



**MEETING MINUTES  
MAY 30, 2019  
DEANE C. DAVIS BUILDING  
1 NATIONAL LIFE DRIVE, MONTPELIER**

**CALVIN COOLIDGE CONFERENCE ROOM, 6<sup>TH</sup> FLOOR  
9:30 A.M. TO 11:36 A.M.**

**Members Present:** Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane, Patricia Horn, Emma Marvin, Betsy Gentile, Cheryl Hooker and John Russell

**Members Present by Phone:** Charlie Kimbell

**Members Absent:** Rachel Smith

**Staff Present:** Megan Sullivan, Executive Director; Abbie Sherman, Grant Programs Manager; Shelley Pembroke Marketing and Projects; and John Kessler General Counsel

**Others Present:** Geoff Battista, Government Research Analyst, State Auditor's Office; Tim Smith, Mayor of St. Albans; Liz Gamache former Mayor of St. Albans; Dominic Cloud, City Manager, City of St. Albans; Chip Sawyer, Director of Planning & Development, City of St. Albans; Albin Voegelé, Representative for the Northwest Regional Planning Commission; and Anne Allen, VT Digger.

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**At 9:33 a.m. Roll Call and Agenda Review**

Chair John Davis called the meeting to order.

Chair John Davis requested a roll call. Members present are noted above.

Chair John Davis inquired as to any additions or deletions to the agenda.

Chair John Davis introduced Sen. Cheryl Hooker to the Council members as a newly appointed Council member. Cheryl represents Rutland County on the Council and she briefed the Council on her background.

**9:35 a.m. Minutes for March 28, 2019 and May 7, 2019**

Chair John Davis inquired as to any corrections or changes to the draft meeting minutes for March 28, 2019 and May 7, 2019. Hearing none, requested a motion.

- ❖ At **9:34 a.m.** Michael Keane moved to accept the March 28, 2019 minutes Thad Richardson seconded the motion. Chair John Davis inquired as to further discussion, hearing none requested a vote. All voted in favor and the motion passed. 10-0-0.
  - ♦ Aye: Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane; Patricia Horn; Emma Marvin; Betsy Gentile; Cheryl Hooker; John Russell; and Charlie Kimbell
  - ♦ Nay: None
  - ♦ Abstain: None
- ❖ At **9:35 a.m.** Mark Nicholson moved to accept the May 7, 2019 minutes John Russell seconded the motion. Chair John Davis inquired as to further discussion, hearing none requested a vote. All voted in favor and the motion passed. 10-0-0.
  - ♦ Aye: Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane; Patricia Horn; Emma Marvin; Betsy Gentile; Cheryl Hooker; John Russell; and Charlie Kimbell
  - ♦ Nay: None
  - ♦ Abstain: None

**9:36 a.m.** Chair John Davis requested introductions of those in those present.

**9:37 a.m. Public Comment**

Chair John Davis inquired as to any members of the public present to provide public comment or announcements, hearing none, moved to the next agenda item.

**9:38 a.m. Election of VEPC Vice Chair**

Chair John Davis asked members of the Council if anyone from the Council would like to make a nomination.

- ❖ At **9:38 a.m.** Thad Richardson moved to nominate Michael Keane as Vice Chair. Patricia Horn seconded the motion. Chair John Davis inquired as to further discussion, hearing none requested a vote. All voted in favor and the motion passed. 10-0-0.
  - ♦ Aye: Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane; Patricia Horn; Emma Marvin; Betsy Gentile; Cheryl Hooker; John Russell; and Charlie Kimbell
  - ♦ Nay: None
  - ♦ Abstain: Michael Keane
- ❖ To clarify the previous motion and vote, at **9:38 a.m.** John Russell moved to close the nomination Emma Marvin seconded the motion. Chair John Davis inquired as to further discussion, hearing none requested a vote. All voted in favor and the motion passed. 10-0-0.
  - ♦ Aye: Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane; Patricia Horn; Emma Marvin; Betsy Gentile; Cheryl Hooker; John Russell; and Charlie Kimbell
  - ♦ Nay: None
  - ♦ Abstain: Michael Keane

- ❖ At 9:39 a.m. Chair John Davis closed the nominations and requested a roll call vote for the election of Michael Keane as Vice Chair of the VEPC Board. All voted in favor and the motion passed. 10-0-0.
  - ♦ Aye: Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane; Patricia Horn; Emma Marvin; Betsy Gentile; Cheryl Hooker; John Russell; and Charlie Kimbell
  - ♦ Nay: None
  - ♦ Abstain: Michael Keane

#### **9:43a.m. TIF Districts: St. Albans TIF District – Substantial Change Request Discussion and Potential Action**

Megan Sullivan provided the Council with a summary of the substantial change request by St. Albans. The city's request is responding to recommendations in the recently release audit report by the State Auditor's Office and the city is seeking VEPC's determinations on some of the issues that were raised in the audit report, using the substantial change request process as the outcomes of some of the issues may affect the criteria by which the District was approved. Should the Council find ground to deny any of the request, the issue resolution process would be used to move forward. Megan noted the Council has 60 days to review the substantial change request. VEPC has indicated through management comments to the audit that the matters will be reviewed at the upcoming VEPC retreat to come to conclusion to make either determinations or recommendations. Megan noted the commentary surrounding the audit report and that Council's purpose today is to review the findings and relevant information to the substantial change request and ask questions and not to be responding to the commentary at this point.

Dominic Cloud provided context and background to the Council of the city prior to implementation of the TIF. He pointed out that in 2012 the city was in a crisis, citing drug activity, decreasing Grand List, increasing municipal expenses greater than inflation. To address their downward trajectory, the city implemented a number of things including restructuring their full-time fire department. This allowed the city to tread water and continue to deliver services. Dominic stated that the greatest economic development tool municipalities have is TIF. He noted the tremendous results the city has seen due to TIF. The city has added \$52 million to their Grand List in 5 years, poised for another \$12 in the next 2 years. He stated that none of that would have happened without TIF. One of the challenges between auditor's comments and the rules the city operated under is a degree of refinement of information. He noted that the vision and plan when presented to the Council was largely aspirational because the city didn't have funds to fully develop plans at the time of application. The rules reflect the requirement for a plan that is updated with regular filings to VEPC. Projects and funding limits are approved by the Council and he noted that the city never exceeded any funding limit approved by VEPC or the voters. When problems arose, the city solved them as it was the city's problem and not VEPC's. Dominic then described the various projects that have been completed, including the integration of the public and private partnership. He summarized the details provided to the Council for each of the items they are requesting determination on. If the city had been aware of any of the concerns, they would have solved them at the time.

Liz Gamache, former St. Albans City Mayor, noted the importance of viewing the issues in the full context of the program and what it means to the State and other communities as a powerful economic development tool. She described the transformation in St. Albans because of TIF and noted that while quantitative measures are used to demonstrate effectiveness, qualitative measures also need to be considered. She noted the impact on people and the quality of life in St. Albans. The city committed to openness and transparency, answering questions in formal settings and one-on-one. They also committed to reviewing rules, seeking out legal and professional counsel to apply rules properly and correctly. She noted the importance of TIF for smaller towns like St. Albans and the overall economic impact.

Albin Voegelé, representative for the Northwest Regional Planning Commission, spoke about how TIF has provided incredible success to the city. He noted the new hotel has received national awards. The moral in the community has improved, the store fronts look nicer, surrounding communities come into the city for dinner and entertainment.

St. Albans City Mayor Tim Smith commented how the changes in the city would never have happened without TIF. He believes the issues identified boil down to interpretation and have been blown out of proportion. Enosburg, Swanton, Montgomery have seen the positive changes in St. Albans and have now taken on several initiatives to improve their own communities. TIF has been a successful tool for St. Albans, people are now moving to the city because of what they can now offer residents.

Charlie Kimbell inquired about looking at other metrics of success, in addition to the increase and grand list, that are tangible that the city can provide the point to the success of their TIF District. Tim Smith responded as an example the owner of one restaurant that relayed to him that their sales went from \$30,000 a month prior to TIF to now \$120,000 a month.

Charlie Kimbell asked if the city is following other statistics such as change in meals receipts, tax, number of jobs, kids in school. Dominic Cloud noted that embedded in the increment number is the benefit to the Education Fund. He noted that the promise of TIF is that the city will create tax base that is a benefit to the State as a whole. The Education Fund never loses money; they receive 25% of the increment.

Charlie Kimbell in reference to the parking garage of being taxable versus nontaxable status and if revenues from the parking garage dedicated to re-pay the bond? Dominic explained the city considered this option but plans to resolve with the Vermont Tax Department. Regarding taxability, Dominic pondered how you can receive authorization on a public parking that is owned and operated for the benefit of economic development and approved within the TIF and then pay tax on it. He stated that the case law that never contemplated TIF and the municipality building infrastructure to create economic development. The garage does not pay for itself, which is why they needed TIF. Dominic noted that a value had to be added to the property and

the city used the insurance value because they believed it to be tax exempt, but that is not its taxable value.

Tim Smith noted the focus on just the property tax piece by the Joint Fiscal Office and not other metrics such as rooms and meals tax.

Patricia Horn inquired as to whether anyone considered doing follow up study on the economic benefits of TIF, or are TIFs too new for that study to be completed. Dominic noted that there is a lot anecdotal evidence, but no one has completed a study. He advised that TIFs only have 5, now 10, years to create increment. All focus is dedicated to the creation of the increment. Chip Sawyer noted that jobs in the city have gone up more than 500 since creation of the TIF. John Kessler relayed that a lot of data is available from the tax department on changes in tax, such as rooms and meals tax.

John Davis noted that the purpose of the meeting is for a substantial change request. The State Auditor's report provided findings, some highlighted the weaknesses of the system, and the areas that need clarification. This is an opportunity for the Council to ask additional questions to the members from the city for information the Council needs to move forward with their review.

Megan noted questions in the staff review that the Council should consider when reviewing the request. She summarized costs identified that the State Auditor's report detailed were not eligible to be paid for with TIF. Megan also summarized various areas in the city's TIF Plan and application that pointed to the improvements that were made. She asked if the city could speak to other areas that the identified proposed ineligible costs that should be considered. Dominic Cloud stated that all of the expenses and projects are identified in the city's annual reports. He followed up that he could not follow the Auditor's logic that these costs were not allowable. Megan inquired about the ramp from the garage to the property line, and whether that was part of the city's property. Dominic stated that the ramp connects the public and the private development. Regarding the developer costs, Megan inquired as to whether these are costs that the city would normally incur for any city project. Dominic Cloud confirmed that the city went through an RFP process to select a developer. He noted that the site is very tight and the city opted to contract with the hotel's developer. The proposal was evaluated by the city's consulting engineer was cross validated from both a transactional and construction prospective. Dominic noted the city achieved economies of scale by using the same contracting.

John Russell noted that, having been involved in similar downtown projects, there is no clear definition of where public/private starts and stops on brownfield development. Not returning the appropriate materials could downgrade the property value or jeopardize adjacent properties. He noted that there is no clear line between what is public and what is private and how to prepare that property in order for developer to improve that property. Based on his experience, he felt the details being presented today were legitimate and that the issues presented in the audit report was a little simplified when compared to what the real world is.

Megan Sullivan continued with review of the city's request, addressing the brokerage fee as a related cost. The city identified the cost under the list of the allowable costs which lists item including but not limited to soft costs, such as consulting, directly related to implementation and construction of eligible district improvements. She noted the Auditor's Office has categorized this cost as ineligible under TIF and identified it as being incurred by a private entity undertaking the development or redevelopment within the District. Megan requested clarification as to whether the consultant was hired by the city or by the hotel. Dominic Cloud confirmed that the consultant represented the city at all times, exclusively.

On the topic of using debt proceeds, Megan Sullivan noted that the Council has the opinion from the Attorney General's Office, as well as an opinion from ACCD General Counsel. Additional information was provided from Titles 24 and 32. She noted this area would a longer conversation in general regarding the intent of statute to come to a determination.

Regarding disclosure of the term for bond, Megan Sullivan advised that the city council has validated that through the statutory validation process. She noted the changes in TIF and that this is a prime example of a change regarding what is required for public notification, which came out 1 month before St. Albans went to bond vote. She advised that the Council should take into account what statute and rule was in place at the time of the vote.

Patricia Horn requested confirmation of her understanding that all of this information was disclosed in the annual reports and information was available to VEPC, so there was transparency by the city on each issue. Megan Sullivan noted that the costs are included in the annual report. The term of the bond wasn't required to be submitted to VEPC at the point in time of that vote. She noted that VEPC has documentation of when the city has come and asked clarification of VEPC staff.

Mark Nicholson stated his understanding that a TIF application is a proposal, a "what-if", not a contract. Patricia Horn added her understanding that it is a vision with some concrete details that change over time. John Davis noted that there are changes, and that one issue is the idea that a substantial change request is not clearly defined. The Council needs to provided clarification. Patricia Horn agreed and added that the Council does not want to be over flooded with decisions the Council doesn't need to be concerned with. Megan Sullivan noted that this was a recommendation in the audit report and VEPC accepted all of the recommendations in the report, thanking the audit staff for bringing these issues to the surface for review. Betsy Gentile inquired as to which areas the Auditor feels are problematic so that they can be reviewed to avoid the same situation again. Chair John Davis suggested reaching out to the TIF Districts to seek feedback on the topics they feel need clarification.

Chair John Davis advised that he did not expect any decisions today. All topics will be discussed at the retreat in July. Michael Keane inquired as to any research to see what other states do in terms of amending TIF programs and looking at best practices.



**10:53 a.m.** Cheryl Hooker exited the meeting.

**10:53 a.m. Summer Retreat Agenda**

Megan provided an update on the summer retreat. The date of the retreat has been set for July 11, 2019 at Sugarbush Mountain Lodge, with a conference room reserved from 8 am to 5 pm. More details will be coming on directions and hotel room discounts. Megan asked the Council to consider the following questions to create the agenda:

- What are we trying to accomplish?
- What are the big issues to deal with?
- How to deal with the issues?
- How to set priorities?

Emma Marvin raised a question about how time will be allocated between VEGI and TIF given the recent scrutiny over the last 18 to 24 months. Megan reviewed a draft agenda she outlined:

- Review operating procedures and programmatic responsibilities
- VEGI Review: blue sky discussion
- Working Lunch: networking or possible speaker
- TIF: Determinations or recommendations of questions raised during audit and review of TIF rule update

John Davis expressed that, since there are many new Council members, it would be advantageous to provide a VEGI and TIF base overview presentation in addition to reviewing the program problem topics that have been brought up over the past months.

Other topics the Council suggested for the agenda: having Ken Jones attend and present the REMI formula, presentation on the number of applications filed, marketing the programs with success stories, ensuring people know what the program is and ways to attract new customers, evaluating the number of applications received, specific barriers, how to increase recruiting efforts. The Council would also like to see the RDC's more involved with VEPC.

The Council will discuss the retreat agenda further during the June 27<sup>th</sup> VEPC meeting.

**11:03 a.m.** Charlie Kimbell exited the meeting

**11:30 a.m. Executive Director Updates:**

- Megan provided legislative updates which included the elimination of VETI. There was no other modernization proposal that passed.
- Megan advised that she had received 4 VEGI inquiries: 1 possible expansion, 2 new businesses, 1 recruit from out of state and 1 continued inquiry on a large business expansion.
- VEGI Cap Watch – Megan is waiting on an official letter regarding CultureMade/Project Xanadu indicating they are not moving forward. Removing that application will release the funds for other applications.

**At 11:36 a.m.** Chair John Davis inquired as any other business, there being none requested a motion to adjourn.

❖ **At 11:36 a.m.** Emma Marvin moved to adjourn the meeting. John Russell seconded the motion. Chair John Davis requested a roll call for the vote, all voted in favor and the motion passed. 8-0-0.

- ♦ Aye: Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane; Patricia Horn; Emma Marvin; Betsy Gentile; and John Russell
- ♦ Nay: None
- ♦ Abstain: None

*Minutes taken by Shelley Pembroke: May 30, 2019*

*Revised by Abbie Sherman: June 3, 2019*

*Revised by Megan Sullivan: June 4, 2019*

*Approved by the Council: June 27, 2019*