons authorized to call special meetings of the Board of Trustees may fix the time and place for holding any special meetings of the Trustees called by them.

D. At any meeting of Foundation, a majority of the Trustees present shall constitute a quorum of the conduct of business, and a vote by a majority of the convened Trustees shall govern.

E. Robert Rules of Order shall govern the conduct of all meetings of the Foundation except as expressly provided in these by-laws.

F. Written notice may be waived by a Trustee and the attendance of a Trustee at a meeting shall constitute waiver of notice of such meeting, except where a Trustee attends a meeting for the purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

ARTICLE III: Informal Action by Trustees

Unless prohibited by law, any action which might be taken at a meeting of the Foundation may be taken without such meeting if consented to by all Trustees, in writing, and such consents are received by the Secretary no more than ten (10) days after the notice of the proposed action is mailed to the Trustees.

ARTICLE IV: Board of Trustees

A. The business and affairs of the Foundation shall be managed by its Board of Trustees.

B. The number of Trustees of the Foundation shall be five (5), whose appointment and tenure shall be as provided in the resolution creating the Foundation, adopted by the Montpelier City Council on January 26, 1994.

ARTICLE V: Removal of Trustees

A Director may be removed in the manner provided in the resolution creating the Foundation, adopted by the Montpelier City Council on January 26, 1994.

ARTICLE VI: Compensation

No compensation shall be paid to the Trustees as such for their services.

ARTICLE VIII: Resignation of Trustees and Officers

Trustee may resign at any time by giving written notice to the Montpelier City Council, and resignation shall take effect on the effective date stated in said notice, or if no date is stated, then the resignation shall be effective upon receipt of the notice.

ARTICLE VIII: Powers of the Board of Trustees

The Board of Trustees shall have the following powers, in addition to any others specifically or impliedly permitted by law.

- A. To run the affairs of the Foundation.
- B. To supervise and examine bank accounts in the name of the Foundation.

All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Foundation, shall be authorized by such officer or officers and in such manner as shall, from time to time, be determined by resolution of the Board of Trustees.

C. To keep or cause to be kept current copies of the By-Laws, and other rules concerning the Foundation as well as its own books of account and current financial statements which documents and records shall be available to the public for examination at the office of the City Treasurer during normal working hours.

D. To keep or cause to be kept books of account, and to furnish annual reports and statement to the City of Montpelier.

ARTICLE IX: Indemnification of Trustees and Officers

Each Trustee and Officer of the Foundation shall be indemnified by the City of Montpelier against all liabilities, including reasonable attorney's fees and expenses incurred or

imposed upon him or her, arising out of his or her actions as a Trustee of the Foundation to the extent and in the manner provided in the resolution creating the Foundation, adopted by the City Council on January 26, 1994.

ARTICLE X: Officers

A. The officers of the Foundation shall be a Chairman, Secretary, and a Treasurer, each of whom shall be elected by Trustees of the Foundation at its annual meeting. Any vacancy shall be filled by the Board of Trustees. More than one office may be held by the same person, except that the office of Chairman and Secretary may not be so held.

B. Any officer or agent elected or appointed by the Trustees may be removed by the Trustees whenever, in their judgment, the best interests of the Foundation will be served thereby, whether for cause or for no cause.

C. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the Trustees for the unexpired portion of the term.

D. The Chairman shall be the principal executive officer of the Foundation and, subject to the control of the Trustees, shall, in general, supervise and control all the business and affairs of the Foundation, preside at meetings of Trustees, and perform all duties incident to the office of the Chairman.

E. The Secretary shall keep the minutes of the Trustees' meetings, give or see that all notices are given in accordance with the provisions of these By-Laws, and, in general perform all duties incident to the office of Secretary.

F. The Treasurer shall have charge and custody of and be responsible for all funds and assets and all liabilities, income and expenses; shall receive and give receipts for monies due and

payable to the Foundation from any source whatsoever, and deposit all monies in the name of the City of Montpelier in such banks, trust companies, or other depositories as shall be selected by the City Council; shall furnish financial reports; and, in general, perform all duties incident to the office of the Treasurer.

G. The officers shall not receive any compensation.

ARTICLE XI: Amendments

These By-Laws may be altered, amended, repealed, or new By-Laws adopted by a vote of two-thirds (2/3) of the Trustees present at any meeting called for that purpose. No by-law shall be so amended, repealed, or adopted unless the notice of the meeting specifically sets forth the proposed amendment but the text of the amendment may be altered at the meeting.

ARTICLE XII: Fiscal Year

The fiscal year of the Foundation shall begin on the first day of July of each year.

ARTICLE XIII: Committees

From time to time, the Trustees shall constitute such committees as they shall deem necessary or expedient to further the purposes of the Foundation. Such committees shall be chaired by Trustees, but may be comprised of public members who have expressed an interest in the Foundation and its purposes.

Approved and adopted this 2 day of June, 1994.

ATTEST: Secretary

MONTPELIER FOUNDATION

At the annual meeting of the Montpelier Foundation, held on May 12, 1999, a quorum of the Board of Trustees being present, the following action was taken:

Upon motion duly adopted, it was resolved to request the City Council to amend Section (2) of the January 26, 1994 "Resolution creating the City of Montpelier Foundation and Providing for its Management" to read as follows:

"(2) All matters relating to the administration, management and control of the FUND shall be under the direction of [five] no more than eleven nor less than six Trustees, [three of which] to be appointed by the City Council [one Trustee to serve for an initial term of two years, one Trustee for an initial term of three years, and one Trustee who shall be a member of the City Council, and two of which to be appointed by the Board of School Commissioners, one Trustee who shall be a member of the Board of School Commissioners, and one Trustee for an initial term of one year. Subsequent appointments shall be for terms of three years.] Each Trustee shall serve for an indefinite term and shall be eligible for re-appointment by the City Council [or the Board of School Commissioners, as appropriate]. Each Trustee shall be a resident of the City of Montpelier at the time of his or her appointment and shall maintain residency therein during his or her term. Vacancies created by the death, disability, resignation or ineligibility of a Trustee shall be filled by the appointing authority for the unexpired term of such Trustee."

Upon motion duly adopted, it was resolved to amend Article IV(B) of the By-Laws of the Montpelier Foundation approved and adopted on June 2, 1994 to read as follows:

"ARTICLE IV: Board of Trustees

The number of Trustees of the Foundation shall be no more than eleven (11) nor less than six (6), [five (5)], whose appointment and tenure shall be as provided in the resolution creating the Foundation, adopted by the Montpelier City Council on January 26, 1994, as amended pursuant to action taken by the Board of Trustees at the May 12, 1999 meeting thereof."

Upon motion duly adopted, it was resolved to request the City Council to appoint the following persons as Trustees of the Foundation for indefinite terms:

Edward Flanagan
Beverlee Pembroke Hill
William P. Cody
Charles E. Haynes
Charles D. Karparis
J. Paul Giuliani

Submitted this 14th day of May, 1999.

JPG:bw/[8585-1]


J. PAUL GIULIANI, Secretary

Mayor Karparis thanked the participants for coming and called for a short break at 10:14 P.M.. Mayor Karparis reconvened the City Council Meeting at 10:22 P.M..

- 99-161. Consideration of a request from the Trustees of the Montpelier Foundation seeking an amendment to its "RESOLUTION CREATING THE CITY OF MONTPELIER FOUNDATION AND PROVIDING FOR ITS MANAGEMENT" document, as well as Article IV(b) of the By-Laws of the Montpelier Foundation. V.A.

At their May 12th Annual Meeting, a quorum of the Board of Trustees voted to request that the City Council amend the following ...

Section (2) of the RESOLUTION CREATING THE CITY OF MONTPELIER FOUNDATION AND PROVIDING FOR ITS MANAGEMENT, to read as follows:

"(2) All matters relating to the administration, management and control of the FUND shall be under the direction of [five] no more than eleven nor less than six Trustees, [three of which] to be appointed by the City Council [one Trustee to serve for an initial term of two years, one Trustee for an initial term of three years, and one Trustee who shall be a member of the City Council and two of which to be appointed by the Board of School Commissioners, one Trustee who shall be a member of the Board of School Commissioners, and one Trustee for an initial term of one year. Subsequent appointments shall be for terms of three years.] Each Trustee shall serve for an indefinite term and shall be eligible for re-appointment by the City Council [or the Board of School Commissioners, as appropriate]. Each Trustee shall be a resident of the City of Montpelier at the time of his or her appointment and shall maintain residency therein during his or her term. Vacancies created by the death, disability, resignation or ineligibility of a Trustee shall be filled by the appointing authority for the unexpired term of such Trustee."

... and Article IV(B) of the By-Laws of the Montpelier Foundation to read as follows:

"ARTICLE IV: BOARD OF TRUSTEES.

The number of Trustees of the Foundation shall be no more than eleven (11) nor less than six (6), [five (5)], whose appointment and tenure shall be as provided in the resolution creating the Foundation, adopted by the Montpelier City Council on January 26, 1994, as amended pursuant to action taken by the Board of Trustees at the May 12, 1999 meeting thereof."

Recommendation: Discussion; adoption.

Mayor Karparis reviewed the above amendment. He gave a brief background of the creation of the Montpelier Foundation and its purpose.

Motion was made by Council Member Tomasi, seconded by Council Member Brock to adopt the above amendment to the Resolution Creating The City of Montpelier Foundation

and Providing For Its Management” document, as well as Article IV(b) of the By-Laws of the Montpelier Foundation, with the following change “ Shall serve at the pleasure of the city council”. The vote was 5-0, motion carried unanimously.

- 99-162. Consideration of appointments to the Board of Trustees for the Montpelier Foundation.
V.A.

Again, at their Annual Meeting, the Montpelier Foundation Board of Trustees adopted a motion that the Montpelier City Council be requested to appoint the following persons as Trustees of the Foundation for indefinite terms:

Edward Flanagan	Beverlee Pembroke Hill
William P. Cody	Charles E. Haynes
Charles D. Karparis	J. Paul Giuliani

Recommendation: Discussion; appointments.

Mayor Karparis stepped down as chair for this agenda item.

President of the Council Tomasi presided over this agenda item.

Motion was made by Council Member Brock, seconded by Council Member Carey to appoint Edward Flanagan, William P. Cody, Charles D. Karparis, Beverlee Pembroke Hill, Charles E. Haynes and J. Paul Giuliani to the Montpelier Foundation Board of Trustees. The vote was 4-0, motion carried unanimously.

Mayor Karparis returned to chair the meeting.

- 99-163. Report by the City Council:

Council Member Patno reported they had a meeting regarding the dog nuisance and the two people who were bitten has been resolved. The individual owner had sent his dog out of town and a letter has been sent by the Chief of Police.

Council Member Tomasi expected that he would not be available for the June 9th City Council Meeting.

Council Member Brock said he enjoyed reading the City Manager’s draft article and that the City Manager had bought an edition of Roberts Rules at Bear Pond Books which would be the edition he used. If no one objected he proposed keeping it in the City Council Chambers and making it the edition which the City Council followed.

- 99-164. Mayor's Report: