

On Wednesday evening, November 10, 2010, the City Council Members met in the Council Chamber.

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

10-276. Call to Order by the Mayor

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

10-277. General Business and Appearances:

None.

10-278. Consideration of the Consent Agenda

- Summary Budget Report by Department for General Fund and Detailed Budget Status Reports for General Fund, Water Fund, Sewer Fund, Cemetery Fund, Parks Fund, Parking Fund and Senior Center Fund for a three-month period beginning July 1, 2010 and ending September 30, 2010.
- Acting as the Liquor Control Commission, City Council Members may now consider the following permits:
 - 1) Ratification of the issuance of a Catering Permit to 10 Gems, LLC, d/b/a The Black Door Bar & Bistro, for a Fundraiser to benefit the Montpelier Senior Center scheduled to be held on Friday, November 12th, from 6:00 to 10:00 P.M. in the City Hall Auditorium.
 - 2) Request from Crystal Maderia, d/b/a Kismet, for the transfer of their Liquor License from 207 Barre Street to their new location at 52 State Street.
 - 3) Application for a Special Event Permit from Saxtons River Distillery in order to participate in the *“Touch of Vermont Holiday Gift Market”* in the Montpelier City Hall Auditorium on Saturday, December 11th, from 9:00 A.M. to 5:00 P.M.; they will be set up in a controlled 9’ x 9’ booth

- Approval of Payroll and Bills.

General Fund Warrant dated November 03, 2010 in the amount of \$428,454.01.

General Fund Warrant dated November 4, 2010 in the amount of \$1,013,244.80.

Payroll Warrant dated November 10, 2010, in the amount of \$27,893.55, \$3,326.97, \$133,562.54 and \$31,596.00.

Motion was made by Council Member Sheridan, seconded by Council Member Jarvis to approve the consent agenda with the additional item. The vote was 6-0, motion carried unanimously.

10-279. Introduction of the newly-appointed Executive Director of *“Montpelier Alive.”*

- a) Chuck D’Aprix was hired in September to serve as Montpelier Alive’s new Executive Director.
- b) *“Montpelier Alive”* President Shawn Bryan and Chuck requested a few minutes on tonight’s agenda for a formal introduction.
- c) Recommendation: Introduction; opportunity to visit with Mr. D’Aprix.

Mr. Bryan, President of Montpelier Alive, distributed a recap of what the Montpelier Downtown Association is all about and why the downtowns are important. This came off the web site from the Economic Development of the State of Vermont. He likes to refresh everyone’s memory that the Montpelier Downtown Association is part of a much larger national organization and their organization in the way it is structured is in accordance with those national standards for the way downtown organizations should be structured.

Benefits that accrue from having a downtown association is the tax credits that accrue to businesses within the designated downtown. Montpelier does have a designated downtown and the tax credits are available to our businesses to encourage and as an incentive for folks to make improvements to existing properties and to improve access to existing properties. It is an important piece of the puzzle of trying to keep our downtown alive and fresh and continuously improving. He also provided a map of the designated downtown to the Council Members.

His real purpose of being present this evening was to introduce Chuck. He had provided a copy of his resume. They looked at a number of candidates before they selected Chuck. His roots are in Massachusetts and has a lot of experience with downtown associations and managing organizations like ours. For the last number of years he has actually been a nationally recognized consultant on downtown community associations and helping other downtowns to improve their operations. It is the Board of Montpelier Alive's hope that Chuck will help them take their game to the next level.

Chuck D'Aprix said he feels like he knows the Council. It is a delight to be here in Montpelier and humbled by being here. He got to know Montpelier as a child. Although he worked in Massachusetts for most of his career his roots are actually in Upstate New York and he used to visit Montpelier a lot. Montpelier has always been a city he enjoyed. Like many people he is attracted to Montpelier by the cultural amenities, uniqueness and what makes Montpelier different from other places. You drive through so many cities across the United States and one place kind of runs into the next but not so in Montpelier. He has also chosen to live downtown, for him this is a very special experience.

Mr. D'Aprix said he has enjoyed meeting people over the last month and enjoyed the cultural and art scene and not only working with a Board of Directors that are actively involved but beyond the board and the many committees they have. By members taking the lead allows him as Executive Director to be an administrator and allows for a more effective program. He understands he is filling big shoes and would be remiss if he didn't mention that. Suzanne was a great Executive Director, stabilized the organization as the first full time Director and really did a wonderful job. He has a great deal of respect for her. He doesn't envision changing the staff style significantly for Montpelier Alive. He wants to be involved with the community.

Council Member Weiss asked Mr. D'Aprix what the biggest surprise was that he has encountered.

Mr. D'Aprix replied the active social life in Montpelier. If you look at the weekly updates that are being done it is amazing the number of things going on and it matches many larger urban areas.

Mr. Bryan said he would be remiss if he didn't recognize all of the Council for the support they have given to Montpelier Alive. As an organization they can't exist without the Council's support. They appreciate the money but it is also the moral support. He would also be remiss if he didn't thank all of their volunteers.

10-280. Appointment to Montpelier's Design Review Committee.

- a) Staff advertised to fill Steven Burkholder's unexpired term; one letter of interest was received from Zachary Brock.
- b) Recommendation: Opportunity to meet Mr. Brock; appointment to fill the 3-year term which will expire in September 2012.

Mayor Hooper said Zach is one of their volunteers in Montpelier.

Zachary Brock said he has lived in Montpelier for five years and worked at Black River Design for most of that time and did some carpentry work over the summer. He attended school at Virginia Tech and grew up in Pennsylvania. He decided to move to Vermont because he thought it was a unique place.

Motion was made by Council Member Sheridan, seconded by Council Member Sherman to appoint Zachary Brock to fill the unexpired three year term that expires on September 2012. The vote was 6-0, motion carried unanimously.

10-281. Presentation by Bev Allen re: banning the use of plastic bags by Montpelier merchants.

- a) Ms. Allen addressed the Council, under General Business and Appearances, at one of their October meetings; since then she has also discussed this issue with the City Manager.
- b) As a result she will plan on filing a petition with the City Clerk to request that this item be placed on the March Meeting ballot.
- c) In the meantime she wanted an opportunity to outline her proposal and to answer any questions that the Council, or members of the audience, may have. She has provided a copy of the "Bag Reduction Ordinance" adopted by the City of Berkeley as a sample.
- d) Recommendation: Receive Ms. Allen's proposal; opportunity for discussion.

Bev Allen said she copied and pasted a lot of the language from the Berkeley Bag Reduction Ordinance. She doesn't want to call it the "plastic bag ban" because that is really not the point. It is a bag reduction proposal. Ms. Allen explained the purpose of the sample bag reduction ordinance. She took some information from the Berkeley proposal concerning environmental impacts.

Some of the parameters of the ban would be that no retail store may provide plastic checkout bags to the consumers at the point of sale. Also, single use paper checkout bags shall contain a minimum of 40 percent post consumer recycled paper fiber and be recyclable. Retail stores shall charge a fee for each single use paper bag provided to customers at point of sale. The fee shall be in an amount as set forth in a resolution adopted by the City Council. She doesn't see any other way around discouraging using paper bags or plastic bags unless there is some kind of small fee for it. The reason for that is that paper bags use an enormous amount of resources in making them, and even recycled paper bags use an enormous amount of resources. It is a lot fossil fuels wasted on making bags.

The City Manager shall review the effectiveness of the fee annually and shall recommend to the City Council any adjustments to the fee that are necessary to prevent an increase in the use of paper bags. There is one exception for takeout food.

She would like to put this on a petition to bring before the voters at the March Town Meeting. Circulating the petition would give her an opportunity to educate the voters.

Mayor Hooper said if this is adopted could she tell the Council the mechanics of how this would work in terms of who would be enforcing it, who would be collecting the fees, who would be responsible, how much would it cost to manage, etc.

Bev Allen said in the Berkeley proposal they went around with placards and gave them to each retailer to post in their windows to let consumers know this is what is going to happen in three months. They also phased it in with larger stores and then smaller stores. The fee for the paper bags she isn't sure if legally they can force retailers to charge anything for products, but if we can it is a good idea to charge 10 to 25 cents per bag. Because recycled bags that have recycled content cost more retailers will need to have money to offset that cost. They can go to stores periodically and review their paperwork on how many paper bags they have sold. The number should decrease, but if it is increasing then we might want to make some adjustments. The three components are to ban plastic bags, require retailers to have 40 percent post consumer waste paper bags and strongly encourage reusable bags to be in a conspicuous space. The point of this is not to use the paper bag as a way to make money.

Mayor Hooper said when she was talking about a fee she assumed it would be something that the city would be responsible for collecting, but that is not the case at all. This is just a financial disincentive for people to use paper bags.

Ms. Allen said there is language in the Berkeley proposal that it is considered an infraction if you are breaking the ordinance and there is a fine. It is a misdemeanor.

Council Member Sherman said there is an exemption for takeout food, but what about the retailer where you buy five different things. The inconvenience is sort of significant if you had more things than could fit into the reusable bag.

Ms. Allen replied that reusable bags come very large.

Council Member Sherman said if they went to a candy store and bought a pound of jelly beans you wouldn't want to dump them in a reusable bag bulk with other things. This seems to be a little more complicated.

Ms. Allen said in order to be charged a fee for a bag it needs to be 14 inches tall. If you are getting tiny little paper bags, as long as it less than 14 inches, then there would be no fee.

Council Member Sherman asked if she had considered of option of just charging for plastic bags.

Ms. Allen replied no because the environmental impact of plastic bags is so severe that they really need to just be gone. With paper bags the end result is not as severe but plastic bags literally never decompose so that is the incentive behind just banning them altogether.

Council Member Sherman said a charge would be putting people on the learning curve.

Ms. Allen said this is actually happening in Burlington right now so this is not brand new. In fact, City Market in Burlington, which many people shop at, is getting rid of all bags. They will have no bags available. This is actually happening as we speak.

Someone asked what they do with 10 grapefruit.

Ms. Allen replied this would only apply to plastic shopping bags at the checkout. It doesn't apply to plastic produce bags.

Council Member Weiss asked if she had considered the alternative of not coming to the City Council and going directly to the Montpelier business association and Montpelier Alive and getting them to work with her on a volunteer basis to start the program.

Ms. Allen said she was just going to put it on the ballot for voters.

Council Member Golonka said to him this seems like more of a regional or state issue and not necessarily an issue specific to Montpelier. How do you answer to the retailer of putting another disadvantage on them versus somebody going to Berlin, Barre or Waterbury that doesn't have a regulation of this nature? We already have high taxes and difficult parking for retailers. We have already put up a lot of barriers for people coming into downtown. We are trying to encourage more retail shopping. Why use Montpelier as an example? Why not use this as a regional effort or go to the state? He doesn't see how he could seriously support this at this point if it is just Montpelier.

Ms. Allen said she thinks Montpelier attracts people who are really concerned. It seems like there is a population here that really cares about the environment and things we put into our bodies, the soil and air. It might be contested by the retail association because it is making their lives harder. If this was brought to the voters she feels it would pass.

Council Member Golonka said that would be nonbinding. It's not an ordinance.

Ms. Allen said even if the voters voted for it they wouldn't support it. How would taking away plastic bags impact shopping in Montpelier?

Council Member Golonka said Montpelier has a lot of barriers for people to shop downtown. This would be an extra cost for people.

Ms. Allen said retailers would be able to charge a fee for their bag.

Council Member Golonka said the people buying the stuff may go to Berlin, Barre or Waterbury. Why Montpelier only? If so, how does that benefit Montpelier in the long run in terms of competing?

Ms. Allen said she feels it makes Montpelier stand out. She just saw on a web site a couple of months ago that Montpelier just won an award for the Master Plan. We are forward thinking people here. Why not? Environmentally it makes so much sense. It would shine yet another really bright light on the fact

that people won't allow McDonald's or Burger King here. We think outside of the box.

Council Member Sheridan said he thinks she is approaching it from the wrong end. It would be much better approaching it from some kind of incentive. He has used reusable bags for three years and mainly just because he hates plastic bags. They are hard to open and the handles get twisted and he just uses reusable bags. The problem with the proposal is that sometimes he goes to the store and forgets his reusable bag so she is suggesting he is going to have to buy one every time he forgets or go back home to get his bag. This is unrealistic.

Ms. Allen said there is an organization locally in Vermont that is focused on putting reusable bags for free everywhere so she is totally opens to connecting with them and making this process as easy as possible.

Council Member Jarvis said substantively she agrees with Council Member Weiss. She would love to see her approach Montpelier Alive or the Montpelier Business Association and work with the downtown retailers because whatever happens here will happen most effectively if it happens in cooperation with the local retailers. She certainly understands Ms. Allen's passion and appreciates that very much as a parent and as someone who is concerned about environmental issues. It is going to come to larger heads rather than maybe a cooperative effort that produces something really workable. Her procedural point is she thinks the city will have a problem here with the authority to enact this regulation. Her understanding about the state of California is that they are a home rule state which means that municipalities, towns and cities in California can basically do whatever they want to do unless a particular function has already been taken on by the state. Vermont works the other way around in that municipalities only have powers that have specifically been delegated to them by the state. She doesn't see where they would have the authority to enact this regulation.

Ms. Allen said when she talked to the City Manager after the last meeting he did say this proposal needs to go through the City Attorney to make sure that this is legal because she doesn't know if we can make a retailer charge anything for any of their products. If it isn't then the whole piece about charging for a paper bag she foresaw that being an issue. They first need to find out if it is legal. She asked who she should talk to at the Retailers' Association.

Mayor Hooper said the Retail Association meets the first Wednesday of each month and if she talks with Chuck D'Aprix with Montpelier Alive he could help her get on the agenda.

Council Member Hooper said he lived in Berkeley for a number of years and appreciates their forward thinking as a community, but he thinks in this instance they are missing the mark. The energy required for paper bags is four times what it is to get a plastic bag to a retailer and if it is recycled by the consumer regardless it is better for the environment to use plastic bags. He doesn't see a moral difference between the two products. Because of that he doesn't personally think it is a good idea.

Andrew Brewer and Carrie Stahler from Onion River Sports spoke to the City Council regarding this issue. Mr. Brewer said he is going to come to Bev's defense for a minute. He thinks it is great that she has actually brought this issue to our attention. This is something they should have been thinking about a long time ago. He was at City Council two weeks ago when he heard Bev bring this up. They brought it to the attention of their fellow merchants and with their own staff about how to address this. We should absolutely be in the business of trying to discourage the use of plastic bags and all paper bags. They should absolutely be in the business of trying to encourage folks to use reusable bags. He hoped they could keep this whole debate on the level of using words like encourage and educate rather than demand, force and prohibit. In doing a lot of research they have found several examples of where an ordinance was adopted and forced down the throats of the people, and it didn't go well. He also prefers to call this a Bag Reduction proposal rather than a plastic bag ban proposal with the purpose of reducing the use of them. When it comes to whether you can force a retailer to charge a fee he is guessing no, which means if there is a fee he is likely to eat it? There is no way when someone comes to his counter that he is going to say he needs another 25 or 50 cents for this bag. They have kicked around a lot of ideas and he is happy to work with Bev. His good friend Mark Sherman who owns Outdoor Gear Exchange in Burlington has a really neat thing they do. When you come to the counter they ask you if they want a bag and if they say no they take a nickel out of the register and put it in a jar. It is a very graphic example of what can be done. They pick a different outdoor or environmental organization once a month and donate the proceeds. It might be \$100 or \$200 a month.

Carrie Stahler said that creates an incentive for the consumer not to take the bag, especially if they have any connection to the organization that gets the proceeds, which is a much more effective way to help people reduce the amount of bags they use and it creates more awareness rather than a ban which tends to create feelings of anger and government shoving laws down my throat that are inconvenient for my daily life. She does all of the ordering, buying and printing of the bags at Onion River Sports and it certainly would make her life easier if people brought more bags into the store and she didn't have to have as many bags on hand. She deals with national companies. They are a small

company and a very small player in that market and it makes it tremendously difficult for them to have any leverage to get bags that have recycled content at a reasonable price. These are all questions they have asked for years and years and have jumped from company to company as they have found ones that can do a better job, but it is a difficult problem to address as an individual retailer.

Council Member Sheridan said he agrees. Approach it from an incentive way and not from a draconian way.

Ms. Stahler said as retailers they would probably be happy to work that out because it benefits them to have fewer bags as well. It is a huge amount of storage space.

Andy Brewer said Bev said it would make Montpelier stand out, and he agrees. If they could lead the way it would be really cool. He agrees with Council Member Golonka. It is very difficult to have this. This has been discussed at the Vermont Grocers Association level. Where do you levy the tax? That is where it would have to be; the tax would have to be at the distributor level. It is virtually impossible to collect at the local level. If there were to be any kind of ordinance it certainly would have to be on a statewide level.

Council Member Sherman said the bags they do select for Onion River Sports are so beautiful that they are collectors' items and are highly coveted and reused.

Council Member Weiss said he would like to point out that in Montpelier there is a store that if you don't take a bag they put two cents in their jar.

Mayor Hooper told Bev Allen she has a right to circulate a petition if that is what she is interested in doing. She thinks she is looking for feedback from the Council and has obviously gotten some. She would like to echo what a number of people have said in terms of Montpelier really priding itself on being one of those forward thinking communities and look for areas where we can lead, particularly on environmental issues. She would suggest this needs more work in order to be successful. It is an important issue and something we ought to tackle. She would urge her to hear the positive things that have been said and figure out a way to make sure that the ultimate goal of reducing the use of plastic is reached and not lose the good that is there by getting annoyed or frustrated because of the problems we might not have thought through in trying to do that. The notion of working with the Downtown Association and asking merchants what the issues are they are going to have and to look at the educational process. You begin by trying to educate people and see if you can get there, and if you don't then you go to the more restrictive approach.

Council Member Hooper said he would talk to the Solid Waste District as well because they have a zero waste initiative and they are always looking for and exploring ways of reducing waste.

10-282. Discussion regarding Alternative Revenues.

a) Mayor Hooper requested this item to discuss:

- 1) Trends on property taxes;
- 2) What could be raised in rooms, meals, alcohol, and sales taxes; and
- 3) Weighing the options of the personal property tax.

b) Recommendation: Discussion; possible direction to staff.

Mayor Hooper said she would like to have a discussion about alternative revenues. She wanted this in front of the Council again as we head into the budget season. She asked if the City Manager could walk us through our long history in talking and thinking about this. She would like to put it into the context of property taxes and what we are facing in Montpelier with property taxes as our exclusive source of revenue and contrast that with growth or non-growth of our grand list and what our expenses are going to be going into the future. Something has got to give.

City Manager Fraser said we did a reappraisal and have a sense of our grand list and not projecting a lot of increase in that for this coming year. He has some information on personal property because as a percentage of our grand list it dropped because the methods of reappraising that are less precise than appraising real property. Steve Twombly raises the issue of whether we should do a more detailed appraisal of personal property. They have seen a ½ a percent of growth in their grand list over the years, and that has been that way since he has been here. They have talked about wanting to generate that grand list growth we would need to generate the same kind of revenue that a local options tax would generate. In 2003-04 we talked about the impact if there were 1 percent sales it would have reduced the average property tax by \$130 plus or minus. In order to spend that much in a local options tax you would have to spend \$13,000 in the city.

The average residential property is approximately \$228,000 and this would generate about 8 cents on the property tax rate so that is about \$18,000. Assuming we followed the state model and that is what the Legislature imposed upon us if we were to pass a charter change 30 percent of that goes to the state's pilot fund. That is how we would receive our own increases each year in

pilot revenues because other towns around the state have been adopting this. But because we are about 30 percent of the pilot fund we are the biggest recipient of that so we would be returning some of that back to us. If we adopted all of it and contributed \$275,000 to the pilot fund we would get about \$82,000 of it back. He thinks it is fair to add that into potential impact of this tax for us as opposed to a community that doesn't have much state property.

Council Member Jarvis said doing the math wouldn't you take the combined number and subtract the pilot fund and then add the Montpelier pilot.

City Manager Fraser said the \$642,000 is our 70 percent share and the remaining \$275,000 goes to the state. That is all of the combined taxes.

Mayor Hooper asked him to remind the Council about the process they went through the last time we talked about this.

Jeff Carr, an economist for the state, came in and talked about this. Steve Jeffrey from the League of Cities and Towns came in and talked about the legal process. They held a workshop with the business community and the restaurant community. They visited other communities and Mayor Hooper and he went to Rutland, Williston and Burlington to talk to businesses and city officials there. They held a forum at the high school when they went through their expenses and revenue challenges at the time. Of course they held a public vote and it wasn't passed. At that time they also did it in conjunction with Barre and Berlin.

In 1992 the city passed the meals and alcohol tax and it was designed to go to our capital projects and that never passed the Legislature. That was before Act 60 had passed to creating the local options tax for some communities. What he is currently doing is taking a look at the sales figures from all of the communities that have a local options tax and looking at the comparison communities over the ten years to see if there were dips in their take in revenues?

Mayor Hooper said perhaps one of the other things to remember is that 18 months ago he asked Sarah Jarvis, Alan Weiss and Andy Hooper to look at revenues and expenses and they came back with a number of recommendations, one of which was to look at the personal property tax. One of the concerns the City Council has been to make sure we are as efficient and as effective as possible with the expenditures of funds and to look for opportunities to think about ourselves differently in the delivery of services. She believes they do that on a continual basis and they certainly look at it hard when they do the budgeting, but we are also in the process of bringing in an

outside set of eyes to look at us to see if there are some other ways to help us figure our way through this. She feels a little like the little girl who cried wolf in that each year we really need to figure this out. Thanks to some pretty terrific staff work we have come up with some innovative solutions on the expense side. Last year Sandy, Bill and our staff figured out a way to avoid \$200,000 of health care costs. We have found places like that throughout our budget but she doesn't believe they can do that every year. We have talked about growing the grand list and have this goal of 500 units and it isn't happening soon. There are five new houses going in this year which is pretty good. It is a relatively flat grand list. Expenses that just when you look at personnel costs are going to go up 3 to 5 percent annually which means we are really taking a reduction everywhere else in the budget. She is deeply worried about what they are doing in terms of delivering the services. Thus her plea to look at this again and to understand if we are really fulfilling our obligations to people of the city.

Council Member Weiss asked if the Council moves ahead with a 1 percent tax, how do we do that? Is it a charter change and a legislative change?

City Manager Fraser replied that for Montpelier it would be a charter change. When Act 60 and Act 68 came in the Legislature gave about 60 or 70 communities in the state the ability to simply enact this by their own vote at Town Meeting. Those were the so-called "gold towns." This was going to be a way for them to offset the hurt from their higher property taxes for education and 8 or 9 opted to do so. For everybody else there is no provision for us to do that. Some communities have done it by charter change. The city passed a similar charter change in 1992 and it was not approved by the Legislature. Since that time there is now a mechanism in place for some communities. The Legislature said they let some do it and as long as your voters support it and you do it the same way you aren't creating a new income tax or another system that isn't already in place they are letting communities do that. Montpelier is not one of the chosen 60 or 70 so we would have to have a charter change to authorize. There is only one other mechanical piece. When it was proposed last time it was specifically worded and presented to the voters that it would be authorizing it and if the charter was changed it would come back to the voters to actually put the tax in. There would be one vote to authorize it.

Council Member Jarvis said the wording on the ballot would be so crucial. Was there any wording in terms of what the money was going to be used for?

City Manager Fraser said not in the 2003-04 vote. It was basically to authorize to amend the charter to provide for this.

Council Member Jarvis said the Citizen Survey was overwhelmingly positive about a willingness to enact an options tax. Was that specifically stated to reduce property taxes?

Council Member Hooper said it was to raise more funding from the nonresidents. The city should collect alternative revenues, example of sales tax, rooms and meals tax and alcohol tax to reduce reliance on property taxes and bring in more funding from nonresidents. It was quite popular.

Mayor Hooper said they are going to get some more information. She asked what the council needed to know to move it ahead?

Council Member Sherman said in her brief passage through downtown this morning Phil Dodd leaped out of his car and said he understood local options taxes are on the agenda for tonight. He is ready to talk to us about the 1992 vote that was positive. He supports it.

Council Member Weiss said he would like the Council to give a lot of consideration to whether or not this proposal should be included in the March 2011 City Meeting because we have 5 or 6 potential very important items which may or may not be included on that ballot. He doesn't think the city voters are going to approve all of them. What will biomass be? Anywhere from \$9 to \$30 million? If we are talking about the Carr Lot and the budget for the city itself, somewhere along the line the Council has got to establish some priorities as to what they can present simultaneously in March 2011.

Council Member Golonka said it sounds like we are taxing ourselves in just a different way. He knows they are trying to target outside residents. Are we just tricking ourselves or fooling ourselves into thinking we aren't raising our own taxes?

City Manager Fraser said two things that came up the last time about that was the average property value was \$135,000 and it was going to represent about 12 cents on the property tax rate. The average savings would have been about \$162 per year on the tax rate. The residential property would have to spend \$116,284 per year at an average of \$313.15 per week in taxable sales, rooms and meals. That was in March 2004.

Mayor Hooper said the last time they talked about this her recollection was that there weren't a lot of merchants who collected that sort of data. It is probably not data that is readily available.

Council Member Golonka said his other concern is if Montpelier is doing this alone versus other communities it is one more reason why people can go elsewhere to shop. That needs to be discussed.

Mayor Hooper said the question is how that would affect behavior.

Council Member Golonka asked if it would hurt sales because of that.

City Manager Fraser said they need to look at the pattern of how it has worked in other communities.

Council Member Golonka said he didn't think they could compare Montpelier to Williston. Williston is a different example and a different animal. Other communities such as Manchester or Middlebury.

Andrew Brewer from Onion River Sports said of the towns that have enacted this Middlebury is the one that seems to be closest to us. You can't compare Montpelier to Williston. Everyone who goes to Williston is from away – all of them. It's probably the same in Killington. In Killington's instance it actually was the business community who led the charge for this but they also recognized that everybody who came up on the Mountain Road was from away and 100 percent of it goes back into the promotion of Killington and the Mountain Road. Manchester is clearly a tourist town. Stowe has the rooms and meals tax but not the sales tax.

Mayor Hooper said Burlington is an interesting comparison because it is obviously a much bigger community but in terms of neighboring towns there are other options around, although now South Burlington and Williston do, but you could go to Winooski.

City Manager Fraser said Burlington actually went to 2 percent on their rooms and meals tax.

Mayor Hooper said Burlington is also an interesting analogy. Montpelier and Burlington are somewhat similar in terms of the attractiveness of our downtown as compared to the surrounding communities that don't have local options tax. The question is how that would affect behavior. She isn't sure that people are necessarily choosing to go to shop in Colchester or Winooski and lose the Church Street enjoyment, which is similar to Downtown Montpelier.

Mr. Brewer said they all have worked very hard for the terrific downtown we have and the experience we have in the downtown. This feels a little bit like

they are being penalized for it. We want people to come into downtown and try to attract people into downtown. We don't want to have a toll booth down by the Wayside coming and going to tax people coming into Montpelier. He certainly understands that Montpelier is a hub and Berlin doesn't swell during the day. He suspects that Berlin's population decreases during the day as Montpelier's swells. He is concerned about the thinking that if you are going to come here you must pay to enjoy what Montpelier offers. He is very concerned about that. There is a perception out there that Montpelier is going to be more expensive when you go to Montpelier. Honestly, does he think it is going to keep anybody from buying a water bottle or helmet? No. Roughly half of their sales come from Montpelier at all three of their stores on Langdon Street. Council Member Golonka's point is well taken. Is this smoke and mirrors where we are going to be taxing ourselves more but just in a different way that isn't so obvious.

Eric Esselstein from North Montpelier and a property owner and taxpayer in Montpelier said with reference to the bag issue people will change that in a hurry. When it costs us 10 cents apiece to get hold of a plastic bag they will disappear. He said he is here as perhaps an extinct species who would like to speak highly in favor of a local options tax in Montpelier. He gets his hearing aids here and shops here and eats in the restaurants here. If he goes to a restaurant and pays 20 cents more for a meal because of a 1 percent local options tax he won't go to Berlin for a meal. There are lots of reasons why people come to Montpelier. If he pays \$8 for a puzzle at a toy store his 8 cent additional 1 percent local options tax is not going to drive him to Waterbury or Barre. Of all of the western democracies the United States is about the most under taxed nation we have, and in despite of all of the propaganda the other way the reason we don't have early childhood education and decent restrooms and public transportation and bike paths and modern school is because of taxes. Taxes are a part of a civilized society. He knows people are going to object. If Montpelier is going to continue to flourish as an appealing place he urges them to look at Burlington, Manchester, Middlebury and Killington to find out how their local options taxes are going. Mayor Hooper talked about the personnel costs. If the personnel costs go up 5 percent a year in 13 years you will be paying double what you pay now. He was talking to somebody about various insurance costs and they kept the costs down to 9 percent a year, but the money which he uses to pay his taxes in Montpelier are currently earning almost .0001 percent and he is facing the bills in this community which are going up and doubling in 8 and 13 years. Being able to draw income from other sources, yes, as a Montpelier resident he would be willing to pay some of those taxes and he doesn't think that visitors are going to be turned by the 8 cents on the \$8 puzzle at the toy store. He strongly urges the Council to be favorably disposed to a local options tax.

Mayor Hooper said they were collecting a list of what you would need in order to think about this in the future. Alan Weiss talked about the other ballot items, the question about who is paying the tax and how is behavior affected. We have already talked about collecting the data from the other communities.

Council Member Hooper said he would act in favor of the lesser options taxes on the rooms and meals and alcohol because of their very discretionary nature, but he thinks the sales tax is a bad idea.

Mayor Hooper said one of the observations that folks have made if we go with rooms, meals and alcohol we are looking at \$178,000 plus the pilot. Some of the commentary she has heard, is that enough to make a significant difference in our tax rate? That would be enough to pay the increase in health care.

Council Member Jarvis said she feels it is all or nothing. She thinks they face the same obstacles and perceptions of Montpelier that we would on just rooms and meals as they would on everything. For her it is really an all or nothing proposition.

Council Member Sheridan asked the City Manager if it would be a lot of work to see what a tax on services would bring in for lawyers, accountants, etc.

Mayor Hooper said the first year she was Mayor before Berlin and Barre were willing to consider going into together with us on a local options tax, we did the analysis of looking at gross receipts, taxing other services and spent a lot of time on it. The problem with taxing services is getting the authority to do it, and she will put a lot of money on not getting that authority. The Legislature won't even try collecting that money for itself that way so them giving the city the authority to do that is not going to happen.

Council Member Jarvis said she would be interested in more public exploration. We had such an overwhelming response to the Citizen Survey from residents who said they would be willing to vote for a local options tax. She is sure there are a lot of people like Phil Dodd, Andrew Brewer and Eric Esselstein who can help us work on this because this is really a hard issue for the Council to deal with.

Council Member Weiss said as a reminder if the intent is to do something about this at the March meeting we have only two months to make up our minds.

Council Member Jarvis said she didn't think there was any way they could do it at the March meeting. It doesn't seem feasible to her.

Mayor Hooper said she isn't willing to let go of March. It's been a few years since we have had this conversation but it isn't brand new. One of the people we could invite in is Jim Condos our Secretary of State Elect was on the South Burlington Select Board when they adopted their local options tax and he has some pretty strong opinions about that. If you wanted to talk with a local official about that he would be a good resource.

Council Member Jarvis said she is very interested in the process. That would be very valuable.

Mayor Hooper said they could see if someone from Middlebury could come to speak with the Council.

City Manager Fraser said it was November 2004 they voted. They just laid out the charter language and called for the 1 percent increase in all four taxes and it didn't talk about the use. Middlebury was a different circumstance that they specifically earmarked a new bridge. They said they were going to build a bridge without any state or federal funding and got a grant from the College and had to raise their local share. This is a bridge for commuters, both nonresidents as well as residents. It was done through a local options tax. They had a special assessment for their downtown organization. The local options tax was clearly presented as their way to pay for the bridge. Is it fair to penalize us because we need these services? The answer is, is it fair that a property resident who is paying a very high property tax to support those services is not seeing income from the businesses or revenues from those. Is it fair for them to have to pay to support those services and is there a way to share with the nonresident customers? It's a tough issue and that is what the Council has to decide. Is it something worth proposing? Do you put it out to the voters to see what they think? Give them numbers and information. The last time they were very clear about how much it was going to raise and they basically said no and they preferred to keep it on the property tax. That was their choice.

Council Member Jarvis said the Council also needs to take heed of their own advice that we just gave to Bev Allen, that we need to work with Montpelier Alive and the MBA on this issue and not cram it down their throats. It needs to be a cooperative effort.

Mayor Hooper said she has been talking about this for some time and raised it with Montpelier Alive two months ago.

Council Member Sherman said the last vote was six years ago and a lot has happened since then.

10-283. Rail Update

- a) Mayor Hooper has requested that Council receive regular updates on the rail situation.
- b) Recommendation: Receive update; opportunity for discussion; and possible direction to staff.

City Manager Fraser said he doesn't have a lot more to report on the rail situation. Mayor Hooper asked that we keep a regular update on the agenda. They met with Attorney Robert Gensburg on this issue with Paul Giuliani. He has a lot of background in rail issues. He has already sent letters to VTTrans asking to be included on any correspondence and communication. He asked for some specific information from them including their plans and blueprints. He has actually requested a ride from Barre to Montpelier on the rail to see what is happening and has invited Bill to accompany him. The answer they received was that the city would have to pay for that. VTTrans said that is something that is not covered in their lease with the railroad. He plans to get the city a plan of what the city's legal options are.

Mayor Hooper said she has been in communication with Senators Sanders and Leahy. The representative from Senator Sanders' Office offered to gather the federal delegation to provide us assistance. She wonders if Council Members have some ideas about how they should be communicating with either AOT or with the federal delegation. One of her jobs this week is to ask for a meeting with Governor Elect Peter Shumlin to inform him of this. She has also talked to people in both the House and the Senate about issues we have had with the rail and she assumes that will be an ongoing conversation with the Legislature. One of the other questions that was raised to her with regard to the work that was done on the bank building on Stone Cutters Way where they have organized their drive-thru. Some parking has been lost. It is all private parking. She would be interested to know how much parking has been as a result of the actions. Both at the bank building that has been reorganized and the parking around M&M Beverage she assumes we lost parking spaces.

City Manager Fraser replied they didn't lose any parking spaces in that lot at all; in fact they gained a couple. The Vermont Association for the Blind had to use parking in the leased area, which they are going to lose, and the city has leased the parking from them for public use. They are going to need to reclaim that parking.

10-288. Agenda Reports by the City Manager

- a) Discussion regarding the court decision on the Sheil appeal.
 - 1) Since receiving the court's decision, City Councilors have not had the opportunity to discuss and decide what the City's next step(s) should be.
 - 2) City Council may choose to enter into Executive Session in accordance with Title I, Section 313, Subsection (a) for the purpose of discussing this litigation.
 - 3) Recommendation: Direction to staff.

The question to the Council is whether or not they should appeal the court decision.

Clancy DeSmet, Zoning Administrator, said the basic issue of the case was whether the application of vinyl siding and vinyl windows was appropriate on a historic structure in the National Register District on Cliff Street. The city's ordinance is quite vague with regard to harmony and compatibility of exterior design in a historic district. The city lost the case because we had a weak decision and undefined terms. He doesn't think the city will be successful if they appealed this decision. He believes they would be overturned for being vague. The only thing we can do is to revise the ordinance should we choose to do so. His recommendation would be to revise that language.

Mayor Hooper said she was of the impression that this deeply undermines our work in preserving straight integrity of structures.

Zoning Administrator DeSmet said there is another wrinkle in the case. It is difficult when you have a project where the person has started and you don't have an as built approval. It makes it difficult for the Design Review Committee and the Development Review Board to evaluate a project when it has basically already been done. In this case all of the siding had been taken off and the windows. It is very difficult to start at that point. There was another case on State Street where all of the windows were taken out. You come to a Design Review Committee and you are basically trying to get something approved that had it not have happened already it probably would have been approved. In that sense it undermines the integrity of the process. It also diminishes the value of the property as far as the historic nature goes.

Zoning Administrator DeSmet said what he tried to do instead of going into an enforcement action was to get someone to go into compliance ahead of time. In this court case if he had issued a violation rather than contacted the property owner to see if they would come in and get a permit the city might have had some remedies as far as the penalty was concerned. He typically tries to work with somebody before he just issues a notice of violation. It makes it difficult for him to administer the ordinance. If those terms were more clearly defined because you can find certain cases where it is either the district as a whole they are comparing it to or the neighborhood they are comparing it to because if you look at the neighborhood probably three quarters of it has artificial siding whereas the overall district has about 14 percent. This involves an historic structure in an historic district. The criteria have different areas they are looking at. CB-I is different from CB-II. There are HDR neighborhoods that are in the Design Control District also. The whole entire Montpelier Historic District is not design control, which is an interesting thing as well. There are only a couple of houses on Liberty Street that are in the Design Control District, but they are actually in the whole district and maintain their historic fabric regardless of the regulations. Overall there are a large number of properties that have either artificial or other siding. Another problem becomes at what point he goes after these people. How would he know if somebody did this if they weren't required to have a permit? The only reason you get a permit for vinyl siding would be if you were in the Design Control District. There is no trigger as far as the building permit is concerned. Some people honestly don't know.

City Manager Fraser said one of these issues they have wrestled with at the Council level was the notion of our citizen volunteers sitting on the boards having to make these decisions and the Council by not pursuing it or supporting their position has any sense of whether they would have reached the same conclusion.

Zoning Administrator DeSmet said he thinks the lawyers on the boards understood why the bus was driven through, but he thinks some of the people that have been involved in historic preservation for a number of years are fairly unsettled about something like this. There is a conflict between the two boards as far as the DRC's decisions given deference.

City Manager Fraser said in this particular case the DRB appealed and now the Council is being asked to either appeal this decision, which would effectively be taking the same side as our board, or choose not to.

Zoning Administrator DeSmet said the DRB talked about it a little bit at their last meeting and the Design Review Committee talked about it at their meeting in the context of the National Trust having sample language for design control enforcement. They were going to look into bring the sample language forward to alleviate this problem.

Mayor Hooper said the notion is what they do to prevent this from happening. She said the Council certainly wants to support the actions of the boards. Did they express an opinion as to whether or not the city should appeal the decision?

Zoning Administrator DeSmet said they should ask the boards. The deadline is November 18th.

Council Member Jarvis said she would strongly oppose appealing the decision. She totally gets what they are saying about supporting our boards. Her reading of this is that it is a fact based decision and any decision that is appealed on the basis of the factual findings of a judge in order to be overturned the standard is so high it is like saying the judge had no basis upon which to make his decision. This lends deference to the Environmental Board.

Council Member Sheridan said he wouldn't appeal it. It isn't worth it.

Mayor Hooper asked if it was the consensus of the Council to not pursue this. She suggested they convey that immediately to the chairs of the two committees.

Council Member Jarvis said she would like it to be conveyed in the context of help us figure out how to deal with this going forward. If we have some of these technical bulletins from the federal government to tie our ordinances to instead of this wishy washy malleable standard that exists now that is the thing we need to be spending our time on.

Zoning Administrator DeSmet said every time a property transfers and it has one of these designations either someone in the Planning Office should be notified or the person doing the transaction should have a little bit more information on where their property is located. He knows people need to take responsibility for this. They do a lot of outreach but he suspects they could do a little bit more. There are a lot of manufacturing companies that are trying to push window replacement as the most appropriate and energy efficient transaction you make in your home, and it is actually the last thing you need to do. When a property transfers and a person honestly doesn't know their property is in Design Control or on the National Register it would be nice if

there was a way for them to be notified upon that transfer. Maybe that could be done when it is recorded.

Council Member Jarvis said if he files a memo of municipal action on every property that is designated it is in the land records and the attorney will find it when they are doing a title search and notify the buyers. That would be the easiest thing to do.

Zoning Administrator DeSmet said when they update the National Register, there is a public meeting and part of that process involves mailing the information to every single person that is on the Register. He is sure there is a way for him to write that memo and then file it.

Mayor Hooper said windows is a different issue and that is a building permit. She assumes that is talking with Glenn Moore and Jane about the requirements.

Zoning Administrator DeSmet said there is a trigger on the building permit. There is a section on there for the Zoning Administrator and the Public Works Director to sign off.

Council Member Weiss said he reads the minutes of the meetings of the boards over which Mr. DeSmet has jurisdiction. Clancy deserves commendation because without him running those meetings and facilitating them those boards would be completely out of control and he does a great job. At some time staff should get these committees together and give them a hard nosed lesson in what it means to be a committee member and how to serve on a committee.

Council Member Jarvis said for her this brings up issues of rezoning. She really did not feel comfortable with the way things were left at the All Board meeting on Monday in terms of how we are going to incorporate and start preservation in our rezoning. She would love to get an acknowledgement from Gwen that the DRC and the Historic Preservation Commission are going to be very steadily involved in this process because she doesn't get that sense at all from the meeting. If we are going to be dealing with issues like this in the future then we need to focus on it.

Mayor Hooper said a concern she has is they have been waiting with their zoning ordinances to do a number of changes because they wanted to organize it for the master planning process. She asked Clancy if he is concerned that this is queued up too far back in line to get the changes in place necessary to make sure this doesn't happen again.

Zoning Administrator DeSmet said he isn't necessarily worried about that. There is also a silver lining in the case. Although to de novo review you have to have the DRB's rationale. The court's decision approving the application includes substantial conditions if you look at the last couple of pages. Among other things he is required to preserve the clapboards, the trim, and the corner boards in the front of the house, and to preserve and replace the wooden window trim as they did on 7 Hubbard Street which is a building with vinyl siding on it but was not in a Historic District. The Court also requires and his successors to maintain the siding and repair any defects that detracts from the house. That is a pretty substantial condition that runs with his land.

Council Member Jarvis said the decision should be recorded in the land records.

Zoning Administrator DeSmet said there is another step that we need to take.

Council Member Jarvis asked how a successive owner would know that this condition exists.

Zoning Administrator DeSmet said he isn't saying they aren't recording it. One of the things they have to do, should they decide they aren't going to appeal it, is the DRC and he need to reach out to Attorney Franco to discuss how to get to a point where they can do these things. One of the things that came up at the Design Review Committee and the Development Review Board was whether he was going to try to incorporate wooden elements on these buildings like they did on another building that was a compromise. There is still a lot of work to be done. Yes, it will be recorded because it will be like a redrafted decision.

Council Member Jarvis asked if his take on the preservation of the clapboards for the front of the house means he cannot put vinyl siding on the front.

Zoning Administrator DeSmet said on the front he can.

Council Member Weiss said let the record show that the Mayor by consensus got the Council to agree not to appeal and to notify the appropriate chairs. We don't need a vote because the Mayor did it by consensus.

10-284. Council Reports.

Council Member Weiss reported that last evening the members of the Energy Advisory Committee met. The folks received three proposals regarding the

biomass project which then broke down into five proposals because there were some alternatives. Two of the members of the Advisory Committee are going to review those proposals from both a technical and economical standpoint. At a previous meeting of the Council Gwen was here and the Council authorized the expenditure of funds to hire somebody to help with that evaluation. The good news is that the National Renewable Energy Laboratory is going to pick up almost half of the study to be done which would substantially reduce any monies that would have to be spent for outside consultants.

Council Member Sherman said the GMTA Board and the CCTA Board are merging and there is discussion underway about representation of the members of the GMTA Board on a new board. Montpelier has two representatives on the GMTA Board and we want to maintain a strong voice on the combined and larger board. The Montpelier Circulator – Meredith and Chris Cole were here. There was talk about a Montpelier Circulator and request for some revisions. There needs to be one, or possibly two, Council Members – she would like to be one of them – authorized to have conversations with GMTA about the route and the frequency and the possibility of having it an initial start and introductory program so that Montpelier residents see what it is, see how it works and have an opportunity to ride before it is expanded into a service that serves the whole community that is larger scale and larger cost. Some sort of small pilot operation would be a good starting point as long as it is a route where it is mostly used. The Senior Center, Co-Op and Heaton Woods, who are all very interested parties, are in District 2.

Mayor Hooper said maybe there should be another agenda item on the bus and what the needs and interests for the community are. Obviously, there is a different point of view on this.

Council Member Jarvis said it would be good to have the other parties present, the Co-Op, the colleges and other constituencies who are interested.

Council Member Weiss said he would point out that Council Member Sherman specifically asked for recognition of appointment of two Council Members.

Council Member Sherman added it could also be the bus folks coming here. We need to have a discussion on that and a definition of a reasonable pilot.

Mayor Hooper said she thinks there are still questions in peoples' minds about the effectiveness of this, what it is going to bring to the community, what it is going to cost, and since this isn't a warned agenda item she would like to have some people with some expertise here to talk to the Council about why hour

long headways are an issue, who is it in the community who has been asking for services and how they will or will not be served depending upon the sorts of choices we make. There was a very preliminary presentation but she doesn't think they got any sort of in-depth detail so that folks who are not familiar with public transit centers and what they have brought other communities need to know to make an informed decision.. Presumably they want an article on this on the ballot in March or it needs to be included in the budget.

10-285. Mayor's Report.

Mayor Hooper reported that the three items on the charter change were approved in Montpelier. She has talked with the Chair of the House General Affairs Committee about how to present the proposed charter changes to the state. She would like to know what the Council wanted to do with regard to the All Boards meeting and get some feedback on how they should be communicating with the Planning Commission. She certainly has some opinions about what they ought to be paying attention to. They heard in some detail about one type of code and she would like to have more information on what the other options are out there to accomplish the goals we might have. She thinks our staff needs to present to us an array of choices rather than a choice. That may be happening with the Planning Commission but she would like to understand that better.

Council Member Jarvis said if they are going to be presented with a particular proposal she would like to hear the pros and cons and would like to hear from a community that has actually tried form based zoning and what has been the pitfalls.

Mayor Hooper said there has been no one in Vermont except for Newport.

Mayor Hooper reported she had a meeting with Bill Caplan who is the Property Manager for the Vermont College of the Fine Arts and she wanted to let him know about the conversation that was happening with regard to the buses. He talked about not just the Vermont College of the Fine Arts but Union Institute, the Community College and NECI and the very fine pressures that are being placed up there on the neighborhood and the four businesses in terms of parking demands and traffic issues. He expressed an interest to be working with the community to alleviate those problems. Those traffic issues are overflowing into the neighborhoods and need some attention. It was a really positive conversation and he appreciated his taking the lead and working with the members of the community to work on that problem. She also

resigned from the Board of the Vermont College of the Fine Arts. She wants it on the record that she is no longer was on that board.

10-286. Report by the City Clerk-Treasurer.

City Clerk-Treasurer Hoyt reminded everyone that the second installment of property taxes are due on Monday, November 15th. They need to be postmarked, in the office or placed in the drop box on Monday night.

10-287. Status Reports by the City Manager.

For a fee consultant he did locate a couple of New England based firms. The ballpark price he has been able to get is \$15,000 to \$20,000. We can draft an RFP, circulate it to make sure it is what the Council wants, and put it out and see what it gets.

Mayor Hooper said she recalls when they filled the Financial Director's position the last time we invited in folks from the League of Cities and Towns to look at what we are doing and help to draft a job description. We received a lot of feedback on our processes. Would that be an alternative possibility? This would be looking at our management functions.

City Manager Fraser said the former Finance Director invited two peers from other finance departments and the Finance Director from the League to go through things with her. It wasn't really a service the League provided but something she asked for. It wasn't in line with the hiring the new Director.

City Manager Fraser said he is sorry to announce that our Road Superintendent Mike Garrand is leaving us and going back to East Montpelier. They are taking a look at how to deal with that. Mike has done a nice job and helped us make a lot of changes.

Council Member Sherman said Sandy Pitonyak sent an e-mail that there is a Veteran's Day Parade tomorrow at 10:00 A.M.

Mayor Hooper reminded members there is a BCA meeting tomorrow. She is a little concerned there won't be great attendance on the holiday.

Adjournment:

After motion was duly made and seconded by Council Members Jarvis and Hooper, the council meeting adjourned at 9:25 P.M.

Transcribed by: Joan Clack

Attest: _____
Charlotte L. Hoyt, City Clerk