



MEETING MINUTES
JUNE 30, 2022
DEWEY BUILDING, CONFERENCE ROOM 206
1 NATIONAL LIFE DRIVE, MONTPELIER, VT
9:30 A.M. TO 1:00 P.M.

Members Attending In Person: Chair John Davis; Michael Keane; John Russell; and Mark Nicholson

Members Attending Virtually: Heather Chase; Mike Donohue; Rep. Charlie Kimbell; and Thad Richardson

Members Absent: Rachel Smith and Sen. Cheryl Hooker

Staff Present: Abbie Sherman, Executive Director; Angie Farrington, VEPC Programs Manager; Randall Szott, Economic Development Specialist

Others Present: Stephanie Clarke (White & Burke), Chet Hagenbarth (Killington), Lisa Davis (Killington), Jim Haff (Killington), Jeff Carr (EPR), Matthew Cooper (EPR), Tyler Richardson (Chamber of the Rutland Region), William Colvin (Bennington Regional Commission), David Watts (Simon Pearce), John Lobb (Simon Pearce), Bob Flint (Springfield Development), Dan Monks (Bennington), Michael Sneyd (Great Gulf), Devon Neary (Rutland Regional Planning Commission), Ethan Weinstien (VT Digger), Chris Karr (Killington)

9:36 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, hearing none, moved to the next Agenda item.

9:41 a.m. Minutes – May 26, 2022

Chair John Davis inquired as to any corrections or changes to the draft meeting minutes for May 26, 2022. Hearing none, requested a motion.

- ❖ At **9:42 a.m.** Michael Keane moved to accept the May 26, 2022, meeting minutes as presented. Mike Donohue seconded the motion. Chair John Davis inquired as to further discussion, hearing none requested a roll call for the vote. The motion passed. 8-0-0
 - ❖ Aye: Chair John Davis, John Russell, Mark Nicholson, Mike Donohue, Thad Richardson, Rep. Charlie Kimbell, Heather Chase, and Michael Keane
 - ❖ Nay: None
 - ❖ Abstain: None

9:43 a.m. Public Comment

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

9:43 a.m. Vermont Employment Growth Incentive (VEGI):

Simon Pearce, Windsor (Initial)

At **9:43 a.m.** Michael Keane moved to enter Executive Session to discuss VEGI applications, citing 1 VSA, §313(a)(6). Mark Nicholson seconded the motion. Chair John Davis inquired as to further discussion, hearing none requested a vote. All voted in favor and the motion passed. 8-0-0.

- ❖ Aye: Chair John Davis, John Russell, Mark Nicholson, Mike Donohue, Thad Richardson, Rep. Charlie Kimbell, Heather Chase, and Michael Keane
- ❖ Nay: None
- ❖ Abstain: None

At **11:00 a.m.** the Council exited from the Executive Session.

At **11:00 a.m.** Michael Keane made a motion regarding the Initial Application filed by Simon Pearce for a project located in Windsor, that the Council find that:

- ♦ The new revenue the proposed project generates to the State exceeds the costs of the activity to the state by \$241,533 prior to consideration of the LMA Enhancement.
- ♦ The company is not a party to any State action, the host municipality welcomes the new business, and the proposed economic activity will conform to applicable town and regional plans;
- ♦ The applicant does not operate in a limited, local market, and the incentive would not give the business an unfair competitive advantage over other Vermont businesses in the same or similar line of business; and
- ♦ As certified in their application and during testimony before the Council, company officers have provided compelling information and arguments that but for this incentive the proposed economic activity would not occur in Vermont, or would occur in a significantly different and less desirable manner.
- ♦ And therefore, the Council approve the Initial Application, giving initial authorization of VEGI incentives of up to \$113,351 with an estimated incentive of \$107,427 based on application data, for activity to commence July 1, 2022, subject to submittal of a Final VEGI Application by November 18, 2022.

Mike Donahue 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. 8-0-0.

- ❖ Aye: Chair John Davis, John Russell, Mark Nicholson, Mike Donohue, Thad Richardson, Rep. Charlie Kimbell, Heather Chase, and Michael Keane
- ❖ Nay: None
- ❖ Abstain: None

At 11:04 a.m. Michael Keane made a motion regarding LMA Enhancement for Simon Pearce that the Council: utilize the authority given by 32 VSA §3334 to approve an increased incentive level for businesses located in a qualified LMA, such as Windsor, using an estimated 60% of the available net revenue benefit, with a maximum incentive of up to \$273,825 and an estimated incentive of \$259,515, thereby reducing the estimated net revenue benefit to \$96,629. Thad Richardson 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. 8-0-0.

- ❖ Aye: Chair John Davis, John Russell, Mark Nicholson, Mike Donohue, Thad Richardson, Rep. Charlie Kimbell, Heather Chase, and Michael Keane
- ❖ Nay: None
- ❖ Abstain: None

At 11:05 a.m., the Council took brief break, reconvening at 11:13 a.m.

**11:13 a.m. Tax Increment Financing Districts (TIF)
Killington TIF District Revised Application:**

Executive Director Abbie Sherman provided a summary of the review for Killington's TIF District Application. EPR assisted with the review and summaries were provided in the Board packets, as well as reviews by the Agency of Natural Resources and the Agency of Transportation.

In her summary, Sherman said the Killington TIF met the elements of Purpose. As to But For and Need, she stated that each require a very similar review, which was conducted by EPR. In their review, EPR noted the cost for water and transportation improvements were high and the numerous previous efforts to execute these improvements had not been successful. For Need, EPR reviewed Killington's municipal budget, capital budget, and debt service budget, and found that the \$62.3 million in improvements is not affordable for the town and the town lacks fiscal capacity to take that debt on without TIF. EPR also compared Killington's Debt Burden, Median Household Income, and Municipal Tax Rates with peer towns and found that while it appears that Killington could take on addition debt per capita, it would require a substantial increase in their municipal tax rate which would raise it to a level that is well above their peer towns and would be a significant burden relative to Killington's median household income.

Sherman noted that EPR also reviewed Nexus and Proportionality for each of the proposed improvement projects. For Nexus, it does not matter where the infrastructure improvements are located, provided the improvement serves the District. The Nexus criterion appears to be met with all infrastructure projects serve the Killington TIF District even though some components are outside of the District, are needed for the private developments to occur, and the TIF District could benefit from further development for best and highest use. Killington requested 100% proportionality for all infrastructure improvement projects and based on EPR's review and VEPC's proportionality matrix, the proportionality is supported. Sherman noted that all Process requirements had been met.

VEPC staff reviewed the Location Criteria, which Killington proposed to meet the compact/high density and economically distressed requirements. Under the Compact or High Density requirement, Sherman noted that SP Land has previously received Act 250 approval for Phase 1 of the Village Master Plan, and partial findings for subsequent phases. She noted that the development will be compact in form and size, with multiple recreation opportunities for social interaction, will contain a mixture of uses including a substantial residential component, will have significantly higher density than densities outside of the TIF District, and is served by municipal wastewater, public transit, and will be served by municipal water as one of the TIF infrastructure improvements. Under the Economically Distressed requirement, Killington needs to meet one out of three of the requirements. Sherman noted that Killington meets the economically distressed requirement by having an average unemployment rate of at least 1 percent greater than the statewide average – and have qualified under that requirement for at least the last 6 years.

For Project Criteria, Killington chose to meet Need, Business Development, and Transportation Improvements criteria. Sherman stated that Need had already been covered under “But For.” The Business Development criterion was reviewed by EPR and that Killington is very likely to create at least one, if not many, jobs that will meet or exceed the prevailing wage requirement. Killington will be required to report on this data in their Annual Reports to VEPC. VEPC staff reviewed the Transportation criterion and determined that the complete streets improvements proposed by Killington will improve traffic patterns and flow.

The final elements to be reviewed were Market and Fiscal Viability and the TIF Financing Plan, both of which were reviewed by EPR. Sherman pointed out that with regard to Market and Fiscal Viability EPR said that the first two years of the District will have a deficit, but that this will be covered by future TIF revenue. There could be scheduling and inflationary pressures on projects. EPR also noted that the Financing Plan does not rely on non-TIF Revenue for viability. VEPC staff is aware that Killington has received a pre-award notification of \$2.3 million in ARPA Funding for their water project from the Agency of Natural Resources. This award has not been factored into the TIF Financing Plan. Finally, Sherman said EPR’s review recommends, and VEPC staff agrees, that the council leave the question on Viability open as part of a Master TIF Determination. This will allow viability to be reexamined as project phases are filed with VEPC and it is recommended that the phases include submittal of copies of development agreements and any other corroborating information or developments. Sherman also recommended that Killington seek any and all appropriate non-TIF revenue sources such as federal and state grants.

Michael Keane asked what the proposed share of incremental education property tax increment was. He also commented that he was impressed by the town’s enthusiasm and preparation.

Stephanie Clarke expressed thanks on behalf of Killington for the Council’s consideration and pointed out the extent of planning

At **11:31 a.m.** John Russell moved that the Council determine the Killington TIF District Plan, TIF Financing Plan, and application, met all the following approval criteria required by 32 VSA §5404a(h) including the But For, Purpose, Process Criteria, Location Criteria A and C, and

Project Criteria A, D and E. The Council also finds that there is Nexus between and among all private developments and infrastructure improvements and the Council approves 100% proportionality for all infrastructure improvements. The Council further finds that the District and Plan as presented generally indicate market and fiscal viability and that the Financial Plan is consistent with the TIF District Plan. The Council also approves the proposed 70% share of incremental education property tax increment towards the TIF District debt. Therefore, the Council generally approves the TIF District Plan and the TIF Financing Plan and authorizes the TIF District to utilize incremental property tax revenues to finance public infrastructure debt and related costs incurred for the Killington TIF District in accordance with statute and rules. However, this determination is considered partial, and the viability and reasonableness of non-bonded debt will be determined as subsequent project phases are filed by the Town of Killington and with the receipt of additional information and data. This determination is further subject to the following:

- ◆ Annual reporting shall include job creation data with detailed information on employers such as type of business, number of employees, and previous location (if any), for tracking purposes only;
- ◆ Killington will submit fully-executed development agreements between the Town and prospective developers and any additional corroborating information or developments with Phase Filings; and
- ◆ To alleviate the marginal viability of the TIF District, Killington shall seek any and all appropriate non-TIF revenue sources, such as state and federal grants. Annual reporting shall include notification to VEPC of all non-TIF sources of funding applied for, approved, and received.

Michael Keane 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. 8-0-0.

- ❖ Aye: Chair John Davis, John Russell, Mark Nicholson, Mike Donohue, Thad Richardson, Rep. Charlie Kimbell, Heather Chase, and Michael Keane
- ❖ Nay: None
- ❖ Abstain: None

11:35 a.m. Bennington TIF Sub Change Request:

VEPC Program Manager Angie Farrington provided a summary of the review for Bennington's Substantial Change Request to extend their timeline to incur first debt. EPR assisted with the review, and summaries were provided in the Board packets.

Farrington outlined the major questions to be answered for a Substantial Change Request. She noted that VEPC has the authority to approve the extension for no more than five years from the fifth anniversary of the date the District was created. She said a review of documentation provided, and analysis conducted by EPR does support a 5-year extension for Bennington. EPR reviewed Nexus and Proportionality for the BennHi project since the changes to that project required a new review. Farrington noted that EPR believes it is reasonable for the Council to conclude that the BennHi project does satisfy the Nexus requirements.

Bennington has requested 100% Proportionality for the BennHi project. Abbie Sherman noted that within the review of this area, the word “bonded” appeared in error in the staff report and EPR’s review memo, which misrepresented the proportionality because it should be based on total infrastructure project costs, not just the bonded amount. Farrington noted that EPR believes that it is reasonable for the Council to make positive finding for at least a 71.4% proportionality value for the Benn High. This was determined after reviewing three factors – the percent that the project is within the District boundaries, the percent of use within the District – how much of the project serves just the District, and the percent of increased value that accrues to properties within the District. It is the second factor that has reduced the proportionality.

Continuing with review of the Substantial Change Request, Farrington stated that EPR’s review highlighted two risks in the Financing Plan: 1) the reliance on TIF Revenue for Tier 2 and 3 private developments; and 2) reliance on public sector grant funding to finance as much as 55% of improvement costs. These risks would be significantly reduced through a Master TIF Determination. Farrington also noted that the surplus in the revised Financing Plan is estimated to be \$641,666, while the originally approved Financing Plan estimated the surplus would be \$17,394. EPR’s review noted that while there may be years where there is an annual deficit, the cumulative surplus is enough to cover those years. Additionally, viability can continue to be reviewed with Phase Filings as part of a master TIF Determination.

Stephanie Clarke commented on proportionality, noting that the minimum of 71.4% is insufficient. She believed a determination of 100% is merited because of the challenges inherent in the specific site and the fact that it is a key component of encouraging development. She further noted that the project was right-sized. Dan Monks emphasized the challenges of developing BennHi and supported the comments of Clarke. He noted they have hired an architect and should have a construction manager hired in the near future. Bill Colvin reminded the Council of the various efforts the town have made outside of TIF. He also noted that the Putnam project was full at opening and that housing demand remains strong. Jeff Carr emphasized the catalytic nature of the project and emphasized that the proportionality calculation was intended to be a minimum.

Michael Keane inquired about the expected time of incurring debt and what Bennington will do to educate voters on the debt. Dan Monks said it was expected to be in 2023. At that time, when all the information is available, they will work to get the information out in collaboration with White and Burke. He noted that ideally, they would have a single bond vote for projects associated with BennHi and Putnam Phase 2.

Chair Davis inquired as to a staff recommendation for the proportionality. Abbie Sherman advised that a proportionality of less than 100% serves as a reminder to the Council and VEPC staff for future substantial change requests that the project may not fully serve the District. Clarke pointed out facilities improvement are an approved eligible use. And she noted that there are multiple improvements, such as roads that also serve constituencies from outside the TIF. She noted that using a standard that prohibits any outside use would inhibit redevelopment of nearly all community facilities. Carr agreed that the line can be blurry, and that the calculation was

weighted equally among all three factors and that the Council has the flexibility to change the weighting. Carr suggested the Council should consider the impact on future determinations if the projects end up being changed as they are implemented. Mark Nicholson suggested 90% for proportionality. Clarke emphasized that this decision would set a precedent and that it could exclude all community facilities. Sherman noted that the precedent was previously set by the South Burlington TIF.

Heather Chase exited the meeting at 11:53 a.m.

At **12:24 p.m.** Michael Keane moved that the Council grant the Bennington TIF District a five-year extension to incur first District debt, the new deadline for incurring first debt being March 31, 2027. I further move that the Council find that the substantial change request submitted remains consistent with the TIF District Plan and the criteria by which the District was originally approved, finding that Nexus for the revised Benn High Project is met and that Proportionality for that project is set at 90 percent. The Council further finds that the District and Plan as presented generally indicate market and fiscal viability, and this determination is considered partial. The viability and reasonableness of non-bonded debt will be determined as subsequent project phases are filed by the Town of Bennington and with the receipt of additional information and data. This determination is further subject to the following:

- ◆ Bennington will continue to seek any and all appropriate non-TIF revenues sources, such as federal and state grants, to alleviate the marginal viability of the TIF District, and as required in their original Final Determinations; and
- ◆ Bennington will submit fully executed development agreements between the Town and prospective developers with Phase Filings.

John Russell 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. 7-0-0

- ❖ Aye: Chair John Davis, John Russell, Mark Nicholson, Mike Donohue, Thad Richardson, Rep. Charlie Kimbell, and Michael Keane
- ❖ Nay: None
- ❖ Abstain: None

12:28 p.m. Executive Director Updates

Abbie Sherman provided the following updates to the Council:

- ◆ VEGI Cap Watch: Sherman provided an update on the VEGI Cap Watch, which will be updated based on the approval of Simon Pearce. VEPC staff will need to request an increase in the LMA Cap to the Joint Fiscal Committee.
- ◆ Sherman has received 4 new inquires for the VEGI program since the last VEPC meeting. There are no applications currently in the pipeline, and Sherman does not anticipate receiving applications by July 8, meaning the VEPC meeting is likely to be cancelled.
- ◆ LMA Changes: Sherman informed the Council that the Lebanon NH LMA had moved to the “ineligible” category for any VEGI applications filed July 1, 2022 or later.

- ◆ Burlington Downtown TIF: Sherman informed the Council of a possible misunderstanding about the status of Champlain College Development payments discovered during a visit. The Council indicated they needed some fact finding and a robust discussion to determine the appropriate response.
- ◆ RDC Visits: Sherman noted that RDC visits by the Dept. of Economic Development has resumed.
- ◆ Legislative Update: Sherman said that all relevant bills had been passed and signed.

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

At **12:40 p.m.** Mark Nicholson moved to adjourn the meeting. Michael Keane seconded the motion. Chair John Davis requested a roll call for the vote, all voted in favor and the motion passed. 7-0-0.

- ❖ Aye: Chair John Davis, John Russell, Mark Nicholson, Mike Donohue, Thad Richardson, Rep. Charlie Kimbell, and Michael Keane
- ❖ Nay: None
- ❖ Abstain: None

Minutes taken by Randall Szott: June 29, 2022

Revised by Abbie Sherman: July 6, 2022

Approved by the Council: September, 29, 2022