St. Albans City Council
Minutes of Meeting
Monday, September 14, 2015
City Hall, Council Chambers

A regular meeting of the St. Albans City Council was held on Monday, September 14, 2015, at 6:30 pm in council chambers at City Hall.

Council Present: Aldermen: Tim Hawkins, Scott Corrigan, Jim Pelkey, Chad Spooner, Alderwomen Tammi DiFranco & Kate Laddison and Mayor Elizabeth Gamache.

Council Absent: None absent.

Staff Present: Dominic Cloud, City Manager; Chip Sawyer, Director of Planning & Development; Sue Krupp, City Clerk & Treasurer and Marty Manahan, Director of Business Development.

Visitors: See attached sign-in sheet.

1. Pledge of Allegiance.
   Mayor Gamache opened the regular meeting and led the pledge of allegiance at 6:30 pm.
2. Public Comment.
   No public comment was made.
3. Mayor's Report
   a. Council Goals and Objectives (D&V).
      Mayor Gamache read aloud the 2015 and 2016 goals and objectives previously identified by council which are relative to neighborhoods, infrastructure, economic development, administration, quality of life, recreation and public relations.

      A motion was made by Alderman Spooner; seconded by Alderman Pelkey to approve council goals and objectives for 2015 and 2016. Vote was unanimous, 6-0.
4. Briefing on TMDL Requirements for the City.
   a. Wayne Elliot, Aldrich and Elliot.
      Mr. Elliot explained that he would be providing an update on the ongoing phosphorus TMDL (Total Maximum Daily Load) discussions. The EPA (Environmental Protection Agency) is soliciting public comment on new phosphorous TMDL's for the Vermont segments of Lake Champlain and issued a publication on August 14, 2015 called "Phosphorus TMDLs for Vermont Segments of Lake Champlain which was followed by several public hearings in the State. Mr. Elliot explained that the public comment period is open from August 14, 2015 through October 15, 2015.

      Mr. Elliot explained that he'd be providing some facts from the report and how he believes it will affect the City over the next few years. There are 9 impure lake segments throughout the entire watershed. In Lake Champlain, Vermont contributes 69% of the total phosphorus levels with the balance coming from New York and Quebec. At this point, New York is still subject to the 2002 TMDL requirements. Vermont, however, didn't have a choice because the 2002 TMDL was appealed.

      In St. Albans Bay, the phosphorous is contributed by several different sources; the wastewater treatment plant, stormwater sources and runoff from agriculture. Mr. Elliot stated that there are discussions in the document regarding wastewater treatment plants that he believes are reasonable. Wastewater treatment plants in the State only contribute 3% of phosphorous levels in the entire

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Lake. There have been tens of millions of dollars spent over the last 12-15 years treating wastewater plants in the State which has been highly effective. Mr. Elliot noted that there are highlights in the EPA report that refer to that effectiveness and they understand that the wastewater treatment plants are not a significant contributor to the phosphorus levels in the Lake. Each of the treatment plants in the State are issued an annual pounds number which is calculated by phosphorus concentration levels in a town's permitted flow capacity and allows a community to be over in a given week or month as long as they fall under the annual pounds number annually. Mr. Elliot explained that an annual pounds number requirement vs. a monthly requirement will give communities better flexibility to manage their phosphorus levels. In addition, the EPA has agreed to provide reasonable compliance schedules and allow for integrated permitting which also allows for more flexibility.

Kate Laddison joined the meeting at 6:38 pm.

Mr. Elliot explained that the permitted capacity of phosphorous levels for wastewater plants will be set at .2 milligrams/liter which is a significant reduction. Currently, the phosphorus limit is an annual pounds limit based on a concentration of .5 milligrams/liter. The EPA does recognize the CSO's (Combined Sewer Overflow) as part of the wasteload. There are 11 facilities in the State of Vermont that have CSO issues and the EPA recognizes that the wasteload allocation for each treatment facility counts toward the combined sewer overflows. Mr. Elliot stated that in St. Albans Bay, there are two wastewater permitted plants that must reduce their phosphorus levels to .2 milligrams/liter; the City wastewater treatment plant and the treatment plant at the Northwest Correctional Facility.

Mr. Elliot explained that the developed lands is the second piece that will be important to the City. There are a host of stormwater permits regulated; the biggest being the MS4 Phase II program. In terms of St. Albans Bay, some moderate level of stormwater retrofits are being considered with an emphasis on areas where there is well-draining soils. For St. Albans Bay, the TMDL allocation requirement is to reduce phosphorous by 24% which will be made up between the wastewater plants, the developed lands and agriculture. Mr. Elliot explained that the plant's current permitted flow is 4 mgd and the City is running about 65% of that on average. The total phosphorous limit in pounds is 6,089 based on the .5 milligram per liter concentration and will be reduced to 2,435 lbs. Mr. Elliot added that the good news is that in most cases, the City has been well below that number at this point in time. Mr. Elliot noted that the figure represents the City's current flows and the challenge will be due to growth issues and capital improvements that will drive capital needs for phosphorous removal moving forward.

Mr. Elliot stated that presently, there aren't any treatment plants located in the Lake Champlain Basin that have received discharge permits and are scheduled to be renewed over the next 4 or 5 years. The City's discharge permit is scheduled to be renewed in 2016. Mr. Elliot explained that his staff is expecting to see a requirement of 80% of the annual pounds figure which will trigger the City to begin planning to determine how to bring that number down or to plan for some capital improvements.

The overall reduction in the Lake for Vermont is targeted at 34% which is pretty optimistic to achieve over the next few years. Mr. Elliot agreed that what makes everyone uncomfortable is the unpredictability. The EPA has some accountability framework included in their report and will issue a report card in 2018 if the State hasn't kept on track. The EPA reserves the right to change the phosphorous limits for the municipal wastewater plants.

Mr. Hawkins noted that there have been times when the City has had to revert to overflow and suspects that there's a high amount of phosphorous involved when that occurs. He asked if it's correct that it will count toward the overall annual requirement of being under .2 milligrams/liter.

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Mr. Elliot responded affirmatively. Mr. Cloud reiterated that that's the CSO (combined sewer overflow) that Mr. Elliot is speaking about, not the overflows at the plants. Mr. Hawkins asked how the levels will be counted. Mr. Elliot responded that the EPA hasn't defined that yet but confirmed that there is a monitoring system at the CSO location. Mr. Hawkins asked if there will be a way to off-set where the City could potentially buy into another project elsewhere within or outside the State so the City can alleviate penalties. Mr. Elliot responded that there is the flexibility to do that on the stormwater side. He added that communities have expressed support of that but the details haven't been worked out yet by the EPA. Mr. Hawkins asked if there is someone championing that. Mr. Elliot responded negatively. Mr. Sawyer stated that the City has been approached by the State to have future discussions about integrated permitting and whether it might work in the City. The State is currently conducting a pilot in Burlington and hoping to learn how it might work in other communities in the State.

Mayor Gamache asked Mr. Elliot to recap on the timeline and asked what can be expected next after the public comment period ends on October 15th. Mr. Elliot responded that there are detailed schedules for the State outlined in the EPA report that clearly set the expectations. For the City, the focus is on the wastewater treatment plant. The discharge permit renewal will take place in 2016. Mr. Elliot stated that developed lands will happen concurrently but no detailed schedule has been issued yet.

Mr. Spooner noted that the City wastewater treatment plant accounts for 6.5% of the total phosphorus levels in the bay and asked if that's based on what the City is permitted for or based on the 2100 lbs. that the City actually discharges. Mr. Elliot responded that it's based on what is being discharged vs. what is allowed to be discharged. Mr. Spooner stated that if the City doesn't grow, it will still be below the maximum amount allowed to be discharged. Mr. Elliot responded that the City will be close and could conceivably discharge up to the 6,089 lbs. at this point in time. He added, however, that some of the environmental groups have been advocating that plants do not discharge more than what they currently are. Mr. Elliot responded that it's a debate between the regulatory requirements and what the right thing to do is.

Mayor Gamache asked if there were any updates on the pilot. Mr. Elliot stated that the City was awarded a $105,000 planning grant from the State. Recently, additional money was found to fund a fourth technology, increasing the planning grant to $128,000. Mr. Elliot stated that the pilot units have been at the plant for 2 weeks and the technologies claim that they can reduce phosphorous levels below .1 milligram/liter. The State is very interested in seeing the technologies operate and the City plant has had a lot of visits from other municipalities that will be affected by the lower phosphorous limits. Mr. Elliot added that the pilot group will be in St. Albans until next Tuesday and the fourth technology will be there soon after that date. Mr. Hawkins asked when the report would be available showing the results of the pilot study. Mr. Elliot responded that it would be toward the end of the year. Mr. Spooner asked who is responsible for collecting the data. Mr. Elliot responded that it's a combination between the technicians and the City employees.

5. Liquor Control Ordinance.

a. Overview of changes, Colin McNeil.

Mr. McNeil explained that since the last meeting, changes were made based on council's comments. In Section 103: Definitions, a distinction was created between a low-volume alcohol vendor and a high-volume alcohol vendor. A "low-volume alcohol vendor" is defined as a licensee who operates an establishment whose annual sales of alcoholic beverages is less than forty percent (40%) of its total annual sales. A "high-volume alcohol vendor" is defined as a licensee who operates an establishment whose annual sales of alcoholic beverages is forty percent (40%) or more of its total annual sales. Mr.

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McNeil explained that it is reflected in the ordinance under sub-section, b of Section 110: Indemnification of City and Insurance which says low-volume vendors must maintain appropriate liability coverage in an amount not less than $250,000 per occurrence (such coverage may include so-called DRAM SHOP coverage, general liability coverage or a combination of both). High-volume alcohol vendors must maintain appropriate liability coverage including, but not limited to, so-called DRAM SHOP coverage in an amount not less than $500,000 per occurrence. Mr. Hawkins recalled that council also discussed being able to utilize the past history of a high-volume alcohol server and lower their $500,000 DRAM SHOP or general liability coverage based on compliance, past history or other things that could be presented to council. Mr. McNeil stated that it wasn't included in the revision. Mr. Hawkins stated that he wanted to allow council the ability to reduce a high-volume alcohol vendor's required coverage amounts based on positive past performance or the ability to increase a low-volume alcohol vendor's required coverage amount based on numerous, past violations. Mr. Hawkins expressed that he believes it's critical that council has that ability to do that rather than going through another ordinance process.

Discussion ensued amongst council regarding procedures for a public hearing. Mr. Cloud stated that process-wise under the Charter, the council must accept the item at a first reading before moving to a public hearing and if there aren't any changes made during the public hearing, the item can be adopted by council. Mr. Cloud explained that the point of structuring it this way, was to allow for additional input from council and the public and can then move to another hearing based on any changes presented. Mr. Pelkey asked Mr. Hawkins if it's correct that he would want someone who qualifies as a low-volume vendor but with a history of violations to have DRAM SHOP in addition to general liability coverage in an amount not less than $500,000. Mr. Hawkins responded negatively and stated that it would be a requirement to have either the general liability coverage or the DRAM SHOP, but not both. Mr. Pelkey stated that right now the ordinance reads, "high-alcohol vendors must maintain appropriate liability coverage including, but not limited to, so-called DRAM SHOP coverage." Mr. Hawkins stated that it's his understanding that if a vendor has the DRAM SHOP only, they wouldn't be required to have an additional general liability coverage for $500,000. Mr. Hawkins stated that he was thinking that in the penalty portion of ordinance, a person subject to several violations could be subject to a non-renewal of a license, however if a person had a lot of violations and came to council and said they'd like to continue operating but willing to hold $500,000 worth of insurance whether it be DRAM SHOP or general liability, that would be something council could allow. Mr. Hawkins stated that he certainly doesn't want to put anyone out of business but is trying to afford the public a reasonable amount of protection from an alcohol violation. Mr. Pelkey asked Mr. McNeil if there is a way to amend the ordinance to incorporate Mr. Hawkins' suggestions. Mr. McNeil responded that the way it was written was that the high-volume alcohol vendor must have DRAM SHOP and the low-volume alcohol vendor does not. Mr. Pelkey commented that one option would be to change "must" to "may" have DRAM SHOP in Section 110. Mr. Cloud asked if it couldn't be added to the Class C Violations on page 8 of the ordinance. Mr. McNeil responded that another sentence could certainly be added to leave the violation open for council to decide whether DRAM SHOP is required based on how many violations occur or how egregious they are. Mr. Hawkins stated that he has no problem with that as long as council is able to use reasonable discretion and wants to have the flexibility to take a reasonable look at a business who has or hasn't had any problems and be able to limit or increase the amount of insurance they need. Mr. Hawkins stated that the operative word would be "appropriate" liability coverage. He stated that the main purpose on a high-volume alcohol vendor was to make sure they have the appropriate insurance to protect the public at large from a violation that could otherwise harm the public. Mr. Hawkins added that the main influx was to have a penalty portion in the ordinance in the event there was a repeated violation and the

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other was to ensure they have proper insurance, not double the insurance. Mr. Hawkins stated that to resolve the issue, it can be as simple as re-wording Section 110.b. where it says, "which may include the so-called DRAM SHOP insurance." As a recap, Mr. Cloud stated that originally the language was to have DRAM SHOP coverage in the amount of $1 million which was then backed off to $500,000 and then was changed to reflect that there is a sub-class that doesn't have a high enough portion of their business in alcohol and should be covered by general liability. Mr. Hawkins agreed with that but stated that the language proposed tonight indicates that a high-volume vendor must carry both the DRAM SHOP and the general liability. Mr. Hawkins stated that he agrees that the high-volume vendor must have insurance that protects the public from a liquor violation but doesn't believe they should be required to carry both general liability and DRAM SHOP. Mr. Cloud asked if there was consensus that license holders must have coverage of $250,000 or $500,000 with the ability to go up or down based on performance. Mr. Pelkey added that the local board would also have the flexibility of requiring a license holder to carry DRAM SHOP in addition to general liability coverage if need be. Mr. Cloud stated that his initial instinct is to leave the DRAM SHOP piece out of the ordinance for now and try it for a year. Mr. Hawkins asked why not just include "may" into the language. Mr. Corrigan stated that he doesn't want to tell someone how to run their business and would rather require a certain limit of coverage, regardless of what type it is.

To recap, Mr. McNeil stated that the language for the low-volume vendor would stay the same and the "may" language would be taken from the low-volume alcohol vendor definition and added to the high-volume definition as well as a second sentence that states the coverage amount can be raised or lowered based on performance. He added that the change may also require an addition to Section 116. Penalties. Mr. Pelkey and Mr. Hawkins agreed.

b. Public Comment on Changes.

Ross Arsenault of Beverage Mart, introduced himself. He stated that he believes council is confused between the difference of general liability and liquor liability and said general liability coverage will not protect a license holder in a court of law for any liquor-related liability. He stated that general liability includes fire, building value, inventory and slip & fall-related claims and liquor liability is the DRAM Shop coverage. Mr. Hawkins stated that he thought he was told at the last hearing that there were people who had general liability coverage that would come into play in the event there was an injury to the public based on an action taken at the establishment. Mr. Arsenault responded negatively. Mr. Cloud stated that goal was to protect someone who is not principally in the alcohol business and were trying to create a way for them to demonstrate that they have the coverage. Mr. Arsenault stated that he thinks 1st and 3rd class license holders should have one set of general liability/DRAM SHOP requirements and 2nd class license holders should have another. Mr. Corrigan stated that even that being said, it's not going to affect this ordinance because all council is asking for is "appropriate liability insurance." Mr. Arsenault stated that he thinks council needs to look at the set of requirements for stores differently than they do bars. He added that the key word in DRAM SHOP law is "lawful sale." Mr. Arsenault stated that bars have much more liability because patrons are consuming the alcohol in that establishment vs. a store where patrons purchase the alcohol and consume it elsewhere.

Dominic Spano of Mimmo's stated that an insurance agent should be present in this forum. Mayor Gamache stated staff did confer with insurance agents prior to the last meeting. Mr. Cloud stated that their advice has not changed which was to have $1 million of liquor liability coverage.

Matt Kehaya of 14th Star introduced himself and asked for clarification on sub-section 2(b) 6 of Section 108: License Approval/Suspension/Revocation/Renewal which states, "The operation of the premises has become a proximate cause of an increase in disturbance on the premises or in the

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immediate vicinity of the premises." Mr. McNeil stated that it means the premises itself has resulted in an increase in disturbances both on the premise and off the premise. Mr. Hawkins stated that "proximate cause" gives the establishment more leeway than "direct cause" because if someone had even one beer at 14th Star, they could be put in the direct cause line whereas you probably couldn't do that with proximate cause. Mr. McNeil stated that he would interpret it the opposite way and further stated that the purpose of this is about an increase in disturbances in the area that could be proximately pinpointed to the premise which would be difficult to do. Mr. Spooner asked if this language is new. Mr. Hawkins responded negatively and stated that it comes directly from the State regulations.

Mr. Spano noted Section 106 on page 3 which states, "Said application shall be submitted at least 10 business days prior to the date of the event or commencement of business" and asked if that applied for a catering event. Ms. Krupp responded that it pertains to a special event permit and is requesting that she receive the application 10 days prior to the event because the State liquor control board requests it within 5 days of the event. Mr. Spano stated that a lot of events don't give establishments 10 days of notice prior to the event. Ms. Krupp stated that a fast-track option would be to put money on account with the State. Mr. Hawkins stated that language could be added that states, "Said application shall be submitted at least 10 business days prior to the date of the event or commencement of business, unless the establishment has an existing account with State Department of Liquor Control." Mr. McNeil responded affirmatively.

Mayor Gamache asked for a recapped that the discussion has included adding language about existing accounts in Section 106, not making any changes on page 5.b. which is consistent with State and rewording Section 110.b. which can't be done until it is clear whether or not there are any other policies available. Mr. Hawkins stated that his understanding from the Liquor Control Committee was that there be some type of insurance carried by a provider of alcohol. Mr. Hawkins wondered what the difference in premium is between a $250,000, $500,000 and $1 million policy. Mr. Cloud responded that staff got a quote on that but the feedback that was received from the public was that it was cost prohibitive. Mr. Hawkins noted that the feedback received was that it was cost prohibitive for a seller of alcohol whose business was not primarily made up of alcohol sales and gave the example of As the Crow Flies. Mr. Cloud added that the other piece discussed is including language that allows the flexibility to increase or decrease a vendor's requirement for liability coverage based on performance.

c. Council to consider motion accepting current draft of ordinance for First Reading and direct staff to publish concise summary in locally distributed newspaper together with notice of Final Public Hearing and location of copies of the proposed ordinance (D&V).
No motion was made.

6. Water and Wastewater Ordinances:
Affiliation Fee Program, Lifting of Moratorium, and Water and Wastewater Operational Ordinances.

a. Overview, Dominic Cloud.
Mr. Cloud stated that staff continues to receive feedback and work to refine the drafts. A series of grammatical changes have been made, a bulk of which are related to making the definitions uniform across the ordinances and getting rid of excessive use of capitalization. Most of staff's energies were focused on the allocation process. A technical change has been made to Section 4: Permitted Capacity to capture the design capacity of the two treatment plants. Under Section 13: Application Review, it's been suggested that the City Council's decision is non-appealable so staff reiterated the fact that it can be appealed to Superior court. Under Section 14: Allocation Review Criteria, a simpler analysis has been included for review criteria of projects located within the City limits or within the

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Route 7 North. Mr. Cloud explained that staff is trying to find the way forward with its regional partners and there are 11 review criteria, A – K, for projects located outside the City limits or the Route 7 North Sewer District. He reiterated that an applicant does not need positive responses to all criteria under Section 14. Mr. Cloud proceeded to read aloud the review criteria, A – K. He noted that the language in criteria K has been reworded and now reads, "Could the project undermine the City's own economic development efforts?"

Mr. Cloud explained that there is new language on Section 20: Moratorium and Severability which now reads, "Upon implementation of this ordinance, the moratorium on water and wastewater allocations outside the legal limits of the City, adopted May 2, 2011, shall be repealed. However, if a court of competent jurisdiction invalidates the affiliation fee components of this ordinance, such finding shall not invalidate the remaining parts of this ordinance but shall automatically reinstate the moratorium on water and wastewater allocations outside the City limits, adopted May 2, 2011.

Mr. Pelkey referred to review criteria D for projects located outside the City limits or the Route 7 North Sewer District which reads, "Does the project directly or indirectly result in the addition or retention of employment opportunities and/or economic activity in the City?" He stated that he believes the language should be reworded to "for the City" instead of "in the City" because jobs aren't going to be in the City. Mr. Corrigan stated that it allows the applicant to show that the economic benefit is in the City regardless of whether the business is physically located in the City. Mr. Pelkey stated that he still feels the language should be amended to reflect that economic opportunity is available for City residents to take advantage of but doesn't have to be within the City limits. Michelle Monroe stated that she would argue that if you have a project like Ben & Jerry's in the industrial park it generate economic activity in the City because the people who work there may live in the City or come into the City to shop and dine and will ultimately generate economic activity in the City.

Mr. Spooner asked what happens if someone comes to City Hall on November 15th to purchase 50 EUs of wastewater allocation and on November 16th sue the City. He asked if the applicant would keep their allocation. Mr. Cloud responded that he doesn't think staff can write in a clause that says if you buy the product from the City, the City can't be sued. Mr. Cloud stated that staff feels confident in the ordinance and while not eager to enter into litigation, he doesn't believe it would cast the City in a very good posture before the court to use different language. Mr. Cloud further stated that the City of St. Albans is creating something that has never been done before in the State of Vermont after recognizing a unique need in St. Albans and after looking at a lot of national models that have enacted a very similar process. He stated that if the City is taken to court, he wants to talk about all of the failed mediations and all of the times the City has tried to find a way forward. He added that he wants to talk about the need for the City to step up and help the region grow. Mr. Cloud reiterated that allocation can be applied for on the 15th, but will not be approved on the 15th and under the ordinance, if it's bigger than single or two family residential units, the application must go before the board.

b. <u>Public Comment on Changes.</u>

Jeff Young stated that having worked in legislature drafting legislation, he believes this is seriously flawed and anytime an ordinance is created that allows a subjective opinion, you start setting precedent. He further commented that the minute the City deviates from that, the court is going to take notice. He noted there is a State statute that says any money derived from a public utility such as a water/wastewater treatment plant must be spent on that enterprise. He further added that if there is an affiliation fee only based on water and wastewater that's spent on something else, he believes that is a violation of State law.

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Mayor Gamache asked if Mr. Cloud if he had anything to add based on the legal opinion. Mr. Cloud responded that inside our borders the City is a government and outside of our borders, there are a different set of rules. He stated that the City uses governmental accounting for its general fund and uses enterprise accounting for its water and wastewater fund. The further you get from government acting like government to government acting like a business, the rules change and outside of the City borders, the City can offer its water and sewer under any conditions it chooses. Mr. Cloud explained that one can argue that a government is always a government but is why staff introduced the ordinance by highlighting the governmental purposes. He further explained that the first governmental purpose is to regulate the review of water and/or wastewater allocation requests and the second is to establish a mechanism to consider water and wastewater allocation requests for properties located outside the legal limits of the City, while ensuring the City's designated downtown, tax base, economic development interests, and employment opportunities are not negatively impacted in the process.

Mr. Pelkey agreed that the City has had two legal decisions that have supported its criteria. Mr. Young asked why we even bother with an affiliation fee if that's the case. Mr. Cloud responded that there's an awful lot of interaction between the general fund and where development grows and where tax base is created and where governmental services are provided. Mr. Cloud asked how the City can subsidize growth in another community without ensuring that there's a mechanism to share in the prosperity that results from it. Mr. Young asked why not just set a rate for the Town instead of calling it an affiliation fee. Mr. Cloud responded that it's because the City is trying to create the contractual relationship between the City of St. Albans as the provider of the service and the developer who is receiving the service. Mr. Young commented that he still feels someone is going to say it's not an appropriate application of the law. Mayor Gamache noted that everyone knows what will happen if the moratorium is not lifted and the City has an opportunity with the affiliation fee to try something different that helps to foster and overcome the issues that it has faced while recognizing the value in its facility and an opportunity between both communities to move ahead together in a fair and equitable manner.

c. Council to consider motion accepting current draft of ordinance for First Reading and direct staff to publish concise summary in locally distributed newspaper together with notice of Final Public Hearing and location of copies of the proposed ordinance (D&V).

A motion was made by Alderman Hawkins; seconded by Alderman Spooner to accept current draft of ordinance for First Reading and direct staff to publish concise summary in locally distributed newspaper together with notice of Final Public Hearing and location of copies of the proposed ordinance. Vote was unanimous, 7-0.

7. Order of Discontinuance of Ferris Street, Dominic Cloud (D&V).

Mr. Cloud recalled that council went on a site visit to Ferris Street on June 13th. David Kimel and Peter Cross were present and outlined a land swap with three parcels. The portion relevant to this discussion is Ferris Street which runs through the BFA property from the border of Miller's Auto. BFA has requested that Ferris Street be discontinued at which time a portion of the street would revert back to former landowners which in this case is BFA on both sides. The findings of fact reiterate that the City sent the proper notices and held a proper hearing and proposes two conditions for the Order of Discontinuance. The Order of Discontinuance shall be subject to the following conditions; there shall be a reservation of rights of way for existing overhead utilities and underground utilities in favor of the Grantor. Said easement is for purposes of maintenance, repair, construction, and reconstruction of underground water, sewer, and storm drainage utilities owned by the Grantor as well as overhead and underground electric, gas, and communication utilities owned by others. Also, the boundary adjustments necessary to effectuate the transfer of parcels four and five shall occur within 30 days of the discontinuance. Mr.

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Cloud added that at the council meeting on June 13th, council passed a motion to allow the City Manager to prepare the necessary documents to effectuate the discontinuance.

A motion was made by Alderman Spooner; seconded by Alderman Pelkey to discontinue Ferris Street. Vote was unanimous, 7-0.

8. Staff briefing on MS4 permit report to VT DEC re: expired stormwater permits in the City.

Mr. Sawyer stated that many large developments must get a State stormwater permit. He added that there are many developments in the City that received State stormwater permits in 2002. Around that time, the State stopped renewing them because they decided to wait for the TMDL, MS-4 and phosphorous goals to be finalized. For this reason, there are a lot of expired stormwater permits around the State. As part of the MS-4 permits, the State is hoping that the City will incorporate as many of these expired permits into its stormwater program as the City sees fit and forcing the City to incorporate permits that treat stormwater from public land. For permits on private land that the City doesn't think should be a part of its system, staff can refer them to the state under Residual Designation Authority (RDA). Mr. Sawyer added that staff needs to report to the State on this topic by October 1st. The only binding policy decision is the one that has already been decided by the State but the City staff will have the flexibility to say they'd like to explore incorporation with any expired permits and always have the option to RDA a permit into the future.

Mr. Sawyer stated that staff recommends the following to incorporate into the City's MS-4 permitting; Lemnah Drive catch basins and discharge into Stevens Brook, ,Guyette Circle and Bowles Lane grass swales, catch basins and discharge into Stevens-Rugg Diversion Canal and Murray Drive grass swales and catch basins connecting to the City system. Mr. Sawyer added that the City Public Works department already maintains these three areas.

There are 5 private sites that staff recommends leaving for RDA; Immigration and Mylan properties on the former Coote Field site, Lemnah Drive lot #4, Lemnah Drive lot # 1, 94 and 100 Lower Welden Street and the Switchyard property. Mr. Sawyer explained that the State may require them to improve their system which would count toward the stormwater goals that are part of the City's MS-4 permit. There is one permit located on private land that staff would like to explore for incorporation which is the SATEC stormwater pond. Mr. Sawyer stated that he has spoken once with the Town School Board and twice with the Town school administration and doesn't foresee any major obstacles. Mayor Gamache asked what sort of restrictions there would be in terms of timing. Mr. Sawyer responded that he would like to talk further with consultants about how his this can fit in with our flow reduction plan that needs to be submitted to State and would recommend setting a timeline of 12-18 months. He added that there's also the issue of Act 46.

Mr. Spooner stated that he assumes some of these projects are going to cost money and asked if there would be a tax for so many square feet of impervious surface. Mr. Sawyer responded that staff is slowly gathering more info about what will need to be done for stormwater permits in terms of TMDL and what the costs are. Staff is looking at some substantial program and conceptual costs and within 2 years, will have a better idea and will then report their findings to council. Mr. Sawyer stated than an impervious fee has been implemented by some other municipalities. Mr. Spooner asked if there's any way to utilize the old cooling ponds on Lower Welden. Mr. Sawyer responded that the cooling ponds are on the initial flow reduction plan for Stevens Brook but staff has yet to contact Green Mountain Power about that option.

9. Consider Approval of Warrants: 8/21/15 & 9/11/15 (D&V).

A motion was made by Alderman Spooner; seconded by Alderman Pelkey to approve warrants from 8/21/15 & 9/11/15. Vote was unanimous, 7-0.

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10. Consider Approval of Minutes: 8/10/15 (D&V).

A motion was made by Alderman Spooner; seconded by Alderman Pelkey to approve minutes from 8/10/15. Vote was unanimous, 6-0 with Mayor Gamache abstaining.

11. Other Business.

Mr. Spooner asked Mr. Cloud if anything has happened with the crosswalk at the end of Hunt Street to Beverage Mart. Mr. Cloud responded that the issue is that you can't put a crosswalk into a driveway and staff has been having trouble locating a place for it. He asked if Mr. Spooner is getting complaints or observing the issue firsthand. Mr. Spooner stated that he is observing a lot of people crossing the street in that area.

Mayor Gamache recalled that Bruce Cheeseman and Sam Smith approached council with an idea they had to potentially partner or buy-in with the City in regards to water/wastewater. She and Mr. Cloud have had the opportunity to meet twice with them, not to enter into any negotiation at this stage of the game but to get some clarification on some of the ideas they had presented at the first meeting and lay the groundwork. She wanted to reiterate that the meeting has occurred and envisions getting to the point where more information will be relayed in a public fashion. Mr. Spooner stated that he thinks it's sometimes better to have fewer heads in the room and is confident in Mr. Cloud and Mayor Gamache speaking on council's behalf.

Mr. Pelkey asked if there has been any progress with signage or painting on the road to indicate "no parking" on the left side of Hoyt Street. Mr. Cloud stated that after looking at the site with Mr. Robtoy, they needed further clarification as to what side of the street was in question.

12. Adjourn.

A motion was made by Alderman Spooner seconded by Alderman Pelkey to adjourn meeting at 8:38 pm. Vote was unanimous, 7-0.

Respectfully Submitted,

Kristen Smith
Administrative Coordinator

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