

CITY COUNCIL MEETING STATED MEETING & PUBLIC HEARING JUNE 9, 2010

On Wednesday evening, June 9, 2010, the City Council Members met in the Council Chamber.

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

Call to Order by Mayor:

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

10-139. General Business and Appearances:

Suzanne Eikenberry from Montpelier Alive said they were on the Consent Agenda for July 3rd street closures. The Taylor Street Bridge is closed, which will have an impact on incoming traffic. The meeting with the Police Department is tomorrow and they may come back with one or two other requests. Green Mountain Transit Authority has agreed to provide a free shuttle for people from satellite parking lots, so they are hoping that will cut down on the traffic. Everything pertaining to July 3rd is on their web site – www.montpelieralive.org. The parade starts at 6:00 P.M. with the fireworks at dark between 9:00 and 9:30 P.M. The July 3rd activities start at 8:00 A.M. and go throughout the whole day.

Ted Hoppe, a long time resident of Montpelier, said he wanted to start with a little story. There's this turtle walking down the street and these two slugs come up and mug the turtle. They take all of his money and the police come and are filing a report and say to the turtle what happened. The turtle says he doesn't know because it happened so fast. He came in here to talk about compassion. Recently he tried to pull together a program at the Kellogg-Hubbard Library called "Cultivating Compassion," which will air on the local Onion River cable access channel next week. In trying to pull that together he tried to get a lot of help from people in the city. It was his hope and dream to see that the Mayor could issue a proclamation and declare Montpelier a compassionate zone. The reason he wanted to do this, much like Burlington did this with in terms of immigration where they created an amnesty zone, he wants Montpelier to behave compassionately. There was a really good attendance at his program last week and a lady asked how they could participate. He promised to come before the Council to see what he could do.

Why compassion? Compassion is something he thinks each city program encompasses in some way. There are two basic issues of compassion and they are basically misunderstood. There was a 58 year old lady tazed in Barre. Compassion is two things. One is to cause no suffering. The other is that if there is someone who is suffering and we can help them then we should help in whatever way we can. He thinks this is really at the heart of all of the programs we have in the city, a neighborhood watch. This is what we want our police to do; this is what we want the Fire Department to do and of course they do when they respond to an ambulance call. But it is not enough. He thinks that each individual person in the city needs to be empowered in a way that the city government can do. We need to say to people this is what we are all about. We want everybody in the city not to cause any suffering, and if we see suffering we want to participate in a way that can alleviate as much suffering as possible. He hopes they can declare Montpelier a compassionate zone, and this is the first place to site a compassionate zone.

The idea of compassion is not only to have compassion for that lady who got tazed but to have compassion for the police officer who tazed her because that is important. What happens in the mind of a police officer when he is tazing someone is actually very interesting. What they find in an MRI is that a reward system is being stimulated in the brain.

Anthony Otis, a resident of Montpelier, said he wanted to raise awareness about illegal posting in the downtown. He is speaking in terms of historic preservation and not in his position on the Heritage Group but as a personal initiative. In the past week and a half there were signs for a lost dog. There were 10 of one color on a post in the downtown quad. Incidentally, after the lawn sales were over nobody picked them up, so he did. There are still 13 to 15 signs posted for a lost dog.

Mr. Otis went on to say we need to do better with Lamb Abbey.

Council Member Jarvis said Lamb Abbey has just been closed down.

Mr. Otis said he doesn't know what is next for him. Maybe we have to take out advertising and spend money that could be spent on something else for historic preservation, but we need to get out the message. He was standing on Main Street today in the vicinity of Rite Aid and looked down the street and there are a lot of new traffic signs. This beautiful city we have developed over the last couple of decades and the work of the merchants is all screened out by all of these signs. He saw the signs and was really upset about not being able to see the buildings. He would hope the commercial

community would also begin to talk about that. He certainly doesn't like the color of the sidewalk signs that are on East State Street. They are too big. We need to get awareness out to the folks in the city that it is illegal to post.

10-140. Consideration of the Consent Agenda:

a) Consideration of the Minutes from the May 19, 2010 Regular meeting.

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

1) Request to cater malt and vinous beverages and spirituous liquors:

a) The Black Door Bistro on June 24, 2010 at the T.W. Wood Art Gallery.

b) New England Culinary Institute (NECI) on June 6, 2010 at the Hopkins House at National Life. (Ratification of poll vote by Council Members.)

c) New England Culinary Institute (NECI) on June 14, 2010 at the Hopkins House at National Life.

Additional catering permit requests received after the agenda was prepared.

Vermont Hospitality Management dba New England Culinary Institute to cater the following:

Reception and dinner on June 11, 2010 from 5:00 P.M. to 9:30 P.M. at the Noble Lounge at the Vermont College of Fine Arts for 35 people.

Benefit Concert at Alumni Hall, Vermont College of Fine Arts on June 11, 2010 from 7:00 P.M. to 11:00 P.M. for 125 people.

Request for Outside Consumption Permits for the following:

McGillicuddy's Irish Pub on July 3, 2010 on Langdon Street from 5:00 P.M. to 1:30 A.M.

Langdon Street Café on July 3, 2010 on Langdon Street from 7:00 P.M. to Midnight

Receipt of Monthly Budget Report from the Finance Director.

North Street Retaining Wall Reconstruction Bid Results

Street Closures for Independence Day Celebration on July 3, 2010 for the following:

State Street: between Governor Davis and Bailey Avenue – closed from 12:30 P.M. until 10:30 P.M. for vendors and parade. Note: Access to Department of Motor Vehicles will be re-routed through state parking lots.

Main Street: between the Roundabout and State Street – closed from 6:00 P.M. until approximately 7:45 P.M. for the Montpelier Mile Road Race followed by the parade. Note: No parking on State Street between 5:00 and 8:00 P.M. Vehicles remaining on the street will be towed.

Langdon Street: Closed from 3:00 P.M. to 1:00 A.M. for McGillicuddy's and Langdon Street Café street parties.

60 State Street Parking Lot: Closed from 3:00 P.M. to 1:00 A.M. for Julio's Cantina street party.

The Meadow Area: Closed from 4:30 p.m. to 6:30 P.M. for parade staging area. All resident vehicles must be removed from the street. Letters will be sent to property owners of record.

School Street: Between St. Paul and Main Streets - closed from 4:30 to 7:45 P.M. for parade staging area. All vehicles must be removed from the street.

City Manager Fraser said there is an additional agenda item for DuBois and King. Council Members have received a copy of the proposed contract with Marsh Engineering for Turntable Park and that should have been on the agenda as well.

Council Member Golonka said he would like to pull the North Street retaining wall for discussion.

Mayor Hooper said she has a question about the outside consumption permit for McGillicuddy's it is confusing and she would like to pull that.

Motion was made by Council Member Sheridan, seconded by Council Member Weiss to approve the consent agenda after adding the catering permits and the Dubois & King contract and removing the two requested items to be considered separately. The vote was 6-0, motion carried unanimously.

10-140 (A) North Street Retaining Wall Reconstruction Bid Results

Council Member Golonka said they are talking about the Northfield Street retaining wall later in item 7 on the agenda. If they are going to vote on it then it makes it irrelevant. This is a 44 percent increase from the budgeted amount and he is concerned. He would like an update about that and whether there is a possibility for scaling back or if it is an emergency situation. It seems high in terms of the budget.

10-141. Consideration of a request from James Nagle, 133 Towne Hill Road, for a noise variance on June 12, 2010 from 6:00 to 10:00 P.M. Neighbors within 250 feet have been notified and Council Members have been provided with a copy of the letter and names and addresses of those so notified.

Recommend approval of request.

James Nagle said he is asking for a noise variance. They are going to have outside bands at 133 Towne Hill Road. It will be between the barn and the house so it shouldn't be too loud, and it will be between 6:00 and 10:00 P.M. this Saturday.

Council Member Sherman said there are different levels of volume. It is wonderful to have outdoor music at his party, but in other parts of the city they probably don't want to hear it. She is sure he will use discretion.

Motion was made by Council Member Jarvis, seconded by Council Member Hooper to grant the noise variance to James Nagle, 133 Towne Hill Road. The vote was 6-0, motion carried unanimously.

10-142. Consideration of a request from Susan Calza, Breck Campbell, and Lawrence Houston, residents of First Avenue, for a partial street closure of First Avenue on Saturday, June 19 from 1:00 to 7:00 P.M. A copy of the letter notifying the neighbors on First Avenue, Hubbard Street, Tremont Street, East State Street and Guernsey

Avenue has been provided to the Council. Council has also been provided with a copy of the Police Chief, Fire Chief, and the Public Works Directors indication of approval with certain requirements.

Recommend approval of request.

Lawrence Houston from 12 First Avenue said their daughter is graduating along with Susan and Breck's daughters. They are a tight community and thought this would be a great way to send their kids off to college. In talking with all of their neighbors when they were handing out the flyers everybody was receptive to it. The Council has made the process easy and Bev Hill has been great to help make this happen. Hopefully, it won't cause too much inconvenience to the city to allow this to happen.

Motion was made by Council Member Sherman, seconded by Council Member Sheridan to approve the partial street closure request for First Avenue on Saturday, June 19th from 1:00 P.M. to 7:00 P.M.. The vote was 6-0, motion carried unanimously.

10-143. First Reading of Proposed Ordinances concerning Berlin Pond.

City Attorney Paul Giuliani has recommended two ordinance amendments relating to the use of Berlin Pond. The amendments were discussed at the May 26, 2010 meeting. The City Council voted unanimously to proceed with the public hearing process for adoption. Correspondence from Paul Giuliani and copies of the proposed amendments are enclosed.

Recommendation: Conduct the First Reading on both amendments; warn the second reading for June 23rd.

Mayor Hooper opened the public hearing at 7:25 P.M.

Steven Syz said he thought Paul Giuliani was going to be here because they had a long discussion today about some changes and inconsistencies between Chapter 13 and Article 6 documents. He indicated he would make another draft of both so there would be Version A and Version B.

On Chapter 13, Section 13-3(a), it says it will be unlawful for any person to trespass on the surface of Berlin Pond or any tributary or lands adjacent thereto owned by the City of Montpelier. There are activities that would logically be appropriate within these areas, such as things that may be beneficial to the city in the long term. The Conservation Commission

worked on looking for a site for a well field which would be either supplemental or replace the pond in the case of an emergency. With Steve Gray they looked at the possibility of digging five streams that the Interstate crosses. There is always the possibility that a truck carrying chemicals or fuels would go off the road and rupture and spill into one of those streams. They had talked about digging out excavations on city land at the bottom of those streams so the first flush could be diverted into those areas.

City Manager Fraser asked if his concern that says it is unlawful for any person to occupy or enter. Mr. Syz replied yes. City Manager Fraser said the intent was that the trespasser was there without permission. The sort of work he is describing has always been by permission from the Conservation Commission and permission given to the consultants.

Mr. Syz said there are many more examples.

Council Member Jarvis said she would assume it would be unauthorized or without permission.

Mayor Hooper said back in Section 7-605 says human activity within zones 1 and 2 are prohibited unless and except for certain uses, which she assumes it talking about testing and protection.

City Manager Fraser said they have issued permission to people to go in and do certain bird counts and classes to go in as long as they had permission.

Mr. Syz said research and water quality testing would be another area. On Irish Hill there are mountain bike trails, paths, hunting, four wheelers, and those are existing uses next to a brook which is a major tributary. Somewhere it might be more explicit in the text of these documents and they might comport more with each other and reference research and other appropriate uses that are beneficial or neutral with respect to water quality.

The other thing that makes him a little nervous is the second whereas where it talks about Berlin Pond provides the exclusive public water supply for the City of Montpelier and the precincts within the Town of Berlin. For a long time a portion of Montpelier was fed by Montpelier Springs and a portion on Towne Hill is fed by a series of wells.

City Manager Fraser said that is no longer the case. The only public water supply is from Berlin Pond.

Mr. Syz asked if there was a risk of putting this in of losing some sort of right. Since that water from Montpelier Springs was used for such a long time, and still flowing and water that is hundreds of years old, and flows through North Branch River Park, it seems like there is some vested right of the city to those waters. If you say this is exclusive as opposed to saying the dominant public water supply that was and may be very important. Let's say a truck with 50,000 gallons of gasoline goes off the Interstate into one of the streams...

City Manager Fraser said he understands his concerns.

Mr. Syz said somewhere in here it talks about existing structures, etc. It talks about existing uses in zone 2. It says human activity I zones 1 and 2 of Berlin Pond has protection in the area are prohibited unless directly or acquired for water quality testing protection enforcement or improvement purposes. Arguably, these trucks that keep coming into the watershed with gasoline and chemicals pose a risk to the water supply. He doesn't believe gasoline could be treated by the treatment facility. It was primarily constructed to deal with giardia that was the problem at one time. Clarity in terms of what is and what is not allowed is important.

He is very much in support of the concept here. He can't imagine why the Agency of Transportation put the Interstate right through the Berlin Pond watershed crossing five brooks that supplies a watershed that the city fathers of this city started purchasing land in 1830 and gradually acquired land all around the pond. Since then other organizations, the Vermont Land Trust, the Vermont River Conservancy, the Conservation Commission and the Town of Berlin acquired more and more land along Irish Hill to protect the pond. Now we have the Interstate going through the watershed posing a huge risk, and that underscores the need to think about alternate sources such as Montpelier Springs and possibly an alternate well field. He is just introducing ideas he thinks are consistent with this that don't belong in an ordinance but need to be thought about by the city.

Mayor Hooper said generally the trespass is okay as long as it is so narrow that it excludes legitimate uses of and if they can give permission to people to go in and do the appropriate work he is okay with that. Secondly, he is asking the city to keep their options open in terms of protecting both this pond and considering other sources of water for production. They will look for some proposed changes from Paul Giuliani.

She said she is curious because he is somewhat of an expert in groundwater related issues. Is he familiar with the Source Protection Plan?

Mr. Syz replied yes. What he is the most comfortable with are the maps. Then, there is a whole mass of text he didn't read.

Mayor Hooper said they are essentially incorporating the Source Protection Plan into the ordinance.

Mr. Syz said he had no comment on that.

Mayor Hooper said this was written in 2001. Do things change rapidly enough that they need to look at this again to make sure it is sufficient or effective?

Mr. Syz said his view at the time was that it was deficient with the really important things for providing the city with a water supply. The immediate area is important next to the pond and the streams; there is no question. He thinks much more land acquisition should take place for the benefit of the pond and the recharged waters, the groundwater which eventually comes into the ponds through the springs, wetlands, etc. Something needs to be done with respect to the water flowing from the streams underneath the Interstate.

Brian Pfeiffer, a resident of Plainfield but who works in Montpelier, so he drinks the water said he has spent a lot of time around Berlin Pond over the years guiding people on bird watching trips. He generally supports the ordinance but has some concerns and echoes some of what Steven said. He is a consulting field biologist. He works for municipalities, private landowners, timber companies and State of Vermont Fish and Wildlife Department doing field surveys of birds, butterflies and dragon flies mostly. He has actually done a bit of research around Berlin Pond over the years. He had permission to visit areas of the pond that are posted over the course of 25 years frequenting the shoreline.

In the city's desire to be unequivocal about protecting this incredible resource that they have created a bit of ambiguity here. Some of it has come up with what they were just discussing with Steven, and that is prohibiting researchers from even setting foot in one of the tributaries to the pond to conduct surveys for aquatic insects which tend to be good indicators for water quality. It's great to have language in here that would delineate some sort of clear procedure for getting permission. It would be good to have this so that in the future years from now they would know there was a procedure for us so we do it right when we go.

What probably is most troubling to him is Section 7-600 that incorporates the provisions of the Source Protection Plan, and he may be one of the few people who have actually read that plan. He was a volunteer member of a group that developed the Conservation Plan for Berlin Pond back in 2005 and they relied on that document. That is a bit troubling to him because in one paragraph to adopt the findings and analyses of that plan as they pertain to possible sources of pollution he would be uncomfortable declaring that as part of our statute or ordinance now. His guess is that there are a lot of people who live in Montpelier or Berlin who would probably agree with much of what is in the Source Protection Plan? To adopt it without really telling folks about it or reevaluating feels troublesome to him.

He thinks he would put brackets around Section 7-607. There are some uses delineated here but others that would seem appropriate that are not. If they had some means for defining getting permission it would help.

He makes his living showing people nature. He is actually not here because of that. He doesn't guide bird watching trips to the pond that much any more. His chief concern that there may indeed be other uses. There may be reasons to set foot in those waters that are not made clear here. Much of them have to do with research and goals of improving the quality of the watershed.

The Fish and Wildlife Department put up an osprey nesting platform. It was an issue before the Berlin Select Board, and he isn't sure that Montpelier had much of a say in it.

City Manager Fraser replied they did.

Mr. Pfeiffer said he as a bird watcher made a stink about it, and it came down mostly because he was making a lot of noise.

Council Member Jarvis said they probably should just have Paul Giuliani's legal opinion about making the Source Protection Plan a part of the Whereas clauses.

Mayor Hooper closed the Public Hearing at 7:50 P.M. She asked the Council Members if they were ready to set second reading.

Council Member Jarvis said she thinks it is appropriate to change Section 13-3(a) to specify that we are trying to exclude unauthorized persons or persons without permission conducting beneficial activities as determined by the city.

Motion was made by Council Member Jarvis, seconded by Council Member Sheridan to approve first reading and set second reading for the June 23rd Council Meeting.

Mayor Hooper said one of the issues she has is the Source Protection Plan. We are quite explicitly saying you cannot do certain things she isn't comfortable with. She is concerned about adopting an ordinance that we are prohibiting these activities without knowing where and what those activities are. She would suggest the notion of whether we incorporate this into the ordinance and how we do it is of concern. We also talked about making sure the Town of Berlin knew we were doing this. She would like to know affirmatively that the city is looking at doing this because we are talking about prohibiting people in Berlin from doing certain things.

City Manager Fraser said he e-mailed a copy of the ordinance to the Town Administrator.

Mayor Hooper said these are serious concerns they need to sort out before we actually adopt the ordinance.

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

10-140 (B) Request for Outside Consumption Permits for the following:

McGillicuddy's Irish Pub on July 3, 2010 on Langdon Street from 5:00 P.M. to 1:30 A.M.

Mayor Hooper said on the application form from McGillicuddy's it indicates one closing time and on agenda item for the street closure requests it indicates another time. Langdon Street Café is closing at midnight and on the application from McGillicuddy's they were asking to be allowed to continue serving outside until 1:30 A.M. .

Council Member Hooper said Julio's was until 1:00 A.M. How can they serve outside after street closure? Langdon Street is only closed until 1:00 A.M.

Mayor Hooper said if you read the front it says the consumption time is until 1:30 A.M., and if you read the letter on the back they say until 12:30 A.M. If she understands this correctly, they want to keep the bar open until 1:30 A.M.

Council Member Jarvis said he is asking for more time between when the music ends and when the consumption ends.

Motion was made by Council Member Jarvis to approve it from 5:00 P.M. to 1:00 A.M. for the outside consumption permit. Council Member Hooper seconded the motion. The vote was 6-0, motion carried unanimously.

Mayor Hooper said they should note there have been issues of rowdiness associated with some drinking in the city and she is a little concerned that this not be an issue that evening on that street.

10-140 (A) North Street Retaining Wall Reconstruction Bid Results

There were questions about costs and the urgency.

Council Member Golonka said he is concerned about the costs overall. Is there a possibility of scaling back? What is the urgency?

Todd Law, Director of Public Works said they did scale back on the project, but as Tom McArdle outlined in his memo asbestos was found on the back side of the wall. They have to actually stabilize the water main. They have applied for additional grant monies from VTrans to increase our cost share. They will give us 80 to 90 percent towards the cost of this in a structuring grant. It was based off the old estimate. In the past other municipalities will turn it in or won't do certain projects though there are sufficient monies at times. They haven't applied for that, but this is essentially the project that can be built. There has been a lot of erosion in that area and it is a fairly significant wall. It holds up North Street. There is one house that is within a driveway away, 15 feet from the wall.

Council Member Golonka said his concern is our priority projects have always been these exit roads outside of town to benefit outside communities, whether it is East Montpelier or Middlesex. This one seems to be over budget.

Public Works Director Law said the other side of it is on our retaining walls the retaining wall on Nelson Street was substantially over budget, and a lot of that was because of the severity of that wall. They don't build them like they used to, which is a good thing.

Mayor Hooper said there are probably 15 houses on North Street in Montpelier above the retaining wall, and there are probably 50 or 60 in East

Montpelier. We have rebuilt the upper part of North Street about 10 years ago and we spent \$300,000 serving those 15 houses as opposed to all of those 50 or 60 people who use it on a daily basis when they are coming in to Montpelier. She thinks that is an important and interesting question.

Public Works Director Law said the only revenue we receive is grant money from VTtrans and the Legislature.

Council Member Hooper said given the proximity of the two low bids, is his preference to go with the lower of the two?

Public Works Director Law said they are both reputable companies. They have worked with both of them in the past.

Motion was made by Council Member Golonka, seconded by Council Member Hooper to award the contract to the low bidder Hebert Excavation, Inc in the amount of \$158,820.00 and authorize the city manager to sign the necessary documents. The vote was 6-0, motion carried unanimously.

Council Member Jarvis said the City Manager said in his memo that he would ask the Council to ratify the contract with DuBois & King for the Turntable Park .

Mayor Hooper asked if the Council would like to ratify the approval of the contract.

Motion was made by Council Member Sheridan, seconded by Council Member Sherman add consideration of ratification of the approval of the contract for Turntable Park. The vote was 6-0, motion carried unanimously.

10-143 (A) Ratification of approving a contract for the Turntable Park.

Council Member Jarvis said this has the potential to be a great project and a really nice way to clean up that area and celebrate a historic element of Montpelier. She is concerned because of the uncertainty of Stone Cutters Way with the increase of rail traffic and the possibility of a siting there. The idea of expending a pretty significant amount of money and staff time to do this work concerns her. Six months down the road it could be a really loud, noisy and smelly place to hang out. We already have concerns about the

money we have already invested in the area so the notion of investing more when there still is that uncertainty is something that concerns her.

Council Member Golonka said he thought the authorization was just to add it to the Consent Agenda and not to approve. He is concerned about getting notices in their Friday packets, which maybe he doesn't read until Tuesday afternoon and suddenly he has to give a response. He brings it up as an issue. He agrees with Sarah that there are a lot of unknowns in the area. He is concerned if they add more money and suddenly have to rip it up that maybe they should use this as an opportunity to change the lease with the state or use this as an opportunity to get a 30 year lease instead of a 3 year lease. It seems a little rushed to him.

Council Member Jarvis said if they decide they want to go forward the very least they need to do is send another letter to the Senate Transportation Committee and the Agency of Transportation and our Congressional representatives to say we are doing this. They have given us the indications they are not looking at Stone Cutters Way for a siting and they are going forward and expending serious state and municipal funds and for them to tell us now if we shouldn't do it.

Mayor Hooper said that is an excellent idea.

Council Member Sheridan asked what they do if they don't say anything.

City Manager Fraser said it shows we are considering this as long term. A lot of the work is already done.

Public Works Director Law said they started the survey work this week.

City Manager Fraser said they could stop the work. There have been downtown grant funds for a number of years. This project was actually in the original plan for Stone Cutters Way from the beginning and it got scaled down as cost realities became clearer and it became a much more modest and affordable package. They have the funds and the Council has approved them all. It really isn't the safest place in town and does need to be cleaned up. We have the grant funds and will lose the funds this year. They have until December to use the funding. If the city were to opt not to do it because of our own reasons that is fine but we should understand that we will be forfeiting any funds we have.

Council Member Sheridan asked if he could remind them what that figure is.

City Manager Fraser replied it is over \$200,000 and at least half of it is from outside funds. If we write or call the state and ask if they could guarantee there won't be a rail site he doesn't believe they can do that. He believes the state will say they offered to get the city this land so they could build this project. They would give us the land. He believes they will say any rail siting or anything they are considering doing won't encroach into the Turntable Park. Then, it becomes the issue that if that were to occur does that make the park less likely to be used because people won't want to hang out there. There are other parts of Stone Cutters Way they are talking about.

He said with Attorney Giuliani's assistance they sent a letter to the Senators, the state and others staking our claim as to why we believe we have solid leasehold on Stone Cutters Way, but they haven't heard back in any official way from them yet and not sure they will. The Secretary of Transportation did send him a personal e-mail saying he didn't agree with this but it's a non-issue because they don't have any plans to do anything with Stone Cutters Way. He believes from the message they received from the Senate Transportation Committee and whether they will prevail 100 percent in their argument but they do have a case to survive a motion to dismiss which means the city has put them on notice. This means the whole premise of them wanting to put a rail site in rather quickly would mean they could spend two years in court.

He spoke to Fred Connor who has been trying to acquire the property adjacent to that and he told him today he is going ahead and planning to close with the state. His take of this is that it isn't going to happen. The bigger question they are going to face is that if there is going to be a siting they are going to look to the bike path. They own that and it's longer and there is no development along the way right now. There is no existing bike path there. He likes Sarah's idea of saying we are going to move ahead and understand there isn't going to be a siting and tell us if we are wrong because we are about to spend the state's money and ours.

Council Member Golonka asked if there were any issues with this grant specifically that would trigger a pay back of funds for the Stone Cutters Way project.

City Manager Fraser said it is downtown transportation money. It's a fair concern and it is the state themselves that have tripped us up in spite of having worked with them to develop this area.

Council Member Weiss asked if they could divide this agreement into two parts. Under the agreement it says the consultant will conduct engineering investigations to develop plans, specifications and estimates. We could eliminate at this point to provide engineering services during the construction phase because he doesn't know that there is any agreement yet on the construction phase. Why then are we considering an agreement which includes that provision?

City Manager Fraser said they are into June now and we are cutting ourselves short in trying to get it constructed this season. We are looking for a consultant to develop the project and shepherd it all the way through completion, and those are the services they sought when seeking a bid. They didn't want to break it up and then have to go through another process. Garth Genge, Tom McArdle and Todd Law have worked closely in developing this and understanding the timelines and they want to have this ready to go by the time snow comes.

Council Member Weiss asked if there were implications if the Council approves the agreement that automatically we will go ahead with construction.

City Manager Fraser replied no because they will still have to get construction bids and weigh those against the budget.

Council Member Weiss said if the bids come in too high they are still paying \$16,000 to somebody who is not going to be responsible for the construction.

City Manager Fraser said they will be hired to see that it can be built on time and not to exceed \$16,000.

Mayor Hooper said one thing she would like to add about this proposal is that one of the property owners that is on the city side of the park redeveloped their property with the expectation there was going to be a park there. They have said from day one that it is an eyesore. She would suggest with the so called Pylisk property it was the same expectation. In addition to the citizenry, the grants and protecting the river we have an obligation to the property owners on either side of that property and it will continue to be of value to them. She would hope the city would go ahead with the project. This will also be one of the very few places along the river that there will be visual and public access to the river which was important to the citizens a long time ago. It is important to members of the community to have some access to the river, if it is only visual.

Motion was made and seconded by Council Members Sherman and Hooper to approve the contract for the Turntable Park work with Marsh Engineering Services. The vote was 5-1, with Council Member Sheridan voting against the motion.

- 10-140. (C) Consideration of approval of a contract with DuBois & King for \$240,640 to perform “local share” consultant services connected with the Army Corps of Engineers Flood Mitigation Study. Funds have been allocated in the city’s capital plan and costs are being shared equally with the State of Vermont. Copies of the proposed agreement were sent to the City Council on Monday.

Recommendation: Authorize the City Manager to sign the contract (and any related documents) as presented.

Mayor Hooper said the other contract they want to discuss is the consideration of approval for DuBois & King to perform the local share of consulting services with the Army Corps of Engineers Flood Mitigation Study, and the local share is \$240,640.

City Manager Fraser said some of the city’s share will be performed by the Army Corps of Engineers. When they looked at the total project and divided up the tasks the city can pay its share either in cash to the Army Corps of Engineers or through in-kind services. These are services the Corps would not have to do themselves and the city could do them. We obviously don’t have the personnel to do that. The Corps gives you credit for in-kind services at the rate they would charge. The value of this work that is \$240,000 they will give us credit for at least \$338,000 or perhaps even more. It is a pretty substantial savings that the city is getting that we would have to write a check for to the Corps. The city and the state are saving the difference between what the Corps’ value of this work is and what we are actually paying out by doing it local.

Mayor Hooper inquired what the total study costs were going to be.

Council Member Hooper said it is \$1.3 million.

City Manager Fraser said it went up a little because we have \$350,000 to \$400,000 they set aside in the capital plan over the last two or three years for this. We are in for half of this, which is about \$650,000 which is split with the state. Actually, it is \$700,000 and the city is in for \$350,000. The \$400,000 is what they could have done for that amount of work for

\$240,000 and still get credit for matching \$400,000, so they would split the savings with the state. They decided to divide the contract with DuBois & King and anything that is not being done by them would be done by the Army Corps of Engineers.

Public Works Director Law said some of it is a benefit cost analysis. You have to do an analysis to make sure what you are doing will benefit the community as a whole, and some of that is culture. That is a Corps requirement.

Motion was made by Council Member Jarvis, seconded by Council Member Sheridan to approve the contract with DuBois & King for \$240,640, and authorize the city manager to sign the necessary documents. The vote was 6-0, motion carried unanimously.

Attorney Paul Giuliani had arrived so the council return to agenda item 10-143, First Reading of Proposed Ordinances concerning Berlin Pond to gather more information.

10-143. First Reading of Proposed Ordinances Concerning Berlin Pond.

City Attorney Giuliani said Steve Syz and he had a very good discussion and Steve had some very thoughtful observations. He would leave with the Council some red lined amendments of what they have. They attempt to clarify and are an attempt to make the ordinance a little tighter.

City Manager Fraser said there was a substantive question that came up which had to do with the wisdom of incorporating the whole Source Protection Plan in the ordinance as opposed to a reference to it and it has made these findings. Another person who testified in favor of the ordinance suggested it should be included. What does that mean to make that an ordinance as opposed to saying the ordinance is based on the Plan's findings?

Attorney Giuliani said in order to enact the ordinance, and more particularly to enact a health order, findings have to be made. There has to be some objective things in the record and rather than just reciting an Executive Summary from the Plan there is no problem with incorporating it. Those are the findings and conclusion. The Council just didn't pluck this out of the air and there was some objective verifiable data that can be looked at. The conclusions in the Source Protection Plan has some predicate for what they are doing here, so by incorporating it as a reference is fine.

Council Member Jarvis asked if it had to be a health order. Couldn't they just do this by ordinance rather than by health order?

Attorney Giuliani said let's assume a situation develops and some condition occurs on the pond when you have a health order on the books as a finding by the Council that the condition that now exists is now an imminent peril to health and safety the city can act as a Board of Health immediately and not going through the whole enforcement process of an ordinance. The health order can be acted on in very short notice. The people who the health order is directed at have a right of appeal to the City Council. There is plenty of due process. It's just a much quicker way to get the relief. If something happens they aren't going to have the luxury of time to act. It will be pretty catastrophic he would think. They don't want to have some sort of an ad hoc reaction and you really want this on the shelf in case something really happens.

Mayor Hooper asked if the city had the authority if there is an imminent health hazard to act on an issue.

Attorney Giuliani said they do but they have to convene as a local Board of Health and make all of the findings that are in the ordinance right now. From an administrative and an enforcement point it will be a lot easier. Just pray you never have to use it but it will be there.

Mayor Hooper said she was initially concerned about adopting the whole thing by reference, but they do have to adopt it.

Attorney Giuliani said he would like to second the suggestion about sending the letter to the state. You want to set up what is called a Gestapo. You want the state to know that you are relying upon what they have done or not done. Just put them on notice that the city is doing something.

Council Member Jarvis said they have set the ordinance for Second Reading but do they also need to convene themselves as the Board of Health?

Attorney Giuliani replied at that time, yes. It probably should be on the agenda. When it comes up somebody could make a motion to convene as a local Board of Health jointly with the City Council.

- 10-144. Consideration of Transfer of \$182,000 from General Fund to the Capital Fund. Staff has identified projected operations budget savings due, primarily, to the mild winter weather.

Recommendation: Transfer \$182,000 from the General Fund to the Capital Fund for use on specific projects as outlined.

City Manager Fraser said the actual amount they recommend being transferred from the General Fund into the Capital Fund is \$207,000. Technically, it doesn't need the Council's vote because it is going from the equipment fund to the equipment fund. There was the sale of the vactor and then they received grant monies through error for the new one so their proposal for that particular case was to take that equipment revenue to buy the second half of the dump truck, which they approved the first half in the budget for this coming year.

City Manager Fraser said they found themselves in an unusual and positive situation where there were some savings in the department budget, and overall there might be an additional \$30,000 or \$40,000 net savings because of weather related savings. The savings this year were all weather related savings. It was a mild winter. They are not the kind of sustainable savings they will have year in and year out. They caught a break this year.

What they are trying to do is take a look at the Public Works weather related savings, not savings because of health insurance or other operational changes that are budgeted. They want to convert public works savings to public works projects and convert City Hall savings to City Hall projects so they are still in the areas that we allocated the funds. The main reason for the Council's vote is because they are transferring it from one fund to another and by doing that it goes into the capital fund and carries forward into the fund balance.

Their proposed allocations is a debt that we paid but it shows as a minus \$22,000 for our August 2008 storm damage where we received a lot of FEMA and other monies.

Finance Director Gallup said it was \$234,000 and about 10 percent of it was the City's. All but \$22,000 was reimbursed to us from outside sources and they finally reconciled all of that money. Again, that is a weather related public works bill that has come and gone. They have already talked about the retaining walls, and that is a pressing need. Their suggestion was both paving and the sidewalks were areas that came up during the capital discussions and areas we wish we could put more money into. They have applied for enhancement grants for sidewalks which will require a local match, and that is why they selected \$50,000 there.

Jumping down to the City Hall projects we need to have rails in the proper spaces. Then, there were discussions on the ADA Committee that by law we need to make certain improvements. There is \$5,000 in the budget and this was a chance to get to some of those things to come into compliance. Last, but not least, several years ago they renovated all of the Planning Offices because there were some serious mold issues downstairs. At that time it was also an issue for the Public Works Offices so they are proposing they take some of this year's heat savings and address the mold issue and get it done.

Council Member Golonka told Finance Director Gallup and City Manager Fraser he wanted to thank them for coming to the Council with savings. He applauds their efforts. His concern is this. We are outside of the budget season and there are significant issues out there with 58 Barre Street, the water fund deficit and other projects that may come up. By just sort of reallocating money like this sounds like automatically prioritizing these projects before we even have a process. He thinks they may be faced with significant expenses coming up, and they may very well be projects they will need to approve before budget season and he would like a separate agenda on each of them. He is concerned they are just zeroing out our savings without having a discussion of goals and priorities for the budget. Obviously, they did allocate some for the retaining wall on North Street as he recalls, about \$48,000. Some of these sound like we are going to have to do anyway, whether it is the mold or front step railing. He doesn't like zeroing out every dime in savings before the end of the year. He would like to get first of all some credit into the press that we did have surplus in our budget, and if we have to use the entire reserve funds for these projects that is fine.

Finance Director Gallup said this is just a part of the General Fund budget and it is the first time they have seen the weather cooperate. The General Fund budget has another whole story to it this year. We are over in revenue about \$62,000 mostly due to ambulance. Then, in expenditures we are just about \$35,000 over which you can point to some legal costs, the survey and video archive. This is a piece of the budget that is related to weather and it is unusual and an opportunity that we won't have very often to take money from the DPW area and spend it in the DPW area.

Council Member Golonka said he would prefer it going to the reserve fund and have the staff get the credit in the press that we actually had a budget savings that were under budget.

Public Works Director Law said the City Manager would have liked to look at some of the projects that hadn't been discussed and prioritized, but the fact was they were looking at the paving projects as an addition to the monies that were already allocated to paving in the capital improvements plan. We applied for a grant and this is the additional monies to meet that \$80,000 local match for that grant. The transportation enhancement grant of \$50,000 they figured would stretch their money; it's a 50/50 match to cover all of the sidewalk improvements they looked at last year.

City Manager Fraser said it really is the Council's call. This money all lapses into the fund balance and they have to spend it as it comes up; that's fine. They were only recommending the weather related savings because the timing is such that it is now June and they have a handle on where the budget stands but it has to be transferred into the capital fund by June 30 or it does lapse. In terms of the priorities, from their perspective the \$22,000 is really spent. The \$90,000 really needs to be spent on the retaining walls, the front step railing. ADA repairs and the mold they should take care of. It leaves the \$70,000 which we could let lapse and then use as necessary. Their team's perspective was that the Council had said loud and clearly during the budget process that paving and sidewalks are areas you felt were under funded.

Council Member Sheridan said the Citizens' Survey talked about roads and paving. He doesn't see anything superfluous here. Mostly, it is stuff they have delayed over the years and we will probably never have a winter like this where we can catch up on some of these delays. He sees it as a chance to catch up on areas we have cut.

Council Member Golonka said his point is that it is in a vacuum. They aren't looking at the budget as a whole yet you are making budgetary decisions, and that is why he doesn't like it. He would rather have the General Fund increase our Fund Balance and these come up as emergency or agenda items. He doesn't like doing budget decisions in a vacuum and that is why he doesn't support it in this manner.

City Manager Fraser said they have submitted an enhancement grant application. It was one the Council approved last year and we didn't get funded so we just resubmitted it for sidewalk extensions and that kind of work. That was the city's share.

Mayor Hooper said this is a question of whether we look at it retrospectively. If we had these questions before the Council during the budget season for the current year that has generated the fund her guess is

they would have waited and come out pretty close to the way the recommendation is being made to the Council.

City Manager Fraser said they saw this as an opportunity to get ahead in some areas. They never have all of the cards on the table, even at budget time. They don't know when the storms are going to come or grant opportunities are coming up.

Council Member Hooper asked if the grants for paving the sidewalk are in hand or on the books.

Public Works Director Law said they have applied for them.

City Manager Fraser said the other policy piece is that it would be transferred to the capital plan and the grants would be available for other uses.

Council Member Golonka said it is the first time since he has been here that they have swapped things in the middle of the budget year. What if we were in a deficit? Would they then come to the Council and say here is what we will cut so we won't have a deficit? He would rather have these as different agenda items as they come up and keep it separate from the issue that we are in a surplus.

City Manager Fraser said the reason it is here is because the Council has to approve anything that goes from one fund to another. For the last several years they have put the brakes on spending and made their own internal cuts and not have surpluses based on the priorities the Council has articulated. There is no reason why they couldn't have spent the money in the same fiscal year.

Council Member Golonka said he would rather see the reserve fund start to build and have any type of spending out of it be a conscious decision by the Council as a separate agenda item. These may mean six different agenda items they have.

Council Member Sheridan asked if he wanted to do them one by one now.

Council Member Golonka said they don't have any details on the 58 Barre Street building. They had a meeting of the Water Rate Committee and they are facing a huge deficit there.

Council Member Sheridan inquired if this could be moved into the water fund.

City Manager Fraser said he didn't know the legal answer to that.

Finance Director Gallup said it is different users.

City Manager Fraser said the main issue is that there are people who pay taxes into the general fund that are not water or sewer users and sewer and water users that are not the same. They have in the past loaned money from one fund to another and actually signed notes with interest rates and paid them off. The water fund is now paying the general fund interest because it is a defacto loan.

Council Member Sherman said with respect to Council Member Golonka's suggestion she moved the Council proceed with the recommended allocation of savings to the projects listed in the Public Works Department and in City Hall in the amount of \$207,000. Council Member Sheridan seconded the motion.

The vote on the motion was in favor 4 to 2 with Council Members Golonka and Weiss voting against the motion.

Finance Director Gallup said the description in the agenda was different than what she had planned tonight. Therefore, there was more information than this just one sheet. She had promised to come to the Council with the balances of all of the funds as presented at audit time. She will present the short version. She said the city needs to get better about what are reserve funds. They say their unrestricted funds are reserve. In accounting terms they aren't. The whole spreadsheet is fund balance for general fund. Totals at the end of last June are at the very bottom - \$1,373,000. Of that \$623,000 is unreserved and undesignated, and that is what she holds on to. That is what the Council is calling reserve money. It is the surplus and what is carried forward year to year and has no restrictions on it, but there is a lot of money above it that does have some kind of restrictions. Some are because of accounting procedures. Other items are restricted like the Tree Board and the Conservation Commission because they don't spend their line items and she carries it over year to year. These are designated funds for specific purposes. That's the general fund.

Finance Director Gallup said there are two other major governmental funds. One of them is community development. They don't talk about community development funds much but there is \$3,200,000 there. In

notes receivable there is \$2.8 million. That is over 90 loans out to residents, businesses and nonprofit organizations. There are a lot of different kind of restrictions on how those are paid back and how they received the money in the first place. This means the city acts as a bank in many ways.

Mayor Hooper said it is a very important asset in the community in terms of people improving the values of their property and making investments in the community.

Finance Director Gallup said the third largest major government fund is capital projects. When they look at the balances on this towards the end of June the Route 2/302 Roundabout is really causing havoc. There is a deficit there because there was a collection of a grant receivable for \$713,000 that didn't come in within 60 days, and there are some different revenue issues.

She said she knows there are some questions on traffic impact fees. That is part of the capital projects, and the end of 2009 it is only \$28,000. There has been some talk about running out of time to spend that money. Most of that money came in during 2007 and there is a six year time clock on that.

There are three major enterprise funds and they are accounted for differently. The Water and Sewer Committee is working very hard and the Council should be hearing from them soon. They are the water fund, sewer fund and parking fund. Accounting for them is different than for governmental funds. It is called unreserved money, and for the water fund it says \$634,000 in deficit. She would add that includes the pension which is not due until 2017. \$297,000 comes off that, so there is a deficit in the water fund of \$336,000. It is the same thing with sewer. It isn't \$782,000 but \$379,000, and there is a plan to deal with that. For parking it says that has a \$95,000 deficit, but when you take the pension fund into account we are really almost \$100,000 to the good in parking. The enterprise funds have been doing pretty well the last few years.

There are many funds here and some are more complicated than others.

10-145. Discussion of City Council's goals, priorities and objectives for 2010-11.

On April 5, 2010 the Council conducted a workshop to discuss goals, priorities and objectives for the upcoming year. At that meeting an outline of key issues was developed. The outline is enclosed.

Recommendation: Complete discussion, adopt final version or provide direction to staff.

Council Member Weiss moved to readopt 2009-10 goals and priorities and in November 2010 validate the status of each statement. Council Member Golonka seconded the motion.

City Manager Fraser asked if he would accept a friendly amendment that anything that has already been completed that is on the list be removed.

Council Member Weiss replied yes.

Mayor Hooper said they never completed the work on this but did a laundry list and she wanted this in front of the Council because of her concern that the Council isn't getting at the most important issues. For her a lot of this is economic development questions.

Council Member Weiss said in defense of the motion which has been made and seconded he wants to give an example. It says: Transit Center – continue developing project. There are a minimum of six alternatives to what the present path might be. They could spend an hour just defining that one. He doesn't think the effort is worth it right now.

City Manager Fraser replied one thing they could do is to pull out the "Must Do" items. The Carr Lot, Transit Center, 58 Barre Street are on that list along with the district heating project and water fund deficit. There are some other actions. There is the ordinance committee, the Recreation Department, economic development, TIF District and housing. Someone suggested a review of the committees and commissions, regional shared services, street lights, bike path and a charter commission. The question for the staff is how they fall in priority with the group.

Council Member Jarvis said she thinks it is important to prioritize. The Recreation Department issue is an issue and they need to lean very hard on the School Department and tell them we don't think they are doing their fiduciary obligation to the taxpayers if they don't pay closer attention to the budget. Right now we don't have the capacity to even think about taking over the Recreation Department. We don't have our hands around the Senior Center and she doesn't think it would be doing any service to the taxpayers of the city taking it over.

Mayor Hooper said that is our problem. We need to figure out how to prioritize the list.

Council Member Golonka said after listening to Council Member Jarvis talk about the Recreation Department he thinks they need to prioritize so he would be inclined to withdraw his second to the motion.

Council Member Sherman said they could proceed with Sarah's methodology and eliminate things and take off what isn't critical.

Mayor Hooper said there are about 7 things on the list that are related to economic development. She doesn't think they were willing to consider a change in how we raise our revenues or think about what we are doing. She heard from the Expense/Revenue Committee that we weren't going to take a look at expenses and revenues until we did a management study, that they wanted to be able to stand up in front of the people of Montpelier and say we have looked at this as carefully as we can.

Council Member Weiss said on a personal note he wanted to have the minutes reflect that at 9:30 P.M. Alan Weiss excused himself from the rest of the meeting.

Mayor Hooper said let's have a discussion on whether or not they want to do a management study, what we mean by it and have that discussion.

Council Member Jarvis said maybe they could say their top priority is economic development this year and incorporate affordability into that as well. She thinks about economic development mostly in terms of how we make Montpelier a more affordable place to live and consider growth.

City Manager Fraser said they are soon to have a lengthy and robust discussion about the Master Plan and there are goals and strategies in there. There are a lot that deal with land use, growth and policies. That is really the forum to say what you want to do.

Mayor Hooper asked if they were all in favor of eliminating the Recreation Department.

Council Member Jarvis added with the provision that they press the School Department.

Council Member Golonka said he is on the merger committee with U-32 and Montpelier, and that is going forward. There is a big gaping hole with what happens with the Recreation Department so if we don't continue that discussion over this period it may just be thrust upon the Council.

City Manager Fraser said he has met with the new superintendent and told them our concerns and he said he was going to look at it. He thinks they should put themselves in the position to say that if the school and U-32 do reach a point where they are ready to take that bold step with merging that at that point the city ought to be in the position to take over the Recreation Department.

Council Member Golonka said he thinks they need to continue the dialogue and having one agenda item to discuss that would probably solve that.

Mayor Hooper said that brings us back to the issue of affordability and what are we going to do about that. She doesn't think having a meeting with CDEC gets into it. We need to figure out how to put more property on the grand list and build Stone Cutters Way. By building Stone Cutters Way there is another couple of million dollars on the grand list. She tried to do it with Sabin's Pasture so she doesn't want to lose sight of that.

Council Member Jarvis said there is the item on economic development but what comes after it does not encompass what we mean by prioritizing economic development. She would also like to see them work closer with Montpelier Alive and other business associations in terms of that. She went on to say there is Sabin's Pasture to consider and other housing development issues.

City Manager Fraser said what is included here is a list of Council Member's priorities.

Mayor Hooper said she would suggest that at an upcoming meeting they really do spend an hour talking about what we mean about affordability. She is talking about economic development and meeting with CVEDC.

City Manager Fraser said it is fair to come out of this meeting and say our top priority is economic development and our second is x and y. When you talk to a community about affordability and economic development it means different things to people. Economic development he believes would be seen much in the way it was a few years ago when they talked about economic development and received back lashes. What kind of economic development are we talking about? What are we doing to make the community more affordable? Are we trying to create more affordable housing? What do we mean by those terms?

Council Member Jarvis said she thinks they need to have another workshop session as a separate meeting, or meet earlier. What about meeting on June 23rd at 6:00 to discuss what we mean by economic development.

Council Member Golonka said they could never eliminate our fiduciary responsibility about the Recreation Department because it is in the charter.

Mayor Hooper said they need to do their meeting schedule. The next regularly scheduled meeting is June 23rd. The City Manager is not going to be here and Bev will be here instead. Does the Council want to have meetings during July or August?

Council Member Sheridan said there should be two meetings in July.

Mayor Hooper said there would be two meetings in July and one in August. The meetings for July and August are July 14th and 28th and August 11th. She said this is a little frustrating because when they met way back in April they didn't finish because everybody wanted to leave. Now April, May and June we haven't moved and now we are talking about waiting until July to do this. Maybe she and Bill can put together some form of structure before meeting on this. The Council agreed that they would meet an hour early on July 14th to finalize the goals.

10-146. Council Reports.

Council Member Sheridan reported it is nice to have the Mountaineers back and the Fashion Show was great. The ADA Committee met on Tuesday and the transition plan has already started and their next meeting will be towards the end of July. They are still moving forward on bathrooms.

Council Member Sherman said she is receiving several calls about the new pedestrian signs and the neon green signs that cover up the buildings. She spoke about the free shuttle on Independence Day July 3rd. Montpelier did it exactly right in applying to GMTA a month in advance for an event that has wide regional appeal. The Transportation Advisory Committee is also going to start a Montpelier Circulator sometime this summer, and they are planning a route. It will be at no cost with some funds being reallocated from other projects that will go through the city picking up people and dropping them off. She attended the meeting on sidewalks and they have a lot of people reporting falls and concerned about sidewalk quality, especially in the winter when the snow gets plowed on to the sidewalks.

Council Member Jarvis said she would like to vote Tom Golonka to the Board of Trustees of VMERS if he is willing. He needs five signatures.

Council Member Golonka said he wanted to thank Tony, Cheryl, Ges and Bob Gowans for showing up at the regional shared services meeting on last Thursday. It was a difficult meeting, mainly because they were asking employees who would be affected by this type of merger to give them their opinions. Hopefully, it allayed some of the fears in the community that this is very preliminary and it isn't going to happen in the very near future. What came out of that meeting was really a recommendation that if we do want to pursue anything that it would be advantageous to pursue dispatch first. The question then comes up, is it worth it to go through the whole process of creating a regional entity just for dispatch? He thought the meeting went well. Jim Sheridan also attended.

10-147. Mayor's Report

Mayor Hooper reported she had a conversation with members of the community about an opportunity for the City of Montpelier to participate in a power purchase agreement with All Earth Renewables which is a firm that essentially takes advantage of state and federal tax credits available for renewable resources. It is able to sell to municipalities that can't take the tax advantage. The renewable equipment is at a much lower price than you can purchase on the market. There are only so many state tax dollars that are available for the different firms to take advantage of. All Earth Renewables is essentially putting together a package for solar equipment. It actually attracts the sun so it is more efficient. They put together a package that is right below a threshold of the Public Service Department certificate of need that moves you into a whole different arena and they get the certificate of need for whoever wants to do this. In this case it could be the City of Montpelier. For \$1,000 you can buy a large array of solar collectors that you would have the use of for the next 6 or 7 years, at the end of which you would buy them at a reduced price from this firm. They are supposed to last for 25 years and the payoff for this is in 7 or 8 years so you have essentially free electricity. Todd Law spoke with the City Manager about it and he is meeting with a representative of this firm shortly. If it is something that looks viable then we need to figure out if we want to dive into it. Todd thought this might work at the water treatment plant.

Mayor Hooper said she wanted to repeat the confidence on the reappraisal. She had her informal hearing today and was impressed and continues to hear only positive things. She also thanked the Council for their work on

the Vermont Compost decision. It took a lot of our time but was worth it in her opinion.

She thinks there is something they can do about the downtown signs and Montpelier Alive needs to take the bull by the horns. We can have designated downtown directional signs. There is a provision in the statute that allows that. She wasn't the one who wanted to pull the paper signs down. In fact, she thought they added something to the community and the liveliness of postering.

10-148. Report by the City Clerk-Treasurer.

City Clerk-Treasurer Hoyt reminded folks that the water and sewer bills are due on Tuesday, June 15th. She also reminded the Council of the Board of Civil Authority training being held on June 15th at 6:00 P.M.

10-149. Status Reports by the City Manager:

City Manager Fraser said there is an executive session request.

The Water Rate Committee just met to talk about water and sewer rates and there will be some recommendations at future meetings. The good news for right now is that sewer looks pretty good and the recommendation for this year is there will be no change at all in the sewer rate. Because of the change in the grand list the 2 cents on the sewer benefit charge and reducing the CSO charge from 10 to 7 cents were able to raise enough money to basically eliminate the deficit in the sewer fund over the next two years.

Water is a lot more challenging. They had a little more difficulty coming to a consensus on water. First of all, the deficit is larger. Secondly, it has such high fixed costs that what they are seeing is as they keep raising rates to the point of elasticity and demand, people are fleeing the rates. They are seeking alternatives. Most recently National Life just reduced their use by 30 to 40 percent by pressure treating their whole building, but that is lost revenue to the city. There is a real incentive if you are a high user to seek alternatives. On the other hand, we have fixed costs we have to cover. They talked about reducing the top rate, but that really shifts the burden on to the smaller user. What the Water Rate Committee has agreed on is figuring out a way to beef up the fixed rate portion of the rates because that is a fixed cost we have to deal with. It is the cost of the debt. Right now we

call it the readiness to serve charge. That is a cost we have no matter whether somebody uses the water or not. It wouldn't just be raising the current charge but coming up with a usury scheme. The members of the committee were unanimous on that and one wanted to retain a consultant to help us to do that. The suggestion is they would not want to do anything with rates right now and see if they could have a proposal for September 1 and tell the community we are undergoing this effort and it will be to deal with fixed costs and a fixed portion of the rate. The committee is struggling with this and they want to make a very thoughtful recommendation to the Council and public.

City Manager Fraser said he just learned late this afternoon about a possible dilemma with the Carr Lot and the District Energy Project. It may well require an agenda item at the next meeting. With the Carr Lot we have the potential issue about the floodway and we have filed an appeal to that. They are actually meeting with Senator Leahy's Office on Monday to see if we can expedite the decision. In anticipation that it might go bad for the city and not use the Carr Lot, Gwen suggested we might look at a possible combined use with the District Energy Plant. She did a great deal of work with both the Department of Energy and the Federal Transportation Agency. The Department of Energy is concerned that any waiting on the Carr Lot will hold up the district energy project, and they don't want anything to delay the project. With the Carr Lot the FTA people are saying they thought we had switched to the other site and we told them they were only considering it. Because it is the federal government and they are so flexible they are saying they need the environmental assessment for the project they want. Basically, the FTA folks are sick of all of the issues that had to do with the Carr Lot. They don't like the retaining wall; they don't like the contamination issues; they don't like the acquisition issues. They want us to move the whole project. We can tell them the Council will discuss this issue in two weeks when it has been duly warned and the public has a chance to come and talk about it. There is work that has to be done for the District Energy Plant anyway. In terms of an environmental assessment there is a lot of work to be done on the site. What we are waiting for now is information from FEMA and EPA, and with the Transit Center they are now threatening to take the money away if we don't get moving. There is a meeting scheduled Monday at Senator Leahy's Office to talk about speeding up the decision with FEMA.

This will be on the agenda for the next meeting.

Discussion of summer meeting schedule.

This was considered earlier in the meeting. The decision was to hold the meeting on July 14th, July 28th and August 11th.

Update on collective bargaining with the police union. Possible executive session under 1 VSA 313 (a) (1) where premature public knowledge would clearly place the city at a substantial disadvantage.

Motion was made by Council Member Jarvis, seconded by Council Member Sherman to go into executive session at 10:13 P.M. in accordance with 1 VSA 313(a) 1 to consider a collective bargaining issue with the police union where premature public knowledge would clearly place the city at a substantial disadvantage. The vote was 5-0, motion carried unanimously.

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

After motion duly made and seconded by Council Members Jarvis and Sherman the council came out of executive session in accordance with 1 VSA 313(a) whereby they had discussed a collective bargaining issue with the police union.

Adjournment:

Motion was made by Council Member Jarvis, seconded by Council Member Sherman to adjourn the meeting. Motion carried unanimously.

Transcribed by: Joan Clack

Attest _____
Charlotte L. Hoyt, City Clerk