



**MEETING MINUTES
JULY 25, 2019
DEANE C. DAVIS BUILDING
1 NATIONAL LIFE DRIVE, MONTPELIER
CALVIN COOLIDGE CONFERENCE ROOM, 6TH FLOOR
9:33 A.M. TO 11:57 A.M.**

Members Present: Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane; Cheryl Hooker; Emma Marvin; and Charlie Kimbell.

Members Present by Phone: Patricia Horn; John Russell; Rachel Smith.

Members Absent: Betsy Gentile

Staff Present: Megan Sullivan, Executive Director of VEPC; Shelley Pembroke, Marketing and Projects; Ryan Flanagan, Department of Economic Development Intern; and Ken Jones, Economic Research Analyst.

Others Present: Dominic Cloud, City Manager of St. Albans; Seth Bowden, Vice President at Greater Burlington Industrial Corporation (GBIC); Frank Cioffi, President at Greater Burlington Industrial Corporation (GBIC); Rick Rancourt, Controller at Dealer Policy; Kurt Liebegott, Chief Financial Officer at Dealer Policy; Michelle Monroe, Executive Director at St. Albans Messenger; Albin Voegelé, Representative for the Northwest Regional Planning Commission; and Susan Dzurus Bradley, Senior Auditor at Office of Vermont State Auditor.

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.

Frank Cioffi, Rick Rancourt, Kurt Liebegott, and Charlie Kimbell entered shortly after roll call.

Chair John Davis inquired as to any additions or deletions to the agenda. Hearing none, moved on to the next agenda item.

9:35 a.m. Minutes – June 27, 2019

Chair John Davis inquired as to any corrections or changes to the draft meeting minutes for June 27, 2019. Hearing none, requested a motion.

- ❖ At 9:35 a.m., Michael Keane moved to accept the June 27, 2019 meeting minutes as presented. Emma Marvin seconded the motion. Chair John Davis inquired as to further discussion, hearing none requested a roll call for the vote. All voted in favor and the motion passed. 10-0-0.
 - ◆ Aye: Chair John Davis; Mark Nicholson; Rachel Smith; Thad Richardson; Michael Keane; Patricia Horn; Cheryl Hooker; Emma Marvin; Charlie Kimbell; and John Russell.
 - ◆ Nay: None
 - ◆ Abstain: None

9:36 a.m. Minutes – July 12, 2019

Chair John Davis inquired as to any corrections or changes to the draft meeting minutes for July 12, 2019. Hearing none, requested a motion.

- ❖ At 9:38 a.m., Cheryl Hooker moved to accept the July 12, 2019 meeting minutes as presented. Mark Nicholson seconded the motion. Chair John Davis inquired as to further discussion, hearing none requested a roll call for the vote. The motion passed. 9-0-1.
 - ◆ Aye: Chair John Davis; Mark Nicholson; Rachel Smith; Thad Richardson; Michael Keane; Patricia Horn; Cheryl Hooker; Emma Marvin; Charlie Kimbell; and John Russell.
 - ◆ Nay: None
 - ◆ Abstain: Emma Marvin

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: 38a.m. VEGI: Dealer Policy, Initial Application Review

Kurt Liebegott, Chief Financial Officer at Dealer Policy, introduced himself. Liebegott noted that he has been part of the company since 2015. He explained that due to rapid growth and demand, Dealer Policy is looking to expand Southeast and into other parts of the country. Rick Rancourt, Controller at Dealer Policy, gave a brief introduction of himself, saying he has been part of the company for the past two months.

- ❖ **9:40 a.m.** Michael Keane moved to enter into Executive Session to discuss VEGI applications, citing 1 VSA, §313(a)(6). Cheryl Hooker seconded the motion. Chair John Davis inquired as to further discussion, hearing none requested a roll call for the vote. All voted in favor and the motion passed. 10-0-0.

- ♦ Aye: Mark Nicholson; Rachel Smith; Thad Richardson; Michael Keane; Patricia Horn; Cheryl Hooker; Emma Marvin; Charlie Kimbell; Chair John Davis; and John Russell.
- ♦ Nay: None
- ♦ Abstain: None

❖ At 10:45 a.m. the Council exited from the Executive Session.

❖ At 10:45 a.m. Thad Richardson moved to approve the Initial Application, filed by Dealer Policy giving initial authorization of VEGI incentives of up to \$255,691, with an estimated incentive of \$231,345 based on application data, for activity to commence August 1, 2019, subject to submittal and consideration of a Final VEGI Application before the end of calendar year 2019. Michael Keane second the motion. Chair John Davis asked for any discussion. Charlie Kimbell noted that the new employees receiving licensure and the value they will receive from that and he will vote yes. John Chair asked for any additional comment, hearing none called for a roll call vote. The motion passed. 9-0-1.

- ♦ Aye: Mark Nicholson; Rachel Smith; Thad Richardson; Michael Keane; Patricia Horn; Cheryl Hooker; Emma Marvin; Charlie Kimbell; and John Russell.
- ♦ Nay: None
- ♦ Abstain: Chair John Davis

At 10:46 a.m., Kurt Liebegott and Rick Rancourt of Dealer Policy exited the meeting, and the Council took a quick break at 10:46 a.m., reconvening at 10:53 a.m.

10:53 a.m. TIF Districts: Discussion and Motion on Saint Albans Substantial Change Request

10:53 a.m., Michelle Monroe, Albin Voegele, Susan Bradley and Dominic Cloud entered. Each gave a brief introduction.

Megan Sullivan discussed the extensive review that the Council and Council staff had done in reviewing the issues raised in the Saint Albans substantial change request and the State Auditor's Performance Audit of the District. She noted meetings held with the Project Manager for the CAP at the Department of Environmental Conservation, the Vermont Municipal Bond Bank, and the Department of Housing and Community Development in coming to the information provided to the Council for review.

Megan outlined the four areas of the city's substantial change request: 1) core brownfield improvements related to the hotel development site; 2) brokerage fee eligibility as a related cost; 3) working capital reserve; and 4) validation of the term of the bond in 2013 bond vote.

- 1) Megan reviewed the conversation she had with DEC where it was outlined that the Core brownfield did not just contain the hotel footprint but the entire area including the hotel, garage, and surrounding streets, alleyways, and lands making brownfield cleanup inclusive of these areas and included in the CAP. She discussed the ramp and stairs in

the brownfield area leading from the hotel to the public garage and the mention in the CAP of excavation for footings.

- 2) Megan reviewed the staff guidance on the brokerage fee as a related cost. She noted that the fee was paid in 2015 but the agreement was put in place in 2013. In both 2013 and 2015 the city had received voter approval for professional services as a related cost. She noted that in 2013 and in 2015 the definition of related cost would not have excluded this type of professional service. Megan also addressed a question on whether the cost for this service was reasonable. In speaking with the Department of Housing and Community Development she learned that a developer fee on projects they work with can be up to 10%. For the project in question, 10% would have been \$1 million, therefore \$100,000 seems reasonable.
- 3) Megan discussed the legal opinions that Council reviewed for paying debt in the years before increment was available by using debt proceeds. The opinion in the Performance Audit only reviewed Title 24. A further opinion also reviewed Title 32 and found that guidance in that title, both in the need requirement and the allowance that Districts have the full retention period to pay for services, meant that financing debt was necessary. Megan also discussed the use of debt proceeds to pay debt service as an accepted municipal bonding practice and described its use in a general obligation bond, which would cost a TIF Fund less and be lower risk than revenue bonds which would need this financing but be higher risk and therefore would end up costing more.
- 4) Megan noted that the Council had received an opinion from the St. Albans City Attorney on the use of Validation as allowed in Title 24 to address the question of the term of the bond in 2013. The Council also received the City Council's validation that they were knowledgeable of the term of the bond as approved in 2013. This matter was not recommended to be reviewed in the SAO's audit and did not meet the criteria of a substantial change. Megan suggested the Council note receipt of these documents but that a motion was not necessary.

Megan noted that the Council had 60 days to make a determination on a substantial change request and therefore needed to make motions at this meeting. She noted the options of either approving the request or denying and referring to the issue resolution process outlined in TIF Rule and Statute. Michael Keane asked about the issue resolution process which Megan outlined.

At 11:06 a.m., Chair John Davis noted that discussion and motions will focus on each point individually. He also mentioned that at the Council's retreat TIF was discussed in the afternoon. It became clear that there is some guidance in the Rule that needs clarification and that was highlighted in the Auditor's report and further discussed by the Council. Starting with brownfield site improvements, Michael Keane asked what costs were involved in the hotel improvement. It was explained to him that the State Auditor identified \$426,000 between the site improvement and site preparation costs. Megan noted that the city was under contract with the developer for the work on behalf of the city. Patricia Horn said that she felt comfortable approving after extensive review. Charlie Kimbell asked if the entire cost of the ramp was paid by the City of St Albans which was confirmed. John Davis mentioned the review of the whole cost rather than breaking the costs out. He asked specifically about the utility lines. Megan

Displayed a map which showed the utilities that the City put in which accounted for the main lines. The hotel paid for the lines into the hotel building.

Chair John Davis asked for further discussion. Cheryl Hooker asked if “But For” the hotel would the city be paying these costs. Dominic Cloud gave further information on the service lines of St. Albans TIF project. He detailed that the service lines that go to the hotel were paid for by the hotel, while the service mains were paid by the City and would be a normal cost incurred by the City.

❖ At 11:17 a.m., Michael Keane put forth the motion for approval of hotel development, which read, regarding the Request by the City of Saint Albans that the Council validate the City’s use of TIF funds for work done on the Core Brownfields site of the Hotel Redevelopment, I move the Council find that: these costs were eligible to be financed with TIF funds having been part of an approved project with had received voter approval and which VEPC had received notification of. Therefore, the Council approves this validation and requires no further action be taken by the city on this matter. Emma Marvin seconded the motion. Chair John Davis inquired as to further discussion. Cheryl Hooker noted in the future she hopes to further clarify those things that are appropriate and those that are not, specifically for things like the ramp. John Davis agreed that that was important and while not binding it could set a precedent. Patricia Horn noted that Saint Albans acted in good faith and that it was VEPC’s duty to clarify rules going forward. John Davis inquired to further discussion, hearing none requested a roll call for the vote. The motion passed. 9-0-1.

- ◆ Aye: Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane; Patricia Horn; Cheryl Hooker; Emma Marvin; Charlie Kimbell; and John Russell.
- ◆ Nay: None
- ◆ Abstain: Rachel Smith

❖ At 11:21 a.m., Michael Keane noted that the hang up on this seemed to be in the terminology and if this had been called a consultant fee there wouldn’t have been an issue. Michael Keane put forth the motion for approval of brokerage fee eligible as a related cost, which read, regarding the request by the City of Saint Albans that the Council validate the cost incurred for professional services paid for a development deal for the hotel project paid upon completion the Council finds that: the costs incurred fit within the definition of a related cost and was accounted for in the City’s voter approval of professional services. Thad Richardson seconded the motion. Chair John Davis inquired as to further discussion. He noted that he agreed with Michael that better terminology could have been used. He asked if there was any additional discussion, hearing none requested a roll call for the vote. The motion passed. 9-0-1.

- ◆ Aye: Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane; Patricia Horn; Cheryl Hooker; Emma Marvin; Charlie Kimbell; and John Russell.
- ◆ Nay: None
- ◆ Abstain: Rachel Smith

11:22 a.m. Chair John Davis brought up the next request for the working capital reserve. Patricia Horn noted that she was comfortable with this and that this should be a discussion during the approval process, but it seems obvious there needs to be a source of payment in the initial year. While discussing this, Megan Sullivan noted that there are a variety of financing options regarding loans and what current TIF Districts have done but there is always the expectation that increment would be used to pay for projects during the 20 year retention period. She also noted that when a financing plan is created, the Council considers the viability of the district over 20 years not in each year. Approved financing plans show a deficit in years between the initial public development and the private development that follows therefore financing the debt is necessary and expected otherwise each year in a financing plan when increment had not yet come in would be \$0. Michael Keane noted that Title 32 offers more latitude in regard to working capital and on those grounds, until someone harmonizes these two, it should be acceptable. Emma, Thad, and Mark concurred. It was again mentioned that using debt proceeds to make debt service payments is an established practice in municipal bonding.

- ❖ At 11:30 a.m., Michael Keane put forth a motion for the working capital reserve, which read, regarding the request by the City of Saint Albans that the Council validate the City of Saint Albans use of debt proceeds to pay debt service, I move that the Council finds that: Guidance from the other State agencies was provided based on Title 24 without review of Title 32 which governs the administration of this program. Title 32 provides that “any use of education property tax increment approved shall remain available to the municipality for the full period authorized.” That this is an established and accepted practice in Vermont municipal bonding. That district financing plans are approved showing a deficit in the TIF fund in years when increment is expected to be insufficient therefore approval includes the expectation the debt will be financed. Therefore, Saint Albans financing of debt using debt proceeds is allowable and the Council approves this request. The Council also removes the condition passed as part of the approved substantial change request on February 28, 2019 that this money be repaid to the TIF Fund as it will already have been repaid to the Bond Bank. This will raise the approved debt ceiling for Saint Albans TIF District back to \$23 million. Thad Richardson seconded the motion. Chair John Davis inquired as to further discussion. Cheryl Hooker called for clarification on financing in TIF Statute. John Davis inquired of further discussion. Cheryl noted that the legislature should be looking at the two titles to harmonize. Megan offered that there would be attempts to do this in the Rule but that she expected to be in the Legislature in January to discuss TIF. Charlie Kimbell offered that if this could be done in legislation faster than through the Rule making process. Megan Sullivan also noted in terms of the last two provisions in the motion that the if the Council found this to be an allowable TIF practice repayment to the TIF Fund as fund at the February meeting would not be necessary as the City would be repaying this to the Bond Bank. Without that repayment to the TIF Fund, the City would need the District’s debt ceiling reset to \$23 million. John Davis inquired into further discussion, hearing none he requested a roll call for the vote. The motion passed. 9-0-1.

- ♦ Aye: Chair John Davis; Mark Nicholson; Thad Richardson; Michael Keane; Patricia Horn; Cheryl Hooker; Emma Marvin; Charlie Kimbell; and John Russell.
- ♦ Nay: None

- ◆ Abstain: Rachel Smith

At 11:31 a.m., validation of the term of the bond in 2013 bond vote was discussed but no motion was put forth.

John Davis thanked the Council for their work on this. He noted that the Auditor's Office helped bring into the forefront these issues. Rachel Smith noted that she did not vote as she had abstained from voting during the City's initial application. However, she believes that TIF rules are being appropriately met. Ken Jones said that Saint Albans serves as a prime example of how we can positively move Vermont forward with smart growth in its downtown development. Michael Keane noted with a member of the State Auditor's Office there the opportunity to increase communication between that office and the Council. Cheryl noted that this was important for all TIFs so as we can clarify it will be helpful for all districts. Mark noted that we need to be careful not to go overboard on rule making. Emma Marvin concurred and detailed that a TIF District life goes over a significant amount of time and the board cannot be perfect forecasters in regard to how things may change.

At 11:37 a.m., Michelle Monroe, Albin Voegele, Susan Dzurus Bradley, and Dominic Cloud exited.

11:37 a.m. Summer Retreat Follow Up

Megan provided a follow-up on the VEPC Retreat which occurred at Sugarbush Resort on July 11, 2019. The retreat allowed for more interaction between regional development corporations and VEPC members.

TIF Rule was first discussed, which was created to address issues related to creating, implementing, administering, and operating TIF Districts. Sullivan told the board that the Districts would be meeting on August 8, 2019 to discuss the update to the TIF Rule and that she hoped to have a final draft for the Council to review for its September meeting.

Megan discussed VEGI and the possibility of a subcommittee to continue the review of incentives. She will follow up with interested Council members and discussed inclusion of RDCs (who are non-voting members of VEPC) on the subcommittee especially where it will increase the subcommittees regional representation.

Sullivan detailed that she has made plans with Council members John Russell and Michael Keane to visit the regions they represent to meet with RDC boards and businesses in their region. She offered to do the same with other Council members if there was interest.

Charlie Kimbell exited at 11:44 a.m.

11:45 a.m. Executive Director Updates

Megan gave a review of where the VEGI cap stood for the year and the inquiries that had come in for the program since the Council's May meeting.

Chair John Davis inquired as to any other business, there being none, requested a motion to adjourn.

- ❖ At 11:57 a.m., Emma Marvin moved to adjourn the meeting. Thad Richardson seconded the motion. Chair John Davis requested a roll call for the vote, all voted in favor and the motion passed. 9-0-0.
 - ◆ Aye: Chair John Davis; Mark Nicholson; Rachel Smith; Thad Richardson; Michael Keane; Patricia Horn; Cheryl Hooker; Emma Marvin; and John Russell.
 - ◆ Nay: None
 - ◆ Abstain: None

Minutes taken by Ryan Flanagan: July 25, 2019

Revised by Megan Sullivan: July 30, 2019

Revised by Abbie Sherman and reposted: August 6, 2019
Approved by the Council: September 26, 2019