

CITY COUNCIL MEETING STATED MEETING & PUBLIC HEARING JUNE 23, 2010

On Wednesday evening, June 23, 2010, the city council members met in the Council Chamber.

Present: Mayor Hooper; Council Members Weiss, Sheridan, Sherman, Hooper, Golonka and Jarvis; also Assistant City Manager Hill. City Manager Fraser was on vacation.

10-151. Call to Order by the Mayor.

Mayor Hooper called the meeting to order at 7:03 P.M.

10-152. General Business and Appearances.

None.

10-153. Consideration of the Consent Agenda:

Consideration of the Minutes from the May 26th, 2010 Regular Meeting.

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

Ratification of a catering permit issued to Vermont Hospitality Management d/b/a New England Culinary Institute to cater a reception and dinner at Hopkins House at National Life on Wednesday, June 16, 2010 from 4 p.m. to 9 p.m. for sixteen people.

Consideration of awarding the bid for a Tax Anticipation Line of Credit for \$4,000,000. For FY'11 (July 1, 2010 to June 30, 2011) to cover the expenses for the City's General Fund, School Department and Recreation Department. Bids on the interest rate were received on Thursday, June 17, 2010. A tabulation sheet listing the results has been provided to the Council.

Staff recommends that we accept the bid for a Tax Anticipation Line of Credit from Merchants Bank at the rate of 1.84% and authorize the Mayor, City Council and Treasurer to sign the necessary documents.

Consideration of awarding of Bid for Trash & Recycling Barrels Maintenance.

Bid documents were sent to three vendors. One bid was received from the current vendor, Lloyd Franks of Plainfield, with whom the department has had an excellent working relationship since 1993.

Staff recommends awarding the trash and recycling barrels maintenance contract award to Lloyd Franks for \$10,813.40 with the condition that all material collected be disposed of at the Public Works Garage, and to authorize the City Manager to sign all contracts and other documents.

Consideration of awarding of bid for Maintenance of the Public Works Building.

Four bids were received; council has been provided with tabulation sheet. Low bid was submitted by A+ Touch Custodial, our current vendor.

Staff recommends awarding the bid to A+ Touch Custodial of Northfields Falls, Vermont, for maintenance of the Public Works Building at 783 Dog river Road, in the amount of \$5,700 and to authorize the City Manager to sign all contracts and other documents.

Awarding of Bid for Police Cruiser to Cody Chevrolet for \$20,753.

This amount is less than proposed in the 2011 Fiscal Year Budget.

Approval of contract for Services with Time Banks USA (TBUSA) for the Community Innovations for Aging in Place (CIAIP) REACH Project.

Approval of contract for Services with Kathleen A. Maloy, JD, PhD, Principal Strategic Consulting for Equity in Health for the Community Innovations for Aging in Place (CIAIP) REACH.

Approval of payroll and bills.

General Fund Warrant dated June 16, 2010, in the amount of \$640,305.90.

General Fund Warrant dated June 17, 2010, in the amount of \$2,039,120.69.

Payroll Warrant dated June 24, 2010, in the amount of \$27,851.71 and \$109,970.47.

Upon request by council members the tax anticipation line of credit, bid for trash & recycling barrel maintenance, contract of services with Time Banks USA and services with Kathleen A. Maloy were removed from the consent agenda to be considered separately.

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

10-153(a) Consideration of awarding the bid for a Tax Anticipation Line of Credit for \$4,000,000. For FY'11 (July 1, 2010 to June 30, 2011) to cover the expenses for the City's General Fund, School Department and Recreation Department. Bids on the interest rate were received on Thursday, June 17, 2010. A tabulation sheet listing the results has been provided to the Council.

Staff recommends that we accept the bid for a Tax Anticipation Line of Credit from Merchants Bank at the rate of 1.84% and authorize the Mayor, City Council and Treasurer to sign the necessary documents.

Council Member Golonka thanked Finance Director Gallup for the information she had provided to him. He wasn't against this, but was concerned that we were doubling the request from last year. He spoke about the interest expense for this past year and that this type of expense takes away from our budget. He was wondering if there was a way of delaying payments and asked if staff had looked at that.

Finance Director Gallup said City Treasurer Hoyt deals with the cash flow on a daily basis and comes up with the amount that the city needs to borrow. She went on to say that the last time the city went through a reappraisal and tax bills were sent out late we borrowed between \$3 and \$3.5 million dollars. This request reflects that the tax bills will be going out late and the Montpelier School Systems tends to draw down heavily before the first tax installments are received. We normally don't pay the outside agencies until the first installment comes in. She would need to look at that process.

Council Member Golonka said this was a prime example of why we need to build up our reserve funds.

Finance Director Gallup clarified that it was not just the general fund, but all the funds including the water and sewer fund. We did have interest income of approximately \$15,000 this year.

City Treasurer Hoyt explained that she had gone with the line of credit instead of a tax anticipation note because with a note you have to take the full amount up front and you might be able to pay it off a month or two in advance, but you do have that interest expense for that ten month time period. Right now for investment purposes the rates are not that good. With a line of credit the plan is to only take what we need until the tax revenues start coming in hopefully in late September. This tax anticipation note also covers the recreation and school departments. During the first two months last year the school department alone requested over \$2.5 million dollars.

Mayor Hooper suggested working with the school.

City Treasurer Hoyt said City Manager Fraser has sent an e-mail to the Superintendent and School Business Manager explaining the situation and asked for their assistance. A cash flow from the school had also been requested, but had not been received at this time.

Mayor Hooper suggested that if they were going any further with this perhaps we need to have an agenda item, because the Mayor and other Council Members had not received the information that Council Member Golonka has received so they were at a disadvantage.

Council Member Golonka said he was concerned and felt it needed to be discussed.

Assistant City Manager Hill said City Treasurer Hoyt plans to only drawdown on the line of credit as needed. Finance Director Gallup will be looking at ways to delay payments as needed.

Mayor Hooper suggested setting up a meeting to discuss this at a later date and included school representatives as well.

Motion was made by Council Member Hooper, seconded by Council Member Jarvis to award the bid for a Tax Anticipation Line of Credit for \$4,000,000 for FY11 to Merchants Bank at the rate of 1.84% and authorize the Mayor, City Council and Treasurer to sign the necessary documents. The vote was 6-0, motion carried unanimously.

10-153(b) Consideration of awarding of Bid for Trash & Recycling Barrels Maintenance.

Bid documents were sent to three vendors. One bid was received from the current vendor, Lloyd Franks of Plainfield, with whom the department has had an excellent working relationship since 1993.

Staff recommends awarding the trash and recycling barrels maintenance contract award to Lloyd Franks for \$10,813.40 with the condition that all material collected be disposed of at the Public Works Garage, and to authorize the City Manager to sign all contracts and other documents.

Council Member Weiss said on the agenda item it listed a price of \$10,813.40 and on the tabulation sheet it shows a figure of \$34,307.

Assistant City Manager Hill explained that the \$34,307 figure was if he disposed the trash at the landfill. The accepted bid was with disposal at the city garage.

Motion was made by Council Member Weiss, seconded by Council Member Sherman to award the trash and recycling barrels maintenance contract to Lloyd Franks in the amount of \$10,813.40. The vote was 6-0, motion carried unanimously.

10-153© Approval of contract for Services with Time Banks USA (TBUSA) for the Community Innovations for Aging in Place (CIAIP) REACH Project.

Approval of contract for Services with Kathleen A. Maloy, JD, PhD, Principal Strategic Consulting for Equity in Health for the Community Innovations for Aging in Place (CIAIP) REACH.

Council Member Weiss said he didn't understand this because we are approving this tonight and if you look at the payment schedule one started in April, 2010 and the other is November, 2009.

Planning & Development Director Hallsmith explained that these contract are part of the REACH Program. The reason that they were not approved sooner was due to her medical leave over the winter. The grant projects had to continue so they were working on an as needed basis without a contract.

Council Member Weiss asked if this was federal money?

Planning and Development Director Hallsmith replied yes.

Council Member Weiss said aren't there federal regulation on paying someone retroactively.

Planning and Development Director Hallsmith replied these contractors were submitted as part of the grant. The contract is more a city formality.

Motion was made by Council Member Weiss, seconded by Council Member Hooper to approve the contract for services with Time Bank USA and Kathleen A. Maloy, JD, PhD.

Council Member Jarvis inquired if entering into these contracts would prevent the city from outsourcing these programs in the future. The response was no.

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

Mayor Hooper returned to General Business and Appearances as Calvin Smith had arrived and would like to address the council.

10-152. General Business and Appearances.

Calvin Smith, River Station Condominium Owners Association, Vice President told the council that he appreciated their service to the community.

He submitted a letter from the association supporting the completion of Turntable Park. They felt it was an important part of the city's long term plan. A copy of the letter will be attached to the minutes.

Mayor Hooper reminded the council that they needed to do an add on item for the nomination to the Vermont Municipal Employees Retirement System.

Council members referred to a memorandum from Todd Law, Public Works Director regarding the SCADA issue and asked if this needed to be added to the agenda.

Assistant City Manager Hill said she didn't think that it needed to be acted upon tonight. She went on to say that they could add it if they felt comfortable doing so.

10-154. Second Reading of Proposed Ordinances Concerning Berlin Pond.

City Attorney Paul Giuliani has recommended two ordinance amendments relating to use of Berlin Pond. The amendments were discussed at the June 9, 2010 meeting. The City council voted unanimously to proceed with the second public hearing process for adoption.

Staff has provided Council with a revised draft by Attorney Paul Guiliani, dated 06-10-10.

Mayor Hooper opened the public hearing at 7:24 P.M., no one came forward to comment and the public hearing was closed.

Council Member Jarvis questioned if they needed to convene as the Board of Health and had it been properly noticed. She was going to research state statute.

Mayor Hooper said a revision to the ordinance had been provided to council members by email. She referred to Sec. 7-605 adding "and as generally defined in the plan as a 200' zone around the pond and its tributaries" and at the end of that section

“or scientific investigation. The City Manager shall approve any access”.

Council Members accept the additional wording.

Council Member Golonka questioned the definition of human activity.

Mayor Hooper indicated that the definition was in the source protection plan. A discussion followed.

Mayor Hooper asked Council Members if they needed more time to sit with the plan to understand what it is they are doing. She would note that the plan has been their working document for how we do things around the pond since 1997.

Council Member Golonka said he is concerned over one section. The rest seems reasonable to him.

Mayor Hooper said somewhere in there is explicit language about existing activities are allowed unless they are found to be creating a health hazard.

Council Member Sheridan moved the second reading with the added language as proposed. Council Member Jarvis seconded the motion.

Mayor Hooper said maybe they need to go back and convene as a Board of Health even though it has not been noticed and make the finding. Alternatively, they could adopt the ordinance. They could warn their meeting as the Board of Health for the next meeting and make the finding. A third way would be to table it, warn as the Board of Health and do both at the same time.

Assistant Manager Bev Hill said the next Council meeting is July 14th.

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

- 10-155. City Council requested that time be allotted for a general discussion of our policies regarding penalties and interest for late payment of taxes, water and sewer.

Staff has provided council with a copy of the ordinance, Chapter 16, Article I. General Taxation, Sec. 16-1 through 16-8. Staff has also provided a memo of various ways that other communities handle this, as well as the revenue implications.

Recommendation: Discussion, direction to staff.

Mayor Hooper said in their packets was a memo from Bev Hill. She had spoken with Steve Jeffrey this afternoon and forwarded to Council Members some of the things he sent her. She and the City Clerk received a letter from an individual who had requested relief from the Board of Abatement and he was reiterating his concerns about the city's procedure and his frustration.

Assistant City Manager Hill said she tried to give the Council a range from charging no penalties at all to a neighboring community who actually charges less for the first 30 days but thereafter charges more. She also wanted to tell them how state statute works when you don't have a charter that specifies the process. In the state statute no penalty can be charged until the final payment. Her concern there is if you don't have your money in August and you don't get a penalty because your finances got turned around, but somebody else had the money in August but maybe they had a glitch in their finances and they are going to get a penalty. She would hope they would not adopt that type of a route. Whether or not they want to charge less in the first 30 days is something for their consideration. There are those who know they are going to be late and don't challenge it. Others like the business that requested an abatement because they were one day late is something that angers people. She personally doesn't have the ability to waive the penalty. She was directed when she was hired not to waive penalty fees but she does have the ability to waive interest.

The only time she has waived the penalty is in a situations where there have been confusions. Three years ago when they changed the due date on the first installment they made an administrative decision that we would be lenient because people were confused, and they anticipate some of that this time. They aren't only changing the due date to a different month but the day of the month.

She reviewed the revenue piece with the Council. On average there are about 200 accounts that go delinquent each quarter and probably 50 of those are a dollar short and a day late type situations. She would recommend against doing a grace period because they tried that years ago and you simply face the same question 30 or even 10 days later.

Council Member Golonka explained that the case before the Board of Civil Authority was the issue of a person who has paid taxes every time on time regularly for years and never had a problem and suddenly they missed a payment by a day. If we make in the policy that people who potentially have one shot. You automatically extend them a late fee if they are late, but if they never had an issue and this is the first time on their property she would have the ability if they do pay within a day or two to waive the penalty. Would she like that flexibility? He doesn't want to make Bev judge and jury.

Assistant City Manager Hill said the city's existing software lets her go back 10 years or more. If you said you have not been delinquent within the last five or ten years that is a guideline for her and then she is not being judge and jury. She is following a policy that the Council has established.

Council Member Golonka said he doesn't want to extend it more than a certain number of days. He doesn't want to have a grace period. It just sets the bar 30 days later and you have the same issue. If she had the flexibility if somebody appeals the fine and she had the ability to look back at certain parameters would she be interested in something like that?

Mayor Hooper said she wanted to offer a little more factual information of what she gathered from Steve Jeffrey from the League of Cities and Towns. They annually survey their communities on a full range of things. Of the 203 towns that responded most recently, which was in 2008, 198 of them have the 8 percent penalty which is what Montpelier has. State law provides for that to be reduced and 5 towns have reduced it. They are concerned that delinquencies might be a real problem if they took it down to 0 percent. Then, there are a dozen or so towns that have charters that allow them to do things differently. Barre City and Town, South Burlington and Colchester follow exactly the same process we do with the same 8 percent.

Assistant City Manager Hill said she understood that Barre Town was 5% for the first thirty days and after thirty days an additional 8% thereafter.

Mayor Hooper said Newport, St. Albans, Vergennes and Bennington follow the state law. Because they don't have charters they are required to follow the state law. He said Burlington was hard to figure out. Rutland has a 5 percent delinquent rate. If it is not paid for a year they add another 5 percent, and then there was something about 3 percent. The first question is do we want to change. If they do, what do they want to consider? She would suggest that what Tom is suggesting they would want some legal advice. Would they have to change the charter?

Council Member Golonka said he wasn't saying to change anything but to give Bev a little flexibility with strict parameters.

Mayor Hooper said the charter says you do it this way. We don't get to say we don't mean that so they would have to change the charter. It is quite explicit. They heard from a residential property owner four or five years ago the same story that they have been here forever.

Assistant City Manager Hill said only the Board of Abatement can waive fees.

Council Member Golonka said they said at the Board of Abatement they couldn't waive fees.

Mayor Hooper said the Board of Abatement can only follow the statute which says you can only be abated for those seven reasons listed in the statute. Unfortunately, he wasn't looking at what the statute was saying. He was just saying we were unfair.

Council Member Sherman said she wonders if there is a way to be preventive and advertise the due date more vigorously so that people don't forget.

Council Member Jarvis said they could put a sign board out in front of City Hall stating there is a meeting tonight and taxes are due on such and such a date.

Mayor Hooper said that in fact is what a lot of towns do.

Assistant City Manager Hill said it is in the newspaper and on the radio. There are people who say to us they wish we would send them a bill every quarter but that becomes expense.

Council Member Weiss said Gwen is going to be discussing with the Council this evening about possible charter changes relating to biomass. He would not like to see in November any more charter changes except those which are specifically relevant to that issue which has to do with biomass and other charter changes could wait until March.

Council Member Golonka said he doesn't think they need to change the charter for this. It says in the charter under delinquent taxes penalties and interest as provided by ordinance and by law shall be added to each delinquent tax. It doesn't say you can't have an ordinance that specifies different changes.

Mayor Hooper said they would have to change the ordinance and not the charter. She comes back to the question, is this something the Council would wish to consider? This is only the second time out of thousands of payments that property taxpayers have made.

Assistant City Manager Hill said a lot more people have suggested some form of revision to both the City Clerk-Treasurer and her but have not wanting to go public and discuss it with the Council.

Council Member Sheridan said Tom doesn't want to draw down credit and this is set up to prevent things like that.

Council Member Golonka said he isn't looking to change it but to give Bev a little bit of flexibility in the extreme situation such as that gentleman. If they missed it one time in 10 years she would have the ability if it was paid within a five day period – he would still get the notice and the fee. He would want it to be very focused and defined to give Bev a little bit of leeway in those extreme situations and not to change the rule and keep the 8 percent.

Council Member Sheridan said if they don't define that real tight it's going to be picked and nibbled around the edges constantly, and it will create more problems for Bev than she has now.

Mayor Hooper said one of her questions about the process he suggested is, what if she just moved into town and only been here a year? She has no record. My burden and need is just as great so we are only going to allow long term property owners that sort of special privilege and not newcomers.

Council Member Weiss said in 2009 he missed his property tax payment by one day and he paid the tax and paid the penalty. Is he entitled to have some type of flexibility?

Council Member Sheridan said this came up early on when he was sitting here and they had a long discussion about it then, and it got real complicated and in the end everybody just let it go.

Council Member Jarvis said her inclination would be not to touch it.

Council Member Sheridan said if you can't be responsible for when your payments are due is the City supposed to hold their hand. If you can't trust yourself set it up for automatic deduction. Things are in place for that.

Mayor Hooper asked if there was a consensus on this.

Elizabeth Dodge from Freedom Drive and she was delinquent tax collector in Berlin for sixteen years. She would be very hesitant to give any kind of an okay to letting people be late on paying without penalty. Judging from her experience she thinks there would be a fairly good number of people who would come in and say they shouldn't have to pay the penalty.

Council Member Sherman spoke about the drop box and she knows lots of things get dropped in the post office box after the last pickup, and she has done that. She thinks they need to hold firm on this also. When the drop box gets opened and when the mail gets delivered there may be some opportunity for small variations, but we

should keep the rules.

Mayor Hooper recognized Fred Skeels.

Fred Skeels said he was present about the SCADA issues and upgrades. It was supposed to go on the consent agenda. The system is failing. They are all interconnected and they automate pump stations, receiving stations, chemical additives, and if it goes south or if the whole thing crashes then there will be potential fines.

Mayor Hooper said one of the issues was they hadn't budgeted enough and it is about \$10,000 more than they had anticipated.

Council Member Jarvis said the upgrades it is \$54,573 and we had budgeted \$12,000 in the capital budget FY 11 and established probable savings in items that will not be purchased/performed to compensate for the additional costs necessary to upgrade the status systems.

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

- 10-155(a) Consideration of upgrades to the SCADA system in the amount of \$54,573. (See attached memorandum from Todd Law, Public Works Director to City Manager Fraser for information and recommendation on this item)

Council Member Jarvis moved that the Council authorize the City Manager to approve the expenditure of approximately \$55,000 for the upgrade of the SCADA systems for the water and sewer utilities. Council Member Hooper seconded the motion.

Council Member Sheridan asked if the computers were \$5,000 each.

Mr. Skeels replied yes, they are actually servers.

Mayor Hooper called for a vote on the motion. The vote was 5-1, Council Member Weiss voted against the motion he felt this was very sloppy financial management.

- 10-156. Update on Transit Center and District Energy

The City is waiting for a floodway determination from FEMA with regard to the Carr Lot property which is the planned location of the Transit Center.

As a possible alternative (depending on the floodway decision), the City has explored co-locating the transit center with the District Energy Plant.

The Department of Energy (DOE) and Federal Transit Agency (FTA) have agreed upon a joint Environmental Assessment (EA) process.

DOE has scheduled a public hearing on the proposed project for July 27th in Montpelier.

Both DOE and FTA are encouraging the City to make a final decision about the transit center location.

Planning Director Gwendolyn Hallsmith will update the Council on the process to date on how both projects may or may not interrelate.

Recommendation: Receive the update, provide direction as necessary.

Planning & Development Director Hallsmith said the Transit Center and District Energy is what they are going to talk about more than either one individually. To give a quick update on the District Energy project the environmental assessment process the Council approved has begun. They are having regular meetings with the Department of Energy (DOE) and the Federal Transportation Agency (FTA). The contractor is doing a great job keeping informed about that. The letter that is going out to a lot of the agencies describing the process has been issued by now and they are planning a public meeting on the subject to inform the public of the environmental assessment and to give them an overview of the project on August 3rd.

As she has talked before the floodway ruling by FEMA has caused them to rethink how they are going to handle the Transit Center. Part of the idea of combining the two projects had to do with what amounts to a contingency plan for the Transit Center should their appeal with FEMA fail. They don't have word on the appeal with FEMA, although the City Manager and DuBois & King met with Senator Leahy's Office last week. Senator Leahy sent a letter to FEMA asking that our appeal be moved to the top of the pile so we can continue with these projects knowing whether that lot is classified as floodway or not because that is a critical issue at this point.

They had been talking to DOE and FTA about whether the environmental assessment that they have currently underway could be used for both projects that

was another critical path item as they were selecting a consultant to perform the environmental assessment and moving forward. They agreed that both projects could be considered under the same environmental assessment, and it is her opinion that the FTA was rather happy with that eventuality because the Carr Lot has really been one problem after another. There are a lot of issues that have come up so moving it off the Carr Lot made them quite happy. She doesn't think they fully understood the fact that we were talking about a contingency plan based on the FEMA ruling so when she reminded them of that they asked her to ask the Council for a resolution stating that the combination project is our preferred alternative. They have discussed this and she thinks it is a favorably considered alternative as a contingency plan to the Carr Lot project. She doesn't think any of them, and especially the Council, have said this would be a preferred alternative without the Carr Lot project involved and it is probably premature to say that. It might help the situation with the federal agencies if tonight the Council could say if the FEMA ruling fails, if the appeal with FEMA fails, then the combination project is the preferred alternative. They are looking for more clarity from the city on where the combined project stands in planning for both of these facilities.

Council Member Sheridan asked if they combine the projects how does it affect the \$800,000 bond vote which is specifically about the Carr Lot.

Planning & Development Director Hallsmith said the \$800,000 bond vote was specifically about the Carr Lot, and it is an important part of our match for the facility. If they combine the two projects she believes that our legal counsel will tell us that we need to put that up for another vote to redirect that money to the combined project to provide the match and the support that we need to continue with it on the other site because she believes the original bond language included language about that specific property.

Council Member Sheridan said that was voted with a specific purpose in mind ten years ago, and they would have to do that over regardless of what Council says.

Planning & Development Director Hallsmith said even legal counsel would tell you that would be required.

Council Member Sherman asked what the State of Vermont think about this. They are very fond of their parking lot where this would stand to occupy and displace their parking.

Planning & Development Director Hallsmith said in some ways the combination of the projects might help us solve the parking problem because it would bring some of the funding for alternative parking to the new project. The energy plant will already

displace about 50 spaces of state parking, and without us controlling the nearest open parking that would be the Carr Lot we can't promise to build spaces anywhere. What they have been exploring with their consultants on a preliminary design basis is what if the Transit Center occupied the ground level of the western part of the site, which is the backup oil storage and generation facility for the state plant, and we built parking on top of that and moving the parking vertically instead of trying to replace it on the level ground. This project if we relocate to the new facility might solve that problem while we are still working on two projects.

When they met with Jerry Myers at the Building and General Services Department he saw that potential benefit as a positive thing, although it still needs to be fully designed and evaluated as to how it would work on the ground. Their preliminary meeting with Jerry Myers on that was received favorably because of the potential for the parking that could be developed as a result of the combined projects.

Mayor Hooper asked if there was a draft Letter of Intent with them.

Planning & Development Director Hallsmith replied we do.

Harold Garabedian said it doesn't get into a level of detail but it certainly does talk about the Transit Center.

Council Member Weiss said he has a great concern. There are fourteen people in this room and come November the Montpelier voters are going to be asked to vote \$800,000; \$20 million there and a charter change here, and a district establishment. What we need to do is not to answer the theoretical question of how nice it would be to put a Transit Authority building along the biomass building behind the Education Department building, but what are the political realities? If we put two major items like the Transit Center and the Biomass we could lose the whole thing. We need politically to take time, and when you consider that our next meeting is not until the 14th of July that in August we really have to begin to plan all of the detail that goes into anything dealing with the charter because we have to be prepared 90 days in advance and a bond is 60 days in advance. He would like us to discuss this seriously not from a philosophical point of view but from a political view of how we are going to get enough people informed in this city so they will support the 4 or 5 key items.

Council Member Golonka asked when they anticipated the floodway designation determination coming. If we receive a negative on that, is the Carr Lot dead?

Planning & Development Director Hallsmith said if we lose our appeal on the floodway designation then at least the transit center portion of the Carr Lot cannot continue because that is a building. There is another part of the Carr Lot project that

is flat land. That is the Confluence Park, the bike path and the parking. That is a perfectly legitimate use of that land even if it is a floodway so the entire project isn't gone but at least the part that was the Transit Center is gone.

Council Member Golonka asked when the feds will take the money back.

Planning & Development Director Hallsmith said that is the other bit of time pressure they are under because there is legislation being considered at the national level that the staffers at the various Congressional offices fondly refer to as the "Club Act of Earmarks." The money that has come to us on the Transit Center is earmarked funding and is well overdue for being spent, and if you don't manage to get it obligated in a relatively reasonable period of time it is likely that we will lose that money. Council Member Weiss is absolutely right, that we have the same time pressure with the ARA funding that we received for the energy plant. In fact, that was one of the key concerns that the DOE raised with us when we talked about combining the projects because they don't want the combination of projects to interfere with the timing of either of them. We are under a very similar time pressure for both of them, and that is why they combined the environmental assessment so that we would be moving forward with a joint consideration and might have some of the answers they needed in a timely fashion. To answer part of Alan's concern they are also very mindful of the need to execute a very extensive public participation process, and they have meetings this week and next week to do that. They are preparing materials, engaging consultants and going to be moving forward with a public process in helping people understand what it is we are proposing. That is the most important part of this project.

They are under a lot of time pressure with both projects. They are both very complex projects with a lot of moving parts, many of which we do not control because it is on state land and the State Buildings and General Facilities Offices through the Legislature has the ultimate say on what happens on that land. There are all kinds of trip wires in this system that could make us lose any of the 18 different types of funding we have directed at both of these projects. They are just trying to do their best to keep all of this money in the city of Montpelier. There is \$8 million dedicated from DOE; another \$7 million in both FHW and FTA funding for the transit facility. They are just trying to execute a plan that will keep it here.

There are alternatives on the Transit Center. She doesn't ever want to lead them to believe that combining it with the energy plant is the only way to go. Another possible alternative is to find an existing building that could serve as a transit center and redevelop an existing building for that purpose because under that scenario we could get a categorical exclusion from the environmental impact requirements. That would also be able to proceed in a relatively rapid fashion. The issue really is if we

redevelop new land then we have to perform an environmental assessment and possibly an environmental impact statement if enough issues turn up in the initial assessment to prove we need to do that. While we were under way with an existing environmental assessment on a site it seemed sensible to her, especially given the proximity of the energy plant to the visitor center and a relatively central location to all of downtown, it seemed a reasonable thing to consider. She doesn't have a realistic alternative even though she has thought of many existing buildings. Maybe we could use the video store but that would dedicate some of our downtown retail space to a transit facility which isn't the best use of our downtown retail space. There is the existing Amtrak station but that is way out of town.

Harold Garabedian said the decision by FEMA is really what is going to take some of the options off the table.

Council Member Sheridan said first of all they don't know if they are the only letter to FEMA being asked to be placed at the top. Every other project there may be a Congressman writing a similar letter. There could be 50 of these requests. We could hardly find a place for the bus to stop, and now we are going to try to find a transit center downtown. He hates to see our staff wasting our time on a dream chase. If the floodway designation fails you are going to ask us to take the Carr Lot by eminent domain for just a bike path.

Planning & Development Director Hallsmith said she didn't say that.

Council Member Sheridan said that is how they would have to take it. To him that suddenly gets a lot harder to say this is something we have to do. It is one thing if they are going to put a transit center there, but if we are going to put a single lane bike path and park. He wasn't going to vote for eminent domain with a building, and he certainly isn't going to vote for it for a bike path.

Planning & Development Director Hallsmith said she wasn't suggesting they would do that. She was just trying to be very clear on what part of the project would be a problem if the floodway stands because the other parts of the project would still be allowable under the floodway rules.

Mayor Hooper said she had a couple of thoughts about the possibility of putting in a transit center on state property down where the district energy plant will be. When we were having the Carr Lot conversation there was a great deal of discussion about wanting to have the transit center accessible to the downtown, that we were interested in providing service to folks who use the city of Montpelier. At that point we did talk with the state about paving on state property and the state said no, we couldn't use their property in that way. Her recollection is that we were more interested in having

it down here. She is wondering why we would want to spend whatever the local match is to locate a transit center that would principally serve the State of Vermont as opposed to being the direct benefit to our community is somewhat lessened. There are some really high hurdles to overcome in terms of the state figuring out if it wants to participate in locating it there. She had been thinking there was going to be a reaction by people who care about the Capitol Complex of having a building behind 120 State which is the large marble building in front of the State House. The energy plant is already an issue. What she hadn't thought about was the view shed driving into the city. The Capitol Complex Commission was in fact created when the Stockyard Restaurant was sold and the Credit Union was built because it blocked the principle view of the Capitol as you were driving into town. That was a long way of saying there are going to be very strong reactions with influential people within the state complex saying that the view shed is going to be a big problem.

Harold Garabedian said they have recognized that and had some conversation about the view shed. One of the opportunities is to actually design this building in a way that it looks to the river as an asset as opposed to having the river in back of everything. It is certainly a question they recognize. It is a very complex project.

Planning & Development Director Hallsmith said part of what will make even the energy plant on its own difficult is the amount of parking it takes up. Her secret hope is to combine the projects so they might be able to address part of that parking issue that comes with the energy plant on its own.

Mayor Hooper said this in fact would become replacement parking for the parking that is lost because we are putting the energy plant there and not that we are creating any additional parking.

Planning & Development Director Hallsmith said they would be trying to create additional parking for the service to the transit center and for the needs of the energy plant. In the process she is hoping they will be able to create the parking that would be needed to eliminate the loss of parking from the energy plant. It's a complex project.

These are both two long standing projects for the city. Both of them have been on the boards for 10 years so bringing them to completion would also be a step forward for the city as well. They might both come to completion together instead of separately.

Mayor Hooper said she wants to come back to the point someone made about what the plans are and what the expectations are for the development of the Carr Lot, which was the Transit Center and additional parking, the bridge across the North

Branch and the completion of the bike path. She thinks that is the reason the whole community could get behind it. She suspects if they only did one of those things there would be a lot less strong interest in it, but now we are talking about not doing some of those things.

Harold Garabedian said the critical element is what decision FEMA makes on the appeal. It is recognized that this is the community's first choice there, and if the FEMA appeal is overturned that is the way the project is going. They are just planning for the alternative.

Mayor Hooper said if she understood them correctly they are asking the Council to pass a resolution this evening saying we support moving the transit center.

Planning & Development Director Hallsmith said that is what the FTA would like them to get the Council to say. She also has a hard time asking that herself because she wants to know the outcome of the FEMA ruling before she asks the Council to make that decision. If the FEMA ruling is such that the floodway stands then their preferred option is to combine the projects. That might be something we consider as an option, but without seeing plans for what we are talking about with the Transit Center combined, which they are still working on themselves, she wouldn't blame them if they said to come back after the FEMA ruling.

Council Member Jarvis said as resolutions go she doesn't see any harm in the Council passing it. Saying this is our preferred alternative, what does that really mean?

Harold Garabedian said it is just a public acknowledgment. They are looking at a contingency, and that is the responsible thing to do.

Council Member Weiss asked if they were going to meet with the state on Friday. Before he would consider a resolution on somebody else's property to build something he would suggest they have a friendly off the record discussion with the state saying the Council is considering this and what would their attitude be. For the Council to publicly approve or vote for a resolution with somebody else's property doesn't sit well.

Mayor Hooper said she believes Council Member Weiss is suggesting they continue having these conversations and the sense of the group is they may consider it a little later.

Harold Garabedian said they can go back and recognize they have had this public conversation and contingency planning is the sensible thing to do given the situation to get there.

Council Member Sherman said she believes they received positive response from the Council as they laid out the complexities of this option.

Council Member Weiss said he would like this on the agenda for the July 14th meeting because this is a topic that should not run afoul. They will be meeting with the state and have some new information, and they may hear from FEMA and they may also want to talk about political considerations.

Planning & Development Director Hallsmith said the other thing that should be on the July 14th agenda is the appointment of the Energy Committee.

Planning & Development Director Hallsmith said she would like to report on their proposed journeys next week. Kristen and Erin are going to the Netherlands, and there will be an article about that in the paper tomorrow and she will be in Singapore speaking to the World Cities Congress and the U.N. Convention on Biological Diversity about the work that Montpelier has done on our Master Plan and efforts to preserve our biological diversity in the city. They are paying her way there. There has been a wonderful outpouring of support from people in the community that have helped subsidize Kristen and Erin's air fare to the Netherlands. They have been working as VISTA volunteers for the city. Kristen has been working for two years living on poverty level wages working on the Master Plan. Erin has been here for a year. She is really pleased they have this opportunity. They will be talking about our process with cities in the Netherlands who are trying to begin the same kind of process themselves. They will have an interesting time as ambassadors for the City of Montpelier. They will be leaving in August, but they have two new VISTAs who will work on helping us implement the Master Plan. One has a master's degree in land use planning and will help with the zoning. The city received the municipal planning grant in the amount of \$15,000 from the state to help with that process.

- 10-157. Senior Center – Review Draft proposal prepared by Councilor Jarvis and consider request for a 501(c) (3) Friends of MSAC designation for Seniors to conduct a Capital Campaign to raise funds for the Center renovation project.

Staff has provided copies of correspondence with Attorney Robert Gensburg regarding the 501(c)(3) designation. Councilor Jarvis draft has been included in packets.

Direct Staff.

Mayor Hooper said Council Members have received correspondence and information in their packets, and there is also a memo from Council Member Jarvis about the work that the Advisory Committee has done.

Motion was made and seconded by Council Members Sheridan and Jarvis to authorize the request for the Montpelier Senior Activity Center to form a Section 501(c)(3).

Council Member Weiss said he would like to ask Council Member Sheridan about the minutes of the May 26th meeting where he quoted going through the Montpelier Foundation without a 501(c)(3). What is the gap?

Council Member Sheridan said they have been advised by a lawyer that it would be better to separate it. A concern by people is that the city will take the money and use it for something else, and this will guarantee that doesn't happen. They don't want to discourage anybody who is worried about how their money will be used from not giving.

Council Member Jarvis said the thought about setting up this entity is that it is not just for the capital campaign but an entity that would continue to exist and continue to do fundraising and be an entity to receive donations as well.

Council Member Weiss asked if there was any significance to something being completed on behalf of this project by the end of this calendar year.

Council Member Jarvis replied yes, absolutely. The thought is that the capital campaign will be completed by the end of the calendar year.

Council Member Weiss asked if they needed to have a 501(c)(3).

Council Member Jarvis said donations that are made before the 501(c)(3) is established actually qualify retroactively or prospectively.

Assistant City Manager Hill said Attorney Gensburg said if they form the 501(c)(3) tomorrow and he gives \$100 on Friday and it gets tax exempt status in September the \$100 is deductible to him and not effectively income to the new entity.

Council Member Golonka asked if it was the intention that this group would do all of the future filings and no city employees will be responsible for filing the tax filings for the 501(c)(3). He doesn't want to see this as another account for our Finance Director.

Council Member Sheridan asked Council Member Golonka if the city took over the Senior Center.

Council Member Golonka replied they did but they didn't take over this. This is a separate entity.

Council Member Jarvis said there is no "they" and this is only separate for fundraising purposes.

Council Member Golonka said for fundraising purposes there is a lot of administrative accounting. There are also tax filing issues that come up on a year to year basis. Is this city going to be responsible for all of that?

Council Member Jarvis replied in the end she imagines yes. Their hope is that they would be able to work closely enough with the Senior Center.

Council Member Sheridan asked Council Member Golonka if he wanted to create a new position in the Senior Center to deal with it.

Council Member Golonka replied he doesn't.

Council Member Jarvis said at this point there really isn't the capacity for them to handle all of the logistics.

Council Member Golonka said this is adding an extra layer that Sandy Gallup is going to have to deal with in terms of tax filings in the city while we are doing the whole process with the audit and it is an extra staffing load.

Council Member Sheridan said they just hired extra help in that department.

Mayor Hooper suggested they bring the discussion back to the question in front of them. An issue has been raised as to whether or not we are creating an additional workload that we did not anticipate and don't have the capacity to deal with.

Assistant Manager Hill said it is staff understanding that the attorney will be doing the paperwork.

Council Member Jarvis replied that is only for setting up the 501(c)(3).

Council Member Golonka said he has been involved with a 501(c)(3), and it is a pain to send out all of the thank you letters, send out all of the tax notices for all of the

contributions for the year. Let's say there are 1,000 donations throughout the year and they will have to send out tax forms and do a tax filing.

Assistant City Manager Hill said they are required to send people a letter, but she believes that the auditors will require that all monies be accounted for through the city oversight.

Jane Osgartharp, Advisory Board Member for the Senior Center, and she is co-chairing the capital campaign when they get it off the ground. There is software for this purpose, and it is the kind of software where they can generate the thank you letters, etc. out of the Senior Center. What they won't be able to do is the actual accounting that goes into filing the tax return.

Assistant City Manager Hill said that will have to be done by the Finance Office.

Ms. Osgartharp said the paperwork involved in soliciting contributions, accounting the contributions received and sending the individuals who have contributed a thank you letter that is involved in the software. It is going to be a learning curve because they haven't used it yet, but they expect to be able to do that.

Mayor Hooper said what they come back to is the issue of the annual filing, which is a separate filing that will have to be made.

Council Member Sheridan said everything they do adds work to somebody.

Council Member Golonka said there are a lot of complications. He has run capital campaigns for the past 10 years for St. Michael's School, and it is a lot more work than they are implying. He hopes this is extremely successful and they get a lot of money for it, but he thinks it is going to put a lot of work on city staff. If we are going to put a lot of work on city staff why are we bothering to set up a separate entity? That is his concern.

Council Member Jarvis said they have legal advice that it will be easier to manage and cleaner.

Council Member Weiss said he would like to ask Council Member Jarvis another question. Is there any possibility that before the Section 501(c)(3) application is submitted it can come back to the Council for review. His major reason for asking this is there are two different 501(c)(3) tracks, and it is going to be very important for whoever is leading the project to make a determination as to which track is going to be followed and either one has implications for the city. Is there any possibility we could look at this before it is submitted?

Council Member Jarvis said she didn't see why not.

Mayor Hooper said alternatively do they need to be looking at it as opposed to providing direction as to what we want to see happen. She doesn't want to rework somebody's work.

Assistant City Manager Hill said she believes they could advise Attorney Gensburg of the concern of the fact that 501(c)(3) could have two different tracks and the Council is concerned that both could have implications and ask him to speak to that and let us know how he is going to approach it.

Council Member Weiss said the Internal Revenue Service says under the Paper Reduction Act it takes 100 hours to prepare and submit a 501(c)(3) application and there is a \$750 filing fee that goes with it.

Assistant City Manager Hill said he estimates it is going to take \$1,000 in legal fees, \$750 filing fee and about two days accounting work for Garth Genge.

Mayor Hooper said in order to make the Montpelier Senior Activity Center work at 58 Barre Street a sum of money needs to be raised and we don't want to see that coming out of the city's capital budget and we have been explicit with the seniors that we are shifting that burden to them. They need a vehicle to accomplish this. We have to help the seniors raise the money and create a process for them to do this.

Ms. Osgatharp said from her perspective she really likes the idea of a 501(c)(3). She thinks it is clean and solves a lot of messy bookkeeping problems. She agrees with what Jim Sheridan said because she has heard it herself that people would be more willing to donate if they didn't think the greedy city of Montpelier was going to get their personal hands on their money. She really hopes the 501(c)(3) process goes into effect because it will be a major asset for their process.

Mayor Hooper called for a vote on the motion. The vote was 4-2, with Council Members Golonka and Hooper voting against the motion.

The next part of this discussion is the memo from Council Member Jarvis.

Council Member Jarvis said her wish is to put the discussion of her memo off so that others in the community would have a chance to react to it.

Council Member Hooper said in the second e-mail exchange from Jeffrey Kantor it says they understand there have been two groups formed, one the nonprofit and also the Senior Center Board.

Assistant City Manager Hill said that is a proposed board that would come between the Council and the Senior Center Advisory Board. It would be a board to look at bigger picture items that Sarah has pointed out in her draft.

Mayor Hooper said they will have that conversation on July 14th

10-158. Council Reports

Council Member Sheridan said he wanted to thank Sarah Jarvis for sitting in for him at the Annual Meeting for the Senior Center. He sat in for Sarah on the Housing Task Force. He hasn't sat in on at one of those meetings for a long time so it was good to be among them. He isn't sure he heard anything he didn't already know about why we aren't getting development in. They were very frank in their discussions. It may be awhile before we see any major development in this city. It looks like we can do infill and that is the best way to start but it doesn't look like anybody wants to do any major projects here.

Council Member Sherman reported that both she and Sarah received a call from a resident on Barre Street who is having issues with neighbors. She talked to Sarah first and Sarah directed her to the Justice Center, and that was exactly the place for them to go.

Council Member Jarvis said it was great to be able to refer her to them because it wasn't really a police matter and it wasn't really a council matter, so it was great to have that resource. She believes the Council needs to vote on the VMERS candidate.

Council Member Golonka updated the Council on the Library endowment. They received all of the money back from the Vermont Community Foundation so the Library has the complete control of the endowment for the first time in ten years. He is extremely pleased that it is no longer outside of their control.

Mayor Hooper asked if someone would like to make a motion to add the VMERS nomination to the agenda. Council Member Jarvis said potentially it isn't a nomination but a vote on the nominated candidate. What was passed around at the beginning of the meeting was information from the Vermont Municipal Employees Retirement System. There are three individuals who have been nominated and we can vote for one person.

Council Member Weiss said because of the delicacy of this matter and the fact we are involved with personality do we need to go into Executive Session to discuss this.

- 10-158(a) Consideration of casting a vote for a candidate for the position of Employer Trustee on the Vermont Municipal Employees Retirement System.

Council Member Jarvis moved that the Council cast their one vote for Thomas Golonka. Council Member Sherman seconded the motion. The vote was 5-0, with Council Member Golonka abstaining.

- 10-159. Mayor's Report

Mayor Hooper reported there is a parade on July 3rd and she hopes everyone will attend.

Assistant City Manager Hill said there will be a packet from Montpelier Alive in the Council packets detailing the days events.

- 10-160. Report by the City Clerk-Treasurer

City Clerk & Treasurer Hoyt had nothing to report this evening.

- 10-161. Status Reports by the City Manager

Assistant City Manager Hill reported that Jane was here to meet the June 24th deadline. She has been commended before, but nobody can say enough for what that girl does. She is a very good employee. We are meeting our deadlines. Tomorrow is the date we have to file our grand list with the State of Vermont. The formal notices will be mailed out, and most should have them by Saturday. Some of the people who went through the informal process may see changes in their values. The process was very helpful. The notices that go out will be signed in time and set in statute about when they can come in and what they have to do to officially grieve it as well as the timeframes for the appointments. It is all set out in statute. Because it is a reappraisal time the deadline for us getting out tax bills by July 15th will not happen because that is when the formal grievance process will be begin. Charlotte, Jane, Steve and Sandy and she have talked and the earliest they will be able to have those in the mail will be the last week of August. Charlotte would like to have them out before the 20th because there is a primary election this year on August 24th. They are hoping that the first due date to help with cash flow can be made October 1st. This does make the first and second payments close together. No matter what we do it will help some and make it harder for others. They hope to have the tax bills out so they can have the first tax payment due October 1st.

10-162. Agenda Reports by the City Manager

Adjournment:

After motion duly made and seconded by Council Members Sheridan and Sherman, the council meeting adjourned at 9:00 P.M. Motion carried unanimously.

Transcribed by: Joan Clack

Attest: _____
Charlotte L. Hoyt, City Clerk