

On Wednesday evening, February 22, 2012, the City Council Members met in the Council Chamber.

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

Call to Order by the Mayor

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


Mayor Hooper said this is the last meeting our City Clerk will preside over the Council. She has 21 years as City Clerk and an amazing 40 years of coming into City Hall and providing incredible services to the community and support for all of our colleagues. She thanked Charlotte Hoyt for all she has done for the city.

12-054. General Business and Appearances

Mayor Lauzon, from Barre City said he was present to honor Mayor Hooper and say what an honor it has been to serve with her. He presented the Mayor with a resolution.

City Manager Fraser offered his thanks to Charlotte Hoyt for the great relationship they have had and extended the same thanks to Mayor Hooper. He presented a key to the City of Montpelier to Mayor Hooper and City Clerk & Treasurer Hoyt.

12-055. Consideration of the Consent Agenda:

- a) Consideration of the Minutes from the February 8th, City Council Meeting and February 14th, 2012 City Council Work Session. 
- b) Ratification of the City Manager's Employment Agreement for 2012-2014.
- c) Formal approval of the Mediated Settlement Agreement with National Life.
- d) Consideration of approval of a Vermont Agency of Transportation (VTrans), Town Highway Structures Program grant reimbursement request identified as claim form "#TA 65", for the now completed **Towne Hill Road Culvert Reconstruction Project**. Public Works

Department staff secured the grant funding in 2010 in the amount of 90% of the project costs and completed the project during the 2011 construction season. In accordance with the terms of the grant agreement, VTrans requires that the municipality, through its select board or City Council, certify as to the accuracy of the reimbursement claim. Documentation of project expenditures are on file and available for review. Due to unforeseen circumstances, project expenditures exceeded the original cost estimate. A grant amendment to assist with these additional costs was requested, recommended by the District Transportation Administrator, and approved by the VTrans Program Manager. The TA65 form herein presented for City Council certification reflects the amended grant amount of \$81,357.75, representing 90% of the total project cost (\$90,379.50). A majority of the City Council must indicate approval by signing the TA 65 form in the space indicated.

- e) Consideration of an “Application for Permit for Conduit Locations” submitted by Sovernet Fiber Corporation to obtain a license to construct buried conduits within two municipal highway rights-of-way (Gov. Davis Avenue & National Life Drive). Sovernet is currently in the process of expanding throughout many areas of town by attaching their systems to existing utility poles through agreements with Fair Point, and as authorized by the PSB. The attachment of fiber optic cables will, in some cases, require additional pole anchoring to support the added stresses. Most anchoring requirements will be accomplished through the use of existing ground anchors while a handful of others will require new ground anchors. The existing aerial systems are licensed by the City. To construct and maintain new underground conduit systems, Sovernet (through their right-of-way agent, NorthLand Right of Way Services, LLC.) has requested permission from the municipal authority to occupy the public highway right-of-way. The subject systems will provide communication services for the state Capitol Complex and the State offices in the National Life facility (see attached plan). The Public Works Department has reviewed the petition and is prepared to issue a “Construction & Access” Permit for the projects and will enforce applicable road & utility construction activities, and require payment of the permit fee upon approval of the utility petition. If approved, a majority of the City Council must sign the petition in the space provided and the City Clerk will record the document in the land records.

- f) Consideration of a request for the closure of State Street (from Main to Elm) on Saturday, June 2nd, 2012, between the hours of 7:00 A.M. and 4:00 P.M. for the Annual ***“Montpelier Fashion Show”***. The Fire Chief, Police Chief and Public Works Director have all approved this request.
- g) Consideration of revoking the October 22, 2008 approval of the “RESOLUTION AUTHORIZING AGREEMENTS AND THE EXECUTION AND DELIVERY THEREOF FOR THE MAKING OF CERTAIN CAPITAL IMPROVEMENTS THROUGH THE ISSUANCE OF NOT TO EXCEED \$106,000,000 EAST CENTRAL VERMONT COMMUNITY FIBER CERTIFICATES OF PARTICIPATION SERIES 2008”. On October 22, 2008, the City authorized East Central Vermont Community Fiber (ECF) to issue certificates of participation (master lease) not to exceed \$106,000,000 for the purposes of making certain capital improvements for the delivery of communication services. Due to significant changes in the capital markets, ECF does not intend to finance the project with the certificates of participation.
- h) Consideration of the becoming the Liquor Control Commission for the purpose of acting on the following:
1. Ratification of the issuance of two Catering Permits from Yebba, Inc., d/b/a The Abbey Pub & Restaurant, for Wine Receptions scheduled to be held from 3:00 to 7:00 P.M. at the State House: one on Tuesday, February 14th; the other on Wednesday, February 22nd, 2012.
 2. Ratification of the issuance of a Catering Permit to Vermont Hospitality Management, d/b/a New England Culinary Institute, for a “Welcome Reception” scheduled to be held on Wednesday, February 15th, from 6:00 to 8:00 P.M. at the National Life Guest House.
 3. Application for a 2011 First Class Liquor License/Restaurant License from Clean Slate Café & Company, d/b/a Clean Slate Café, for their new business which will be opening at the old Thrush Tavern location. These licenses are required to be renewed each year by May 1st. Because these applicants hope to open by then, they are applying for their 2011 Licenses; they will need to reapply for their 2012.

4. Application for a Catering Permit from Vermont Hospitality Management, d/b/a New England Culinary Institute, for a State House Reception scheduled to be held on Thursday, February 23rd, from 4:30 to 6:30 P.M. at the State House.
5. Application for Special Event Permit from *Go America Go Beverages* for a “Taste of Vermont 2012” Legislative Reception scheduled to be held on Tuesday, March 13th, from 5:00 to 7:00 P.M. at the Capitol Plaza.
6. Application for a Catering Permit from Langdon Street Pub Company, d/b/a McGillicuddy’s Irish Pub, for a Legislative Open House scheduled to be held on Thursday, March 15th, from 4:00 P.M. to midnight at the offices of MacLean, Meehan & Rice, 9 Court Street.

Additional items added to the consent agenda:

7. Application for a Special Event Permit for the Boyden Valley Winery, 64 Route 104 Cambridge, VT, for the Green Mountain Film Festival Opening Night Gala at the 2nd Floor Chapel Area of the Vermont College of Fine Arts at 36 College Street on Friday, March 16, 2012 from 5:30 to 9:00 P.M.
8. The Clean Slate Café & Company realized that in addition to the Liquor License they needed to apply for an outside consumption permit for their restaurant at 107 State Street in the rear.

This will be the outdoor patio 29 x 41 attached to the building that is fully enclosed on three sides by cement barriers with an access gate. They are looking for permanent use from 9:00 A.M. to 1:00 A.M. March 1 through November 30 each year.

Payroll and Bills.

General Fund Warrant dated February 8, 2012, in the amount of \$549,511.05 and \$3,082.38.

Payroll Warrant dated February 16, 2012, in the amount of \$120,927.09 and \$26,569.31.

Motion was made by Council Member Sherman, seconded by Council Member Hooper to approve the consent agenda.

Council Member Jarvis recused herself from acting on the National Life Agreement.

Council Member Weiss asked that they pull off item (g) relating to the revoking of the agreement for EC Fiber.

Mayor Hooper called for a vote on the remainder of the consent agenda. Motion carried unanimously, with Council Member Jarvis recusing herself from voting on the National Life Agreement.

12-055(a)

Consideration of revoking the October 22, 2008 approval of the “RESOLUTION AUTHORIZING AGREEMENTS AND THE EXECUTION AND DELIVERY THEREOF FOR THE MAKING OF CERTAIN CAPITAL IMPROVEMENTS THROUGH THE ISSUANCE OF NOT TO EXCEED \$106,000,000 EAST CENTRAL VERMONT COMMUNITY FIBER CERTIFICATES OF PARTICIPATION SERIES 2008”. On October 22, 2008, the City authorized East Central Vermont Community Fiber (ECF) to issue certificates of participation (master lease) not to exceed \$106,000,000 for the purposes of making certain capital improvements for the delivery of communication services. Due to significant changes in the capital markets, ECF does not intend to finance the project with the certificates of participation.

Council Member Weiss said it is consideration of revoking a February 27, 2008 Agreement and the minutes of that meeting had Council Member Golonka stating that if this goes belly up there are issues. Are there issues?

Council Member Golonka replied no. There was a note in the audit and financing realities have changed since October 2008 and this type of financing arrangements is not possible at this point. The point of revoking it was for removing it from the audit.

Motion was made by Council Member Weiss, seconded by Council Member Jarvis to approve revoking the resolution authorizing the agreements, etc. The vote was 6-0, motion carried unanimously.

12-056. Setting of “approximate times” for the following agenda items.

Council Members assigned times for each agenda item.

12-057. Appointments to form a “Reapportionment Committee”.

- a) At the Council’s December 7th, 2011 meeting, the committee which was formed earlier in the year to “analyze census data and begin district reapportionment, as appropriate” reported its findings to Council.
- b) As Council rep and chair of this group, Alan H. Weiss reviewed the highlights of the report and outlined the options that evening. The motion was made and seconded to direct staff to advertise for people to serve on a Reapportionment Committee.
- c) Staff advertised and has received responses from the following: Frederick H. Skeels, 103 Freedom Drive; John Bloch, 6 Winter Street; Esther Farnsworth, 171 Westview Meadows; Nick Marro, 305 State Street; Mary Alice Bisbee, 3 Prospect Street; Steve Hingtgen, 7 West Street; and Barney Bloom, 25 Summer Street.
- d) Recommendation: Opportunity to meet applicants; Council may choose to enter into an Executive Session in accordance with Title I, §313, Executive Sessions, (3) *The appointment or employment or evaluation of a public officer or employee* to review and discuss the applicants; appointments to form the “Reapportionment Committee”, outlining their charge and timetable.

Council Member Weiss said the Council had approved earlier the formation of such a committee and in addition to the qualifications of each individual the three existing districts are represented which is important. In addition, the Council back in December had approved a charge for this committee. Council Member Hooper served on the original committee and we have for this committee a lot of information because the 2010 census data was broken down into different combinations and they have the maps for the city. In addition, the Zoning Administrator and Eric Scharnberg, our media specialist, have agreed to continue to serve as well as one of the VISTA volunteers will serve as administrative liaison for this committee for the work that needs to be done.

Motion was made by Council Member Weiss, seconded by Council Member Jarvis to appoint the seven people who had applied.

Mayor Hooper inquired if there was a date to hear from the committee.

Council Member Weiss said it has been agreed that no Council Member will serve on the committee. The hope is the committee will finish its deliberations and make a presentation to the Council no later than August. The target would be to get this on as a special article at the November meeting so it would be in effect for the next March Town Meeting. This is not a charter change.

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

12-058. Consideration of Montpelier's rep to the EC Fiber Board.

- a) Staff recently learned that Peter Timpone is resigning as the City's rep to this governing board.
- b) Given that he has served as the alternate for four years, John Bloch has expressed interest in being appointed as the full-time rep.
- c) Recommendation: Appoint John Bloch or direct staff to advertise.

The question is whether or not the Council wants to appoint John Bloch to the position or advertise to fill the vacancy.

Motion was made by Council Member Hooper, seconded by Council Member Timpone to appoint John Bloch to fill the position as Montpelier's representative to the EC Fiber Board.

12-059. Conduct the second Public Hearing to consider proposed amendments to the City's Charter.

- a) The first Public Hearing was held on January 26th; the following articles are being considered for inclusion on the Warning for the City Meeting scheduled to be held on March 6, 2012.

- b) **ARTICLE 10.** Shall the city amend Title XII – Section 2 of the city charter to allow for the assessment of a 1% local sales tax as per amendment language filed with the City Clerk on January 4, 2012? 20% of revenues received will be dedicated for business development and/or business promotion. 80% of all revenues received will be dedicated to offset property tax revenue. (Requested by the City Council)
- c) **ARTICLE 11.** Shall the city amend Title XII – Section 2 of the city charter to allow for the assessment of 1% local rooms, meals and alcohol taxes as per amendment language filed with the City Clerk on January 4, 2012? 100% of revenues received will be dedicated for infrastructure improvements and maintenance. (Requested by the City Council)
- d) **ARTICLE 12.** Shall the city amend Title V – Sections 1 and 3 and adding a new section 4 of the city charter (and renumber remaining sections accordingly) to change the signature requirement for legally binding petitions from 5% of registered voters to 10% of registered voters as per amendment language filed with the City Clerk on January 4, 2012? (Requested by the City Council)
- e) Recommendation: Conduct the second Public Hearing.

12-060.

Conduct the second Public Hearing to consider the following Article and its inclusion on the Warning for the City's March 6th Annual Meeting.

- a) **ARTICLE 9.** Shall the voters authorize the City Council to borrow a sum not to exceed \$870,000 for *infrastructure improvements and equipment purchase*? If approved, bonds for these capital items would be issued for a term of 20 years. With a 20 year bond, approximately \$23,500 would be required for the first year interest payment and approximately \$74,300 for the second year principal and interest payment and future payments declining each year as the principal is repaid. (Requested by the City Council)
- b) Recommendation: Conduct the Public Hearing.

Mayor Hooper said they would consider agenda item 12-059 and 12-060 together. She opened the public hearing at 7:17 P.M. for the proposed charter amendments and the bond borrowing of \$870,000 for infrastructure improvements and equipment purchase.

City Manager Fraser did a power point presentation for the viewing audience. A copy will be attached to the minutes.

A resident from Hebert Road had a question about the business fund relating to the sales tax.

Council Member Jarvis replied because of the concern for what the impact would be on the local perception of Montpelier and the impact of what businesses will be paying as a way to allay some of those negative impacts she was one of the proponents for setting aside this sum of money to be used for commercial and business development. It would be used to help support existing businesses and try to bring information to the public.

They mentioned the regressive nature of the tax. Has there been any consideration about some sort of tax credit for Montpelier residents or is that impossible. He is thinking about people who are lower income and walk to the stores to purchase their groceries, etc. This is going to impact them more certainly than someone who is coming through the Legislature to buy their lunch.

Mayor Hooper reminded folks that a number of things are exempt from the taxes. Groceries and clothing are exempt.

Mayor Hooper closed the public hearing at 7:43 P.M.

City Manager Fraser reminded folks there is a forum on the local options tax issue tomorrow night at the Capitol Plaza at 7:00 P.M. sponsored by Montpelier Alive.

Since they were ahead of schedule and they were expecting more people for the next agenda item they moved to Council Report.

12-062. Council Reports

Council Member Sherman said she is looking forward to a new gallery behind the Mayor when Mayor Hooper's picture would be added. She reported it has been wonderful to serve with the Mayor.

Council Member Weiss reported they had two great events recently. The first was the Legislative Reception and a lot of people deserve a lot of credit for

organizing it. It was well attended and an event the city can be proud of. The Bridge Newspaper conducted a forum for candidates which was well organized and gave folks running for the Council an opportunity to be heard and speak on the issues. The Mayor, who is running unopposed received a different set of questions. They couldn't get the candidates for Clerk there that night.

Council Member Jarvis thanked Mayor Hooper and spoke of her as being a great mentor.

Council Member Timpone said she also appreciated Mayor Hooper as a mentor.

Mayor Hooper called for a short break at 7:50 P.M. and the Council Meeting was reconvened at 8:00 P.M.

12-061.

Discussion of oversight of the Recreation Department

a) Recommended Action: Direction to staff and possible vote.

Mayor Hooper invited Brian, Arne and Ken to the table for a conversation with the Council. The School Board had a conversation about this last week and the Recreation Board did as well.

Ken Jones reported the School Board had a meeting first. He handed out a proposal to Council Members. The first page of the proposal is what was presented to the School Board last Wednesday night which is a summary of the discussions that took place in the committee that looked at the governance structure of the Recreation Department. The strong themes there are that the School Business Office does oversee the financial management and personnel management of the Recreation Department. They believe from the results of the audit and the stories they have heard that the relationship is a strong one and the Recreation Department seems to be served well by it. They understand the questions and concerns about some of the budgetary overlap and they are working on making sure there is more clarity with regards to the shared resources. It is his understanding that the sequence after the Recreation Department and Recreation Board present a budget to the School Board that it does come before the Council and the Council has the final say on it. Certainly, one of the issues that did arise is some of the long term planning and the benefits of similar coordinated long

term planning, and the School Board is very much in favor of that although they would rather it not be an entirely independent body to look at coordinated efforts but rather have the coordination ideas funneled through one of the three existing bodies – the School Board, City Council or the Recreation Board – so they can optimally use the coordination efforts. They do want to recognize that the Montpelier Recreation Board has done a very good job of being that liaison between the citizens of Montpelier and the recreation services that the department provides.

Arne McMullen said the Recreation Board also met and supports what Ken Jones just laid out. They deem it essential to identify the personnel time and costs which are shared between the two. They don't feel there is a need for a standing committee to look at the future of the Recreation Department. That is still the responsibility of the Recreation Board, but they do feel there is a need for the advancing of the facilities and long term planning with input from everybody.

Mayor Hooper said some of the City Councilors have worked on this issue. It strikes her that this conversation has come about because of a failure to communicate very effectively. Perhaps on the city side to not clearly articulate what it is they feel may be lacking. What sort of information do we think needs to be in place to clearly understand what is going on, so they can perform their fiduciary responsibility? There is a concern that we really are taking care of this in a way they feel obligated.

Council Member Golonka said the Council's questions are so they feel comfortable with whatever direction they decide to go in, whether they continue delegating or to take a more active role in the future in terms of what the City Council sees as the best interest of the city. One part we haven't asked is the city staff. What does that mean? The Council's proposal would be more to expand this and bring the City Manager and staff into this and try to answer these questions so by July they would be able to take those concerns and see what we can do.

There are six concerns they have identified:

- (a) Management concerns and a proposed realistic timeline if adopted.
- (b) The identification of recreation department/school budget transfers and policy for inclusion in future budgets
- (c) A specific policy that addresses fee structures for programs that takes into

account concerns the current council issue of regional subsidies and self-sustainability.

- (d) The formal adoption of a newly reconstituted recreation board which includes a school rep appointment, a city council appointment, and the remaining members appointed as a terms expire by the Council as advertised positions like other boards in the city.
- (e) A 5 year capital improvement plan for facilities and equipment.
- (f) The identification of education fund vs general fund benefits for taxpayers.

Added Items

- (g) Personnel Review
- (h) Union status of employees

If they do decide to have more of an active role what are Bill's and Sandy's concerns? Can the Finance Department handle it? Secondly, they talked about earlier the identification of Recreation Department/School Department transfers and have some sort of policy of how we include that. Are there general fund transfers? That would make it more transparent to the voting public so when they look at the Annual Report and they can actually see the transfers.

Another concern is they would like to have a more formal adoption of the Board using the existing Board but maybe having a City Council representative, School Board representative and the Board Members as they expire have them become appointed by the Council like they do with every other board. They would like to see a capital improvement plan. He thinks that is important, particularly for the building on Barre Street. When they took over the Senior Center building they realized the building had been neglected for years and it was costing a huge amount of money. Having a capital improvement plan of where you see yourself in five years from now is needed. He worries that under the school control they are delegated to just staying where they are at and they aren't looking at what they can become and where they should be in five years. The last thing they brought up was the issue of education fund versus general fund benefits to the taxpayer. Those are the type of things he would like to discuss.

They have formulated a motion to incorporate those questions. They would like a period of a couple of months then they could make some budget decisions and have a thoughtful discussion moving forward.

Recreation Director McMullen asked if there was anything preventing them from having the discussions if they are under the School Board.

Council Member Golonka said we need to set a deadline so we don't have these discussions in November and December. Then, when we get the budget on January 5th we'll know whether they are going to make any changes.

Council Member Weiss said he wants to take off the heading Recreation Department Oversight. They aren't to that stage yet. He would like to add in two items. The first is income sensitivity and the second is state aid problems, if any. He would like to add a (g) with the heading Personnel. He would like the information to be acquired what is the comparison of salary and benefits between recreation employees and city employees. If this were to happen, how would the recreation personnel integrate into city governance? The third is, if this were to occur how does it impact, if at all, union status?

Council Member Timpone thanked everyone for going through the process and she wanted to thank everyone for coming to the table and working with the City Council.

Ken Jones said what he is hearing from Tom is really an addition to the points that were raised by the School Board and Recreation Board which is appropriate. Some of the specific things that concerned them are the relationship between the School Department and Recreation Department in terms of sharing facilities is very important. The way that is implemented at this point is the management of staff and budget. The points he raised go beyond the management but also lead to some of the long term planning. Yes, he knows there is the issue of overlap of resource sharing but he sees that as an expansion of the existing relationship rather than reversing any of those relationships they have.

Council Member Golonka said he has heard these different issues come from different people and he tried to put them down on paper. He wants them to work together. The people who have to implement it have to tell the Council whether it is reasonable or not. Are we being unrealistic to assume that our Finance Director can in this fiscal year entertain something of this nature given she is doing the treasurer's duties. That is why it is a timeline issue.

Mayor Hooper told Council Member Golonka she was curious about what he just said in terms of understanding the implications for the city staff. Isn't there also another half to the question in terms of what are the implication of a change to the Board and the consequence of it being thoroughly understood before a decision is made?

Council Member Golonka said from his perspective that is the City Manager's responsibility.

Mayor Hooper said she thinks it is entirely appropriate to engage the Superintendent in having that sort of deeper understanding of what the current situation is and what are the benefits within the school system. Let's look at the potential benefits of a change. Let's have the two entities work together. She would be shocked if the Superintendent wouldn't engage in that sort of thoughtful discussion with the city. If you remove something that is providing service to the school system what is the consequence to the school system? She would hope people would not support that kind of change without understanding the transition. That is her concern.

Council Member Weiss said the Council needs to understand something. Between the Recreation Department, the School Board and the City we collectively spend every penny that is raised by the taxpayers. Between the entities we have more than 200 employees and this is not a "we" versus "them." This is how can the entities responsible for the totality of the operation of this city work together progressively, cooperatively and with astute planning? That is what this is all about.

Council Member Jarvis said the essence of this motion would be to direct city staff to work with the School Superintendent and the School Board to address the list of issues and report back to the Council by July.

Arne McMullen said he thinks a member of the City Council should sit in on the Recreation Board meetings for the next few months while they are going over all of this. They meet the second Wednesday of every month at 5:15 P.M.

Council Member Hooper moved the adoption of the resolution that Tom and Angela brought the Council regarding the direction to the City Manager. They need to have a review done by July. Council Member Timpone seconded the motion.

Council Member Weiss said this is complex. We need to provide in this proposal some flexibility for the Manager in terms of his needing information.

This is an onerous task. The implementation has got to be understood and the Manager needs professional flexibility in conducting this.

City Manager Fraser said they need to have their own organizational charts.

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

12-063. Mayor's Report

Mayor Hooper thanked everyone for the privilege of serving with the Council Members.

12-064. Report by the City Clerk-Treasurer

City Clerk-Treasurer Charlotte Hoyt said she has enjoyed working with everyone and for all of the people in the city of Montpelier.

12-065. Status Reports by the City Manager

None.

12-066. Agenda Reports by the City Manager

Adjournment:

After motion was duly made and seconded by Council Members Timpone and Hooper, the council meeting adjourned at 8:33 P.M.

Transcribed by Joan Clack

Attest: _____
Charlotte L. Hoyt, City Clerk