

**Draft Minutes**  
**Vermont Community Investment Board**  
**10/15/2024**  
**MS Teams Virtual Meeting**

**Members Present (14):**

- Alex Farrell (*Chair*), designated by the Secretary of Commerce and Community Development
- Adam Grinold, representing the Regional Development Associations
- Billy Coster, designated by the Secretary of Natural Resources
- Bruce Cheeseman, appointed by the Governor, representing local government
- Cathy Davis, appointed by the Governor, representing the Vermont Association of Chamber Executives
- Charlie Baker, designated by the Vermont Association of Planning and Development Agencies
- Chip Sawyer, designated by the Vermont Planners Association
- Jaime Lee, appointed by the Governor, representing the Vermont Natural Resources Council and the Preservation Trust of Vermont
- Kevin Chu, representing the Office of Racial Equity
- Laura Trieschmann, State Historic Preservation Officer
- Michael Desrochers, designated by the Commissioner of Public Safety
- Michael Gaughan, designated by the Vermont Bond Bank
- Michael McDonough, appointed by the governor, representing local government, joined at 11:05am
- Mike Pieciak, State Treasurer
- Michele Boomhower, designated by the Secretary of Transportation
- Sarah Hadd, designated by the Vermont League of Cities and Towns

**Attending Community Planning and Revitalization (CP+R) Team Members (7)** Chris Cochran, Natalie Elvidge, Jacob Hemmerick, Susie Powers, and Jenni Lavoie.

**Guests (24):** Chris Destito; Stephen Whitaker, Montpelier; Mike Miller, Montpelier; William Fraser, Montpelier.

**Start of Meeting:**

Alex Farrell brought the meeting to order at 11:01am

**Additions or Deletions to the Board Agenda**

There were no additions or deletions to the board agenda.

**1. Public Comment Period**

Alex Farrell opened the meeting to public comment, explaining that the public would only be able to speak during public comment, after which the board would deliberate. Mr. Whitaker

addressed the board and affirmed his position that the Montpelier Growth Center amendment request does not meet the program requirements, authority should not be delegated to the Chair, and that the board should deny the application. Mr. Whitaker's comments are added to the end of these minutes.

## **2. Growth Center Designation – 2**

### **City of Montpelier, Boundary Amendment**

In a memo dated October 10, staff requested that the Community Investment Board take action to apply conditions of approval to the Montpelier Growth Center boundary amendment request based on facts discovered.

#### **Background:**

1. On September 23, 2024, the Community Investment Board considered a request by the City of Montpelier to amend and expand its Growth Center designation.
2. Program staff prepared draft findings and recommended approval.
3. A requirement of Growth Center boundary expansion is having a duly adopted and regionally approved municipal plan that provides the proposed Growth Center boundaries following a regionally approved planning process.
4. It was noted by members of the board that there were incongruities between the municipal plan map and the proposed Growth Center boundary map, however this was not raised in the application by the municipality.
5. The board voted to approve the Growth Center boundary expansion.
6. Upon additional review after the meeting, Department of Housing & Community Development (DHCD) program staff found that the City's municipal plan did not in fact include the proposed Growth Center Boundary expansion, and therefore the requirement in #3 above was not met.
7. DHCD staff recommends that the board hold a special meeting to amend the Growth Center Designation approval to add a condition delaying the effective date of the approval until a regionally approved municipal plan compatible with the proposal is effective.
8. The board has general authority to attach conditions to designation approvals.

Staff recommended the following motion:

*A motion to amend Montpelier's Growth Center designation approved by the board on September 23, 2024 to not take effect until the applicant has met the following conditions: complete a regionally confirmed planning process and regionally approved municipal plan containing provisions in alignment with the boundary amendment that accurately describes the Growth Center pursuant to Chapter 139 of Title 24, and submit the plan to the board Chair for review and approval by the Chair with notification to the Community Investment Board.*

The Chair read the motion explaining that it had been reviewed by staff, general counsel and leadership. He explained that the vote would be taken by roll call.

Michele Boomhower **made the motion** and inquired if depending on the duration of time if any other elements of the application that the board approved were to change would we put a stipulation in to address those modifications as part of the approval process based on this motion.

The Chair responded that everything else would need to remain constant and continue to meet all other requirements that the initial motion was predicated upon and these as well.

Staff agreed and noted that the recommended motion includes provisions in alignment with the boundary amendment affirming consistency.

Billy Coster inquired if a municipal plan moved forward with boundaries that were inconsistent with the approval, that such a scenario would require the application to come back to the board. The Chair and staff confirmed this to be correct.

Michael Gaughan inquired about the role of the sub-area plan and ask if the sub-area plan could allow designation. Staff stated that the comprehensive plan (municipal plan) is required and can include the sub-area plan.

The **motion was seconded** by Chip Sawyer.

Charlie Baker expressed concern that the application may not fully meet the requirements and discomfort with delegating authority to the Chair. He **proposed an amendment** that it come back to the board for review and approval. The motion did not receive a second.

The Chair offered that Michele Boomhower could rescind her motion to have it come back at a regular meeting or come back at another special meeting if board members are not ready to make this decision.

Michele Boomhower noted that the proposed motion would require town plan amendments and inquired if there were any time sensitive matters. None were noted, and Michele Boomhower **rescinded** the motion to take up the matter at the next meeting.

Chip Sawyer inquired how long the city plan would take and wondered if the drafts could come before the board for consistency and so long as it remained consistent the Chair could sign off. Montpelier Planning Director Miller expected to have this done by April but expressed concern about resetting back to a full application process. He supported a process whereby they could bring drafts and noted that no TIF application would be submitted until the spring or summer.

Chip Sawyer inquired if the board could consider a motion to keep the current application active and current and pause the approval until such time that a new growth center map could be brought before the board. The Chair explained several contingencies, and noted this is consistent with the staff proposed motion. Chip Sawyer noted that the motion requires that it be adopted versus in process. Charlie Baker inquired if the board could approve

without a municipal plan approval. Chip Sawyer suggested that this could be delegated to the Chair. Adam Grinold asked if the proceeding could be recessed or stayed until the plan is ready. Further discussion ensued.

Chip Sawyer **motioned** to amend the prior motion from the September 23, 2024, board meeting as follows: “Chair may not act on final approval until it is discussed at the next board meeting, Michele Boomhower **seconded**. Ayes: Adam Grinold, Billy Coster, Bruce Cheeseman, Charlie Baker, Chip Sawyer, Kevin Chu, Laura Trieschmann, Michael Desrochers, Michael Gaughan, Michael McDonough, Michele Boomhower, and Alex Farrell. **Motion passed.**

**Approved Motion of 9/23 Amended:** Michael Gaughan motioned to approve the staff recommended motion, approve the boundaries in proposed expansion areas 1 & 2, except proposal 2 (Zoning District: Residential 9000) parcels that do not front a street with an existing sidewalk connected to the designated downtown, authorizing the Chair to approve the final boundary, Charlie Baker indicated he would second the motion, with the additional language authorizing the Chair to sign and issue the written decision based on staff findings and finalize the boundary. Michael McDonough further amended the motion to additionally authorize the Chair to modify the boundaries if future sidewalks are constructed.

### 3. Adjourn

Alex Farrell adjourned the meeting at 11:25am.

The next Community Investment Board meeting will be on October 28, 2024.

From: **Stephen Whitaker** <[whitaker.stephen@gmail.com](mailto:whitaker.stephen@gmail.com)>

Date: Mon, Oct 7, 2024 at 2:19 PM

Subject: Stephen Whitaker's Motion for Reconsideration of Montpelier Growth Center Expansion

To: <[alex.ferrell@vermont.gov](mailto:alex.ferrell@vermont.gov)>

Cc: Christian Meyer <[meyer@cvregion.com](mailto:meyer@cvregion.com)>

Now comes Stephen Whitaker of Montpelier pursuant to 24 V.S.A. 2793c (d)(8) move for reconsideration of the Vermont Community Investment Board's (VCIB) decision made September 23, 2024 to approve the expansion of Montpelier's Growth Center boundaries.

Petitioner offered both spoken and written comments at the September 23rd meeting and thus has standing to move for reconsideration pursuant to the above cited statute.

The above referenced statutory subsection requires that:

*"Any such request for reconsideration shall identify each specific finding of the State Board for which reconsideration is requested and state the reasons why each such finding should be reconsidered."*

A review of the draft meeting minutes document that the motion was to approve the decision only, making no mention of the "findings". The so-called findings included in the Board packet prior to the proposed decision by staff were not represented as findings made by or subscribed to by staff **nor were they adopted as findings of the State Board**. Therefore there is no basis to rely upon for meeting the requirement that movant *"identify each specific finding of the State Board for which reconsideration is requested and state the reasons why each such finding should be reconsidered."* The findings preceding the staff's proposed decision are merely a cut and paste from the applicant's submission, whose application is otherwise wholly incomplete and non-compliant with statute.

Missing is an application based upon an approved municipal plan. The 2017 approved plan makes no mention of use of the Country Club property for civic use or housing.

Also Missing

1. written confirmation from CVRPC that the proposal to expand the growth center to include the Country Club property conforms with the regional plan
2. written description from CVRPC of the role of the proposed growth center in the region, and the relationship between the proposed growth center and neighboring communities.
3. statutorily required adopted capital budget and program that includes existing and planned wastewater treatment, water, stormwater, and transportation infrastructure; **public spaces; other infrastructure necessary to support expanded growth center development; and a reference map.**
4. documented existing or planned transportation infrastructure serving the expanded growth center adequate to implement growth center development over the 20-year period;
5. evidence of multi-modal access to the downtown, village center, **or new town center; which shall incorporate, accommodate, and support the use of public transit systems; and shall encompass a circulation system that is conducive to pedestrian and other nonvehicular traffic;**
6. quantification of the type and amount of development and land area needed to support the proposed growth center beyond what is available in the designated downtown, village center, or new town center;
7. evidence of how the expanded growth center shall avoid or minimize the inclusion of important natural resources and identified flood hazard and fluvial erosion hazard areas. If an applicant includes an important natural resource or flood hazard or fluvial erosion hazard area within a proposed growth center, the applicant shall identify the resource or area, explain why the resource or area was included, describe any anticipated disturbance to the resource or area, and describe how the municipality's land use bylaws will avoid or minimize impacts to the resource or area.
8. required maps identifying in the expanded growth center important natural resources, identified flood hazard and fluvial erosion hazard areas, National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resource;
9. required maps identifying in the expanded growth center **the concept plan depicting the character of the streets and public spaces within the expanded growth center, and depicting the size and placement of buildings envisioned in the municipal plan;**
10. required maps identifying in the expanded growth center existing slopes of 20 percent or greater;

11. required maps identifying in the expanded growth center **existing and planned public facilities, including public buildings, public spaces, wastewater and water services, roads, sidewalks, paths, transit centers, parking areas, parks, and schools** within the growth center boundaries.

Movant also relies on prior submitted written comments to call specific attention to many, but not all of the deficiencies of the City of Montpelier's application. The entire universe of deficiencies of the application are the obligation of DHCD/ACCD/VCIB staff to identify and present analysis for, or justification for approval despite the deficiencies. No such rationale was offered by staff.

Applicant City of Montpelier makes repeated reference to the so-called "Actional Master Plan" for the Country Club Road but conspicuously fails to mention that the document, prepared by White & Burke, was never adopted by the City Council, which merely "accepted" the document with many reservations, referring to it as a "working discussion draft" or an "actual plan" as in the motion to accept the document. Nor is the document in question anything close to a municipal plan, nor was it reviewed by the CVRPC, nor was there any decision made to pursue any five story development on eight acres nor a 12 acre set-aside for recreation. All of those decisions were to follow the specified next steps for due diligence, none of which have yet been completed nor even begun by issuance of an RFP!. These included analysis of hydro-geology, prime ag soils delineation, wetlands, slopes, flood zones, protected flora and fauna and most importantly, the problem of access and egress other than Route 2 with a railroad siding, which might require one or more new roads costing tens of millions of dollars across land which is not under the city's control and for which no agreement has been reached to accomodate a new road and under what terms. No road design, approval nor adopted Capital Budget includes such conceptual roads, first notice to Montpelier citizens of which appears in the defective and incomplete application and as reported by the Montpelier Bridge.

A comment was made repeatedly by ACCD staff (Jake Hemmerick) that the Board's proposed decision in the Montpelier case is relying on precedent established by prior decisions of the Board yet no such precedents were cited in the proposed decision nor in the staff memo introduction preceding the cut and paste of the applicant's irrelevant flotsam and jetsam. I repeat: the applicants

findings are not and were **not the findings of staff nor were they made the findings of the Board.**

Additionally, the Board is not a quasi-judicial body under Vermont law as are the Public Utility Commission, the Green Mountain Care Board and the Natural Resources Board. As such, there is no role for precedent as might have been established in prior decisions under the *Stare Decisis* doctrine. The discovery of this misunderstanding may indeed call into question any number of other decisions made by the Board which may have been based upon the misunderstanding that the Board's decisions constitute precedent or "*settled law*".

The Board should reconsider and reject the application by the City of Montpelier for expansion of the Growth Center boundaries due to an incomplete municipal plan and the many missing elements of the application as detailed in the requirements of statute found in 24 V.S.A. 2793c.

Respectfully submitted this 8th day of October, 2024, by,

Stephen Whitaker  
Montpelier, Vermont