

On Wednesday evening, July 27, 2010, the City Council Members met in the Council Chamber.

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

10-177. Call to Order by Mayor:

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

10-178. General Business and Appearances:

None.

10-179. Consent Agenda.

- Consideration of Minutes from the July 14, 2010 Regular Meeting.
- Consideration of approval of payroll and bills.

General Fund Warrant dated July 15, 2010, in the amount of \$242,337.10.

Payroll Warrant dated July 22, 2010 in the amounts of \$30,210.32 and \$114,802.50.

- Consideration of the following permits with the City Council acting as the Liquor Control Commission.
 - ✓ Ratification of the request for a catering permit for the Black Door Bistro to cater for the Lost Nation Theater Cabaret on Wednesday, July 28, 2010 from 6:30 P.M. to 9:30 P.M. at City Hall. Council was polled by phone and staff received the necessary four (4) votes indicating approval.
- Request for approval to close 60 State Street parking lot on September 11, 2010, including a noise waiver request. (Withdrawn)
- Request for approval for Montpelier Elks Club at 203 Country Club Road to have a Montpelier Palooza Metal Fest on Saturday, August 28th from 5:00 P.M. to 12:00 A.M. There will be a BBQ and a number of bands with a 60' x 130'

tent. Trained Norwich Cadets will be the security. A noise variance and outside consumption permit have also been requested. (Withdrawn)

- Authorization of City Manager to sign Assignment of Assets document prepared by the City Attorney. This assigns all physical assets of Montpelier Net to Summit Technologies, Inc. In return, Summit will remove and dispose of all installed hardware and relieve the City of any further liability or obligation. Copies of the Assignment document and the inventory of equipment have been approved.
- Planning Commission – request the extension of the terms of the following Planning Commission members from July 23rd to August 25, 2010. Staff will advertise these to the public at large and to those members whose terms expired on July 23rd and 24th. The applications will be brought before the Council at their August 25, 2010 meeting. The extension is needed for Jesse L. Moorman, Chair; David Borgendale, Vice Chair; Alan Goldman and Missa Aloisi. Recommendation: Approve extension.
- Reappoint the City's representative to the Regional Planning Commission, David Borgendale. Upon motion by Council Members Sheridan and Sherman David Borgendale was approved to continue representing the City of Montpelier on the Regional Planning Commission.
- Authorize the City Manager to award bids for the Hubbard Street Slope Project pending proper bid submissions and prices within available funding. Bids will be opened on August 3rd with results provided to the Council.

City Manager Fraser said the requests regarding 60 State Street parking lot and the Montpelier Palooza Metal Fest at the Montpelier Elks Club were being withdrawn.

Motion was made by Council Member Sheridan, seconded by Council Member Sherman to approve the consent agenda.

Council Members Golonka and Weiss asked to have the Montpelier Net Asset transfer pulled from the consent agenda.

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

10-179(a) Authorization of City Manager to sign Assignment of Assets document prepared by the City Attorney. This assigns all physical assets of Montpelier Net to Summit Technologies, Inc. In return, Summit will remove and dispose of all installed hardware and relieve the City of any further liability or obligation. Copies of the Assignment document and the inventory of equipment have been approved.

Council Member Golonka said as a member of the Montpelier Net Committee he would like to table it until the committee had a chance to discuss it. They haven't looked at this document. Instead of just giving them the assets he would like to determine if there is any value or alternatives. He would recommend tabling it and referring it to the Council's Committee. Council Member Weiss seconded the motion to table.

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

10-180. Senior Center

- At the July 14th Council meeting the Senior Center Advisory Board was requested to consider and reply as to the acceptance of the proposed Organizational Statement and Plan for the Senior Center as drafted by City Councilor Sarah Jarvis.
- At a special meeting of the MSAC Advisory Board on Tuesday, July 20, 2010, the Advisory Board voted not to accept the proposal as drafted and have come back with a revised proposal which Council received in their packets.
- Recommendation: Discussion and direction.

Council Member Sheridan said there was a special meeting of the MSAC Advisory Board as requested by the Council to discuss the proposed plan submitted by Council Member Jarvis. Most of the problem was with the other proposed board. The feeling was that it took away what little power the MSAC Advisory Board have. They didn't have a problem with the board being created but felt it shouldn't be another layer between them and the City Council. They don't have a problem with some type of condominium association. The goal is to assess instead of access.

Elizabeth Dodge, Vice Chair of the MSAC Advisory Board, said she has another correction with has to do with the condominium board. Only people who live in a condominium can be on a Condo Board.

Council Member Jarvis said Garth Genge's e-mail to Attorney Gensburg said the Friends of the Montpelier Senior Center would be the managing entity for both the capital campaign and the condominium management representative. That may be in the 501(c)(3) application.

Community Development Specialist Genge said how the bylaws are written are still up in the air. Whoever does represent the city as the condominium position will have to be decided upon by the City Council or this board.

Council Member Sherman said they don't like the idea of the creation of a Senior Center board akin to the Recreation Board but they are talking about a Senior Services Coordinating Committee. What are the differences?

Council Member Sheridan replied that was just the name they gave it.

Council Member Sherman added that it would be an additional board.

Mayor Hooper asked if they could explain how the three boards would work. They know what the condo association is and what the Senior Center Advisory Committee is which is what is right now. How do they imagine the third committee working?

Council Member Sheridan said it would be another committee of the Council who reports to the City Council. They understand that recommendations from this committee may conflict with recommendations from the Advisory Board.

Council Member Sherman said out of the May 13th meeting there was a definite interest in exploring the expansion of the Senior Center as it is and possibly becoming a senior resource center. She doesn't see anything like that included in their proposal.

Jane Osgatharp from the MSAC Advisory Board said they discussed this and right now they don't know what they are talking about. They don't have data. They haven't done any kind of independent assessment of what the actual needs are of the seniors within the city of Montpelier. There are multiple programs which are providing very important services, but how to prioritize all of these things really need some good sound objective documentation. This kind of committee could be a way to bring all of the parties together and do a coordinated survey and come up with a real plan that could be submitted to everybody. That is not a board. A board means a group of people who are representing a particular organization that deals with the operational needs of that organization and day to day management.

Council Member Sherman said they would be a strategic planning group to deal with the future.

Council Member Jarvis asked Garth Genge if this is a decision they need to make now in terms of the 501(c)(3) application.

Community Development Specialist Genge said they need to move forward with getting the different groups together to discuss what services can be provided now. That is part of the facilities planning. This was an idea of finding a structure to be able to move the different committees to the round table and move forward. The round table brought out a lot of different ideas for going forward with the Senior Center but there was no decision making timeline. From the discussions they had the idea was to have a body that would be able to make those decisions or at least to bring together a proposal to the Council. They can't even get a complete budget on the Senior Center until they decide what the facilities are. The timeline is moving fast.

Council Member Jarvis said Attorney Gensburg quoted the revenue ruling.

Community Development Specialist Genge said there is a whole list of items that if the Senior Center takes on having the resource room and provide it for other organizations to be there it puts them in a position of having an exemption from a lot of the application issues for the 501(c)(3). For the activity portion they already do specifically, but if they provide referral services that adds on to it. The attorney's recommendation is the more on the list the faster the application will move.

Council Member Jarvis said she feels they need to be real cautious about the language. It talks about an organization that establishes a service center providing information, referral and counseling services relating to housing, health, finance, education and employment. There is also a section on providing recreation for senior citizens who need not become members to obtain the services or participate in the activities.

Community Development Specialist Genge said those are the kinds of issues coming up that have to be worked out. Do you want it opened up to everybody? If not, then that changes the application. That is why moving forward they have to make some decisions just to go through with the 501(c)(3) application.

Council Member Sheridan said they need to make a decision. The Council asked the MSAC Advisory Board to meet between meetings and they have. If they don't want to make a decision on this tonight why were they pushed to call the special meeting? He received a distinct feeling at the last meeting that the Council wanted

this answer before the meeting. It addresses a lot of things they want to see. It talks about the resource room. It says we look forward to a renovated facility bringing exciting new possibilities for activities and services. They look forward to having social service organizations coming to the new facility to explain their mission and recruit people needing services. They welcome the challenge to change. They expect there will be changes that will happen. The main difference is they didn't like the idea of the board being between them and the Council. It is the creation of a board that can get these organizations together and find out what they need.

Mayor Hooper said that resolves the role of the Senior Advisory Council. There is another need here that is not being met and we need to form a group to make some decisions. What is that group?

Council Member Weiss said they need a group to make some decisions and they don't need three groups to make any decisions. He told Garth Genge the Council gave him authorization two and a half months ago to proceed with the development and the filing of a 501(c)(3) application, and he hasn't seen that started yet. If we agree we are going to have three or four boards we are never going to get a 501(c)(3) done. He has no opposition to the plan. What he doesn't want to see happen is they take another two or three months to organize the new committees, get them together and then somehow use that information to start the 501(c)(3). His preference is to use the group they have right now, they know what it is all about and tomorrow put pencil to paper and get the 501(c)(3) started.

Attorney Paul Giuliani said they are talking about a 501(c)(3) for a municipal function. He doesn't know why they need one. The Montpelier Foundation is a good example. That was set up as an agency of the city. If this entity is going to be a board or commission of the city it can operate under the city's employer identification number. They should explore that before they go out for a 501(c)(3) which is another huge area of reporting and paperwork.

Mayor Hooper said they had that conversation and noted that the Montpelier Foundation could provide the role of being able to receive tax exempt status.

Attorney Paul Giuliani said the entity they are discussing could be totally separate from the foundation and stand alone board or commission created by the Council which is really an adjunct of the city.

Council Member Jarvis said the facilities group that has been working on this has been working with another attorney so the Council is acting on legal advice.

Attorney Giuliani said what they did with the Montpelier Foundation works very well without another layer of bureaucracy filing.

Community Development Specialist Genge said in response to Council Member Weiss the e-mail that Council Member Jarvis was reading was from the attorney. He raised a lot of questions about the description of what the Senior Center will be and what services it will provide. The new 501(c)(3) application is extensive and a much longer process than it used to be. This is a really complicated application and the attorney is trying to make sure we have the right definition that encompasses all of the potential for the future applications uses. .

Mayor Hooper asked Garth if they could do what Council Member Weiss has suggested which is to ask Garth to put his ideas and draw on the resources he needs. Could he draft something and give it to the Council to respond to and give it to the MSAC Advisory Committee to respond to rather than us appointing another body to advise him on how to write what needs to be written.

Community Development Specialist Genge said it isn't so much writing the application but what the entity is going to be. There are factors like are they going to provide services to outside people who aren't members. Are we going to provide a room that will provide for other organizations to give advice on services?

Mayor Hooper suggested he make a proposal to the Council and then they can respond to that.

Community Development Specialist Genge said he could do that, but he would take what the attorney sent him and say it is probably the best future option.

Council Member Weiss said he disagrees. He has read all of the 501(c)(3) application and half of the things they are talking about tonight are not necessarily included. They want to know about finances, membership, bylaws and they don't ask specifically if we will have folks from Montpelier and not folks from Montpelier. Somebody needs to read what it is they are seeking and they give you a manual with examples of the answers to every question. This is something a couple of people can sit down and finish. The IRS will tell you it takes 100 hours to do it, and you need to get started and do it.

Community Development Specialist Genge said he is going by the experience of the attorney doing it. He has done older 501(c)(3)s when they were much simpler but this is a different process.

Council Member Weiss said there are two options in a 501(c)(3) application. Are you going to be public or private? Once you have the answer to that question everything is simple.

City Manager Fraser said there are a couple of issues. One is the administrative function of filing a 501(c)(3), but then there is the greater question of sorting out the services and the direction where this is going and coordinating the capital campaign. There is an immediate task and he feels confident they can manage the task, and that is what Council Member Weiss is talking about. Then, there is the picture of the future of the Senior Center. If we are going to fill out an application it would be nice to have people who are involved with charting the future to have some input into what they are asking for in the application. The policy decision is, do you want those kind of things brought to the Council?

Mayor Hooper said they need to either appoint a committee, ask somebody to go out and it will take months to get this done, or we could do this on more of an ad hoc basis and ask Garth, a representative of the Senior Advisory Committee, and a representative of the Council....

Community Development Specialist Genge said there is already a facilities committee which already exists for the planning of the renovation of the building. The Council is represented, the Advisory Committee is represented, the housing is represented by the Land Trust and it is staffed by city staff.

Mayor Hooper asked if that was sufficient.

Community Development Specialist Genge said they could bring a proposal to the Council.

Council Member Jarvis said she understands the issues the existing Advisory Committee has in not wanting to put together some organization that comes above them, but if there are two co-equal groups of people and the decisions that need to be made on the application and the capital campaign somebody can make those. What if they don't agree? It would be nice to have just one body of people who meet to work on the application, and those people are the ones who are making the decisions about what the future of the Senior Center is. Those are real fundamental decisions and not just an application for a foundation.

Mayor Hooper said she wasn't assuming that the Senior Advisory Committee was going to approve this application. She did not see that as a role. It is a role for the City Council to take. Their opportunity to influence what it says is through participation in whatever process is created.

City Manager Fraser said the building is owned by the city and the public and paid for with public money and in part through dues and the trust fund. The program is a city program again funded by taxpayers. At the end of the day the decisions about that building and those programs will fall to the Council whether it is the budget process or anything else. The real question to be answered is how the Council wants to get advised about how to do this. The sooner the Council is clear about how they want to get information and decision the sooner we can get going on the application. The seniors use the Center and have great ownership in it, but at the end of the day it is the city's responsibility.

Mary Alice Bisbee said she is doing a 501(c)(3) and is not getting paid almost \$5,000 to do it. There are different kinds of 501(c)(3)s. There is the Friends of the Montpelier Senior Center, and that is what they are doing. The Friends of the Montpelier Senior Center is only for the capital campaign. It is not a 501(c)(3) to run the Senior Center. It is only a fundraising entity and it can't even have more than one current board member on that fundraising capital campaign committee..

Mayor Hooper asked if the facilities committee could seek advice from other people and bring it back to the Council.

Council Member Jarvis said she is a member of the committee and is willing.

Council Member Sheridan asked what the Council was going to do about the statement from the Advisory Committee. They need to accept it or not.

Council Member Weiss said he respects the organization's statement and the plan. He is 100 percent wanting the 501(c)(3) to move ahead without any difficulty and therefore moves to table the organizational statement.

Mayor Hooper asked if there was a second to Council Member Weiss motion to table. For lack of a second the motion to table died.

Council Member Jarvis said the only thing that is holding up the capital campaign from starting is approving or changing this statement. There needs to be something that is presented to donors and that is what has been lacking thus far, and that is why we need this.

Mayor Hooper said there is an agreement on the group that will be formed to advise the Council with regard to the policy issues that are going to be dealt with in the application for the 501(c)(3). That is resolved and the Council looks forward to hearing from everyone soon. The second question is whether or not the Council accepts the organizational statement which was presented to the Council by the Senior Advisory Committee.

Mary Alice Bisbee said from her understanding the 501(c)(3) is strictly being brought about for the capital campaign. The organizational statement is from the Montpelier Senior Activities Center. If you want to use that in the 501(c)(3) as what the Senior Center stands for but not as the organizational statement for The Friends of the Montpelier Senior Center capital campaign, the capital campaign is just raising money to help the Senior Center.

Council Member Sherman said she thinks the documents are remarkably similar except for one concept, and that is the idea of engaging a broader spectrum of seniors. If we added that idea to the last paragraph and took out the sentence that we look forward to getting back to our former selves, which seems to negate that, that would work. It would read:

“The Montpelier Senior Activity Center Advisory Board finds the idea of a renovated center very exciting. A renovated facility will bring exciting new possibilities for activities, services and the opportunity to engage a broader spectrum of seniors. We look forward to having social service organizations come into the new facility to explain their missions and recruit people needing services as well as volunteers. We welcome the challenge of change.”

Council Member Sherman said she thinks it is critical as we look to the future.

Council Member Sheridan said he would second that as a motion as amended.

Mayor Hooper said that was a motion to accept the plan as amended. The vote was 6-0, motion carried unanimously.

10-181. Carr Lot/Transit Center Project Update

- The City Manager has provided a memo detailing progress to date and decision points.
- The city must prepare for two different project paths pending the results of the FEMA appeal.
- The Manager will review the memo and options.

Recommendation: Receive report, discussion; authorize the City Manager to proceed with the project as outlined in the Manager's memo.

City Manager Fraser did a power point presentation of his memorandum to the Mayor and City Council Members on the Carr Lot/Transit Center Project. A copy of the memorandum is attached to the minutes.

Mayor Hooper said one of the things he might describe is why there is potentially a change in the use of the Carr Lot. When they originally designed or envisioned what could be done there they thought they could dig down and change the surface but now the remediation plan is basically to cap it. It would significantly add to the costs of construction to do something other than just capping it. That changes the potential use of that lot.

City Manager Fraser said the mitigation plan that is approved calls for sealants in place and for removing some of the soil and removing PCBs. You can clean it up to certain levels. There is one level that can be paved over and become a parking lot because people park their cars and leave, and that is the plan that Mr. Carr has had approved. Then, there is another level for office use or something like a transit center. That level requires a slightly higher level of clean up. That is what the city would have to do if they were going to put a transit center on that site. There is another level for residential, if they were going to put apartments up above the transit center. The difference between the parking lot and the offices is relatively not much. The difference between office use and residential is extremely high and we really don't have the wherewithal and funds to clean up to a residential standard. It is the same as having open green space now. He is told you can put a barrier down, pave and put something over that and put grass on top of that, so there are possibilities of green space, but just how practical they are he doesn't know.

Mayor Hooper said they have talked about the acquisition of one property, but in fact the bike path, pedestrian bridge and all of the uses would require purchasing several properties.

City Manager Fraser said there would be four that would have to be purchased in total counting the Carr Lot. The site that houses the Vermont Association for the Blind and the vacant lot known as the Tomasi Lot, those three would have to be purchased in total. They have had contact with two of those property owners and discussed this with them and he thinks they understand the project. There would be portions of two other properties, possibly three, 60 State Street and the Capitol Plaza Lot that would have to be acquired and there would have to be easements or a sale to allow that to happen. Again, hopefully that wouldn't be particularly disruptive to the use of those properties as they are presently used or envisioned to be used.

Mayor Hooper said this is the first time the Council has had an opportunity to have a conversation about these new opportunities that have arisen and new ways of managing this.

Council Member Hooper said if we have adequate highway money for the entire project, how much local money will be spent on that piece of it?

City Manager Fraser said some of the highway money is 100 percent highway money, about \$1.2 or \$1.3 million. The remainder of it is an 80/20 match. There is a question whether there is a 10 percent match or not. He would assume a 20 percent share other than that \$1.2 million would be the local match. That would come from the bond. Jon Anderson who has been the Chair of the Carr Lot Committee is present as well as Jeff Tucker, our Project Manager from DuBois & King, and Gwen Hallsmith who has been instrumental in working and thinking this through.

Greg Gossens, a resident of Montpelier and a Board Member of Montpelier Alive and one of the authors of the Capitol District Master Plan said he thinks Bill's memo was an excellent footprint for taking us forward on this project. This is an amazing opportunity not just for all of the things that Bill outlined, but it will serve as a catalyst for future private investment. The M&M/Tomasi Block study is going to be a premier private development opportunity and he is really encouraged about public investment and private development. He thinks it is a great opportunity and he hopes we can pursue it.

Mayor Hooper said Council Members received a memo from Montpelier Alive supporting this and laying out their point of view.

Jon Anderson said he had planned to let other people speak before him but he is happy to take the lead. The City Manager has done a marvelous job of outlining how we can move forward on this project. He wants to thank the Council Members who met with him. To fill in one gap for Council Member Hooper, if you look at the economics of the revenues from the Carr Lot site they should more than cover the costs of the bond. In effect, what we are talking about is good for the city without any cost to the taxpayers in the city. The projected revenue from the parking is sufficient to cover the borrowing cost.

Council Member Hooper inquired if we could sell them as revenue bonds.

Mr. Anderson replied that is a question they might want to look at. They certainly want to look at interest rates. Revenue bonds generally carry a higher rate of interest than general obligation bonds.

City Manager Fraser said he would like to speak to that project. While he agrees with Mr. Anderson that there is revenue potential from the parking lot in terms of developing numbers of proformas he has not counted on that. They don't know yet what they might choose to do. There is the potential to develop 100 parking spaces and they might want to choose to develop 50. If they have to put displaced parking from the district energy project there they would probably have to move state spots. They don't know if there is going to be a transit center there so they don't know how many spaces that might take up. While it is correct to assume there is a potential income stream from the property there won't be a windfall when it arrives.

Mr. Anderson said going back on the history of this project since 1995, he would like to pick up in the early 1980's when he was brand new in this town and volunteered to serve on a board whose goal was to figure out how we could improve downtown Montpelier. Bud Heney was the Chairman of that group and he was the Vice Chair. He remembers vividly a day when they were summoned into an emergency meeting with Larry Atkins who was an architect here in town to hear about a vision of how we could improve downtown Montpelier. That vision was to acquire the Carr Lot, which was then a junk yard, and to build the pedestrian bridge across the river so that people could safely cross the North Branch River and the parking would be available to support the downtown shopping, and also so they would establish the pedestrian connection so there wouldn't be a linear downtown which you do without that connection but tied the whole downtown together to have a smart growth downtown. This was all discussion that was occurring before anybody was talking about smart growth. The reaction from the committee was of course that was what they needed to do, but the challenge was to figure out how to get it done. Half of his life later they now have the ability to get the project done. In the meantime this project has been defined by the City/State Master Plan which was authored by a committee appointed by this Council. The City/State Master Plan was adopted by this Council. There was a bond vote. The Council wanted them to petition a bond and they collected over 700 signatures to get the petition on the ballot. He had forgotten they needed 10 percent of the city's voters and not 5 percent so they had to collect 700 signatures in 17 days rather than 350 signatures in 15 days. He collected about 500 of those signatures. He got up in the morning, went to work, stayed up with his cases and went door to door in the evening. On weekends it was all day every day going door to door and was running petition drives that people signed as they went to stores in downtown Montpelier.

They realized that now they had a successful bond vote we were really in line to have the state define their project as being the top project for federal earmarks. They worked together as a team with this Council and the delegation representing Montpelier and Washington County and went to the Transportation Agency and

asked the Secretary to please designate us as the top project. That happened, and from that followed with \$7.5 million from those efforts.

He has watched the Council repeatedly define the Carr Lot project. He has watched some of them campaign for office saying the Carr Lot project was one of the central goals of their candidacy for office. More recently he has been more concerned. He feels having been in people's living rooms and talked about this project that he has taken on almost the sacred obligation to get this project done. He truly feels that. That is something he carries with him and he is going to try to exercise his best judgment to make sure that this project is advancing and getting done.

He has become concerned as to whether they were really going in the same direction. Four weeks ago the Council was presented with a resolution that would have essentially gutted the Carr Lot project. What that proposal was that was put before the Council without notice to the Carr Lot Committee and without being on the agenda as a Carr Lot item, but the proposal was that we would trade the Carr Lot project and the good that has been defined, the pedestrian bridge, the parking supporting the downtown, that we would trade that to the state in order to get the state to go forward with another project.

At that point there were other problems he saw along the way. He was asked about whether the two projects should be married together. It is fine to marry the transit center part, but the Carr Lot project has to be separate. What he saw was an effort to marry the Carr Lot Project (the transit center project) and the other project together, and that he objected to because if you look at the language of the appropriation it is for the Montpelier Downtown rehabilitation or redevelopment project. That to him is not a project somewhere within the Capitol Complex, at least the \$5.1 million of highway money.

He has become very concerned and contacted people. He feels he has an obligation to represent this project at least as well as he would represent projects on behalf of his clients, and that is what he has tried to do. He has spent literally hours over the last four weeks trying to make sure that we understood that there is a way to proceed here as Bill has defined it where all of the projects we want to talk about can go forward separately but we need to focus on getting done that vision that was put forward for the city almost 30 years ago.

There is some discussion about whether going forward is really as simple as he thinks it is, and it is as simple as Bill's memo says. He provides advice to people on moving projects forward; that is his job. He truly believes this project is ready to move forward, and it has got to move forward or we are going to send the money back to Washington.

Had he been able to speak to all of them individually he would have mentioned some other concerns that have led to his anxiety. The \$5 million of federal money is particularly at risk because it is in the planning category. We have not completed the environmental impact statement that is necessary to move it to the next category which allows us to do the engineering and the site acquisition. If we can move it to the next category we further insulate it from the federal drawback. We have known for five years that we needed to do a small amount of additional work in order to get the federal highway money to move from one category to another.

Another concern is that people have come to him and said they understand that the city is not negotiating with Allan Carr. He has discovered that we have not had a serious conversation with Allan Carr in more than a year about how we would go about acquiring the site. Through this process over the last couple of weeks he has discovered that the Farmer's Market really wants the site. That satisfies the public access requirement, but in addition the Farmer's Market has serious money in the low six figures, that is available to them to put into the project. That is something that is not counted. It is money that would be available to provide a premium to the property owners in excess of fair market value.

There were some other issues raised in the downtown group in order to take their position. They did considerable investigation and listened to Gwen talk about what the challenges were for the project, and over the last couple of weeks having articulated those we have addressed most of them so he really does feel the project is ready to proceed.

He is always concerned about whether he has done more than he should to accomplish a goal, but in this case he was so concerned he really felt they had to come up to speed. It would have been irresponsible on his part not to step forward and try to organize the discussion about all of the benefits this project has whether or not the FEMA ruling comes forward.

The Highway Administration came to us five years ago and said to do some additional work to tell them how we were going to land the pedestrian link which to him is one of the most important parts of the project. We need to define how we are going to do that, and we haven't done that for five years. When we do that the money will move to the category where it is more protected from Washington.

In his mind the way we think about this project has really, really changed since the amount of train traffic started passing through this town. The acquisition processes we should be prepared to use and the need for those has been heightened by the running of the trains through this town. Whenever we talked about the Carr Lot project previously we talked about it was really for amenities. Wouldn't it be nice to have more parking to support downtown? Wouldn't it be

nice to have the pedestrian link so that people can cross? But given the passage of the trains through the downtown, and given the proclivity that we have, the need people are expressing with their feet to cross illegally on a railroad bridge, we are now talking safety issues. God help us if we make a decision to not go forward with the acquisition and then there is a serious accident, the concern he has would be living with his conscious because that was an accident he could have acted to prevent. That to him puts this whole discussion to another order of magnitude and makes it more necessary that we proceed.

Randy George, a Board Member of the Farmer's Market, said he lives close by and does business here in Montpelier and his family spends a lot of time at the Farmer's Market. We have a toxic waste site in the middle of downtown. The City Manager just described we have this site that would take serious work to get up to a level where people could reside above it. It concerns him that people spend many hours currently right next door to it at the Farmer's Market. That is already more than simply a parking situation. Furthermore, we have an opportunity here to turn this dump into a community center. All kinds of opportunities have been talked about, but he is here to talk about the Farmer's Market. Inasmuch as you may think that the Farmer's Market is a critical part of our scene here in Montpelier, and he certainly believes it is, and it is part of what makes Montpelier a special place to live, this is the opportunity to create a real home for the Farmer's Market. You probably know that the Farmer's Market spent many years across the street from where it currently is in front of the Court House. They moved to their current location because there was some repaving going on and they thought it was a temporary location. It turned out to be better than the Court House, but in the minds of the membership even though it has been 8 years it has always been viewed as a temporary location. He has been on the Board for 7 or 8 years and they have been looking for a long time for a permanent site and a downtown location is a real priority for them. They have had a formal grant funded search to find another site downtown, and the results of that is they can't find anything that is better than where they are. The only thing their membership was able to vote on, and passed a resolution to this effect about 3 years ago, that they would love to be in what was at that time the vision for the Carr Lot. It has been described how that vision would be different than it was initially outlined. The Carr Lot site is the one place that the members of the Farmer's Market have resolved nearly unanimously to pursue. Once again, if we care about the Farmer's Market and all of the other uses that the community could make of a space like this in downtown that is currently a toxic waste site, we need to work to transform that.

Mayor Hooper said Jon Anderson made the statement that the Farmer's Market could bring money to this.

Mr. George said it isn't the Farmer's Market directly but it is true that they have been in discussion with an organization whose mission is to support agriculture in the state and they see the advancement of the Farmer's Market and a permanent home for the Farmer's Market as consistent with their mission. They do have funds and even at one point spoke with Allan Carr about purchasing it. It was quickly realized that it wasn't really possible. At this point it may not be as at risk as the federal money but that is also the nature of those funds when time is of the essence.

Jack Lindley said the City Manager hit a home run with his memo. When he first came to town they solved a problem called the water district. It was his vision that got us to the fact that we aren't a third world country up in that part of town. This is of similar nature and he applauds his vision in putting this together. He would add a few things to it. He remembers in the 80's sitting at Rotary with Bud Heney and Frank Wall talking about the Carr Lot so it has been talked about for too many years. We just heard the Farmer's Market talk about the health issues. His grandchildren don't need to be interfacing with this and we have the opportunity to clean it up if they move forward with the concept. The Farmer's Market is a vital part of Montpelier. It needs to expand. He doesn't want it up at the College on the College Green. The Carr Lot provides the opportunity for the Farmer's Market to expand and be part of it. In addition to that, the business expansion in downtown will be accrued in terms of tax dollars and revenue.

The City Manager has been pretty conservative in his memo with his numbers, but there is revenue to be gained even with the purchase of additional lots in this configuration so our tax base would be stronger if we move forward with the purchase of the Carr Lot and the program being outlined here. He thinks all of the citizens in Montpelier deserve to have as strong a tax base as we possibly can so we can overcome some of the reappraisal numbers that are out there and it will be helpful with our tax base here in Montpelier.

The City Manager has shown each of you how to get there. The money is there. Probably because Jim Jeffords lived in this town for a number of years and understood it, he was able to earmark these funds. He remembers the days when he lived on Heaton Street so when Jon Anderson and his group came forward with their vision he understood that. When he was our Public Works Chairman for a few short months we received our earmarked money. In deference and a salute to Jim Jeffords we should move forward with the purchase of the Carr Lot. He encourages the Council to do this for the taxpayers of Montpelier and for the good health of all of the people of Central Vermont.

Mayor Hooper said Jack said to move forward with the purchase of the Carr Lot. We are all fully aware that we are talking about condemnation in all likelihood.

Mr. Lindley said he isn't sure about that. There are some reasons why Mr. Carr needs to be dealing with the city this year instead of next year. Don't use eminent domain as a straw man here. Move forward with a positive approach as Bill has outlined. There is plenty of money here for this project, and he thinks they can get it accomplished.

Mayor Hooper said they have made offers.

Mr. Lindley said they are a year old. There are a lot of reasons to be making offers now. The issue is ripe; it's ready to go.

Steven Syz, the founding chair of Montpelier Conservation Commission and a former member of the city/state commission said there was an emphasis on the part of the Conservation Commission to look at how conservation can complement commerce and also how commerce can complement conservation. That was their theme, and he thinks it is still an appropriate theme as we look at Bill's memo, which was exceptional. The memo from Montpelier Alive complemented what Bill has said and is also exceptional. There is a huge opportunity here and he would encourage everyone on the Council to figure out how to move forward as quickly as possible to bring this dream which has been worked on for over two decades to fruition. The Metcalf and Eddy Study of 2002 did talk about ways of mitigating some of the hazardous portions of the site through paving and covering that with soil and having a green space. There are a lot of things that could be done to accomplish the kinds of things that the city/state commission and the Carr Lot Committee had in their recommendations.

He would ask for clarification that if a green space is not possible or a park is not possible because the Metcalf and Eddy Study was more positive.

He sees the whole thing like an artichoke. The core of the artichoke is still there. There are portions of this that one federal or state agency have taken the leaves off of but left an essential core remaining. That is something that will enhance the downtown, enhance the economic vitality, and enhance the environmental vitality. We should go forward with what is left.

Loring Starr said she is new to this project. She has only been working and shopping in Montpelier for a quarter of a century, and apparently this is older. She lives in East Montpelier. She speaks as a state employee, as a bicyclist, a river paddler, and as a person dines and shops and walks in Montpelier. She is also a member of the Friends of the Winooski River. Thank you all for the time and energy they have already put into this and thanks for City Manager Fraser for his brilliant memo. The two rivers are beautiful and is an enormous resource that the city is turning its back on at the moment. Secondly, condemn the Carr Lot and

move on. Third, a park, river access and bike path are an enormous economic resource. First of all, the confluence of the North Branch and the Winooski are beautiful. Think of all of the different river walks. Having access, she likes walking across the railroad trestle but she likes hikes. A lot of people couldn't walk there even before the trains ran. Mr. Carr owns a toxic waste site in a floodplain. How much money is that worth? Just please get rid of it and move on. Acquire it. As an economic resource talking about river walks, if you have people moving around at this end of town connecting the whole state complex with all of the resources at that end of town it is a huge opportunity that this city is currently not taking advantage of. It's a beautiful river resource. Take care of the Carr Lot, get a hold of it and consider the economics. Please, please move forward with this.

Mac Calhoun, a business owner in Montpelier said he recently was asked to get involved with Montpelier Alive and the committee that is working on this a little bit. He doesn't actually live in Montpelier so he isn't a resident, but as a business owner and as a guy who spends most of his time in this town he wants to thank everyone for this opportunity. He thanked the City Manager for putting the memo together and keeping it simple. It really does seem that now would be a great opportunity to move forward and take advantage of the funds that are available and bring that part of Montpelier into the rest of Montpelier. There really is a lot of opportunity here. He would like to say on behalf of himself as a business owner they would like to see this move forward.

Boots Wardinski, a member of the Board of the Farmer's Market, said there are a couple of points regarding the Farmer's Market. They have looked at the Carr Lot very closely and the size is right, but if there were any buildings on it of any kind it wouldn't be big enough for the Farmer's Market and they wouldn't move there. They wouldn't be particularly interested in moving from one parking lot to another paved parking lot. It's very uncomfortable. Last Saturday at the Farmer's Market was God awful hot and it's not good for products and not good for people hanging out. If you look at markets that are held on green spaces people are on their blankets or on the grass and relaxing things can go on that can't go on at this market. They need a permanent space. They are doing very well at this space at 60 State Street, but it is tentative. A permanent space is their goal, and downtown is their goal, but the space has to be better than what they have. They have attempted to improve that area they are at now but they have been thwarted at every move to do things they thought would improve it. If the city does proceed with acquiring the Carr Lot he hopes they will confer with the Farmer's Market and see what works for them and what their plans are. A parking lot would be their lowest priority for space.

City Manager Fraser said Randy told them about three years ago they talked about possibly moving the Farmer's Market there. At all times, including tonight, the transit center building has been included in the plans for the Carr Lot. He just said any building at all would preclude your interest. He is curious because there has always planned to be a transit center located there.

Mr. Wardinski said they looked at it more closely for the square footage and the size of the lot as it exists now is about the same size as their present location. Their vendors as they exist now probably could not move in total to that lot. One of the big problems they have with their lot now is access for the vendors. In the morning when they are unloading and when people are leaving in the afternoon there are access problems, and to further shrink the area they would vend in would exacerbate that problem. They did make an offer to Mr. Carr to purchase the lot and it was rejected.

Joan Stepenske, a resident of Bailey Avenue in Montpelier, said she came because she received an e-mail as a customer of the Farmer's Market. She was a vendor at the Farmer's Market for about 10 years in the late 80's and 90's, and for some of that time she was also Manager of the Farmer's Market. When she started thinking of the Carr Lot as being a lot without buildings because that wasn't going to be permitted she immediately thought of one of her favorite Farmer's Markets in the world in Ann Arbor, Michigan. That Farmer's Market is in a parking lot in the center of town. It is adjacent to an old building which holds some year round parts of the market. They have a market about twice a week. It is basically a parking lot. However, it has some structures. She brought a picture of one little section of that. It is just a covered roof and in the center there are some restrooms and offices. It is a covered area with some electrical connections. It enables the trucks to drive up and back up. The customers go under the roof. During the week when the market isn't going on it is a parking lot. Something like this could possibly work in that space and also be available for craft events or covered picnicking. It is a way to make a parking lot into something that is a little less than one big flat space.

Sylvia Fay, a resident and teacher in Montpelier, said she is present to speak on behalf of the Farmer's Market and on behalf of finding a permanent home for the Farmer's Market. One of the main reasons this is so important is there are three factors that contribute to long term sustainability of any kind of public market, whether it is a farmer's market or other kind of public market. One is a sustainable legal structure which our market has. One is institutional memory which our market is working on. A third is a physical space, and that is one of the three vital components for a sustainable market. She knows our market here is a little bit vulnerable right now because they are in a temporary location. Farmer's markets provide many benefits to the community and especially a downtown

farmer's market contributes to a vibrant downtown, to a gathering place where people want to come. It also contributes to fresh food locally for people who walk downtown which contributes to some of Montpelier's goals about local food security. Farmer's markets also provide significant economic multiplier effects. There has been a lot of research, none specifically in Vermont, but in other rural states like Iowa and Oklahoma pointing to specific economic multiplier effect, and this is the impacts on the economy that is secondary to the actual sales generated at the market. Some of those multiplier effects include the ancillary shopping that people do when they come downtown on Saturdays which raises sales tax revenues for the city, visitors who are downtown and eat in restaurants and restaurants employ extra staff on those days which contributes to more jobs in downtown Montpelier. All of the farmers who come to town patronize businesses on Saturday afternoon after the market. They go to businesses locally to shop for their farms. Farmers also hire employees which creates jobs in a local economy. The economic multiplier effects of a market on a city are substantial and are really worth bearing in mind as this thing moves forward and includes in the Carr Lot a plan to possibly site the Farmer's Market. The temporary nature of the current location for the Farmer's Market does leave a lot of our local farmers and other food producers vulnerable, and because of the impact they have on our local economy she thinks it is important to reduce their vulnerability as much as possible by creating a permanent location for the market.

Mayor Hooper said one of the issues that has been large on the Council's minds with the change in the railroad patterns have been safety issues at Main and Barre Streets and just worrying about how they are going to get access for important businesses. She knows that has been an issue for Aubuchon's. City Manager Fraser has been in conversation with folks from the Agency of Transportation about this.

Kevin Thompson, a member of the Farmer's Market, but speaking for himself said when he saw Mr. Anderson's Op Ed in the paper a few weeks ago he got rather concerned because the last time the City Council got involved in the Farmer's Market they cost him money. The Carr Lot – all the work that has been done it is a great idea and something that should go forward. As Boots said there are space issues with the building and the amount of square footage. He has been involved with several of their committees looking for new spaces. What he really wants to encourage the City Council to do is if this is the spot they are going to try to create for the Farmer's Market that we very much involve the Farmer's Market Board of Directors in the design and in the creation of the space. He was one of the founders of the Barre Farmer's Market and several years ago the City Council got involved in the location of that market without consulting the people running the market. They lost the Farmer's Market for a year and they have spent the last couple of years trying to rebuild it. He would hate to see that happen in

Montpelier and the involvement by the Council having an unintended negative effect. He realizes the Council is aware this Farmer's Market is something that is vitally important to the city and they would love to have a location downtown. They need to be in communication and part of that process.

City Manager Fraser said he met with the Agency of Transportation on Monday about the lease cancellation and today they provided us with documents, deeds and maps. They presented information to indicate there are two public accesses to the back of the lot, one next to the Drawing Board. When the Tomasi building was in existence it was an alley and a 10 foot lane for access through there. They have talked to the state about possibly extending the lease cancellations until they have some time to work with the various folks. The state indicated willingness but they didn't say they would extend the lease cancellation.

Mayor Hooper said the city has asked for an extension of the lease cancellation but there is no guarantee. They really are concerned about how folks are going to have access to all of the stores from the back.

City Manager Fraser said he appreciates everyone's comments. There were a couple of statements made tonight that he doesn't think are completely correct and he thinks it is important they are correct. At the meeting four weeks ago there was on the agenda for the City Council an update on the Carr Lot and the District Energy Project. The Planning Director was present discussing the concerns and problems with both projects and talked about how they might or might not relate. There certainly wasn't any recommendation or suggestion they take all of the money from the Carr Lot and put it into the District Energy Project. They simply said there could be some parking swaps. They have looked at moving the Transit Center only to the District Energy site because of the floodway issue but not the rest of the Carr Lot project. That was something to be considered.

City Manager Fraser said they have been in regular communication with Alan Carr but he wouldn't disclose the nature of the discussions. He has been receiving updates about what is going on a regular basis. They have been cautioned very carefully by the federal funding agencies that there is a process by which you can negotiate and which you cannot. They have been told very clearly about the risk of federal funding by negotiating until certain approvals are in place. They are also limited as to what they will pay for by the amount of the appraisal. The most recent appraisal they had done was a year ago. It was sent to Mr. Carr and they communicated about that. We told him this was the amount they would be authorized to pay. They have received his reaction which has been very consistent to the various appraisals they have sent him. This notion that there has been no talking to him for a year is also not entirely accurate. There have not been discussions or negotiations about the purchase but that has been what they believe

is accurately consistent with the direction they received from the federal agencies and also because of the floodway issue and the notion that they have this entire project tied up as one project.

The comment that the city has known for five years about the problems with FHWA is correct. They have also spent a lot of time looking for options. Until the rail action came about the notion of acquiring other buildings and taking them down seemed a more far fetched option. They have been trying to find other places to put the bike path, including behind Shaw's which he doesn't think most people think is a great idea, going down Route 2, and they even talked about taking the bike path out of the project so they could get approval. The conclusion was this would be a relatively simple thing to accomplish and because they were waiting on the Transit Center it wouldn't be a significant holdup. It certainly hasn't sat there and been ignored.

With regard to the Farmer's Market everyone has been very supportive of the Farmer's Market but the project from the beginning was not developed as a farmer's market site. It was developed as a transit site with other amenities. That was not the design and goal from the beginning. In discussions with the Farmer's Market and the city the city suggested that the Farmer's Market might consider going there and it was the city who linked the Farmer's Market with the consultant who has been working on it.

Now they are thinking about redesigning the space for a Farmer's Market and maybe that is something the Council will let happen, but that has not been the direction of the project to date.

Mayor Hooper said neither are they considering purchasing the Carr Lot exclusively for the use of the Farmer's Market.

Jon Anderson asked the City Manager to remind him what his first issue was.

City Manager Fraser said it was Mr. Anderson's first issue which was that four weeks ago the city came and proposed to take all of the money away and put it to another use.

Mr. Anderson said he has reviewed the tape of that meeting and there was very, very clear discussion that we would take the downtown money, and the reason the state was interested in talking with the city was because the downtown money would be to acquire parking within the State Capitol Complex. That is very clear discussion that was there.

City Manager Fraser replied that was what the state proposed to the city and he certainly can never approve that.

Mr. Anderson said the City Manager had told him it occurred when he wasn't here. A fair interpretation of the discussion was that there was both an understanding that the money that is intended for parking for downtown would be traded to the state for parking for the energy plant. Secondly, there were questions about if they don't do the transit center are they still going to go forward with this project. Is the consensus still there? Are they still going forward with the rest of the Carr Lot project? He thinks they could have moved forward with acquisition as much as a year ago when FEMA had not delayed them with going forward and if the Council had made the decision to go forward with acquisition. He doesn't think they should be revisiting whether they are going to acquire the site and revisit that at every possible turn.

City Manager Fraser said he isn't debating his opinion about what they should or shouldn't have done a year and a half ago. He doesn't think it is inappropriate given the environmental issues and other issues as well as what they are hearing from the state about whether we are still on board with this project. They are hearing about different options.

Mr. Anderson said he felt it was his duty and obligation to try to make sure that the Carr Lot was spoken for and articulated for. When they began discussions with the railroad earlier this spring he volunteered the Carr Lot Committee to come forward and try to run interference so they could do the FONSI issues. He has made it very clear to Alan Carr that he does not speak for the city and he cannot have a substantive discussion with him, but asked him for his view of when the last serious discussions had occurred.

Mayor Hooper said they need to bring this conversation back to the Council and there is a question in front of the City Council as to how they are interested in proceeding at this point.

Council Member Sheridan said he would like to talk about the bond vote of 8 years ago and at least a third of the city has turned over in that time. We have actually become a very transient city. It is amazing how many people have moved here in the last five years who weren't around when that happened. A lot of the votes were gathered because of the green space park. That is what a lot of people were interested in. Nobody really understood the total concept of a transit center and what it might mean in the future. What really sold the project to a lot of people was the green space that was going to be in the corner and open up access to the river. A lot of people had ideas about walkways down to the river. He is concerned whether that vote is still a valid indication of the city's desire to still

spend \$800,000 that way. The Council has talked about that. His nephew came to visit him and brought two friends with him. He met with one of Alan Carr's sons and talked to him a number of times but had never met the other. He talked about the Carr Lot and his vision of what he wanted to create as a legacy and started asking about the floodway designation. He had dreams which indicated he didn't think the family was interested in selling at that time. Every time we have talked to Alan Carr they have not been interested in selling to the city which means we will have to do a condemnation proceeding. He has stated in public that he will not vote for a condemnation and he is not changing his mind. He doesn't like condemnation period. He doesn't like the fact of the government going in and taking property that is somebody else's that they don't want to sell. He would probably vote for it in extreme cases of public good, but seeing we don't even know what we can put there and now hearing conflicting reports from the Farmer's Market that they don't even want to be there if it is another paved spot he won't change his mind on that. He is not voting for condemnation for this project. Now he is wondering how many other properties they will have to condemn.

Council Member Weiss said he needs more information. Let's assume that FEMA approves our appeal. He would like to see based on that a timeline about roughly how long it would take to acquire the property, how long it would take to clean, how long it would take to get the necessary permits and finally how long it would take to build whatever building there would be. If we could scope out that possibility it would help considerably.

City Manager Fraser said they had presented that timeline two months ago.

Council Member Golonka said he wants to be on the record that if they are going to start talking about the acquisition of the Carr Lot that he has recused himself the past three years on this project. He wants the record to note that it is mainly because his family owns Capitol Plaza and is an adjacent property owner, and the second reason is that they have in the past negotiated with Alan Carr for the purchase of that property. They have no interest at the moment. For those two reasons he has recused himself from acquisition discussions on the Carr Lot specifically but not on the project as a whole, and he will continue to do so. If they can separate that discussion he would appreciate it so he can participate in other aspects.

Mayor Hooper asked the Council to do a broad discussion of the project and what pieces are working and not working and see what additional information is needed. When they come to the point of making a decision that will rotate around whether or not they wish to acquire the property we will be clear about that to let Tom know.

Council Member Sherman said it certainly has been a thorough discussion and the City Manager has laid out all of the issues, the benefits and the complications. She is in favor of authorizing him to proceed on the basis of what they have heard tonight.

Council Member Golonka said he thinks there are issues with regards to leaving a toxic waste dump in the downtown so he applauds the City Manager's efforts. He does believe this has gone on long enough. He thinks they need to make a decision. He would hate to see the city lose the money.

City Manager Fraser said to be clear the Council can define the aspects they would like to see. By saying there are restrictions in the green space and the notion that we are just going to put down new gravel and just plant new grass is a little more complicated than that. It doesn't mean that something like that can't happen. There are tradeoffs between that and parking and other things. Ultimately, the City Council can determine how much of that they would like. It goes back to the old conversation they had about the revenue stream from parking. If you choose to make more green space then there will be less parking revenue but that still may be a good thing for the city. With regard to the remediation he certainly isn't skilled enough to describe the process. He thinks perhaps Gwen or Jeff could describe it better than he. It isn't just capping. All of the PCBs have to be removed and taken off site. There is some sort of substance that is used to define lead so it can't migrate from its present location. It doesn't have to be asphalt hard paving. It is a fairly extensive plan. Weston and Sampson proposed a mitigation plan to EPA and the state for their review and approval.

Council Member Jarvis said she is ready to go forward. The two issues are pretty focused. The first one is safety, and that is about the site itself and the contaminants there. The second one is providing an alternate access besides the trestle bridge for pedestrians and bikes because we are not going to stop people from crossing that bridge. The other issue for her is seeing this as an economic development issue. She is very excited about it from that point of view. She thinks what was said for future private development in the area is very exciting. It would be a very desirable spot if we developed the area at Main and Barre Streets. The bike path itself is a major economic driver. She thinks about countless families she knows, including her own, who travel to Stowe just to go to the bike path and while there shop, etc. Then, in terms of access to the back of the Main Street buildings and what it means for the continuation of the existing businesses there, and also future development and redevelopment of those buildings. Those factors speak very strongly for moving forward. Although she understands Jim's concerns about the exercise of eminent domain, and hopefully they won't have to use it, there are conditions when she thinks it is appropriate. Members of the

Council have certainly heard from citizens in Montpelier over the last couple of weeks that they really want this project to move forward.

Council Member Hooper said he is willing to move forward at this time as well. For him in the abstract he would not like to be swayed by spending other people's money or condemning a property for public good that is less than a water system or a major thoroughfare, but when you look at all of the pieces about improving such an important piece of property and about how it will fit in with our existing downtown it rises to the level that he could support that.

Mayor Hooper said at this point she would ask Council Member Golonka to step down and somebody will make a motion. She wants to add her complements that have been offered to Bill Fraser and the staff and thank Jon Anderson for his work in helping us to figure our way through this project. She thinks the project has had some wonderful moments when everybody was excited and then bits and pieces of it drifted away and enthusiasm for it waned. With the advent of issues associated with the railroad and really gnarly mess that is creating and thus the opportunities of being able to reprogram some money over to that side of the river it actually solves the problem of having a pedestrian bridge which was one of the real impediments. When we think about gateways to our city that deserve attention it is Main Street. It is astonishing that our Main Street is the entrance to our gorgeous downtown and this is a once in a lifetime opportunity to deal with the safety issues, economic development issues, transportation network, and make some really important choices for the community, so notwithstanding some real important private property issues that have really troubled all of us it is important that we move this forward in a positive way.

Council Member Golonka recused himself.

Motion was made by Council Member Jarvis, seconded by Council Member Sherman to authorize the City Manager to proceed with the project as outlined in his memo.

Council Member Sheridan asked if they could separate that from the acquisition. He doesn't have a problem with the project but he has a problem with the acquisition. In other words, make a motion to proceed with the acquisition and then a motion to proceed with the project. He has a problem with the method of acquisition. If they don't do that he will just abstain.

Council Member Jarvis asked if acquisition was one of the first steps.

City Manager Fraser replied that is correct. Any step towards acquisition would begin with discussion and negotiation and no eminent domain can take place

without a vote by the Council and a public hearing. This is not a vote to condemn the property. It is a vote for him to be authorized to acquire this property in a public vote. Based on prior conversations, circumstances may have changed.

Council Member Weiss said there are two flavors to this and unless he can understand the differences he will vote no. Acquisition would be with FEMA approval, and flavor 2 is without FEMA approval for building. Therefore, he isn't comfortable tonight in asking anybody to talk with the property owner when we don't know where our advantage lies. Are we talking with the property owner as though we can't put a building on it, which depreciates the whole project, or are we talking to the owner that if FEMA says we are going to put a building on it then that changes the nature of that conversation? He would prefer to wait until FEMA comes through and gives a ruling so he would know where we stand in conversation about acquiring property.

Mayor Hooper said she understands the motion to be to enter into negotiations to acquire all of the property regardless of the FEMA determination whether we can build on it or not.

Council Member Weiss asked if it was the intent of the motion to ask the Manager to enter into a discussion or to consummate a contract.

Council Member Jarvis replied he couldn't consummate a contract without the Council's approval.

Mayor Hooper called for a vote on the motion. The vote was 3-1 with Council Member Weiss voting against the motion. Council Member Sheridan abstained. The Mayor voted in favor of the motion to make the fourth vote in the affirmative. Motion carried.

Mr. Anderson thanked the Mayor's for accepting his input. He wants to express his appreciation of all of the Council and he is always concerned whether he has done more than he has needed to move forward, but his goal is really to move the project forward. He appreciates their efforts and vote for this tonight.

10-182. Berlin Pond Ordinance – Second Reading (convene as Health Board.)

- Council will reconvene as the Local Board of Health.

- Local Board of Health takes up the ordinance relating to the protection of Berlin Pond. A motion must be made to accept the findings and to enact the ordinance as a health order.
- After this motion is concluded, a motion must be made to reconvene as the City Council.

Recommendation: Adopt ordinance and health order.

Mayor Hooper said the Council's first action is to convene as the Board of Health.

Discussion followed and this item had been tabled at a previous meeting and there needed to be a motion to remove from the table.

Motion was made by Council Member Jarvis, seconded by Council Member Hooper to remove this item from the table. The vote was 6-0, motion carried unanimously.

Motion was made by Council Member Hooper, seconded by Council Member Weiss to convene as the Board of Health. The vote was 6-0, motion carried unanimously.

Board of Health Members present: Mayor Hooper; Council Members Weiss, Sheridan, Hooper, Sherman, Golonka and Jarvis. Health Officer Schneider was absent.

Mayor Hooper said the question before the Board of Health is whether or not it would care to issue a health order relating to the protection of Berlin Pond. The health order was included in the packets to Council Members.

Motion was made and seconded by Council Members Hooper and Sherman to issue the health order relating to the protection of Berlin Pond dated July 13, 2010. The vote was 6-0, motion carried unanimously.

Motion was made by Council Member Jarvis seconded by Council Member Hooper to close the hearing as the Board of Health and reconvene the Council Meeting. The vote was 6-0, motion carried unanimously.

City Attorney Paul Giuliani said there is a typo on Section 2, the second line they should strike the second word "and" appear. It should be Berlin Pond and its tributaries are...

Mayor Hooper said they are conducting the second public hearing on an ordinance relating to the protection of Berlin Pond. She opened the public hearing at 9:51 P.M., no one came forward to testify and the public hearing was closed.

Motion was made by Council Member Sheridan, seconded by Council Member Sherman to adopt the ordinance relating to Berlin Pond at its second reading.

Council Member Golonka said Article 7-600 said before they had listed human activities. Now it say entry upon or activity within zones 1 and 2. Zone 2 crisscrosses the Interstate and there are also mountain bike trails through that area. How does this order affect that? How is it enforceable?

Attorney Giuliani said it doesn't trigger unless there is the likelihood that it is likely to cause or contribute to any contamination or pollution of Berlin Pond. An example he uses is traffic on the Interstate with petroleum doesn't in itself trigger the ordinance. Let's suppose the state decides to put down herbicide along the road. That will be a problem. The normal activity of travel or habitation in this ordinance doesn't kick in unless the activity is likely to affect water quality, human health or public drinking water treatment.

Council Member Golonka said he is concerned they are being a little too encompassing and how do we enforce that.

Attorney Giuliani said if people are on the town road that goes around the pond there is a perfect right for public travel which would preempt any of this. It's when they leave the public road; go into the water shed toward the pond is when this would kick in.

Council Member Golonka inquired about riding their mountain bikes on the trails.

Attorney Giuliani said it is the Council's call.

Council Member Golonka said he thought there was going to be a permission provision.

Mayor Hooper said it isn't reflected in the language in front of them. What they had talked about at the last meeting was language to this effect. In Section 7-605 land uses within zones 1 and 2 of the Berlin Pond...are prohibited unless directly related to municipal water supply testing, protection, enforcement, improvement purposes or scientific investigation. The City Manager shall approve access.

Attorney Giuliani said what he tried to do in Section 7-605 is to make that short. Where the city by adopting the ordinance does not relinquish any right, benefit, or

prerogative with respect to Berlin Pond, that discretion is always there. Years ago they wanted to land a plane on Berlin Pond. The ordinance doesn't deal with that.

Mayor Hooper said she is a little concerned about the reading of the ordinance. Let's leave it as entry upon or activity. Mayor Hooper called for a vote on the motion. The vote was 6-0, motion carried unanimously.

City Manager Fraser asked Attorney Giuliani if he had an update on the court case.

Attorney Giuliani said the last he heard was is that the Judge is trying to get everybody in a posture for a summary judgment.

10-183. Montpelier Down town Re-designation.

Consideration of authorizing City staff to pursue a re-designation as a Designated Downtown with the State of Vermont. While the application comes from the municipality, it is done in conjunction with Montpelier Alive, Montpelier's downtown revitalization organization. Downtown designation provides significant benefits to Montpelier including eligibility for tax credits, preference for grants, and technical assistance.

Recommendation: Authorize the City Manager to sign the necessary document(s) to request re-designation.

The Montpelier City Council members were asked to support the application for re-designation to the Vermont downtown Program for the continuation of the "Designated Downtown" status. While the application comes from the municipality, it is done in conjunction with Montpelier Alive, Montpelier's downtown revitalization organization. Downtown designation provides significant benefits to Montpelier including eligibility for tax-credits, preference for grants, and technical assistance.

Motion was made by Council Member Sheridan, seconded by Council Member Hooper to authorize the City Manager to sign the necessary documents to request Montpelier Downtown Re-designation. The vote was 6-0, motion carried unanimously.

10-184. Discussion of proposed Charter Changes/Ballot items.

- The City Manager has provided the Council with the required timelines for charter change votes.

- The Council has indicated that it may proceed on charter changes relating to the Treasurer position, District Energy operation, local options taxes, and merger with Berlin Fire District #1.
- The Council has indicated that it may proceed with a bond vote on the November ballot; direct staff to prepare items for formal approval.

The Council needs to be clear about the list we wish to put in front of the city in November.

City Manager Fraser said we had talked about these things when we did the goals and there isn't anything drafted. The discussion tonight is just to get a sense about which ones we are real serious about going forward with.

Council Member Hooper said he had a question about the Clean Energy Assessment District.

Mayor Hooper said the Clean Energy Assessment Districts were probably organized differently than the national opportunities so there may be different issues.

City Manager Fraser said the issue is that the way it is set up it is paid for through property taxes. The mortgage companies said they want it after the mortgage. In terms of taking public monies to put into improvements in private homes, yes it is for the benefit of reducing energy and giving them some benefit.

Mayor Hooper said the statute is set up so that the lien is secondary to the mortgage and to the taxes thus generating the policy discussion they should have as to whether or not we want to create this opportunity.

Council Member Hooper inquired about how much work this would be.

Mayor Hooper said there are groups of people who are setting up templates.

City Manager Fraser said it is really a fair amount of work and it warrants a full discussion. Gwen knows more about it than he does. One key piece is that it is a fairly substantial piece of our district energy grant for setting this up. First of all, it encourages energy improvements all around the city. Secondly, because district energy will be concentrated downtown, while there is a public benefit to that it is only a direct benefit to certain buildings and only people within certain distances of that will be able to take advantage of that while the PACE thing is something that anyone in any part of the city can take advantage of. There was discussion

that there might need to be a charter change to authorize the city to run the utility. There was also discussion about creating a clean energy district.

Mayor Hooper said regarding the charter list is creating the utility for the district energy plant, creating the Clean Energy Assessment District. Another would be creating a Treasurer position. The proposal would be to ask Charlotte, the City Manager and Finance Director to look at whether or not it would make sense to have the Treasurer be an appointed rather than an elected position we would still have an elected Clerk. That requires a charter change. There is also the elected Audit Committee that we may want to take a look at.

City Manager Fraser said the charter does deal with elected auditors. The city made the decision years ago to go with professional auditors.

Council Member Weiss said this is going to be a very bad election year. The ballot is going to be loaded with candidates. We are already talking about the possibility of four, and maybe more, charter changes, and the more we have the more confusing and difficult the ballot becomes. We haven't even started looking at the bond issues. Everything that goes on the warning and the ballot we hold hearings for and we have to be articulate in the discussion and too much will be an overkill.

Mayor Hooper said there are two for the Energy District, the Treasurer position. With the local options tax her recommendation would be to not put that on in November but in March. She thinks they have an obligation to talk to people about what it is we are proposing and why we are proposing it.

Council Member Weiss said he would yield to the Mayor that every one of these if approved by the citizens goes to the Legislature and if you get the Clean Energy Assessment District it will go to three different committees. We want to make sure the wording is clear enough so the people taking testimony understand what we want, why we want it and why they should support it. We need to be precise.

Mayor Hooper said there is also the District Energy bond vote question.

Council Member Weiss asked the City Manager to remind him why we should have a \$20 million District Energy bond vote in November instead of March.

City Manager Fraser reported there are a lot of reasons. The simple easy reason is a gubernatorial election is usually our biggest election year and it draws a lot more people than the March election so you are getting more voters. Most importantly, some of the financing that is available for this project expires on December 31 so we need to have an approved project.

Mayor Hooper said another reason is we will be able to say to the Legislature that the city has put a huge amount of money in so they can step up as well. The state has given us a Letter of Intent but the Legislature and Governor have not approved this yet for the state portion..

City Manager Fraser said if we walk into the Legislature and tell them we have an \$8 million grant, passed a \$20 million bond and we mean business, that will mean a lot more than saying we are working on it. Even when we passed the \$200,000 bond we had some serious movement on the part of the state for studying it.

Council Member Weiss sincerely asks the Council that they control the \$20 million bond vote right down to the crossing of the “t’s” and dotting of the “i’s” because there are more reasons why this bond vote will not pass than there are reasons why it will. We need to be absolutely certain that we understand every word that goes out in the brochures and the public presentations as to how we identify this. We have to own it.

10-185. Council Reports.

None.

10-186. Mayor’s Report

None.

10-187. Report by the City Clerk-Treasurer

None.

10-189. Agenda Report by the City Manager.

- Discussion of Police Union negotiations, possible executive session under 1 V.S.A. § 313(a)(1) where premature disclosure of information will place the city at a substantial disadvantage.

Motion was made by Council Member Hooper, seconded by Council Member Sherman to go into executive session at 10:29 P.M., in accordance with V.S.A. Title 1 Sec 313(a)(1) relating to Police Union negotiations where premature

disclosure of information will place the city at a substantial disadvantage. The vote was 6-0, motion carried unanimously.

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

Motion was made by Council Member Sherman, seconded by Council Member Sheridan to come out of executive session, in accordance with V.S.A. Title 1, Section 313(a) relating to Police Union negotiations. The vote was 6-0, motion carried

Adjournment.

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

Transcribed by: Joan Clack

Attest: _____
Charlotte L. Hoyt, City Clerk