

On Wednesday evening, May 26, 2010, the City Council Members met in the Council Chamber.

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

Call to Order by the Mayor:

Mayor Hooper called the meeting to order at 7:05 P.M.

10-124. General Business and Appearances

Vicki Lane, resident of Berlin Street said on Monday night it was made abruptly and frightenly clear to her that what she thought was a 35 mph speed limit on Lower State Street was in fact a 25 mph speed limit. After she got her heart back together it occurred to her about the difference in the speed limits. That is a residential area where that is and so is hers. How come they get 25 mph and on her street the speed limit is 35 mph? Down the road from the cemetery the speed limit is 35 mph. What's the difference? It's the same road. She was scared to death when she was pulled over.

Mayor Hooper asked if it was the bike cop.

Ms. Lane said he jumped out in front of her. Everything in the back of her car ended up in the front of her car because she hit the brakes so hard.

City Manager Fraser said he didn't have a specific answer other than those have been the speed limits on both of those roads for a long time. Speed studies are done to determine if they need to change the speed limit. His hunch is if it were to be done Berlin Street's would not go down but Lower State Street would go up.

Council Member Sheridan said you need proof that it needs to be lowered because he has been through this on Northfield Street and Berlin Street.

City Manager Fraser said there is a state prescribed process for setting speed limits.

Ms. Lane said for people who are coming down Bailey Avenue and making the turn on to Lower State Street maybe they could place a speed limit sign right there. When the police stopped her she asked what she was doing

wrong because she thought it was 35 mph. She also thanked the city for the nice new Don't Walk signs. They're great.

10-125. Consideration of the Consent Agenda:

- a) Consideration of the Minutes from the May 12th, 2010 Regular Meeting.
- b) Consideration of becoming the Liquor Control Commission for the purpose of acting on the following:

Catering permit for Vermont Hospitality Management d/b/a New England Culinary Institute for a reception and dinner on May 27, 2010, at the T. W. Wood Art Gallery at the Vermont College of Fine Arts from 4:00 to 10:00 P.M.

Catering permit for Vermont Hospitality Management d/b/a New England Culinary Institute for a reception and dinner on June 3, 2010, at Hopkins House at National Life from 5:00 P.M. to 10:00 P.M.

- c) Consideration of awarding an architectural professional services contract to assist the Public Works and Recreation Departments in the examination of alternatives, and preparation of a schematic design with cost estimates for the construction of new restroom facilities to serve the Montpelier Recreation Field. (Memo attached)
- d) Consideration of awarding the contract for Roadside Mowing. (Memo attached)
- e) Approval of Payroll and Bills.

General Fund Warrant dated May 19, 2010, in the amount of \$238,121.87 and \$2,112.83 and May 21, 2010, in the amount of \$625.00. Council Member Golonka said he would like to pull the bathrooms for the recreation field off the consent agenda.

Motion was made by Council Member Jarvis, seconded by Council Member Sheridan to approve the consent agenda after adding the two catering permits and approval of payroll and bills. The vote was 6-0, motion carried unanimously.

- 10-125 (a) Consideration of awarding an architectural professional services contract to assist the Public Works and Recreation Departments in the examination of alternatives, and preparation of a schematic design with cost estimates for the construction of new restroom facilities to serve the Montpelier Recreation Field. (Memo attached)

Council Member Golonka said this seems a little premature since they haven't had any discussions about this. He wants to be on the record that he doesn't know if he supports this and by passing this resolution to hire a consultant it almost sends the message that we are supporting the renovation of the bathroom. Given the state of our streets and sidewalks he is a little concerned we don't have the money for a major expansion of that facility. He understands the Mountaineers use it for 22 games, but he is concerned that by passing it today that it would send a premature message. He isn't saying he wouldn't support it, but he doesn't know where the funding is going to come from.

Council Member Sheridan said this is in a response to a complaint, although not a formal one, from Heaton Woods that they have people who would like to go to the Mountaineer games but there aren't accessible bathrooms. That is what prompted discussion of it. They aren't going to be able to get it done for this season which starts next Friday night. It is also a study to determine what the bathroom needs are there. They are looking at probably two accessible bathrooms. The bathrooms there now are really in bad shape. Basically, it is an ADA issue

Council Member Jarvis asked if there had been discussion within the committee about where the funds will come from for the actual construction of the bathrooms.

Council Member Sheridan there is \$5,000 in the capital budget. He is going to reach out to a couple of contractors who are big fans of the Mountaineers and see if they can get some in-kind donations to help with this project. We need to know how much it is going to cost first

and have a design. There is plumbing, wiring, etc. so it needs to be laid out. They are talking about place the bathrooms under the grandstands. Council Member Jarvis said this isn't redoing what is there but adding additional bathrooms.

Council Member Sheridan said it has been determined that those buildings can't be made accessible and you would have to start from scratch. They look at this as a cheaper alternative.

Council Member Golonka asked what the Mountaineers' position on this was and have they looked at porta potties for the 22 games.

Council Member Sherman said they are using porta potties this year.

Council Member Weiss said he is a member of the Mountaineers Board. He said he does not gain financially from this discussion or whatever vote so he doesn't think he has a conflict. The recreation field and the current bathrooms are used from the beginning of the spring season to the end of the fall season by 50,000 people. Most of them are not Mountaineers. Mountaineers have 22 games, and they generate about 1,000 people per game. There is Little League there and we have to be in compliance with them. There are the folks who play tennis and they use the same bathrooms. This year for the first time in history the Recreation Department and the Vermont Principals Association have entered into an agreement and the Fourth High School State Championship games are to be played in Montpelier on that field, and there will be another 4,000 or 5,000 people coming out. There is no doubt that we have to be in compliance with ADA. Jim's committee could have looked at other priorities, but this was instigated in terms of a complaint. Had it been a formal complaint its whole use for the remainder of the year on that field would not have been allowed. The people have filed an agreement that it would be a suggestion for a need and not a formal complaint. The monies that are being asked for right now are to put in progress a plan for the coming season. For this season in its entirety there will be two handicap accessible porta potties.

Council Member Sheridan said his committee wants to make this their first project because they want to have a high profile project that definitely shows that the City of Montpelier is taking ADA seriously.

They wanted it to be where there are a lot of people using it. They want to use this project to raise awareness for ADA as well as fill a need. The city is going to need to show a little more than just creating some parking spots that they are going to take seriously the ADA requirements in front of them. They tried to look at something that would make a big impact and affect a lot of people as well as putting us on the map to show that we are serious about this. Everybody on the committee was unanimously in favor of it.

Council Member Golonka said he is a little concerned about the process. Usually, when proposals are submitted or when they go out to bid, but it sounds like the committee has already had an RFP process and received

two proposals. To him that raises questions in regard to whether we have followed our city policy with regard to our RFP process because usually the Council does approve those.

Council Member Sheridan said this is no different than the RFPs for trucks or anything else. Let's face it; Public Works has a number of things that are like this that come before the Council.

Council Member Jarvis said those are ones they approved in the budget ahead of time, and this is not a project that has been preapproved.

Council Member Sheridan said there is \$5,000 in the capital budget.

Council Member Jarvis said she thinks Tom's point is that the Council needs to talk about it before we have it on the Consent Agenda moving forward with the project.

Council Member Golonka said they are going to get a recommendation that says you need to build this new facility for \$50,000 to \$70,000. His concern is that the Council didn't have that discussion beforehand and it sounds like we have already preapproved the renovation of the bathroom facilities. He doesn't want to make that statement right now because he doesn't feel he has enough information. He is concerned that this is the first time they are hearing about it.

Council Member Sheridan said he has talked about this in one of his reports.

Council Member Golonka said they have never approved any RFP process.

Council Member Sheridan said he has said this is the project they wanted to do and they were going to move forward with it. It's not the first they are hearing about it.

Council Member Golonka said it has never been on the agenda.

Mayor Hooper said they need to figure out how and if they are going to move forward. She also had a reaction to the price because typically architectural drawings are about 10 percent of the cost of the project so she arrived at a \$45,000 to \$50,000 price tag. One of the other questions she had about this is that yes, it is a city entity and city obligation. Most of

the things that are held up there is the Recreation Department's responsibility so there ought to be a direct relationship with the Recreation Department. Perhaps one way to handle this would be with the explicit direction that we also expect the committee to come back to the Council with a proposal for how it is going to be paid for not out of our capital budget but other pots of money.

Council Member Sheridan said this is just the design phase. They totally expect to sit down when they get the price and figure out how it will be done. They need to know how much it will cost before they start thinking about where they are getting the money from.

Mayor Hooper said she would suggest that in the conversations with the designers that some direction be given in terms of our limitations in being able to do this work.

Council Member Sheridan said Tom McArdle, Arnie and he met with Tom Latham and indicated that they weren't looking for any Taj Mahal but something that meets the ADA requirements and works as accessible bathrooms. He was the one who said this doesn't need to be anything real fancy. It just needs to meet all of the specifications. He is totally aware we are limited with funds. That is why they are talking about putting it under the stands so there won't have to be a roof that withstands the snow and weather.

Council Member Golonka asked Alan Weiss as a member of the Mountaineers Board does he know how much they are paying this summer.

Council Member Weiss replied \$4,500 per year on a lease which would expire in 2016.

Council Member Golonka said they contracted this year to have porta potties for the Mountaineer games. He wants to know the cost they are paying for them.

Council Member Weiss said at the present time zero. What the Mountaineers have done is to tell Jim and others that they will contribute a minimum of \$1,500 towards the project. The project will not be built in FY 2011 funds but FY 2012 funds.

Council Member Jarvis said she would say there would be a good chance that some of the Council would be looking for some of this money to come from the Recreation Department.

Council Member Sheridan replied absolutely.

Council Member Jarvis asked if there had been discussions with them about this.

Council Member Sheridan said they have been a party to this during the whole time. Arnie has been at all of the meetings. They have been on board and a part of this all along. He doesn't expect they think this will be done for them for nothing.

Council Member Sheridan moved that the Council approve awarding the contract to assist the Public Works and Recreation Department in examining alternatives and preparation of a schematic design with cost estimates for the construction of new accessible restroom facilities at the recreation field. Council Member Weiss seconded the motion. The vote was 6-0, motion carried unanimously.

10-126. Development Review Board Appointments (One Vacancy)-

a) No applications.

Mayor Hooper reported there is a vacancy because Jeremy Hoff who is a member is moving out of town. We haven't received any applications. They have asked both of their alternates if they would be

interested and they aren't able to step up to the position. Because we don't have anyone to appoint they should move on and re-advertise. Council members should put out their feelers to their friends, neighbors and colleagues.

10-127. Design Review Committee Appointments (One Vacancy)-

a) One application:

Katharine Jean Coffey-application attached.

Motion was made by Council Member Jarvis, seconded by Council Member Sheridan to appoint Katharine Jean Coffey to fill the vacancy on the Design Review Committee. The vote was 6-0, motion carried unanimously.

10-128. Administration on Aging: REACH Report

Representatives from the U.S. Administration on Aging will brief the City Council on progress with the REACH grant and answer questions about the national program.

Recommendation: Receive report, discussion, and direction to staff if necessary.

Gwen Hallsmith, Director of Planning and Development, said right now they are in the middle of two concurrent activities on the REACH program that were scheduled simultaneously so they could benefit from each other. One is a site visit from the New York Visiting Nurses Association. They have the contract with the Administration on Aging to offer technical assistance and oversight on the grant. They are the ones who help us with communication and technical matters. They give us feedback. They are here as well as representatives from Time Banks USA, who is one of our partners on the project, and they have brought representatives from Time Banks all over the country to give us some training on how to do this. They have a couple of things they would like to report on.

They will start with Chris Gray, the Executive Director of Time Banks USA, and of course without their involvement we wouldn't have this grant. They brought the idea to us and the opportunity and have been enormously helpful.

Christine Gray, CEO of Time Banks USA, said they have spent the last two days working with the REACH team, and it has been quite inspiring. The Care Bank model was developed a few years ago and was taken around the country to some very significant forums and thrashed out theoretically, but you in Montpelier and Vermont who are the people who are pioneering this. This is meeting the challenge of seniors aging in their homes and in their communities and being supported to do so. We have a network of Time Banks around the country meeting all kinds of challenges but none to step forward to really tackle this growing national challenge. This is a very exciting moment for them. What they learn from Montpelier in this pioneering approach will be a mutual learning process that will be shared around the country.

Merlin Kettering (???) from Tacoma Park, Maryland near Washington, D.C., said he is a senior associate with Time Banks USA. He brings years of experience in international development for community development levels in many countries to bear with the Time Banks Network, its outreach and its training. It is his honor to be in Montpelier's beautiful city. He can see that it is an enviable place to live and call home. They are excited about REACH because they believe this Care Bank will help you tap the time and talents and leverage the power of reciprocity so that it is as enviable for seniors and elders as it is for everyone else. We commend you for taking that initiative. We commend the persistence that you have already shown and Gwen has shown in her leadership to be able to pursue that vision. Their task the last couple of days has been to do some training with your team about the fundamental concepts and practices of time banking, care banking and coproduction, and help with strategic visioning and planning for REACH. They have brought relevant knowledge and experience from other Time Banks and seen how it comes to bear for you, and they think there are some strategies that will be effective for moving forward. They really do commend you. They are impressed by the team that has been chosen to lead this initiative. They were impressed today by the spirit of collaboration and excitement by potential partners and team to learn more about REACH. Time Banks USA is pleased to be associated and they promise they will help make it a productive and fruitful relationship, and they are confident that the vision of REACH can be reached.

Planning & Development Director Hallsmith said another one of their trainers who came all the way from Oakland, California is Kathy Provost who comes from Community Exchange and Time Banks affiliated with a hospital in Pennsylvania. It has been in existence for 10 years so she has brought a lot of her story as well.

Kathy Provost said she loves being here and the first time being here not ever seeing the snow. She is here as a representative and as an ambassador for Time Banks USA, which is a new role for her, even though she has been with Time Banks for 10 years. She has been able to share a lot of the experiences she has gone through and their growing pains. Being affiliated and funded through a hospital is kind of rough to be out there in the community. They are at a real wonderful changing point this year. They just got re-funded for three more years. However, they would like to see community exchange take a little bit different spin. She is going to be taking back Care Banks to their hospital CEO. She thinks this is a fabulous opportunity for them to reach out into their community a little bit more than they already have been doing, especially with their clinical partners. She learned a lot from the group and they are going to be fabulous with this program. She plans to keep in touch

with them throughout the whole process. She is looking forward to rolling this out in Pennsylvania. Thank you Montpelier for allowing this to happen.

Cheryl Walton from the Time Bank in Oakland, California. She is a public health professional. A few years ago they started a project of the Spring Park Time Bank which she developed in partnership with Alameda County Public Health Department in the City of Oakland and all of the programs within the city, such as CEDA and Parks and Recreation and Human Service and Public Works. Along with their schools and community based organizations a lot of partnerships were developed in order to implement ways to address their social, economic and environmental issues so their communities could be a lot healthier and have healthier lifestyles. The REACH project has been a wonderful experience for her as well. She has also been inspired by the team. Montpelier has a wonderful team in terms of the talents and skills they bring because when you do a training and facilitating you get to know the people who you are training because they begin to share what they will bring to your experience here. It has been quite an experience. She will be available to continue to provide technical assistance as they move forward. She is also inspired to go back home herself and take a Care Bank model to the Bay Area. They have five counties in the Oakland/San Francisco Bay area and the Public Health Department and she wants to bring this idea to them as well so they may be replicating Montpelier's model as well. As a Time Banks USA Board Member she wants to welcome Montpelier to the National Time Banks Network.

Planning & Development Director Hallsmith said the Visiting Nurses Association are here as well. Mia Oberly is here representing them. They are enormously helpful to us as we move through this implementation process and are overseeing all 14 of the grants that were given nationwide to do these innovative programs.

Mia Oberly said this is her first City Council meeting. In 2009 the US Administration on Aging, which is part of the Department of Health and Human Services, issued a request for proposals that was entitled "Community Innovations for Aging in Place." This RFP yielded more than 200 applications for a \$15 million national demonstration three-year competitive grant program and only 14 grants were actually awarded, including REACH. The awardees ranged from New Hampshire to Alaska so there is quite a spread. REACH is the only grantee working on a time bank model that allows people of all ages to exchange services, to give and receive, with a special focus on filling service gaps for older adults so they can age in place. The Visiting Nurse Service of New York also received a grant through this demonstration project to provide assistance to the 14 communities that were

funded. More importantly, perhaps, to extract lessons learned so we can use this wonderful work, including REACH, and that they can serve as models for other communities throughout the country. That is very much the point of this grant program.

The purpose of their site visit here is to learn more about the community, the organizations and people involved in REACH, and to work with them to begin to define how they can be of assistance.

REACH is a project that is very much in line with the priorities of the Administration on Aging, the Department of Health and Human Services and the Obama Administration specifically around the 2009 year of community living. That is exactly when these grants were awarded. Momentum is really gaining to keep people with disabilities and older people living in their homes and the communities of their choice for as long as possible. They are really impressed that the City of Montpelier is leading this effort and already has so many critical partners involved. They look forward to helping where they can and learning from their model and disseminating it throughout the United States.

Yesterday she was in a meeting in Washington, D.C. with high level officials from the Department of Health and Human Services, the Office of Management and Budget and the Department of Housing and Urban

Development. The topic of the meeting was developing affordable housing with support of services and three states were featured the whole day. One was Oregon, one was Pennsylvania, and the third was Vermont. She said she wanted to commend them on all of the work they have done in this area. It is a very high priority right now in Washington and you are very well represented by some wonderful people from the state.

The REACH Project is like another opportunity to get on to the national stage that way so they are really looking forward to working with Montpelier and learning from us.

Planning & Development Director Hallsmith introduced the two REACH Team members, Rachel and Suki. They have been in this training and great to work with. Rachel is the Membership and Development Director and Suki is the new Consulting Coordinator.

Suki said the past few days have been amazing and just an overwhelming amount of fabulous ideas. Her whole being is swimming with these ideas so she is really looking forward to the work. She feels very passionate about this

project. Yes, it is a pilot project; it is very innovative and pioneering. She feels like she is flying an airplane that is a convertible. At the same time doing something that is so new like this she is very excited about doing it. She enjoys doing the visioning part of it and also reaching out to their other community members. She was amazed and happy today when they had a luncheon at their office and there were a lot of people in attendance. It was wonderful to see all of those community members in one place and talking to each other. She is excited and looking forward to implementing this budget.

Rachel Price thanked the City Council for having them and being willing to jump off the cliff to try this new thing out. There is a great deal of trust and respect that she feels being empowered to do this kind of thing. It is near and dear to her heart as somebody who likes to get things off the ground that are maybe a little out of the box. She likes starting new things and doing new things that are community based and innovative and good for business and people. There was a huge turnout today. Their office is at 138 Main Street, right across from the Kellogg Hubbard Library. They are working on a web site – REACHV.org and would like some feedback. They want to represent what would be the most helpful for the community. She lives in Montpelier and cares about the folks in Montpelier. She has a background in community based arts, nonprofit development and in the education systems. Working with folks with disabilities and folks to help them age in place is really important work, and as we see the demographics shift towards folks in our community over 50, representing 50 percent of the population, this isn't just going to be something that is sort of an interesting idea but something we will all really need. Thanks for ushering them through it, and they hope to do very well.

Council Member Sheridan thanked Suki and Rachel for coming to the brainstorming session on the Senior Center and showing their interest.

Suki said as they move forward identifying and meeting with their community partners the Montpelier Senior Activity Center is right front and center as one of their major partners. They believe they will be intimately involved with the Senior Center. She has lived in this community for 14 years and her children have grown up here. Her son has developmental disabilities and works at a pizza place in town. She moved to Montpelier for that reason, because she knew they could live here and be accepted and her son would be a full member of this community. The REACH Project is for everyone and also for people with disabilities. That is where her background comes from. She passionately believes in this program and is very excited about it.

10-129. Update on reappraisal Project:

- a) The City is undergoing a full reappraisal of all property values.
- b) Preliminary values are completed and have been sent to the printers.
- c) City Assessor Steve Twombly and Bill Krajeski from New England Municipal Consultants, Inc. will provide an update to the council on the project.
- d) Update will include the schedule, hearing opportunities, a review of the work to date and a summary of grand list changes and estimated tax rates.

Recommendation: Receive report, discussion, and direction to staff if necessary.

City Manager Fraser said they have been talking about the property reappraisal for awhile and he has a brief presentation for the Council. They also have the City Assessor Steve Twombly and Bill Krajeski from New England Municipal Consultants present who will fill in some of the details and answer questions.

The City Manager did a power point presentation which is attached to the minutes.

The informal hearing process is a very important step. This is not the final hearing. This is the last step of the appraisal process. That is a whole new piece. He gives credit to both Bill Krajeski and Steve Twombly. They both brought that to us as things they had done in prior communities.

He said he wanted to say thank you to City Council for supporting this and for making the decision to put these people in place. He specifically wants to thank the Citizens Committee, Karl Johnson, Vicki Lane, Jack Lindley, and Tim O'Mear. They helped interview the Assessor candidates and the Reappraisal firm candidates. They made recommendations and helped draft the RFP. They have met and talked about issues, and helped with all of the information that has gone out. He also wanted to thank the first Citizens Committee that was formed, the large group, that sort of set the tone and recommended that we do a full appraisal. Thanks to Steve Twombly, our Assessor, who came in to a very difficult situation and brought a lot of professionalism and confidence to our office. Bill Krajeski and his team have been fabulous. These folks have been out investigating every property in the city and have been inside 80 percent of the homes. They have been doing this for over a year, and in that period of time they have only received one complaint about anything. The complaint actually turned out to be not founded.

Jane Aldrighetti has been through many of these reappraisals and has a smile on her face, and she is gearing up for another tough time. He wants to acknowledge publicly because she really is the face of the appraisal process to the citizens and represents our community very well.

Finally, he wants to thank the Montpelier community for letting them in their homes and embracing this process and giving the city the information they need.

Bill Krajieski of New England Municipal Consultants, Inc. said the citizens are going to receive the assessment booklet in the mail, and this is all about informal hearings. An informal hearing is to sit down with members of their team to go over the assessment to see if it is right. Their process is not to prove they are right but to sit down and talk to citizens about their property. They like to say there are three reasons why they can lower their assessments. They can lower the assessment because it isn't market value; I could sell it for more or for less. The second argument is when I compare my house to neighboring houses or similar houses they don't think we are treating them fairly. The most important thing is that everyone is on an equitable level. I can see \$200,000 on my house and my neighbor's house is sort of like mine and it is \$202,000. The third reason is because the data is incorrect. There is a garage assigned to the property that doesn't belong there, or there are three bathrooms and there are only two. He can't lower the assessment during the informal phase. The grievance phase is up to another party and not up to them. He isn't going to lower their value because they think it went up too much. Let's see if it went up too much, and let's see if it is fair.

If there is any citizen who wants to speak to them about their appraisal try to keep those three things in mind. Is this market value? Are you treating me equitably? Is my information correct? Those are the three ways to present your case to them. They have all sorts of listings showing what properties sold and what everybody on the street or similar streets is valued at. They do understand you know your property better than they do and maybe they missed something. Maybe there is a restriction they don't understand or a water issue they might have missed, and they will investigate it.

He thanked the Council. This has been a project that he is very proud of. He likes the idea they did the reappraisal in the capitol of the state of Vermont. This is a wonderful city and people are very nice.

City Assessor Steve Twombly said he didn't have anything to add because Bill covered all of the main points. They are on track as far as the dates and they should make the grand list filing by the end of June. The law calls for 15 days after the notices go out so the grievances will start July 12<sup>th</sup>. When citizens

receive their notices at the end of June there will be information explaining how to call in for an appointment. That information will go out with the official notice.

Council Member Weiss asked if a grievance goes all the way up to the Board of Civil Authority, at that point what role does the Assessor's office play.

City Assessor Twombly said the taxpayer presents their case to the Board of Civil Authority. They then explain how they estimated the value. They provide comparable sales and then the Board of Civil Authority must inspect the property; at least three members of the BCA must do a complete inspection. Even if the property wasn't inspected during the reappraisal process there would have to be an interior inspection at that point.

Mayor Hooper said the grievance before the Board of Civil Authority is further down the line. First people will receive a booklet with property values of all properties in Montpelier along with a separate mailing of the assessor card for their property. What is going to happen next is an informal process where people can meet with representatives of New England Municipal Consultants to go over the data. The values will be set by June 24<sup>th</sup> and formal notices will go out to all property taxpayers. At that point if you are not satisfied with your property value you can schedule a hearing with Assessor Steve Twombly who will hear those grievances and issue a decision. If people still disagree with where they are then they can come to the Board of Civil Authority which is made up of the City Council and the Justices of the Peace. The Board of Civil Authority acts in a quasi judicial function and hears these grievances and issues a decision. If one still disagrees with that decision you can then go to the State Appraiser.

Assessor Twombly said they can opt to go either to the State Appraiser or Superior Court.

Mayor Hooper said they are trying very hard to front load this with information and opportunities for people to understand what is going on so people won't have to go through as much of a judicial process. They are trying to make sure that lots of good information is in people's hands to understand how this works.

Council Member Sheridan said he has never seen anything as thorough as this during his time here on one of the city's reappraisals and this is just awesome to see. He thinks they did a great job. On the 18 to 19 percent of the properties they didn't get in to visit, how do they arrive at a value? Do they go by an average, high, or low?

Mr. Krajewski said they will look at the old record to see what it had to say to get the number of bathroom counts. The old records aren't always totally clear on a lot of items, but they are clear on some. In his career he has probably been in 50,000 houses and there are assumptions you can make. He sees an older house with an addition on it. He is going to assume for that addition someone probably put a bathroom inside it, that there might have been a master bedroom. They can tell whether there is a basement underneath it most of the time. They measured every single property in town. They were refused some entries to property, and people have a right to do that. They have a right to their privacy if they don't want them inside, but he doesn't think anyone refused them from measuring outside of the house. When you walk around a house you can learn an awful lot about it. That estimate is what he sees in prior records, their experience and viewing a house; you do the best you can. If they come in to meet with them during a formal hearing and say that is not what is inside my house then he won't change it unless they allow inspection of the house.

Council Member Sheridan said they did all apartments by income and expense. Is that why they didn't go into apartments?

Mr. Krajewski said they went into as many apartments as they could. They went into everything they could inspect in town. What they do with an income approach is collect information about how much someone pays for rent for an apartment. There was a tremendous response so they have a good feeling for different sections of town what it is you pay for a single bedroom apartment, a two bedroom apartment or a studio apartment. You are going to pay more in certain areas of town than you might in other areas of town. They segregate that and put it into an indication of value. When you have an income producing property, the value of that property really is a function of the income that can be generated through it. If you look to finance a four-apartment building, the bank is going to look at what the income stream of the building is and they are going to see whether the income stream can support a mortgage. It is the very same process they use in the appraisal process.

Council Member Sherman asked if they had dealt with commercial properties that are vacant.

Mr. Krajewski said they looked at all properties. When they look at the city as a whole the city has a relatively low vacancy rate for commercial property. If a commercial property was vacant they would look at why it was vacant. Is it because the owner has just stepped back and decided not to do anything for the moment? They really try to investigate why. There are a couple of

properties that are like this. Sometimes it is because they are damaged, and at that point they will look at that property differently. A lot of times it is simply a matter of there might be temporary or owners admitting flat out they just didn't want to deal with renting a property for the moment. Generally speaking, going through the city one of the things that made this project wonderful is the data they collected. He has never in his career collected data like this before. To have 350 sales and an 81 percent entry rate and 67 percent of people responding to income and expense is a dream come true for someone like him. This is the type of data that helps you do a good job. There are always things that won't meet the norm but he hopes they identified those. If a property owner is having difficulty with vacancy because of issues with the building that is the time to bring that to them in an informal hearing and they will look at the reason why.

Council Member Sherman asked if they had appraised the State House.

Mr. Krajewski said they had. They looked at all of the exempt properties. He hasn't put a value on the State House yet. The city had neglected to appraise exempt properties for a number of years. They have measured every exempt property in town. There is a picture and it is on record now. Everything with the exception of the State House is relatively easy to put a value on.

Council Member Golonka thanked Mr. Krajewski. He was part of the original Reappraisal Committee two and a half or three years ago and during that process they were looking for someone exactly like him to come and get all of this information. His question is about the sales. Actually, we are going through a housing crisis as it applies to the housing market in 2008-09. Of the 350 sales, are they before, during or after the market crash? How do you allocate for that given that Vermont tends to lag behind to some extent with regard to property values?

Mr. Krajewski said the thing they need to look at first is he doesn't pay a lot of attention to what is said nationally. He wants to see reality, what is happening in Montpelier. First of all, they are using three years' worth of sales, April 1, 2007 through April 1, 2010. What they see in that period of time is that the market has been virtually flat in that period of time. He doesn't see an enormous amount of appreciation or depreciation. Everything he reads in the newspapers has not proven out by what he has seen in the city. What he sees is a city that in 2007 if you paid \$250,000 for your house it might be worth just about the same amount right now. He thinks it is because this is a city of government. The volume of sales is enormous. Thirteen percent sales over a three-year period; 13 percent of the properties are moving is what that represents. That is an enormous amount. In most communities he works in

he gets 3 or 4 percent of the properties moving over a three-year period, and that's a good sample. He is going to assume because Montpelier has a very unique situation here where you have a relatively small city and it is the seat of government so a lot of movement in and out helps to prop property values up. He is sure it made them rocket a little bit higher when the market was hot than they might have seen outside the city. People will come and say, "Look what happened in the market." He understands that and says that is what is happening in Burlington or in Boston or New York City. When he looks at the sales in Montpelier that is not what he sees happening. What he needs to rely upon is the real information and not a reporter's opinion of what might be happening.

Council Member Golonka said what if Montpelier does experience a downturn in a couple of years. Is it easy to change these models?

Mr. Krajeski replied absolutely.

Assessor Twombly said you have to remember that the statute says that the evaluation is of April 1<sup>st</sup> each year. If the market starts to decline in a year or two then it is obvious the city's legal responsibility is to make appropriate adjustments to values.

Mr. Krajeski said they have done this in some communities in Vermont. He does a lot of the ski communities in Vermont and condominiums and ski communities have seen exactly the type of market fall he is talking about.

Council Member Golonka said he hopes it never comes here but he does see it around the state. That is his concern.

Mr. Krajeski said the second home market has absolutely been hit harder. When he looks at Ludlow and Burke, places where there are ski mountains, and even Castleton, Vermont where there is a large lake, you see a lot more evidence of that because they are second homes. They were fueled by a hot market and now that market is not there. Suddenly, that home on the lake that was worth a half million dollars is being marked down to \$420,000 because they need to sell it.

Council Member Hooper said his sense of the real estate market and what he hears from a lot of people is that the prices are holding for now but things are staying on the market longer. If I need to sell right now he is unlikely to get the amount that he would get if he had six months or a year to sit and wait for the right buyer. Does that get reflected at all in this kind of appraisal?

Mr. Krajieski said the answer to that in essence is no because what he does is reality. He only looks at what has sold. They will look at everything that is on the market for sale right now because any kind of data he can see that helps him look a little bit better at a location he wants to see it. If he sees an area in the community that is suffering a little bit and there are properties on the market he will want to look at those on the market sales and see what they are assessing for and what are they looking for. He agrees 100 percent that his typical way of looking for a property for sale right now is they will get 90 percent of that in the end, and that is the benchmark they use. People over reach. Unlike five years ago you couldn't over reach, but they had an example just a while ago that Steve told him about of a person putting property on the market for \$199,000 in a good area and the property went fast. If they had asked \$20,000 more for it maybe it would still be sitting there right now.

Mayor Hooper said if there is something that is way off you look at it and say she sold it to her son for half its value.

Mr. Krajieski said he wouldn't do that. The idea of a fair market sale is that there are two parties, both who are nonrelated, both who have a good field for the market and know what they are looking for and not under undue pressure, but there are always anomalies in the market. When he purchased a house in Lyndon his wife fell in love with the place and it wouldn't have mattered what they asked for it and he was all done, but that is the way the market does work. It really is between the buyer and the seller. What they are trying to do is say this is what they typically see so that is the value they will put on it. Maybe you paid \$10,000 more for it and maybe a few thousand dollars less for it, but they are trying to find that equitable balance based upon all of the sales.

City Manager Fraser said someone could have had a sale and their value could have been slightly different than what they sold it for because of moving suddenly.

Mr. Krajieski replied absolutely.

Mayor Hooper said one of the key things they would like people to understand is that there is a process in place and people can come in and visit with the Assessment team if they have any questions about their property information. They should study their card and come in and visit.

Assessor Twombly said there will be hard copies available for people who don't have computer access.

Mayor Hooper said she read there will be a tax calculator on line.

City Manager Fraser said there will be and they are going to use the spreadsheet showing the estimated tax rate and allow people to plug in their values.

Mayor Hooper said she wants to make it simple for folks because no matter how much we say property values have gone up but the tax rate has gone down she knows she will open her envelope and let out a big sigh. People need to pay attention to all parts of the equation and not assume that because your property value doubled that your tax bill is going to double. That is not going to happen. Do they have advice for people in terms of preparing to come in and see them for the informal process? Should they bring information with them?

Mr. Krajewski said if they have a recent appraisal through a bank refinancing they will certainly look at that information. Everything is published in location order so they can look at everybody's value on their street. You know your neighbors' houses so you can make those kinds of comparisons. They are sending the appraisal card in the mail, but when they come in they will still go over all of that information. The first thing they do when they sit in hearing is go over some information to make sure it is correct. If somebody's house sold in the neighborhood that you think is similar to yours and if you have particular things about equity, then they will go over the data. Those are the three things to concentrate on.

Mayor Hooper said one of things she has heard a number of folks say the last time around was they thought their appraisal was just right but their neighbors wasn't. They know their neighbor has a brand new kitchen so theirs should be higher. How do they handle that?

Mr. Krajewski said they get that a lot. People have a tendency sometimes to point toward what others have. They will write it down and go in and check their notes and records on the inspection. Sometimes people have put in a granite counter top in their kitchen. That granite counter top by itself didn't necessarily make the house suddenly worth a whole lot more. If his people walked in and saw all new cabinetry and the wall was bumped out in an old house he would hope they would pick that up correctly. People will say their house is so much smaller than their neighbor's, but in reality their house will be 20 to 30 feet bigger than their neighbor's.

City Manager Fraser said the numbers they saw tonight were based on if this preliminary grand list were approved. There will be some adjustments based

on the process, and possibly some things will be lowered and some will be raised. He wants to be clear that it is an estimate based on what they know today and obviously the final tax rate will be a few cents different than that.

Council Member Hooper said he was curious if the data they collect is taken down to the Planning Department to see if it matches up with the construction permits.

Assessor Twombly said they have not done that since he has worked with the city. He gets building permits eventually and that is why you need to do inspections periodically because not everybody is going to get permits. It levels the playing field because they pick up stuff that has not been seen before and they don't pay attention to whether it had a permit or not. It helps bring equity to the process.

Council Member Jarvis thanked everyone and especially the Citizens Committee. We stumbled and this has really helped us to rise back up again. It feels so different going into this process knowing the posture they take of reaching out and helping explain to citizens. Thank you for the idea of the informal hearing process. That is fabulous and it will definitely cut down on the number of BCA appeals. Also, posting all of the information on line will help to make this a successful process.

Council Member Golonka said looking through the categories of values, what does MH/L stand for?

Assessor Twombly said that is mobile home with land.

Mayor Hooper said she wanted to add her thanks. It has been a pleasure walking into City Hall and watching Bill's team work with the city's team. It is clear that it has been a very thoughtful, open and inclusive process. As the City Manager pointed out our citizens have been pretty fabulous in welcoming all of us into their homes to understand and make sure we do our job well. Thanks to Jane Aldrighetti.

Mr. Krajewski said she is wonderful. The reasons this has turned out as well as it has is because of the Citizens Committee, the City Manager and essentially everybody kicking in. It's fabulous. He hopes if Montpelier does another reappraisal he has the chance to come back.

Council Member Sherman said she won't say she looks forward to receiving her tax bill but she feels ready and she thinks most of the residents do, and that is a great position to be in when you have that envelope in your hand.

10-130 Consideration of Stonewall Meadows proposal to transfer land to the City for a park.

- a) The Stonewall Meadows Association has sought to transfer some common land to the City for a small park.
- b) The Association presented a title report indicating that they had clear title and were able to make this transfer.
- c) City Attorney Paul Giuliani has been provided a copy of this report and will provide comments in time for the meeting.

Recommendation: Review title report from Association, receive comments from City Attorney. Direction to Staff.

Mayor Hooper said they talked about this sometime ago and said let's figure out the land transaction. There were some questions which they now understand have been resolved and there are no longer questions about this. Essentially, we have been informed by our attorney that this is simply a policy question of whether or not the city wishes to accept this gift. We heard from our Parks Commission a year or so ago, and they thought it was a good idea.

Motion was made by Council Member Sheridan, seconded by Council Member Weiss to accept the Stonewall Meadows proposal to transfer land to the City for a park..

Council Member Golonka asked how much extra it would cost to maintain? Did the Parks Department indicate how much extra it would cost?

Council Member Sheridan replied it was minimal. There might be some mowing a couple of times a year.

Council Member Golonka said it currently pays about \$470 to the tax base.

Council Member Hooper said he had a really hard time following this documentation. He would like to walk through it a little bit.

Attorney Paul Giuliani said when Babcock proposed to develop the property and obtained permits for it part of the development plan was the creation of the parcel of land of 4.7 acres that was going to be a so-called recreation easement. Initially that was going to be dedicated to common use. Each property owner would have a fraction of an interest in the land of this recreational easement. The development plan went on to say that the easement would expire 10 years from the date of its declaration, or upon the

concurrence of a majority of all of the property owners and the creation of a Recreation Association. The Association was formed as a nonprofit corporation. He has seen the charter. It is a very basic charter created to obtain title to this land and to hold it as a recreational facility. The declaration contemplated that at some point the Association could, if it so elected, transfer or convert the private ownership of this easement area into public ownership specifically for a Montpelier city park. The intent was pretty clear that it would be a public facility. As far as the record is concerned everything he has been able to find on the record indicates that all those pre-conditions have been met. The Association was formed. The recitation and all the deeds and transcripts of the initial conveyance to the Association indicates that if a majority finds concurrence of all of the members and owners at the time the conveyance was made was secured, title was vested in the association, which now holds legal title. It wasn't articulated very carefully and clearly that there was some doubt or question or issue as to whether the association actually had the power and authority to convey this land to the city. There is nothing in the record that suggests that what they have in front of them isn't a very open and transparent transaction. There is no indication that all of the background conditions haven't been met. It appears to him that they not only have been met but any statute of limitations that would apply to challenging those actions has long since expired. To the extent that a property owner could claim some residual or beneficial interest in the property, that is not in his or her interest. It is not being affected by conveying this property to the city because as a member of the public he or she would have no more or no less right than what he or she possesses today. In his experience the way this was set up is a little bit unusual, but it gets you to where you are today. The association has a record and legal fee simple title to this property and can do with it as it sees fit. It certainly as a nonprofit corporation wouldn't be able to use that land to develop for some commercial purpose or industrial for profit making purpose. The association certainly has the power to convey its interest in this property to the city. The legal issues are pretty clear.

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

10-132 Consideration of actions to protect Berlin Pond.

- a) The Superior Court recently issued a Temporary Restraining Order against recreational activities on Berlin Pond.
- b) City Attorney Paul Giuliani prepared a summary of recommended follow up actions that the City could take.

Recommendation: Review Attorney Giuliani's memo, direct Staff to prepare the necessary ordinances and orders for enactment.

Mayor Hooper said at their last meeting the Council considered whether or not they wanted to go forward with an ordinance related to the pond's protection. There is one on Council Members' desks. The question is before the Council is whether or not you want to conduct your first hearing on the ordinances.

Motion was made by Council Member Sheridan, seconded by Council Member Sherman to direct staff to prepare the necessary ordinances and order for enactment.

City Manager Fraser said they have talked about this somewhat informally. They had Paul's letter and the earlier draft of the ordinances which at that time the Council took under advisement. Since then they have had the court case on the TRO issue and Paul followed that up with a letter recommending we go forward. He thought the Council might want an update on the Berlin Pond case but also discussion on the ordinance.

City Attorney Giuliani said there should be two ordinances. One is a very simple trespass ordinance and the other has a little more substance to it. He intended to have available for them an appendix to the city charter that enumerates and identifies in these cites every provision of the City Charter from 1885 to present day relating to Berlin Pond. All of the regulatory authority that relates to Berlin Pond is now going to be in an appendix and part of the City Charter so if there is anybody really interested in historically how we got to where we are it will be in one spot rather than going through this exercise over and over again.

As far as the litigation is concerned, the city prevailed on its motion for injunctive relief. The plaintiffs have petitioned the State Board of Health to rescind the 1926 health order upon which our action is predicated. They received a notice from the Commissioner of Health this week declining jurisdiction and suggesting that any change would have to be undertaken by the Agency of Natural Resources. Procedurally it isn't before the Board of Health any more. The jurisdiction over Berlin Pond at the state level was taken from the Department of Health and is now vested in the Natural Resources Board.

What they have in front of them are two ordinances.

Mayor Hooper said the State Board of Health says it no longer has jurisdiction over drinking water issues. She understands not the pond per se, but they don't have jurisdiction over the provision of drinking water.

Attorney Giuliani said no. The federal government enacted the Federal Safe Drinking Water Act. Under the terms of that act the primacy of enforcing those provisions can be seeded to the states. Vermont was one of the states that assumed primacy so the feds are in this brooding presence. The actual mechanics of enforcement are with the Agency of Natural Resources. About the same time the Legislature realized there was kind of a schizophrenic relationship or situation as far as drinking water supplies were concerned. The Agency of Natural Resources had some jurisdiction; the Department of Health had other jurisdictional prerogatives over pure health matters rather than quality, quantity, etc. As far as the regulation of public drinking water supplies and sources of public drinking water, that is now all vested with the Natural Resources Board. The Department of Health still has some jurisdiction, and that is part of one of these proposed ordinances, in matters related to public health risks which could be anything. That has not been impaired by the Legislature. If you are looking specifically at water quality standards and treatment standards you go to Waterbury and not Burlington.

The brief ordinance is Chapter 13. All they are trying to do here is to make it clear that when the sign says there is no trespassing on city property it means not just city property downtown. It means any property over which the city has control, specifically Berlin Pond. This is not earth shaking, startling or anything to be excited about. All we are trying to do here is make it clear that if there is any ambiguity or oversight in the existing trespass ordinance we have now fixed it. Anybody going on the pond is now subject to prosecution for trespass or going on city property around the pond. That is really pretty basic stuff.

The other enactment style is Article VI relating to the protection of Berlin Pond. This is kind of a hybrid. The city is charged by federal and state law with developing, enforcing and implementing a source protection plan. That is real easy if we were talking about an artesian well located on Lower State Street. There would be a 200 foot radius that the city would be responsible for making sure that no prohibited or prescribed activity took place. Berlin Pond, like other open sources of water is a different animal. The city commissioned a source protection plan prepared by Dufresne and Associates which was made available back in 2001. That has been filed with the Agency of Natural Resources. It is on file with the city and it makes a number of findings and a number of recommendations. It delineates certain areas around the pond that are high risk and low risk, and it attempts to establish what

intensity and what types of land use should be allowed within these area zones that do not have the risk of affecting or degrading the water supply in Berlin Pond. The companion piece of the source protection plan to give it teeth is an ordinance, an enactment by the city that adopts these findings and conclusions made by Dufresne and Associates. What we are trying to do here is make this not just a water supply or water department ordinance. What he has done here is to amalgamate the statutes that deal with water regulation and water protection with the public health statutes where the Council can make a finding that pollution to the pond, or certain land uses, or failures of septic systems or hazardous wastes within the vicinity of the pond could constitute a public health hazard or a public health risk. For that reason this enactment should be adopted. The enactment does not prevent any one from continuing to occupy their property, to make use of their property, to develop their property, but what it does achieve is to prohibit people or property owners, or anyone, from conducting any activity around the pond that would degrade the Class A waters. By that he means a failed septic system, somebody operating a waste recycling center, a garage that has the inability to store and dispose of crank case oil, or things of that nature.

The recommendations made in the source protection plan are common sense. There is nothing here that is draconian. No one is going to be dispossessed with their property. No one is going to have the use of their property descriptive under the terms of this ordinance unless that property somehow is used in such a manner to affect the pond. He is going to anticipate someone saying this ordinance really isn't needed because the zoning ordinances in the Town of Berlin adequately protect the pond. That is not the case.

The zoning ordinances in the Town of Berlin, like all zoning ordinances in Vermont, have two major exclusions that would have a direct impact on the pond. One is agricultural use and the other is forest use. These activities cannot be regulated by local zoning so anything that would be deemed an agricultural use, for instance the application of pesticides or herbicides, within any of these zones would be permitted under the local zoning ordinance but should be prohibited under a health order like this.

This is the appropriate time to give some serious thought that once and for all establishing the city's authority in taking appropriate and prudent steps to make sure this pond is protected in the future. The challenge we have just seen is the challenge of the year. It's going to come back and people are not going to get the message. The next time it comes back we really should be in a position to have our own ordinances in place. The enforcement of these ordinances will make protection of the pond a lot easier in the future. His recommendation is for the Council to proceed with the adoption of these

ordinances. If you have questions or comments, or think that revisions are needed he is perfectly willing to listen to them and see what he can do.

Council Member Golonka said it looks like we will provide a copy of this ordinance to the Towns of Berlin, Williamstown and Northfield. Does he anticipate a legal challenge from those three towns?

Attorney Giuliani said he didn't think so. He thinks anybody who looks at the Charter and the statutory authority under which the city is acting – remember, the city is not dispossessing anyone. It is not attempting to tell these towns how to zone their properties or what uses are permitted and what uses are conditional and what uses are prohibited. The ordinance is very, very specific as to certain activities that might affect the pond. He can't say for certainty that other towns in the watershed may have some concerns, but the intent of the ordinance is not to layer the City of Montpelier's interests on the local interests of these communities. This is strictly a protection ordinance.

Council Member Weiss said he is looking at the short version. Under Section 13-3 (a) the word "tributary" is used. What happens if that tributary is in another community? Do we still have a legal right to enforce that?

Attorney Giuliani said they do because that is under the charter, and it is very clear under the charter and the 1926 health order. It is very well established.

Council Member Sheridan thanked Attorney Giuliani for what he did regarding the latest challenge with Berlin Pond. He just wants to remind all of them that in our survey water was the number one concern of the residents. He can tell them about an incidence that was before everybody's time here. His first year when the Council voted not to be part of buying some lands above the pond he took a petition to change that by himself and within two and a half weeks he received 865 signatures of Montpelier residents, which is more than one tenth of the population. That shows you this town is concerned about its drinking water, and we should be.

City Manager Fraser said he noticed in the court case it was pointed out that we have a list of prohibited things. It noted how we prohibited swimming and bathing but not boating.

Mayor Hooper asked if he was suggesting they should adopt one or the other, or both.

Attorney Giuliani said he would recommend both ordinances.

Mayor Hooper said with regard to the source protection portion of this she is confused because she thought that by creating a source protection plan, which is what she presumed they did in the contract with Dufresne & Henry, and filing it with the state of Vermont that we succeeded in providing source protection, that it carries the weight of law.

Attorney Giuliani said it really doesn't. That source protection plan is designed to identify areas of risk and concern, to identify the nature and the extent of the water supply area; it is more of an analytical document. In and of itself it is not enforceable. If somebody parked a mobile home next to the pond and in lieu of a septic system the source protection plan that has been filed with the state wouldn't support an enforcement action because it is not an ordinance. It is not a law. It is not a local ordinance or regulation. It is not even a health order. Health orders can be enacted only by the Council and not by some document. The benefit of the plan is that it supports and justifies whatever action the Council wants to take as far as enacting these protective measures. It is the findings that back up the ordinance.

Council Member Weiss asked what the proper wording of the motion was.

Attorney Giuliani said if they are going to do this enactment as a combination of an ordinance and a health order some place embodied in this measure there are going to be some findings to support what you are doing. For a health order to exist there has to be a finding by the local Board of Health that a health hazard or health risk exists. By making those findings essentially you are incorporating the 2001 protection plan.

Mayor Hooper asked if they were finding prospectively that there be a health hazard if x, y and z happen.

Attorney Giuliani said they are saying if x, y and z occur there is likely to be a health hazard as a result.

Mayor Hooper said they would then have to act as the Board of Health and take action.

Attorney Giuliani replied yes, absolutely. This is the framework in which they would act.

Mayor Hooper said they would need to convene as the Board of Health and make some findings.

Attorney Giuliani replied that is correct. Then, they would need to convene as a City Council and pass the ordinance.

City Manager Fraser said they should have draft findings for the Board of Health.

Mayor Hooper said she is trying to imagine what is in their ordinance book.

Attorney Giuliani said these are findings of support and everything would have to be Whereas clauses.

Council Member Hooper said in the short version in Section 13-2 it is called penalties and it says you are subject to arrest and/or ejection therefore. Then, Section 13-3(b) also seems to be a penalty clause and he isn't sure that is a right forum for it.

Attorney Giuliani said there is a general penalty provision in the Code of Ordinances under Section 13-1. Section 13-3(b) elevates the violation to a misdemeanor as opposed to a civil penalty. He thinks they would want a misdemeanor with this.

Mayor Hooper told the Council they are reading this ordinance for the first time. There is a motion on the floor to conduct the first reading at the June 9<sup>th</sup> council meeting. She called for a vote on the motion. The vote was 6-0, motion carried unanimously.

10-132. Update on District Energy Project.

Staff and Project Manager will provide the City Council with an update and recommendation on next steps with the District Heating Project.

Recommendation: Receive update, discussion , direction to staff..

10-133. EA Consultant

Staff and Project Manager will provide City Council with a recommendation for a firm to conduct an Environmental Assessment for the District Energy Project.

Recommendation: Receive recommendation, direction to staff.

These two agenda items were discussed together.

Planning & Development Director Hallsmith introduced Harold Garabedian the new Project Manager. There have been a number of meetings over the last week about this project with the consulting firm Veolia. Today they spent a good portion of the afternoon interviewing environmental assessment consultants for the project, and there is a lot to report.

Harold Garabedian said part of the state capital bill was a provision to enable state government to enter into a Letter of Intent with Montpelier on this project. They met with the Commissioner of Buildings and General Services and reviewed the legislation and discuss a process they would go through. They have identified that vehicle in the Letter of Intent. They have scoped that out and are working with Veolia and others to develop a draft of that.

Working with Veolia they have identified what they think is a nice process to develop a performance based bid package and will put this out to prequalified bidders with the idea of trying to get the best price and to understand what it would cost to build a facility of this type. There are some initial numbers but they are all engineering estimates. The idea is to get some quotes from qualified bidders and competition in the process.

In terms of the environmental assessment consultants they have been pushing to get them on board and get the environmental assessment process moving. They did put an RFP out a while back and received five responses. They screened and interviewed three today and they think they have found a firm that will give them good service. Timeliness is important.

Planning & Development Director Hallsmith said the contract is a large contract; it is in the range between \$120,000 and \$150,000. Because of the time constraints they are under they are looking for the Council to give them the authorization to move forward with the contract negotiations and approve the environmental consultant.

Motion was made by Council Member Weiss, seconded by Council Member Sherman to authorize staff to move forward with the contract negotiations to hire an environmental assessment consultant.

Planning & Development Director said it was within the budgeted amount.

Mr. Garabedian added that it is a prerequisite of the grant. Gwen has negotiated the ability to look at the transit center and the environmental assessment along with this project to try to get some coordination of that effort and the two federal agencies have agreed to a process that will allow that.

Planning & Development Director Hallsmith said it makes that a very complex project. Combining the transit center and the energy plant might actually help us solve the parking problem that the energy plant creates. That might allow us to produce some more parking on top of the plant and mitigate the fact that it is going to eat up about 50 parking spaces.

Council Member Sherman asked if the loss of National Life as a participant impacted the project.

Planning & Development Director Hallsmith replied no. The way they structured the feasibility study was very conservative. The only clients on the plant are the state and the city. They aren't depending on any of the private sector to be participants to make this work, and that is one of the things that the feasibility study showed them which was encouraging. This can work with the grant and the cooperation of the state. Obviously, any private partners they can engage on the system will help. National Life is a little far away, across the river and up the hill, but it wasn't a critical piece of the equation. Interestingly enough, the stack that was required for the air quality constraints was the highest up on top of the National Life hill. You would have thought being on top of the hill it could have had a lower stack.

Council Member Weiss said there is a motion on the floor on one topic. Let's conclude that before we go further.

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

Planning & Development Director Hallsmith said there would be a couple of Letters of Intent. One will be between the City of Montpelier and Veolia and one will be between the City of Montpelier and the State of Vermont. The goal of this process is to get clear right now at the outset of the environmental assessment that if we meet certain conditions that the state will be a partner. It's a little bit like a contract. It will spell out that if we achieve these energy costs and this level of capital improvement within these constraints that they will be the city's partner and sign on with the project. That is what the Capital Bill enabled and what they have now been given the go ahead by Commissioner Myers to draft. The lawyer they have working on this is Dick Saudek and they are hoping to have a draft out by next week because Veolia wants to have the kickoff meeting for the environmental assessment next week, and we need to understand a lot of the moving parts before they move forward with that. They are also going to need to do some preliminary design work on the transit center attachment to the energy plant because that is another factor in proceeding with the environmental assessment.

Mayor Hooper said they aren't going to get a hard commitment from the state until the legislative session begins next year. Is that right?

Planning & Development Director Hallsmith replied that was correct.

Mr. Garabedian said the legislation is clear that they can only make this commitment of intent.

Mayor Hooper said there is no commitment of dollars to go forward with the construction.

Planning & Development Director Hallsmith said that is correct. They imagine they will forecast the dollars that will be involved on the state's part in the Letter of Intent because that is the target they are setting up to meet. If we bring in energy at this cost and keep the capital costs at this level, then they will be our partner. Actually, that is the heart of the negotiation with them and that is what they will be engaging in starting next week.

Mayor Hooper said she wanted to be clear that the Commissioner of Buildings cannot make a commitment of that magnitude without some legislative action.

Planning & Development Director Hallsmith said the Legislature did authorize him to enter into the Letter of Intent with the approval of the two committee chairs. The Letter of Intent is a little bit like the engagement and the commitment they will be receiving next year is the marriage, including the dowry. It's a serious engagement actually. The Letter of Intent is a serious move in that direction because it is a tentative commitment. Obviously, that commitment needs to be ratified by the General Assembly next year so they won't know what the state's commitment is until the end of the session. That puts us in a bit of a spot because we need to do the bond vote in November for a couple of reasons. One is that the authorization for the increased bond ceiling for the state at these lower rates under the American Recovery Act expires at the end of the year. If they want to take advantage of that low rate and get in under that higher debt ceiling with the bond bank we need to do it before the end of the year. The other reason is we are going to run out of money to continue with the planning and development of the project by November. They only have right now the bond vote and grant from the state to proceed with the environmental assessment with project management and all of the other costs there are moving forward. That means they can use that as the 50 percent match for DOE money and draw down that much money between now and November, but we are going to be done with all of that money by November. If they don't have the bond vote they won't have

money to continue.

There are two other legislative issues that they are going to need to put on the ballot in November. One is the charter change. We do need to do a charter amendment to start to sell energy. We have authority in our charter to sell water and provide sewer services in the district structure. They are not only going to need to establish the energy district, and the energy district has two purposes. One is the plant itself that will serve people on its pipes and the other purpose is the PACE or Clean Energy Assessment District where people will be able to use some of the bond funding that we raise to make renewable and energy efficiency improvements in their homes and pay it back as a payment on their tax bill over time and over the life of that improvement. What that means is that citizens throughout the city will be able to make energy improvements and use renewable energy even if they aren't on the plant. That is an important feature of the grant they received and of the energy program, but in order to enact that they do need to have the establishment of the district on the ballot like they would establish a water or sewer district. They need to have the charter change and a bond. There is a fairly ambitious ballot initiative for November and will be moving forward. That is part of Harold's responsibility to make sure people are educated on this and get all of the documentation in place so they know what the costs and impacts are by the time they need to vote.

The charter change requires a 60-day notice so it will have to be posted in September. The bond vote requires a 30-day notice which will have to be posted in October. When they were selecting the environmental assessment consultant they were giving them marching orders that they need to get the majority of the information to us by October so our citizens will know going into the process what the environmental impacts are and what we are doing to mitigate those impacts.

Council Member Hooper asked if we were telling the state that they are giving us the land for the plant in return for energy at a price.

Mr. Garabedian said it would specify all of those things. It would specify our relationship and the performance they would be willing to accept. A big piece of it will be the price of energy, the reliability of the energy but it will also spell out ownership and responsibilities.

Council Member Hooper asked if the city was expecting capital from them for the building of this.

Planning & Development Director Hallsmith replied yes.

Mr. Garabedian said they are going to have to make some choices in terms of what they are willing to accept. If they put capital in then their unit price of energy will be less so they are going to trading capital investment versus operating costs.

Planning & Development Director Hallsmith said what they committed in the grant application was a \$4 million capital contribution, and if they provide that then their cost of energy will be lowered. As it is, what they have been comparing is the cost of energy if they were to pursue the improvement themselves without partnering with the city with our grant and the cost of energy under our grant. With those considerations the cost they will pay for energy is lower by partnering with the city. Unfortunately, the cost of energy is not lower for them if they continue to ignore their capital requirements. Right now their cost of energy does not include the capital overhead essentially of this plant replacement so they don't have a sinking fund that is built into that price. They don't have a depreciation fund that is built into that price. The price is really the price of running this old plant which is about \$25 per thousand pounds of steam. Under the proposal the city has put forward with no capital investment on the part of the state that doubles; it increases to \$50 per thousand pounds of steam. That is with no capital investment on their part. It is essentially doubling their heating bill, but if they were to pursue the plant on their own with their own capital investment that would be even higher. In either case their price of energy is going up.

City Manager Fraser said in their meetings with the city they acknowledge they have this improvement they have to make.

Planning & Development Director Hallsmith said what they are up against is the deferred capital investment.

Council Member Hooper asked if the clean energy assessment district covers the entire state.

Planning & Development Director Hallsmith said that is what they are proposing.

Council Member Weiss said there is a whole political reality here. The bond vote with three parts to it has got to be simple. If we start to ask the Montpelier voters to approve a bond for \$20 million and all of a sudden say it is going to benefit communities x, y and z, and benefit the state, they aren't going to approve it. We need strategic planning right now. It is 60 days before November for a charter change and 30 days before November to begin the bond vote process which means all of these professionals need to have all

of their work finished sometime in the middle of September. The Council needs to bend over backwards to make absolutely certain that this project is going to have a top priority.

Council Member Hooper asked if they needed public hearings for a ballot warning.

Planning & Development Director Hallsmith replied yes.

City Manager Fraser said there are different sets of hearings for a charter.

Planning & Development Director Hallsmith said the Planning Commission had a continuation of a hearing on the Master Plan and they have decided to post another hearing on all of the Master Plan changes for July 7<sup>th</sup>. That would be 30 days notice.

#### 10-133. Council Reports

Council Member Sheridan said he wanted to sincerely and humbly apologize to his committee members for missing the water and sewer committee meeting.

Council Member Weiss reported that the Harry Sheridan Scholarship group met back in January. There were 13 student applicants from both U-32 and Montpelier High Schools and they interviewed 8 wonderful seniors. Within the scholarship details there are components that you have to be in the top 10 percent of the class, active participant in community and school activities. They interviewed eight and because the schools don't give out this information until graduation, this year the scholarship fund totaled \$24,000. One has to understand and appreciate what Mr. Sheridan did. That is \$24,000 a year for four years, so these students will get an x amount for four years in college.

Council Member Sherman said she attended the Planning Commission public hearings on the proposed Master Plan. Tom Golonka and Sarah Jarvis were present for the first one and of course the Mayor was present.

Council Member Jarvis said Jim Sheridan mentioned the six hour Senior Center meeting they attended on the 13<sup>th</sup> of May. It was a great group of people. It was incredibly frustrating for her. It feels to her like there are some real important foundational questions that need to be answered quickly in order to move on with the Senior Center. The Senior Center

has to decide so the facility committee can do what it needs to do. She doesn't know who is going to make these decisions, whether it is the Senior Activity Center Board or the Council or community. It seems before things progress much further there needs to be a decision made about whether the mission of the Senior Center is going to stay as it is, whether it remains as an activity center and a place for people to come and take classes and congregate, or whether it is an organization that needs to transform into a senior resource center. There was a great presentation from the REACH folks today and they are obviously looking to fill some of those needs in the community, but there is a certain sentiment in the community she has heard and expressed at the meeting that the city puts a lot of money into the Senior Center as it is and there are a lot of people who feel left out or feel they can't or don't want to be a part of the Senior Center but still feel like their needs and the needs of other seniors in the community need to be equally addressed as those who are participating in the classes, going on the trips, etc. The decision about the mission of the Senior Center itself, and if there is a decision to change it, how will that be carried out? Will there be a transformation of the activity center or just an opening of their doors to allow other organizations to come in and fill those needs? She feels these are really important questions they did not cover at the meeting. She would welcome anyone's thoughts or suggestions.

Assistant City Manager Hill said the Robert Carroll Report just came in on e-mail tonight and she will be putting it in the Council packets on Friday.

Council Member Jarvis said when they left people were planning the next meeting and she felt it wasn't even appropriate to do that without making some of these decisions.

Assistant City Manager Hill said they were referring to the Senior Center's Annual Meeting which is coming up on June 16<sup>th</sup>.

Mayor Hooper said that group was a wide ranging group of people.

Council Member Jarvis agreed. It was the Montpelier Senior Activity Center, Council on Aging, REACH folks, City Staff and Meals on Wheels along with NECI. There are endless possibilities which are overwhelming in ways. There needs to be foundational decisions.

Assistant City Manager Hill said there definitely is a split in the citizenry of that group. There is one group that wants to go to a center and do classes and be physically and socially active. There is another group that feels we

as a community are not doing enough for people who have needs but in their own homes. The Meals on Wheels was a very big piece of this in feeling the city should be taking more of a responsibility. It is sort of similar to our teen groups. There are certain teen groups who love to come downstairs to the Basement and hang out; there are others who want a more physical active center where there is more going on. She thinks Council Member Jarvis is accurate in that there was a little bit of a pushback from the Senior Center group as they exist now saying that is not their mission. It is very obvious that right now all of the nonprofits are finding it hard and looking for funds.

Council Member Jarvis said in terms of the timeliness of these decisions the 58 Barre Street Facility Committee with Jeff Kantor has come up with numbers, and the development of the Senior Center portion on that building relies fairly significantly on a capital campaign that is going to be run by the Senior Center, but they cannot start that capital campaign until they have cemented their vision for the future. That capital campaign has got to be concluded by December of this year.

Assistant City Manager Hill encouraged all Council Members to participate in their Annual Meeting on June 16<sup>th</sup>. It's at 1:00 P.M. after their luncheon at St. Augustine's Church.

City Manager Fraser said they need to be careful. We need to be careful we don't pigeon hole a group of people, whether they be seniors, teens, or anyone else into saying there is going to be one thing they are going to evolve into. The teens don't all like to do the same things. Some like to play sports; some like music; some like theater; some like to hang out and some like to get into trouble. There is no one solution. Everyone has different things they like to do. Just because you magically hit 50 or 60 you it doesn't mean you all want to do the same thing. We may have to say there is going to be a Senior Activity Center that provides this service, but the question is how do we develop an array of senior services and which ones should be public or private with churches, etc.? There is no way we are going to create one service entity that is going to meet the needs of all.

Council Member Jarvis said but they need to make that decision. There is any number of possibilities. Deciding the mission is going to change doesn't mean we hire a full time case manager. It could mean just dedicating a room at the Senior Center.

Council Member Weiss asked Council Member Jarvis who is going to be responsible for a capital campaign.

Council Member Jarvis said the Senior Center. Their Advisory Board has designated a few people to engage in a campaign. They apparently have some fundraising software and folks identified who are in charge of it.

Assistant City Manager Hill said they have to come back to the Council to get the final approval to do it.

Council Member Weiss asked if this is a project that the city is going to support, or is the committee going to have to go out and get its own Section 501(3)(c) designation as a nonprofit?

Mayor Hooper said they understand that.

Council Member Sheridan said it can be done through the Montpelier Foundation without a 501(3)(c) designation.

Council Member Jarvis said the capital campaign would be for the building.

Mayor Hooper said she would suggest what she is hearing Council Member Jarvis say is they need some leadership on this.

Assistant City Manager Hill said this is part of the process that Garth Genge has been guiding them through.

Council Member Golonka reported that he and Council Member Weiss attended the first meeting of the new Public Safety Committee with representatives of Berlin, Montpelier, Barre and Barre Town. They decided the process would be that they would look at a potential optimal public safety view. They are having a meeting on June 3<sup>rd</sup> and have invited all of the City Managers from the four towns as well as all of the department heads from all of the towns for fire, ambulance, dispatch and police to get their opinion before they come up with a model. From there he anticipates they will then see if there are any cost savings relatively quickly or the ability to even move forward.

Council Member Hooper reported he attended the Water and Sewer Rate Committee meeting. They are looking at some interesting changes in the rate structure. They will have more information about that at the next Council meeting.

Mayor Hooper said unfortunately they didn't have the goals on the agenda for tonight and she hopes they have them at the next meeting. She thinks the Council needs to dig in to what they are doing. There is only four months before we are into the budget season. There is training for the Board of Civil Authority on June 15<sup>th</sup> on the tax appeal process.

10-135. Report by the City Clerk-Treasurer

City Clerk-Treasurer Hoyt reminded everyone there is a Board of Abatement meeting on Tuesday, June 1<sup>st</sup> at 5:15 P.M.

10-136. Status Reports by the City Manager

City Manager Fraser reported there are police negotiations next Tuesday. Tomorrow they are having a special session to discuss the health plan.

He had attended a meeting about railroad safety. They are doing an outreach to the schools. They had to do some minor track repairs and the trains will start two a day today or tomorrow. Attorney Paul Giuliani was very helpful in recommending a potential attorney and they are setting up a meeting.

He and Bev Hill had attended the Vermont Town and City Managers Association Conference. Among the things they talked about was a presentation on emergency management planning in general but in particular about a rail derailment that led to a major leak. They received a tour of the district heat and co-generation plant at Middlebury College and it was helpful for him personally to visualize what we can have in Montpelier. He did a presentation on both the National Citizens Survey and Montpelier's web casting.

Adjournment:

After motion was duly made and seconded the council meeting was adjourned at 10:00 P.M.

Transcribed by Joan Clack

Attest: \_\_\_\_\_  
Charlotte L. Hoyt, City Clerk