

**CITY OF MONTPELIER
CITY COUNCIL**

In re: Scribner Street

Findings of Fact, Conclusions of Law and Decision

The Montpelier City Council held a hearing on June 13, 2018, at the Council chambers at City Hall, to consider the resurveying and classification of Scribner Street pursuant to 19 V.S.A. § 708 and following.

The Council met at the site of the road at 6:15 p.m., and then returned to City Hall for the hearing. Present were Mayor Anne Watson, and Councilors Dona Bate, Conor Casey, Ashley Hill, Jack McCullough, Rosie Krueger, and Glen Coburn Hutcheson; John Odum, City Clerk; Lisa Ginett, R.L.S., the City's surveyor for this matter; Tom McArdle, Public Works Director; Paul Gillies, Esq., council to the Council for this hearing; Bruce Sargent; Sarah Field, Esq., representing Mark Magiera; and Maggie Neale. The Council took testimony, reviewed materials, admitted exhibits provided by Mr. McArdle and Mr. Sargent, and met subsequently in deliberative session to decide how to treat Scribner Street.

The following exhibits were admitted into evidence:

1. An analysis by Richard Linton Brock, Esq., April 18, 2018.
2. A copy of Ward 6 Census dated February 1, 1889.
3. A 1919 photograph showing Scribner Street.
4. A 1914 photograph showing #8 and #9 Scribner Street.
5. An undated photograph of Upper Bailey Avenue and Scribner Street.
6. A 1920-era photograph showing Taplin Street.
7. A 1915 photograph showing #8 Scribner Street.
8. A 1939 aerial photograph showing Scribner Street.
9. A 1970 photograph showing Scribner Street.
10. Another 1970 photograph showing the same.
11. The 1909 Sanborn Insurance Map of Montpelier.
12. The 1915 Sanborn Insurance Map of Montpelier.
13. Percy Gates Smith's 1921 Montpelier Street Plan.
14. Montpelier Street Plan dated 1921.
15. Montpelier Street Plan dated 1935.
16. Montpelier Street Plan of J.J. Pine dated 1932-1940, 1947.
17. Another Montpelier Street Plan of J.J. Pine dated 1932-1940, 1947.
18. A November 25, 1931 Statement by the Mayor and City Council, certifying the 1931 Street Plan.
19. A February 19, 1947 Statement by the Council, certifying the 1932-1940, 1947 Street Plan.
20. Statement of Bruce Sargent, June 13, 2018.
21. Statement of Maggie Neale, June 13, 2018.
22. Memorandum by Tom McArdle to W.J. Fraser, City Manager, dated April 17, 2018.
23. "Revised Report of Research and Findings regarding the status of Scribner Street in the City of Montpelier" by Lisa Ginett, RLS.
24. Notice of City Council Meeting dated April 19, 2018.

25. Certified Mail; letters (5) to Scribner St property owners dated May 4, 2018.
26. Public Notice of Hearing published in the Times Argus May 8 and 11, 2018.
27. "Survey of Property Belonging to Margaret Neale, 8 Scribner St" by Sunwise Surveying dated July, 2001.
28. Survey of a Portion of Land Owned by James J and Deborah L Pinard by Gregory Dubois, L.S. dated Oct, 2001.
29. Email of Bruce W Sargent to John Hollar, et al, dated February 28, 2018.
30. Email dated May 8, 2018 from BW Sargent to Tom McArdle, et al.
31. Draft Surveys of Scribner Street (3) by Sunwise Surveying (Lisa Ginett, RLS) dated showing fROW widths of 33', 40' and 49.5'

Following the hearing, the Council made the following

Findings of Fact

1. Scribner Street appears on the official City highway map as T.H. 242, a Class 3 highway, of approximately 0.06 miles in length. It appears on earlier City highway maps as well, particularly the 1921 City street map, which indicates the street's length at 340'.
2. No official survey of Scribner Street has been found in City records or the records of the Town of Berlin, as this part of Montpelier was formerly part of the Town.
3. Scribner Street as shown on the official map has been maintained for many years by the City through municipal expenditures on sidewalks, water lines, and sewer lines.
4. The street is paved and maintained to a point 314' from the junction with Route 302/2.
5. A French drain is located at a point 340' from the junction with Route 302/2.

Based on the evidence and these findings, the Council makes the following

Conclusions of Law

The standard for deciding on the resurveying and classification of town highways is the public good, necessity, and convenience of the inhabitants. 19 V.S.A. § 710.

That Scribner Street has long been accepted by the City by maintenance and the residents and owners of interests in property that use that street have dedicated their land to the City for highway purposes, is undisputed.


The lack of a formal survey requires resurveying the street, and determining the length and width of the same. There is no question that Scribner Street is a city street, given its treatment over time by the City and the public.

Based on the findings and conclusions, the City Council makes the following


Decision

T.H. 242 (Scribner Street), from the intersection with River Street (Route 2) is a Class 3 City highway for a distance of 314'. Scribner Street beyond this point is declared a Class 4 City highway and runs an additional 26' to its terminus. The street is 40' in width, as measured from a series of survey monuments on the eastern edge of the street. A survey showing these decisions shall be recorded in the land and highway records of the City.

Dated this 10th day of July, 2018, at Montpelier, Vermont.



Hon. Anne Watson, Mayor



Dona Bate



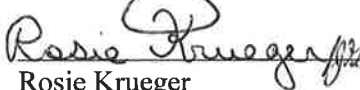
Conor Casey



Jack McCullough



Ashley Hill

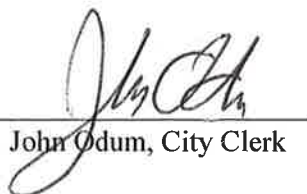


Rosie Krueger



Glen Coburn Hutcherson

Attest:



John Odum, City Clerk

Appeal

Persons interested in the highway who object to this decision may have appeal rights pursuant to 19 V.S.A. § 740 and V.R.C.P. 74 (or alternatively V.R.C.P. 75), which rules require notice in writing within 30 days of the date of this decision, to Washington Unit of the Civil Division of the Vermont Superior Court.