OFFICE OF THE TOWN MANAGER

TO: SELECTBOARD
FROM: PETE WEBSTER, TOWN MANAGER
SUBJECT: TOWN MANAGER'S REPORT
DATE: JAN. 9, 2009

We have endured several weeks of difficult Vermont winter weather, but I believe the Highway Department is holding up as well as can be expected. I wish I could say as much for our overtime, salt and sand line items. I would like to single out Andy Hodgdon as the odds-on early nominee for Town Employee of the Year award. He has been out most mornings by 2 or 3 am, ensuring our roads are getting the proper attention they require throughout these unrelenting early winter storms. We need to recognize his outstanding performance as he is putting in well over 50% more hours than his salary normally warrants. I regret to say I missed a significant milestone last month for Andy: he was hired by the Town of Norwich on Dec. 19th, 1983 and is just commencing his second quarter century of employment with us. Here is a brief report of my activities since our last Selectboard meeting on December 17th:

Health Insurance Update:

After an employee-wide meeting with Tanya Chambers, our representative from the VLCT Health Trust, wherein the specifics of the high deductible health insurance plans were explained in thorough detail, 70% (14 of 20) of our employees have chosen to switch to the HDHP 1500 plan, thus saving the town $15,279 in this current year's budget, and even more in the proposed FY 2010 budget. Almost all, if not all, town employees have set up their individual H.S.A.'s at Mascoma Bank. We will be meeting with Dave Davis of Future Planning this coming Monday, Jan. 12th, at 12:30 to learn the benefits of setting up a Sect. 125 cafeteria plan, and I encourage your participation at that informational meeting. Everyone so far seems quite pleased with this change, even though this represents significant 'give-back' from our employees—they all realize the times we are living in.

Budget Update

Without getting into too much detail (as we will be discussing this at great length Wednesday), I am pleased with where we stand on the FY 10 budget—a 1.9% increase in spending, well below the Finance Committee's initial guidelines of 3.0% cap, resulting in a municipal tax rate cut of about 6%, and leaving a healthy Undesignated Fund balance of 13% of total expenditures. I am aware of few towns who will be presenting a budget to their taxpayers resulting in a municipal tax cut this coming March. I believe the Finance Committee is also pleased with the current proposed budget, which continues to provide all the services our residents have come to expect, with no reductions.

Union Contract Negotiations

I had my first meeting Jan 5th with George Lovell, representing AFSCME, to set up the ground rules and timeline of our first three negotiating sessions. As you know, the three year existing contract expires June 30th, and I fully expect to wrap up these negotiations by some time in March, April at the latest. I have received some good ideas/suggestions from our Finance Committee, and will be working with Doug Robinson representing the Police Department and Andy Hodgdon representing the DPW. I am confident we will negotiate a fair and equitable agreement. Along those lines, I had met previously with both Doug and Andy to get a sense of what their people were hoping for, and to map out an initial strategy with their insightful input. I will periodically update you, in Executive Session, on the progress of these talks.

Bandstand Update

I continue to spend a great deal of time in communications, through email, telephone and in personal meetings, with various interested residents concerning the disposition of the historic bandstand. In fact, I believe I am devoting much more time than I should be to this issue, when one considers we are in the final stages of a $4 million+ budget, union negotiations, and all the other day-to-day minutiae of running a small New England town. I have been meeting people from the Vt. Preservation Trust, other parties expressing an interest in relocating our bandstand to their towns, pricing out the cost to airlift the bandstand by helicopter, and in meetings with Charles Egbert and Neil Fulton on the final design drawings for the new construction. I will have a more detailed update for our meeting Wednesday. We currently have $53, 177 remaining in the bandstand fund after $3,275 was returned to some 13 residents requesting refunds, which should be a more than adequate sum to cover the bids I anticipate coming in. In addition, you will recall that Norman Miller, at your last meeting, pledged to cover any donation refunds. I'll be tracking him down next week in Mexico for that commitment! By mid-February I should be able to dismantle the bandstand, gently removing the base and roof for safe keeping until it is clear where they will be relocated and renovated.

Thursday Evenings with the Town Manager

I have arranged to host 4 evening meetings at the Norwich Inn for those residents who might want to informally sit with me to discuss issues, ideas, complaints, hopes or just to meet me. Dates will be the last Thursday of each of the next 4 months, from 5-7 in the living room of the Inn, crackers and cheese provided by me. Dates: Jan. 29th, Feb. 26th, Mar. 26th and April 30th. My biggest fear about these sessions is that I will spend two hours by myself consuming crackers and cheese, so please help me spread the word. It goes without saying you are all invited to sit in on any and all of these forums!

Additional Meetings and Assorted Issues

Some of the additional meetings I've attended, in no particular order: a conference call with VEIC (Vt. Energy Investment Corp) and Nancy Wasserman about being involved with a clean energy tax district, which I think holds great promise for this state—I will forward to you an email with more detail about that; met with Lisa Birmingham from Comcast to discuss her company's plans for extending cable in Norwich; my weekly Rotary luncheons, and Stan Williams' presentation two weeks ago about EC Fiber's progress; this month's Finance Committee meeting to discuss the FY 2010 budget, the COLA/CPI calculations, the Undesignated Fund balance, and union negotiations; an OSHA mandated 'blood borne pathogen' seminar at our fire house, led by Health Director John

Lawe; this month's meeting of the NBC (Norwich Business Council); I represented Norwich as your alternate member to this month's meeting of the GUVSWD (Greater Upper Valley Solid Waste District) down in Hartland. In addition, I've contacted a number of residents whose names appear on the current State Treasurer's website list of unclaimed properties. There are some 970 claims for Norwich residents, and these can be viewed at: www.vermonttreasurer.com and then clicking on unclaimed properties and typing in Norwich. I used to do this frequently back in Essex, Ct many years ago, where I knew most everyone in town. I obviously don't recognize that many Norwich residents' names yet, but perhaps you can re-connect some of these claims with their rightful owners. I have posted this list over at the library and here in Tracy Hall. Unfortunately, either Jeb Spaulding's office has not the resources or they don't have the incentive and/or desire to reach out and contact these unclaimed property owners, including our own Norwich Public Library which has $100 from a 2001 refund of some sort.

That's about it for this month, and I look forward to next Wednesday's meeting.

Sincerely,

Pete Webster

October 30, 2008

Our office investigated the City's legal authority to issue bonds to finance loans for alternative energy (i.e. solar) and energy efficiency improvements on private property to be repaid over a long period (i.e. 20 years), with the loans to be treated in the same manner as taxes on real property. We believe the most prudent path is for the City to seek explicit authority for such a program through a general or specific (charter) law.

Vermont municipalities, including Burlington, may do only what the legislature has expressly authorized us to do, plus the things that are necessary and incidental to do them. *Rockwood v. City of Burlington*, 21 F. Supp. 411 (D. Vt. 1998). Municipal power is narrowly interpreted by the courts. Burlington's charter, a special statute, and the general state statutes are the sources of our authority.

There is no explicit authority in the Charter to finance a loan program from City funds to make alternative energy or energy efficiency improvement loans to private property owners. Such authority would have to be inferred.[1]

There is also no clear authority, specific or general, from which to treat such loans as a tax lien on the real estate on which the improvement is made. City general obligation bonds are backed by the entire credit of the City and are assessed on all taxpayers, not just those who receive the loans from the program. There is no charter authorization to have the repayment of a general obligation bond placed only on the private borrowers of those funds and not on all taxpayers.

A financing system which treats loans like special taxes could be authorized. It could be like the provision in the Charter for assessments for laying out streets, which are

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[1] The City Council has the power to provide for the lighting of the city (*§ 3-48 (30)*), to acquire, maintain, operate and improve an electric power plant or system (*§ 3-228*), to administer economic and community development strategies and projects, to stimulate investment and attract, retain and encourage the development of existing and new economic enterprises, and to develop and implement a comprehensive program to address the City's housing needs (*§ 3-332*), to sell, install, and service merchandise and equipment incidental or auxiliary to the use of electricity or gas or needed to properly serve the interest of BED's customers and promote the sale and use of electricity or gas (*§ 3-418 (a)*), to bond to finance the cost of improvements to the electric plant, payable from revenues of electric plant (*§ 3-433*), to treat energy conservation facilities as part of the electric plant (*§ 3-443*). The City's authority to run a municipal electric utility is limited by statutes governing municipal electric and gas plants and Public Service Board regulations. *24 V.S.A. ch. 79*.

explicitly treated as liens in the nature of a tax on real property. *24 V.S.A. app. § 3-48 (38)*. The general statute authorizing Special Assessment Districts is limited to public improvements but could be amended to allow the funding of private improvements. *24 V.S.A. ch. 87*. The public utility indebtedness statutes, *24 V.S.A. §§ 1821 – 1828*, do not seem to allow bonding for loans to private persons. The facilities bonded for must be owned, controlled, operated or managed by the public utility and as currently being discussed the loans would be to private individuals who would own, control, operate and manage the facility being financed. *See 24 V.S.A. §§ 1821, 1822*. The tax increment financing statutes do not allow for financing private improvements either. *See 24 V.S.A. §§ 1891 (4)* (defining improvements as public infrastructure) *and 1893* (limiting the purpose of tax increment financing districts to providing revenues for improvements).

There is nothing in Vermont law that we have found that is like California's Mello-Roos Act which authorizes the creation of community facilities districts and the issuance of bonds and special taxes to finance public facilities and improvements to private property. It is our opinion, therefore, that the specific authorization be obtained from the legislature before implementing a renewable energy loan program financed by municipal bonds and secured by a tax lien on the real property on which the improvement is made.

Clean Energy Assessment Districts

A New Tool to Help Vermonters Invest in Clean Energy

Vermonters are more interested than ever before in investing in energy efficiency and renewable energy improvements for their homes and businesses. They know that these investments are good for the environment and financially beneficial over time. Vermont policymakers have an interest in encouraging these investments, because they help meet not only greenhouse gas emissions reduction targets, but also the aggressive building energy efficiency goals established in Vermont statutes.

One major barrier to making these investments is a lack of sufficient upfront capital. For property owners who don't have the cash to make these investments in major energy improvements, there are few options available that have the necessary combination of easy qualification, attractive interest rate, and a relatively long repayment term. A statute that enables cities or towns to establish a Clean Energy Assessment District (CEAD) would provide an innovative tool to overcome this barrier. CEAD offers property owners a new way to install renewable energy and energy efficiency upgrades with little or no upfront costs.

CEAD is a voluntary mechanism allowing individuals wishing to make major energy improvements to opt in to a special assessment "district". Energy efficiency and / or renewable energy improvements are funded by taxable municipal bonds or other municipal debt, repaid over a 20-year period as an additional line item on the participating property owners' tax bills. The longer payback period makes it more likely that these projects can produce a positive cash flow on a monthly basis, in comparison to the 5-year loan products that are typically available in the commercial market.

Participation in CEAD would be voluntary for municipalities as well. The enabling legislation would allow interested municipalities to offer the program if they chose to do so. Just as the program is optional for property owners, it would be optional for municipalities, based on the interests and priorities of individual communities.

Summary of Proposed Legislation

- Enables municipalities to create and secure debt for a CEAD – 100% voluntary
- Allows participating municipalities to secure funding or work with the Vermont Municipal Bond Bank to issue taxable bonds to pay for energy efficiency and renewable energy projects
- Allows property owners who elect to participate to pay for the benefit over a period of up to 20 years through a special assessment charged as a new line on their property tax bills and paid to the municipality

Benefits for Vermont Property Owners

- Overcomes a key financial hurdle for making investments in energy efficiency and renewable energy
- Incremental special assessment payments are low and fixed for up to 20 years, with no upfront cost
- Special assessment fees transfer to the new owner when the property and improvements are sold or assessment obligation can be paid in full at transfer.
- Electricity and fuel bills are lower than they would be without the improvements, and the property owner is helping to reduce greenhouse gas emissions
- Property taxes remain unaffected for those who choose not to participate

Benefits to Vermont Cities and Towns

- Cities and towns can use CEAD to become more self-reliant and energy efficient and contribute to meeting community sustainability, climate, and energy goals
- Cities and towns can provide a valuable public service to the members of their community
- All CEAD program costs can be paid out of bond proceeds

Benefits to Vermont's Economy

- The creation of CEADs could inject millions of dollars directly into the Vermont economy to make lasting energy and building infrastructure improvements
- The creation of CEADs would provide a steady and growing demand for energy efficiency installers, as well as installers of small scale renewable energy systems
- The creation of CEADs helps to establish a steady and predictable demand for energy efficiency and renewable energy products, helping suppliers and retailers expand their businesses
- Participating property owners will be able to make significant reductions in their heating and electricity costs

Programs similar to CEAD are already in place in other communities and are proving to be very popular. California has enacted statewide enabling legislation similar to what is proposed for Vermont. In Berkeley, California, the BerkeleyFIRST program was launched in the fall of 2008 and the $1.5 million pilot was fully subscribed almost immediately after it was open for applications. Other communities in other parts of the country are considering similar programs.