

On Wednesday evening, February 17, 2010, the City Council Members met in the Council Chamber.

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

Call to Order by the Mayor:

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

10-045. General Business and Appearances

Mayor Hooper said the Kellogg Hubbard Library had requested to appear before the Council tonight and had inadvertently been left off the agenda. Dan Pudvah, Executive Director, Robin Sales, Librarian and John Page, Chairman of the Library Board are present and wanted an opportunity to address the Council and the community about the Library.

Dan Pudvah, Executive Director of the Kellogg Hubbard Library thanked the council for the opportunity to give a brief update on the Library and talk about their funding request. The Kellogg Hubbard Library has requested level funding from all of the six communities in the service area so they are asking for the same amount of money that was asked for and approved last year. That in total in aggregate among the six community's accounts of about 40 percent of their operating revenue and the other 60 percent they raise through fundraising activities and a distribution from their endowment fund. Since last year they underwent a lot of struggles financially, like everybody else did, with the performance of their endowment fund so they had to cut back the distribution and cut back some expenses in order to have a balanced budget. They did that successfully and still maintain a good level of service.

He summarized by saying they have a cost containment program and Robin Sales will tell the Council about the more exciting parts of the Library's life.

Robin Sales, Librarian said she has been at the Kellogg Hubbard Library since September 2009. They have a lot of exciting information to share about the Library, and this meeting is also a great opportunity to celebrate the hard work of the people who are at the Library. In the past seven years the Library has seen an overall increase of 50 percent in circulation and programming, and over 100 percent increase in computer and internet use. There has been no increase in staffing to meet this rising demand but the staff has maintained quality services. In 2009 an average of 998 books circulated daily and 137 people used the computers daily. Staff answered more than 35,500 reference questions and almost 18,000 people attended more than 500 programs at the Library. Roughly one-fifth of those programs were presented in collaboration with other community groups. Here is a statistic she loves – the communities they serve have a combined population of around 17,600 people, and the Library had just over 17,242 registered borrowers at the end of December.

The Library is also very busy in the community and the state providing services and resources beyond the library walls. They now have circulating collections available in Adamant and Maple Corner where the Library has created annexes at the Adamant Coop and the Maple Corners Store. In 2009 through the outreach program Books on Wheels the Kellogg Hubbard Library volunteers read 797 stories to children while on the road. They drove over 4,500 miles while delivering nearly 5,000 books to peoples' homes, day cares, child care providers and to other sites. They also held summer outreach story times in Berlin, East Montpelier, Calais, Middlesex and Worcester with the Children's Library's staff. The Play with Food summer program combined good food and books for school aged children and continued the outreach program's focus on literacy.

In cooperation with other Vermont libraries, the Library was able to loan 440 books to other libraries and they borrowed 1,473 of their books for our patrons through inter-library loans. The Library continues to work to strengthen our presence in and our service to the communities they serve. By working with other libraries they are able to both enhance and draw on resources available statewide. Roughly 15 percent of those cases books were sought beyond the state borders for local patrons.

For those who prefer to remain snug at home you can visit the Library web site where there is always something new to discover. There are free audio downloads that are available on the home page. You just click on "Listen Up Vermont." Starting in 2010 a new collection of recorded books will be available through one click. The site also provides safe and authoritative services on a wide variety of subjects around the clock from the comfort of home. In 2009 the site received just fewer than 60,000 visits.

She feels lucky to be part of an organization that provides so much to the community, and they couldn't do the work they do without the support they receive from the towns, individuals, groups, foundations and businesses. She thanked the Council for helping to make their work possible.

John Page said on behalf of the Board he wants to thank the city and the taxpayers for all of the support that the Library has received. It has been a tough time for everybody. They had a very tough budget situation a few years ago and the taxpayers really stepped up, and they are very grateful for that. They are trying to reciprocate by keeping their request at level funding and have done that for two years now. The Board has worked very hard to increase their private fundraising. It has doubled in the last three or four years and they have worked very hard to build the endowment. Tonight at a board meeting they adopted a new endowment policy which we think will keep that source of income stable. They need and appreciate what the taxpayers do for them, but they also want them to know they are working very hard to get what they need for revenue from other sources. Hopefully, the Library will continue to be an important part of the community.

Mr. Pudvah said this year the Library's request is totally outside of the city budget and the total figure is the same amount as was approved last year by the voters. They are very pleased the voters continue to support the Library but don't want to take anything for granted. The Board had a conversation with some members of the City Council a couple of months ago and they have made a commitment to continue that conversation by pulling together the other communities and looking at other options for the funding formula.

Council Member Golonka said they have revisited the endowment policy and it is a little more conservative and appropriate. The endowment took a significant hit in 2008 and early into 2009 but it has recovered almost all of the losses they had incurred. It's a good mix of people on the board.

Mayor Hooper thanked them for making the commitment to reaching out to the other communities because that is important to the City of Montpelier that we appropriately share in supporting the Library. They noted that the Library funding has been moved outside of the city's budget and it stands independently. The City Council when considering what the costs were to the city counted that amount when they said to the community that we were going to see zero percent tax increase as a result of our budget. Voting in support of the Library does not mean that we are raising our taxes above the zero percent tax increase.

Mayor Hooper said there is an addendum to the agenda on the Council's desk. The item is the consideration of authorizing the City Manager to execute documents as may be appropriate and necessary to effect an assignment of all of the city's interests and claims against Scott Construction, Inc. and to complete the insurance transaction with VLCT PACIF.

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

10-046. Consideration of the Consent Agenda:

- a) Consideration of becoming the Liquor Control Commission for the purpose of acting on the following:
 - 1) Application for a First Class Liquor/Cabaret License from Brook Hollow Productions, Inc., d/b/a The Savoy Theater, in order to serve beer and wine. (The City's Zoning Administrator has included a copy of the zoning approval for this request; the permit was mailed on February 12th. It is staff understands that a Building Permit will be obtained for the proposed interior and the new sprinkler system.)
- b) Approval of Payroll and Bills

General Fund Warrant dated February 10, 2010, in the amount of 295,223.52, \$9,907.10 and \$1,495.60 and Community Development Agency Warrant in the amount of \$275.00.

Payroll Warrant dated February 18, 2010, in the amount of \$28,474.41 and \$107,185.11.

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

10-047. Presentation of the City's Audit Report for FY July 1, 2008 – June 30, 2009.

- a) Fred Duplessis of Sullivan, Powers & Company will present the Audit Report to the Council.

Recommendation: Receive report; opportunity for discussion; acceptance of the City's FY '09 Audit Report.

Fred Duplessis said the city had the audit reports for about a month and they are on the City's web site. Starting on page 1 is the Independent Auditor's Report. Their role is to provide reasonable assurance that the financial statements are free of material in the statement. In the third paragraph their opinion says that the financial statements do present fairly in all materials respects, in accordance with generally accepted accounting principles for governments. It is consistent with the prior year in terms of standards.

There are some new things on the horizon for next year. They are going to require the recording of other post employment benefits. He believes the city allows the retirees to access the health insurance at what they believe is cost. However, under their standards there is an implied subsidy so that will need to be evaluated next year to determine how much, if any, would have to be recorded on the books as a liability. That is a brand new standard. It doesn't take effect until June 10th.

As in the past, the most useful information starts on page 3 and runs for 8 pages which are entitled "Management's Discussion and Analysis." Not only does it provides some financial information but also provides narrative explanations. On the bottom of page 3 we talk about the unreserved fund balance being \$589,415, which was at the end of June 2009. That is about 6.3 percent of the operating budget. The recommendation is to have somewhere between 10 and 15 percent. That is a philosophical decision that every community needs to make, but it is what is recommended. He knows they have used none of that in the budget they are in right now. There is \$24,000 of it in the budget that is being proposed for 2011, but obviously whatever happens in 2010 is going to affect where you are.

Council Member Golonka asked about the increase in allowance for community development loans.

Mr. Duplessis said when they are seeing these loans mature throughout the state what is happening is typically these organizations are not only coming in and asking for forgiveness of the debt but looking for more support for new loans. What they asked the city to do was to evaluate the loans you have outstanding at that time. Garth Genge, who is the Community Development Specialist, did an analysis of each one looking at the original funding and the reasons why it was done, and it was based on his recommendation as well as the Finance Director agreeing with him that at this point in time you would set an allowance for 100 percent of those four large loans. It doesn't mean you aren't going to collect them. It doesn't mean they are written off. It simply means they are so far out and at this point based on what they are seeing of what his expectation is that based on everything he knows today he thinks it is unlikely he will collect them. Based on that information they are allowed for. This gets evaluated periodically. As time goes forward and these things get closer to maturity that decision may change, and if it does you simply reinstate or adjust the allowance.

Council Member Hooper said when the CVLT came here they told the Council we needed to consider this a grant or they need to call it a loan.

Mr. Duplessis replied that was correct. Part of it is complying with IRS regulations related to the tax credit limited partnerships. It is just trying to be realistic so you don't overstate the assets you have available.

Mayor Hooper said this has not been noted as a material weakness in the past.

Mr. Duplessis said there are new standards related to management letters and what things they raise. It is almost automatic. It is through the audit process they find that through discussion they end up with a material adjustment. Then, automatically that becomes a material weakness. Based on what they are seeing, not just here but in other communities, they really want communities to do a good evaluation. It resulted in a material adjustment and that automatically means it is a material weakness. It is a one time thing, and now it means you have a process in place that as loans are made this needs to be evaluated on a regular basis.

Going to Exhibit A on page 11, this is the combined condensed government wide financial statement. This is the same base of accounting that most businesses use. It has all of the fixed assets and debt. It breaks it out between the governmental activities, which are the general fund, capital fund, special revenue funds, and then the business type activity, which are water, sewer and parking fund. The major changes in the unrestricted net assets going negative were the allowance for loans and pension expense. During this year when you jumped over to VMERS there was a buy-in that had to happen and there was the choice of simply paying that as you go but staff did an analysis at some point and decided that over the long haul it would be to the city's advantage to go out and bond for that. When you bond you have locked in that expense so when you are pay as you go it doesn't have to be recorded. But once it is bonded it has to all be recorded. The impact of that was that all of the buy-in that has to flow through the year was bonded, even though long term it is to your benefit. It is just a peculiarity in accounting.

On page 13, Exhibit C, this is not an accrual basis. This is the modified accrual basis for all of the funds. This is the general fund, the community development fund, capital projects funds, and then a lot of other governmental funds. Governmental funds don't have to reflect that liability because they are really on a more current basis. This is the money that is available to pay the bills. It is a much shorter viewpoint. It's almost cash flow. It is almost a 60-day window. It is really an analysis of what your abilities to pay your current bills are. They will see the general fund has a total unreserved fund balance of \$794,937. Some of that has been designated for certain things. When they take those designations out we get back to the \$589,415 they talked about earlier as being that fund balance that the city can use or not use in setting the tax rate.

Page 14 is the revenue and expenses by those funds. It has been treated as a special item because it is highly unusual. It is a one-time thing and doesn't happen very often. The general fund incurred \$2.3 million of pension expense. However, when you look above about 5 more lines you will see they had

proceeds of debt of \$2.6 million to pay for that. There is a lot of money flowing through, but it was in and in and out and the debt to VMERS was paid off. There is now a debt to the bond bank.

If you look at the budget actual on page 16, because of that pension bond you will see large variances on both the revenue and the expenditure side because that was not included in the budget process. .

Exhibit G is the statement of bad assets for the proprietary funds, which are the water, sewer and parking. Again, they were impacted as well. The water fund did have a deficit last year, but during this year it had to carry about \$297,500 of this pension expense. It still would have had a deficit, but that made it worse.

On page 18, the 5th line from the bottom, the change in the net assets, you are going to see that the water fund actually lost about \$148,000; the sewer fund had a \$78,000 in excess; and the parking fund had about \$116,000. But there are those one-time pension expenses which makes all of them negative. If it hadn't been for the pension expense the parking fund would have eliminated its deficit from last year. It looks like it is going to carry a deficit for awhile but it is all going to be related to the pension. When rates are developed they really need to understand that is not an expense they need to pay every year. It is going to be paid according to the debt schedule. It, by itself, should not have any impact on rates.

Starting on page 20 for about 34 pages, there is a lot of information and notes to the financial statement. They talk about who the city is. They describe a lot of what we have talked about, the various methods of accounting that are used for government and the fund financial statements, accounting used for the enterprise funds, and then in a lot more detail the various assets and liabilities.

Council Member Hooper asked Mr. Duplessis to explain how the sewer and water funds don't need to recoup back for the VMERS changeover.

Mr. Duplessis said it is going to be paid over time. It was set up to be paid as part of the annual payment to VMERS.

Mr. Duplessis said the last piece of information in the audit report on pages 54 and 55 are the very detailed schedules which list all of the other smaller funds of the city, the cemetery fund, parks, special events, various trust funds, etc.

Council Member Golonka asked if there were any material weaknesses and the acquisition of the Senior Center. The city is contemplating doing the same thing potentially with the Recreation Department in the coming year and guidance with that regard would be helpful.

Mr. Duplessis said they have already talked about the management letter. The management letter is a by product of the audit. It's on a focus. When the work was done by Cota it was a focused internal control agreement on procedures which is different than what we do here. We report things to the Council that they find when they are auditing the financial statements. Everything in here is the result of numbers, errors, or adjustments that have to happen. The first item was the allowance for the evaluation of the community development loans. The second was the Senior Center acquisition. When it was transferred over to the city, because it came from the school district it was recorded at zero because that was the net book value on the school's books. The school district is not the city. General accepted accounting principles say you have to record any acquisition of any capital assets at fair market value as of the date of acquisition. What the city staff did was talk to the assessor and tried to determine a fair market value. It needed to go in, and it was a large number and a material adjustment. When these things happen they can materially mistake the financials. In fact, they have. They needed to be corrected. It was put in the books at the estimated amount.

Council Member Weiss said he thought the city owned that building and the school system rented space in that building. Therefore, how can the city be charged in terms of equity for property it already owns?

Mr. Duplessis replied it wasn't charged. The asset was on the books of the school district. It had been on the school district's books so when the auditors for the school took it off then it was transferred over.

City Manager Fraser said the charter says that all buildings and properties are owned by the city, even the high school under the exclusive control of the schools on their school property. If they abandon them or are no longer using them for school purposes they are the city's.

Mr. Duplessis said that would be irrelevant because it would be who would be using it and controlling the building whose books it would be on. Because you would have to have depreciation and have the cost of the building, even technically if the title was with the city it was appropriately on the books of the school and needed to come back on the city's books when the city took over responsibility for that building.

Mayor Hooper said the theory is who is controlling it.

Mr. Duplessis replied that is correct.

Mr. Duplessis said as part of the calculation of the cost of service is you are depreciating it based on activities that either goes on through the recreational activities. Obviously, this will have to be evaluated and it will change. The correction they proposed was to put fair market value on.

Mayor Hooper asked about all of the other assets of the city such as Hubbard Park and the North Branch Park.

Mr. Duplessis said they are. It is all in one large number and there is a detailed schedule that the city maintains that shows all of that. Remember, most of those things were acquired so long ago. You aren't adjusting anything for fair market value. Unless there is some impairment, which they know there probably was, and whether that will be refurbished or not, you don't adjust cost ever. You simply depreciate it. By the way, that is true for business assets as well in a private setting. It goes in at cost or fair market value the date you acquire it and it stays that way forever until you transfer it to some other entity or receive it back.

Mr. Duplessis said the third one was just an error. If you get long term debt, then you are allowed to record that as revenue. This was not long term debt. This was a short term grant anticipation note for a \$1.5 million. It was recorded in the books as revenue. You subsequently received the grant and paid it off. This did have to be corrected. The city staff recognized it once it was brought it up, that it was recorded wrong. Whoever put it on thought it was going to be a long term debt. It wasn't. It was a short term debt.

Those are the material weaknesses.

The fourth item, which was not considered a material weakness, was the depreciation. The adjustments there were not material. They were significant, and in fact were not posted by management. Any schedules or spreadsheets need to be reviewed. Somebody didn't check the formulas.

The last two items included parking meter revenue. This is a risk you accept. Could it be significant? Perhaps not. Do communities have two people? Is it an extra cost? Is there a cost benefit? He doesn't know.

Mr. Duplessis said the Fire District has been maintained on the city's books. It isn't a city fund yet. They understand the plan is some day to make it be so now they have to pull that out. If they are going to do that as a service they would recommend keeping it in a separate entity. It is in the books and combined in with all of the city funds, and it's not a city fund.

Council Member Hooper said he mentioned there is a slight subsidy in health insurance they provide for retirees. How does that work?

Mr. Duplessis said when they are allowing people to access their system and there is an age when people cost more. Use community rated or uses the premium you charge everyone else, and then theoretically they are costing you more than if you only let your own employees use it. It's fairly common practice throughout the state. You have to develop what that subsidy is based on the city's model of who they allow in and how long they stay and what health insurance is available for them. You have to calculate for current employees for what it is going to cost in the future if you continue that policy. Depending upon the number of employees you would have model done or an actuarial analysis to determine what that is. It is required for every municipality starting next year. Larger municipalities in the state had to do it two years ago. There was a second phase this year and Montpelier is in the third phase where everybody has to look at that.

Mayor Hooper said with community rating why are we treating people of different ages differently.

Mr. Duplessis said they aren't, but what the new accounting standard says is you need to recognize that there is a cost to the system as a whole and as a city we have to recognize that. They have done this in a few communities already. In some cases it hasn't been a lot of money, and in some cases it actually has. Again, it is simply a theory that as an older group it is going to be more expensive. This was a standard that was debated for years and finally put in place because what communities that went either to a self funded model or to a larger higher deductible model have found that when they start looking at the demographics and where the costs are it was skewed towards the older people. What the standard is saying is that if a committee wants to do it, fine, but they need to recognize that if they are going to allow the 35-year-old to have this subsidy when they reach 55 or 60 that needs to be accrued and shown today. If you are making promises today that have to be fulfilled by a future board you are trying to let them know what that cost is.

Mayor Hooper said they would not be able to offer a health insurance plan that treated different classes of people differently, would they? She wouldn't think that would be legal.

Mr. Duplessis said he didn't know if it is legal. They could certainly exclude them. This is not suggesting they do that. This is simply recognizing that there is cost to it, and that cost should be measured. Everybody who offers this, including the state, is recognizing this liability now.

City Manager Fraser said he wants it to be clear that the city doesn't provide insurance for the retired employees but allows them to buy at the premium the city pays. The notion is if they are driving claims that is raising the premium for everybody should you be accruing that as some sort of benefit.

Mr. Duplessis said they have had some communities talk about this doing a dual rating system and they have abandoned that. He doesn't know whether they abandoned it because they thought it was illegal or because they thought it was just bad policy.

Mayor Hooper said the community rating says you can't treat people differently.

Mr. Duplessis said he isn't suggesting that is a solution for Montpelier. This is a standard that will have to be dealt with.

Council Member Hooper said this is the second or third time he has mentioned the word healthy fund balance. Are communities in the higher end or everyone cloistered down at the bottom?

Mr. Duplessis said where they are economically it is harder for communities to try to get to that point. There are some communities in the state that have hit the 15 percent and trying to hold it. He is seeing 5 to 10 percent in a lot of communities. If there are things that cause you to raise tax rates if you have a fund balance you can use it, and without that you are at the mercy of all the things around you such as rising fuel prices and rising health prices and no choice but to make major cutbacks or increase taxes.

Having that fund balance allows you to do that. He understands that every community has that discussion, and ultimately the taxpayers get the final say because they get to vote on the budget. It is simply considered prudent management to have some level of fund balance. Where Montpelier stands it is in within that tolerable range, but it is at the lower end of the tolerable range.

Council Member Golonka said last year he asked Mr. Duplessis about the debt load of the city before we converted the pension liability. What is his opinion of our debt load now given that we have officially converted that to debt?

Mr. Duplessis said he thinks they are still within the range. That debt didn't change anything because it simply replaced an unbooked debt to a booked debt. They are in about the same place as they were a year ago. It just wasn't on the books.

Council Member Golonka said the water fund had significant debt.

Mr. Duplessis agreed the water fund is going to be an issue.

Council Member Weiss said there are two sentences he doesn't understand. The first is on page 20. The Recreation Department will be coming a department of the city on July 1, 2009. Why is that included?

Mr. Duplessis said these are the city's financials and that was information he had received. .

Mayor Hooper said that is an incorrect statement.

Council Member Weiss said his other question is on page 21, no financial burden or benefit accrues to the City of Montpelier to the Montpelier Public School System. Why have a school system if there are no benefits?

Mr. Duplessis said that is a technical test to determine whether they are a part of the city's legal entity or not. In most other towns with school districts there is such a clear distinction between the school and the town. In Montpelier it isn't the case. Back a number of years this was investigated and determined that these were the factors that made the school independent from the city. What this is explaining is that even though there are some indicators that they are part of the city they aren't; they are a separate entity. This is simply one of those factors.

Council Member Golonka said if the school is contemplating doing away with Main Street Middle School. There is a bond debt associated with that building. Does that become a liability of the city that we have to absorb automatically?

Mr. Duplessis said he thinks he understands that is a bonded debt of the school district. That would be a question the city attorney would have to evaluate.

Council Member Golonka said they are exploring joining with U-32 as well.

Mr. Duplessis said he sat on a committee 25 years ago that had the same discussion with U-32 and we looked at building a school in Sabin's Pasture and there were a lot of issues with selling Main Street and consolidation.

Council Member Sherman said there is another item about the Montpelier Fire District. Clearly, there is no financial burden or benefit to the city from the Fire District.

Mr. Duplessis replied they are a separate legal entity as well. They have their own charter, own structure, own governance board, and even though the city is keeping their books they aren't in this report. They are a separate legal entity at this point in time. There has been some talk about dissolving the Fire District and including it within the city because the system is one system. They are not included in this report. It was clarified that they were talking about the Fire District on Towne Hill.

City Manager Fraser said it was formed to build a water system for a section of town that didn't have water. They are a private provider. They received some federal funding and loans to build the system. The city leases the tank and the system and the users pay a surcharge on their water bill. There had been a requirement from Farmer's Home and the Rural Development that the Fire District would remain a separate entity for the life of its loan, but that debt has been refinanced. To his knowledge there is no reason for it to remain a legal entity.

Motion was made by Council Members Hooper, seconded by Council Member Jarvis to accepted the audit report. The vote was 5-1, with Council Member Weiss voting against the motion.

10-048. Update on Status of RFP and Grant Applications for 58 Barre Street.

- a) Garth Genge, the City's Community Development Specialist, will be providing this update.
- b) City Council Members received a copy of a memorandum from Garth, along with supporting documents regarding the present status of the RFP and grant applications for 58 Barre Street.

Recommendation: Receive presentation: opportunity for discussion; provide some direction to Community Development staff.

Garth Genge, Community Development Specialist, said there were very limited responses to the RFP. At the walk through there was actually a pretty good turn out from nonprofits, for profit developers and architects. He had received follow up letters of interest from virtually everybody in terms of being interested in being involved, but the only proposals came from the Montpelier Housing Authority and the Central Vermont Community Land Trust. It is at the position now where from the evaluations from the private sector that it really is a very difficult building to do economically. The amount of investment you would have to make makes it very difficult. The cost for putting it on the open market just isn't there, especially if you want to relocate the Senior Center. It's a great building for that location. The options for doing the building really turned to subsidized federal dollars that would help with housing on the upper floors. Finding a scope of financing that would fit the Senior Center portion of the remodeling renovations works out to basically 2/5 to 3/5 in terms of the amount of space they would be involved in. You need the people who are interested to sit down. There are a lot of issues here. Who is going to own the playground? How do you do the ownership model? There are a lot of complicated issues that the parties that are interested in working it out need to sit down, outline them and provide more feedback from the people who would be interested.

Council Member Golonka replied if the playground was owned by CVCLT it could be donated to the city. That was part of that grant.

Community Development Specialist Genge said how do you set it up where someone owns the Senior Center, somebody owning the playground and somebody owning the apartments? Is that a condominium association or is there a separate entity? How does that affect the different kinds of funding that can come in to play? There are some things that will work for the Senior Center and some things that will work for the housing. There are some things that can be applied for by a municipality and some things that can't be. At CVCLT there was a project that had 17 funding sources. To do projects like this it takes a lot of complicated issues, downtown tax credits, historic tax credits, low income housing tax credits. There is RD 515 and HUD 202. There is just a wide range of options and they affect all of the participants according to which avenue you go down. If the Senior Center focuses on a certain funding stream and that is in competition with the housing, are you shooting yourself in the foot? It really takes the Montpelier Housing Authority and the Central Vermont Community Land Trust organizations to sit down with us and discuss how you do that. If the city is going to have some kind of share in this project, then how do we manage that? Probably at some point it will be a condominium ownership so there will be a condominium board with a representative. After this year he thinks there will be a lot of money that will not be available, and a lot of the applications are due in

spring and early summer. He thinks 2011 is going to be a very dry year for all of the funding sources he mentioned. They all have extra dollars now but he doesn't think that will last past this year.

All of the different housing subsidies get extra dollars this year, but he doubts that will be the same next year. It is the same thing with the community development block grants. There has been a bigger dollar amount than they usually get. Next year it is going to be more competitive because everybody is searching for dollars. Sometimes it is two or three rounds before you come through and get some of the pieces of funding. They are also at the point where the preliminary recommendations for the pre-development information need to be done just to submit the applications. The RD 515 is in due in April 2010; the HUD 202 is due in June or July. If this is the way the city wants to go this is the time to pick the partners who decide to be involved, sit down with them and work out the next steps and bring it back to the Council. The timing is starting to become more and more imperative.

Mayor Hooper said his recommendation is to form a tight focused committee to figure out how to get this done within a reasonable time frame to take advantage of the grants.

Community Development Specialist Genge said the Central Vermont Community Land Trust and the Montpelier Housing Authority have an expertise that is really important. They are willing to work with each other, and that is a big asset. The city needs representation. The Senior Center needs representation. He would consider the Council on Aging just because of all of the components that are involved. Part of it is having a committee that understands all of the issues so you aren't educating people as you are going along because a lot of this is very complicated and having the expertise with the people involved makes it a lot easier to get to the next step. Jeff Kantor has worked with the Housing Authority before. Mr. Kantor had talked with him, Bev Hill and Joanne Troiano about what are the next best steps. There needs to be a commitment from the city that this would be the next step.

Assistant City Manager Hill said Jeff Kantor called her this afternoon. He actually used to work for the city's community development and used to be in the job that Garth is doing now prior to her coming here. He has done a lot of projects which she thinks the Council is very familiar with. In 1994 we worked with Jeff and our community development funds leveraging for the Heaton Woods Project with the Montpelier Housing Authority and turned that building around. Jeff also redeveloped the Lincoln House into senior housing, which was a former school building in Barre. He was the project facilitator on that. Jeff said, as Garth has emphasized already, that he believes probably the greatest program for us right at this time will be the Rural Development 515 Program. That application process could start as early as late March or early April, and it is a very short time frame. In order for a group to apply for 515 programs we have to have site control so the city would have to be a part of the project at that point in time in order to apply for these funds. Jeff does two to four projects a year with values of 10-20 million dollars. What he sees over there and thinks could be done would be the 12 to 14 units of housing with the Senior Center remaining as a part of that. That would be a condo situation. He said the Council needs to be thinking about the possibility that in order to leverage this whole project you may have to consider donating the building. He said the city would probably have to consider using all of the insurance money from the building to do the senior piece of that, plus there would be other costs. His recommendation is that if these people could agree that this is an idea they would like to pursue they have a committee made up of the Central Vermont Land Trust, Montpelier Housing Authority, a representative of the Senior Center, a city representative and the Council on the Aging.

We have to go with the opportunity we have because we don't when the Main Street building might become available. Some people have suggested we put the Senior Center building in the St. Michael's building. We have been told for now that is not a possibility and it is not for sale. Jeff is saying this is what we have to work with now and we should focus on using that opportunity and look for the funds he believes might be available this year.

Mayor Hooper said they have heard from the owners of the Catholic Parish that they aren't interested in entering in a partnership.

Council Member Hooper said he understands why they wouldn't want to sell because they want to talk about a long term lease with the church.

Assistant City Manager Hill said that is something they are still working on. While it is a good temporary placement for the seniors they do lack some things they need which is a bigger community room and a kitchen facility. They love the classroom setup, but it doesn't provide all they would need.

Community Development Specialist Genge said it has accessibility issues and the Senior Center would need to make an investment.

Assistant City Manager Hill said there is somebody here from the Housing Authority and the Community Land Trust that the Council may want to hear from.

Mayor Hooper said the city put out a request for proposals and invited people to walk through the property to see what the redevelopment options were for 58 Barre Street. A number of people took advantage of that but with the exception of the Central Vermont Community Land Trust and the Montpelier Housing Authority no one said they wanted to participate in this with the constraint we set on it, which we needed to have the Senior Center as part of the project.

Community Development Specialist Genge said Connor responded they would be interested if the Senior Center was relocated. Steve Ribolini said he was very interested and again it was putting that much money into the building. They were willing to do limited upgrades and relocate the Senior Center. His issue with that would be minimum upgrades would keep the capital costs for the Senior Center very high. If you are going to occupy that building with the Senior Center you are going to have to upgrade the efficiency of that building or it is going to be very expensive to keep them in it.

Assistant City Manager Hill said there is always going to be a parking issue. If it is developed into an office complex it will require more parking than if it is developed as senior housing.

Mayor Hooper said the staff recommendation is the Council form a committee of the nature they suggested and work on a proposal to take advantage of the federal and state funding opportunities.

Community Development Specialist Genge said in addition he would also recommend moving ahead with the redevelopment recommendations that were part of the planning grant application. With whatever application you do we are going to need a site plan and all of the different components. The total came to \$42,000, some of which was allocated originally to the Gossens Bachman report. It was \$3,500 allocated for that. They spent another \$850 on the structural engineer to evaluate the roof. The planning grant is \$17,000. His recommendation was to use the revolving loan fund.

Council Member Jarvis said she is on the committee and there is a recommendation that we actually form an entity.

Community Development Specialist Genge said that would be up to the committee. That is something he would propose because at some point it will probably be a condominium association. That would be a recommendation the committee would come back with.

Council Member Sheridan said before he would make a motion to set up this committee he would like to hear from Eileen Pelltier, Joanne Triano and Jack McCullough.

Eileen Pelltier from the Central Vermont Community Land Trust said the recommendation to form a committee is what she would suggest. She agrees with Garth that the committee has a big challenge ahead of it. There is a possibility we might not be able to put something together that will work with the Senior Center in the building. They are all trying to figure out what the right thing is for the Senior Center and the city. They are all open to working with each other and with Jeff Kantor.

Jack McCullough, Chair of the Montpelier Housing Authority, said they have had some brief discussions about this at their recent board meetings. Obviously, they don't have something concrete to work with so they don't have a position to take. The general approach of the Montpelier Housing Authority is that their mission is to provide affordable housing for people who need it within the city of Montpelier so when they have an opportunity like this that comes forward they have no choice but to be interested to see what they can do to help that process move forward and produce housing for the city. One of the concerns they have had in discussing this is they definitely heard mention of the idea that what we need to do with this property is to put senior housing, however that is defined. Speaking for himself, and probably for other members of the Board, he would say he isn't convinced that is really what the need is. He would not want to see us head down that one direction of where we are going without being convinced that those are the people who really need the housing given the fact that some of us are right at or very close to the demographic where we might be eligible to move into that kind of housing and moving out of the houses we have now. There are other groups. He would caution against proceeding on the assumption that what we are talking about is senior housing, and, secondly, for the same reason, it is premature to say that the Council on Aging should be part of this committee. It makes an assumption he doesn't think is really a valid one. The Housing Authority is interested in doing what they can to move this forward.

JoAnne Troiano, Executive Director for the Montpelier Housing Authority said she agrees with Jack and they all want to do what is best. At the end of the day the Land Trust might be in a better position to get the funding or to run the building. They also have a 501(c)(3) nonprofit that owns Heaton Woods, Cummings Street and will soon own Prospect Place. Her only concern in going forward is putting in a lot of time and developing a proposal and coming back to the Council to say this is what we think can happen and have the Council thank them and go somewhere else and do something else with the building. If they aren't the players they want to see do this tell them now and find a committee to work on this, then that is fine. She is happy to do this. The Council needs to determine if this is a group you think can move forward and do the best job for this property.

Council Member Sheridan said one of the things they will look at is which option will bring in the most money and that may dictate the course the Council takes because this is going to require a lot of money. He asked JoAnne Troiano how many units she manages.

Ms. Troiano said including their Section 8 voucher program 310. Technically, there are 3 vacant today.

Council Member Sheridan said there is a need for some kind of housing. They have a very low vacancy rate which shows there is a heavy interest in this city for housing.

Ms. Troiano said the problem is there are people who can pay whatever across the street is charging, but there are a lot of people who are making \$25,000 to \$26,000 a year, if that, working in many of the places we all go who would like to live on their own and can't.

Council Member Sheridan said all he is trying to establish is that this is a desirable city people want to move into. This is a good time to move forward and see about our options on this.

Council Member Weiss said they want to form a committee. Who is in charge? Who is going to dictate? Who is going to make sure that all of the tasks are done? There are a number of committees which exist which are feel good committees, and he doesn't want this to be one. What kind of a commitment can be made from the folks they are talking about who are going to sit at a table and come to some agreements and then carry forward?

Ms. Troiano said she thinks they might be the only players who would play with them but they have the ball.

City Manager Fraser said the city staff can certainly support the effort. We can do the leg work and provide the technical information. Certainly, they would provide staff support. This is a key initiative.

Assistant City Manager Hill said as far as the Senior Center is concerned it should be someone who has been more active in the center over the years. Her involvement would be more of a liaison type.

Ms. Peltier said she doesn't see this as a long term committee. There are certain variables we all need to assess and make decisions on.

Council Member Weiss said they are going to identify the sources of funding which best fit the project ideas, and, finally someone is going to write, submit and sign off on the proposals.

Ms. Troiano said it seems they would be coming back to the Council before they got to the point of submitting applications.

Council Member Weiss said they are talking about who should be sitting on the committee. His thinking is the only people who should sit on the committee are those who are qualified to follow through and make sure whatever the process is that the proposals are submitted in a timely fashion and meet the needs.

Ms. Peltier and Ms. Troiano agreed.

Council Member Golonka asked Joanne Triano why would the Council say no. Obviously, it is the money. Her organization is one of only a few that is a nonprofit in the city of Montpelier. He doesn't want to see this building become a financial albatross like a lot of other nonprofit buildings that are sitting here in the city and not helping fund city services. He appreciates her effort in writing those checks at tax time.

Ms. Troiano said back when they were doing Prospect Place she felt like every board they went through her first obligation was to say they would pay taxes. If it was a condominium arrangement it would probably be some kind of a limited partnership.

Community Development Specialist Genge said it would most likely be a for profit ownership. If it is low income housing tax credit property it has to be a for profit enterprise.

Council Member Golonka asked if Mr. Genge thought this committee could come up with an answer relatively quickly.

Community Development Specialist Genge said housing developments are developed all of the time. It is going to be harder for the Senior Center. The housing is easy to analyze. The Senior Center has a lot more complications in terms of how they pay their piece. He sees that as a more difficult answer than with the apartments.

Assistant City Manager Hill said the auditors always put an allowance on the tax collectibles that would be uncollectable. Sometimes the auditing procedures that require these allowances aren't realities in the end.

Mayor Hooper said what the Council is asking a group to do is to put together a pro forma that is going to look at the use of this property and how to make it work. They will bring it back to the Council. She presumes the city would be a partner in applications for whatever is out there so they will see the applications as they are submitted.

Assistant City Manager Hill said they will have to because part of the requirement is that the city will have site control in order to apply for the funding.

Mayor Hooper said there may be some policy decisions that need to be made so she would suggest that a Council Member be a member of this group to be that connection. If the Council wants to put

this building on the market and step away from it now they need to say that now rather than sending the committee off to do the work and rethink it later.

Ms. Troiano said she would hate to see the committee come up with a proposal that includes the Senior Center and housing and they are ready to file the application and the Council say they think they are going to turn it into offices.

Community Development Specialist Genge said one of the things coming back with the Senior Center may not be that it won't work but the cost to house the seniors in this location.

Assistant City Manager Hill said they have spent a lot of time over this past year looking at alternative locations for long term housing for the seniors and right now it's just not out there. It is space that provides a downtown location with parking capabilities and easy access.

Council Member Sheridan said the Council has discussed this for about a year and a half. Every time he goes to the Senior Center all he hears is where are they going to be located. This is a chance to find an answer. He is willing to make a motion to put together a committee, including the Housing Authority, Central Vermont Community Land Trust, a member from the Senior Center Advisory Board, a Council Member and staff as the City Manager designates, to see if we feel we are going to move towards senior housing and then we can bring in a representative from the Council on Aging. Jeff Kantor would act as a consultant. Council Member Sherman seconded the motion.

Richard Sheir, a resident of Loomis Street, said he has spoken with the Council about 58 Barre Street on several occasions before. He would like some clarification from the Council on three points. One, why they are studying a long term solution for this, will there also be a study for a short term solution? When this structure was turned over to the city from the schools those upper floors went unrented until the fire in December. They went several years without generating revenue. Should this housing take several years to construct, is there a short term plan for generating revenue from the upper floors, or is that going to be sitting down the road somewhere waiting for the longer term construction?

Secondly, if we are talking about senior housing, will the Council close the door on further taxpayer subsidies of that housing or the city becoming a cash participant in the finance of this? Regarding the Senior Center, will the question before the Senior Center is discussed stopped being kicked down the road in terms of whether that is a regional project or a Montpelier project? Those have two very different meanings in terms of the finance and the purpose of the center. Is there an interim plan that will be devised before those grants come in for the use of that space so it is generating revenue and paying for its heat? Will further city subsidies be ruled out? Before we start talking about a Senior Center will there be a definitive answer as to whether this is indeed a regional project?

Mayor Hooper said she could speak to questions one and three because the Council has discussed that. They have looked at the ability to rent those upper floors and realize they would need to make an investment in it. They were considering making those investments and the fire happened so they stopped. There has been no further discussion. If they are going to go ahead with the redevelopment plan it doesn't make sense to rent it to somebody for a month or two before they start pulling down walls. Question 3 relating to regionalization, they have had a conversation about this. They had a proposal from an individual associated with the Senior Center who said we should go that way and the Council declined. She presumed from that response that the Council said this is principally a Montpelier Senior Center and that is how we will focus our activities.

Mr. Sheir asked if the Mayor would ask the housing people if after the six months of considering various proposals if this could be a one-year lag before the walls come down?

Mayor Hooper said they don't know and it will depend upon what the funding proposals are.

Mr. Sheir said since they don't know is there going to be a process for trying to rent out the upper floors to pay for the heat?

Assistant City Manager Hill said that is their big problem right now, the fact that the furnace has died. The boiler people have recommended the city shut it down. It is going to cost hundreds of thousands of dollars to install a new heating system in there. The furnace is off and they have drained the pipes.

Mayor Hooper told Mr. Sheir in number two whether we would consider further subsidies that is a conversation that City Council has had. It depends on what the proposal is before them and they will have to make a decision based on what they hear is an appropriate use for the building. Then, it is the job of the City Council to consider what is appropriate.

Council Member Golonka said they are trying to talk about answers to questions we don't have. He thinks this building is a financial black hole and they should run away from it like the plague. He is willing to give them a chance to see if there is any feasibility here, but he is also willing to say no. He is not as committed to saying that senior housing is the only way to go with the building. He believes if this doesn't work we may need to move the seniors. He thinks this building can be extremely expensive to do anything with. He doesn't agree they are going to get grant money to completely pay for this. If the study comes back and the financial implications for the City of Montpelier are too great he will say no in a heartbeat.

Ms. Troiano said if they come back and it is going to cost \$6 million to do this and the city will have to pay \$3 million – if they have a viable proposal that meets all of the requirements and everybody can afford it and somebody says they want to tear down the building.

Mayor Hooper said she understands the request that this be a serious task.

Council Member Sheridan said we don't know and should answer this question. Let's find out. This may net us back to square one.

Community Development Specialist Genge said the energy upgrade grant application they went for in the first round was approved and the second round is due Tuesday. To invest in the building properly without interfering with any other development plans the best way is to strip the roof, which needs to be replaced anyway, put foam on, seal up everything. The application is for \$50,000. The match wouldn't have to be the one to one that was originally proposed so the city might end up with \$20,000. That is something that could be considered through one of the revolving loan funds as debt that would stay with the project because it would be an investment that would help whatever development comes later.

Doug Zorzi, a member of the Senior Center Advisory Board, said his comments tonight are as a resident of the city. He would appreciate in terms of an upcoming Advisory Board meeting to know what the timing might be regardless of a decision on the building. The Board is facing a number of obstacles. If they had some sort of chronology as to the outcome it would be helpful and maybe that could be formulated in a couple of weeks.

Community Development Specialist Genge said he would guess that a project like this from now until occupied might take 18 months before the Senior Center reoccupies the building.

Eileen Pelltier said by the end of March this committee will be able to come back to the City Council and say how they think it will work or they don't want anything to do with it. That can easily be done by the end of March and then the City Council will have to make a decision.

Elizabeth Dodge, Vice Chair of the Senior Center Advisory Board, said she wants to reiterate what Doug Zorzi has said. There are some problems where they are. They fortunately have other places where people can play cards. There is one member who can't stay at the Senior Center because the bathrooms are not handicap accessible. She too receives questions about what is happening and when are they going to hear. Rumors fly and people get unhappy. It is very important to have a decision. She knows the Council is behind the Senior Center. Doug Zorzi has done a tremendous amount of work looking for places for us to have a Senior Center other than 58 Barre Street.

Council Member Jarvis said she would like to offer a friendly amendment about authorizing the funds for the predevelopment expenses for doing this. That would be to offer up to \$42,000 and the money for the roof if they get the energy grant. She suggested that 3/5ths come from the development loan fund and 2/5ths from the Senior Center reserve fund. The friendly amendment was accepted.

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

Council Member Golonka nominated Council Member Jarvis to be a member of the committee with Council Member Hooper seconding the motion. The vote was 5-0, with Council Member Jarvis abstaining.

10-049. Update on the river conditions.

The City Manager and Fire Chief will be providing this update.

Recommendation: Following update, opportunity for discussion; possible direction to staff.

Fire Chief Schneider said this is probably a good time to update people on the general condition of the river and the ice conditions. He remembers coming back on the 25th of January, getting off the train, getting into his car and driving down and thinking with all of the red lights over on State Street there must be an accident. He crossed the Bailey Avenue Bridge and the river seemed high and found out the ice jam was breaking. There was actually flooding on that day. There was damage along the North Branch River in some of the basements and the water actually got on to Lower State Street which is unusual. That was an example of the worst case scenario of the type of thing they call a breakup ice jam came down the river, piled up behind the area of Shaw's at the confluence of the two rivers, backed the water up in the North Branch. As the water raised up and freed up that break, pushed the ice down where it piled up on the freeze up jam at the bottom of the lower cemetery curve.

Right after the ice went out on the 25th of January we had a very classic example of a freeze up jam. It starts right on the flats of the cemetery curve and the I-89 Bridge and then just backs up. It quickly backed up in a matter of 36 hours to the point they were concerned with the water levels again on the North Branch. Since then the conditions have been favorable so they feel the basic risk is low.

Right now there is a freeze up jam on the flats between the cemetery curve to the I-89 Bridge. That is the last thing that gets freed and loosened in the city. Between Bailey Avenue and there have been some good channels that appear to be opening up. Right around Bailey Avenue Bridge there still seems to be a pretty good ice jam across the main stream area. On Main Street towards Bailey Avenue when you look at the ice after watching it for quite a bit of time you will see that it has fallen down and an indication there is a good channel underneath it where the water is flowing.

The North Branch is basically ice covered. From the Main Street dam back upstream it is primarily open water, but there are some places where it is covered over with a thin sheet of ice. Other information we have is the sun affects the open stream temperatures. Cold weather is still forecasted. There is frazzle ice production that occurs primarily overnight and during the day times. There isn't the potential for building up. At this time the snow pack in this area is actually quite limited and doesn't present any serious thaw hazard. They are looking at a relatively low danger at this point, but if they get a period of deep freeze of below zero weather we could very rapidly have a lot more frazzle and a repeat of what happened on the 30th of January. That could happen very quickly and plug up that whole section of river as well a build up ice in other places. Or, if we should get torrential downpours there is enough scattered amounts of ice they would move quickly, especially in the North Branch area and could cause a pile up of ice. Those are the two conditions they are most concerned about.

Council Member Sherman asked if they had rerouted the flow from the sewage treatment plant.

Chief Schneider said they are trying to get the permits completed in order to do that. They are also having some difficulties in terms of a pump. They are trying to set that up on a temporary basis. Hopefully, this next construction season they will be doing the construction work on the permanent temporary biomass insulation.

City Manager Fraser said they get two different kinds of ice jams, the break up jam and the freeze up jam. The break up jam is what they had on January 25th where the sheets of ice on top of the river will break up, float down, jam up and creating an obstacle in the water and it backs up. More often they run into a freeze up jam which is one of the reasons it stops them from proceeding through. A freeze up jam is this slushy ice that then adheres to the bottom and builds up from the bottom. The fear is that the ice will break up and hit that and not be able to get through. This year it is really limited to the Interstate cemetery curve.

Chief Schneider said the only other thing he felt should be talked about is for people to be aware of notifications. They are doing pretty well in terms of notifying people of warnings about conditions for things to happen. However, there is a question of when an incident happens people have to understand that we are not in the warning stage, and there is one message which is evacuation. The notifications people are going to get notifying them that conditions are ripe is one thing; evacuation is just that.

Mayor Hooper said the time to take care of things that could be endangered by flooding is before we say it is flooding.

Chief Schneider replied yes.

City Manager Fraser said there was a lot of information that went out in 2007 about personal protection. They asked citizens to think about this in advance and plan their routes. They try to let people know when conditions are present that could result in flooding. They struggle with this every time they see the river go up and see a jam. On the other hand, on January 25th when it was up to the bridge and it is actually going over on to Route 2 you need to notify people.

Mayor Hooper said she got off the e-mail alert list. That may be another message to get out there. On the city's web site it is possible for people to go in to the flood page and signing up so they will receive those kinds of notifications. It seems until we get the permitting installation in we should ask for a permit at the beginning of the year because we know this may be happening every year.

Chief Schneider said he had the feeling looking at the process now that it is something the state wants to know about. We have to explain why we need it now as opposed to a general permit. All the state can do is just do temporary emergency permits.

Jack Lindley asked Chief Schneider why we abandoned the crane on stand by that was effective in some of the other floods.

City Manager Fraser said there is one on stand by. It depends on the time of day and the day of the week. Their analysis was that it was a supplemental piece of work. It wasn't effective in an emergency. Where it was effective in 2007, or partially effective, was once they had the freeze up in place it was working to remove stuff and open up the channels. If the conditions were to happen they could get the crane here. If there were a break up jam it isn't that useful.

Fire Chief Schneider said last year was the first year they didn't do it. We knew more about the river than we did in 2007. The next year it costs about \$5,000 to be parked down there. Both of the bids they had the year after that were \$18,000 to \$20,000 and that didn't account for any kind of mobilization. That was for just parking the crane down there. It is partially a financial decision.

- 10-053(A) Consideration of authorizing the City Manager to execute documents as may be appropriate and necessary to effect an assignment of all of the city's interests and claims against Scott Construction, Inc. and to complete the insurance transaction with VLCT PACIF.
- a) The city's insurer announced on December 11, 2009 that they had accepted the city's claim and would fully cover the city's loss. The city, at that time, provided all relevant documentation and information about the claim.
 - b) VLCT PACIF has determined that the city's loss is \$347,647.79 which is the difference between the original \$462,336.13 overpayment to Scott Construction and the \$114,688.34 collected by the city from Scott Construction, Inc. between January of 2007 and March of 2009.
 - c) After applying the \$500 insurance deductible, payment to the city will be \$347,147.79.
 - d) Documents to be signed include a general release and a proof of loss.
 - e) The city would transfer any rights and claims that the city has against Scott Construction, Inc. to the city's insurer in return for payment of the claim.
 - f) The city's attorney, John Klesch of Stitzel, Page & Fletcher, has reviewed the documents and the claim and advises that all are consistent with the insurance policy.

Recommendation: Authorize the City Manager to execute the related documents.

City Manager Fraser said they had planned on having this on the original agenda but they didn't have the final wording and paperwork until yesterday. We have the release documents. It was announced they were going to cover the claim. We provided documentation for the claim and they made the determination that the loss is basically the overpayment minus what was collected. That is what they will be paying us. We need to sign general releases. Scott Construction did file for bankruptcy just last week so the insurance will replace us as the creditor upon anything against Scott Construction. Our attorney has reviewed all of the documents and advises that everything is consistent with our policy.

Council Member Hooper moved to authorize the City Manager to expedite these documents as it may be appropriate and necessary to effect that all of the city's interests and claims against Scott Construction, Inc. are paid by VLCT PACIF. Council Member Sherman seconded the motion.

Council Member Golonka said he supported the motion.

Council Member Hooper said he would like to have the e-mails published that said this was a good deal.

Jack Lindley asked if the Council was waiving all criminal activities with this.

City Manager Fraser said they don't have that power. That is the state's option. This is only on the money they would collect as part of our collection efforts.

Mr. Lindley said the insurance company is standing in our stead. How with a bankruptcy can they assume our position as a governmental entity in a bankruptcy.

City Manager Fraser said he assumed they could take over our rights. Whether they have the same standing as a municipality he doesn't know that. Basically, we can't collect from them and then go to the bankruptcy proceedings and collect directly ourselves.

Mr. Lindley said by giving up our rights do we weaken the position in the bankruptcy court. Obviously, we aren't getting the \$397,000; it is now down to \$347,000, so there is a \$50,000 haircut to the water fund.

City Manager Fraser said the \$397,000 was the court judgment against Scott Construction, Inc. That included interest and legal fees we had initiated with Scott. The \$377,000 was the principle due on that note and the \$347,000 was our total overpayment. The insurance law and policy doesn't cover any interest on the deal we made with Scott so that is ineligible. There wasn't a case to be made for about \$20,000 in legal fees that we used to reduce that. That is in the policy we had. We're getting back the difference between the overpayment and what the city has collected.

Mr. Lindley said by signing over this right the water fund itself is taking how big a haircut. How much does the water fund have to make up?

City Manager Fraser said there is \$20,000 in expended that wasn't covered.

Mr. Lindley said there is still a hole in the water fund for the activity. By signing this tonight you are assuming that the water fund will take that as a loss. We are assigning it to the insurance company so they have the right to get the \$397,000 for their own benefit.

Mayor Hooper said the question to the City Council is whether or not we wish to pursue the full recovery or if we wish to accept the offer from the insurance company.

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

10-050. Reports by City Council

Council Member Sherman said she thinks there are some resolutions in order honoring some important people in the city who we have lost in the last few weeks, one being Paul Manghi, Lowell Smith, and Richard Emmons. She asked that staff put together those resolutions honoring them.

Council Member Sherman also requested that a resolution honoring the Valentine Phantom be prepared and she provided the wording she had drafted for this resolution. (Resolution attached to minutes)

Mayor Hooper said the Council will accept that resolution and it will be properly executed.

10-051. Mayor's Report

10-052. Report by the City Clerk-Treasurer

City Clerk Hoyt reminded members of the viewing public that tomorrow is the last day to register to vote for the Annual City Meeting. Absentee ballots are also available.

10-053. Status Reports by the City Manager

Agenda Reports by the City Manager

10-054. a) Continuation of the City Manager's Annual Evaluation, including the review of his Employment Agreement with the City.

- 1) In accordance with Title I, Section 313, Subsection (a)(3) of the Vermont State Statutes, Council may choose to enter into an Executive Session ... as it reads:

(a) ... A public body may not hold an executive session except to consider one or more of the following:

(3) The appointment or employment or evaluation of a public officer or employee; ...

Motion was made by Council Member Jarvis, seconded by Council Member Sherman to go into executive session at 9:32 P.M., in accordance with Title I, Section 313, Subsection (a)(3) of the Vermont State Statutes to continue the City Manager’s Annual Evaluation, including the review of his Employment Agreement with the City. The vote was 6-0, motion carried unanimously.

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

Motion was made by Council Member Weiss, seconded by Council Member Jarvis to come out of executive session at 10:55 P.M., in accordance with Title I, Section 313, Subsection (a)(3) of the Vermont State Statutes where they had continued the City Manager’s Annual Evaluation, including the review of his Employment Agreement with the City. The vote was 6-0, motion carried unanimously.

Motion was made by Council Member Sherman, seconded by Council Member Jarvis to offer the City Manager 1.5% salary increase, continue the three year rolling employment agreement and seek insurance options for the disability section of the agreement. The vote was 6-0, motion carried unanimously.

City Manager Fraser said he would accept the offer.

Adjournment:

After motion duly made and seconded by Council Members Golonka and Sheridan, the council meeting adjourned at 10:59 P.M.

Transcribed by: Joan Clack

Attest: _____
Charlotte L. Hoyt, City Clerk