

Agenda for the Selectboard Meeting
Wednesday, February 12, 2020 at 6:30 PM
Multi-Purpose Room, Tracy Hall, 300 Main St., Norwich

1. Agenda Review (add/delete/reorder items)
2. Public Comments for items not on agenda
3. Selectboard Comments on issues that may or may not be related to agenda
4. Consent Agenda-chair (Motion required)
 - a. Correspondence
 - i. Finance Committee – Designated Funds
 - ii. Doug Wilberding – EEI proposal
 - iii. Kathleen Shepherd, Christopher Ashley, Paul Manganiello – School Safety Training
 - iv. Roger Arnold – Cannabis Retail Regulation
 - b. Minutes from 1/15, 1/22, 1/24,2020 (with corrections for 1/15 and 1/24/20)
5. New Business
 - a. Liquor Control Board - Liquor Licenses
 - b. A/P warrants (discussion/action)-chair (TO BE SENT IN REVISED PACKET)
 - c. 2nd Qtr financial status update (discussion)-Herb (TO BE SENT IN REVISED PACKET)
 - d. Conservation Commission request re: Federal Energy Regulatory Commission-consider resolution concerning Connecticut River dam operations Herb
 - e. Town Meeting Presentation(discussion)-Roger
6. Old Business
 - a. Re-form Solid Waste Committee (discussion/possible action)-Claudette
7. Town Manager’s report (discussion)
 - a. Authorize Town Manager as a Town representative for Social Security Business Services Online
8. Town Manager next steps-discussion on Board next steps depending on outcome of Feb 10, 2020 special meeting-chair
9. End of meeting debrief
10. Set next agenda Feb 26 , 2020 (discussion)
 - a. Town Meeting Presentation
 - b. Union Contract Update
 - c. NHDOT presentation on Ledyard bridge paving
 - d. Cyber security policy
 - e. Town Plan public hearing #1
 - f. Fair and Impartial Policy proposal
 - g. Vital Communities meetings
11. Executive session for board discussion on:
 - a. Union contract negotiations
 - b. Union grievance
 - c. Real estate discussion (invite Affordable Housing rep?)
 - d. TM contract (dependent on SB meeting 2/10/2020)
12. Adjourn

Future agenda items: (in no particular order)

1. Union contract update
2. Dresden MOU
3. Town Plan
4. Policies (which one(s) next
5. Solid Waste Committee charge
6. Animal Ordinance
7. Financial procedures
8. Prudential Committee update
9. Green Fleet proposal

Handout 4a.i
@ 1/22/2020
SB mtg

January 21, 2020

To: Norwich Selectboard

From: Norwich Finance Committee

Omer Trajman - Chair
Garret Palm - Vice Chair
Ryan Gardner - Secretary
Cheryl Lindberg - Town Treasurer
David Barlow
Emmanuel Tesone

Re: Request to review Designated Funds

At the request of the Selectboard, the Finance Committee undertook the task of investigating the following matters:

- 1) The current account balance, cash balance, and cash flow of each designated fund and the undesignated fund.
- 2) Confirm the purpose of each fund and the origin of each designated fund.
- 3) Recommend whether designated funds are the most effective method of budgeting for capital equipment.
- 4) Recommend whether to cap the amount in designated funds.

The Committee met on January 13th, 2020 to discuss these matters and divide the research among the Committee members. The Committee reconvened on January 20th and discussed the results of the research. As summarized in this memo, the Committee was able to find the majority of information with exceptions highlighted in this summary.

On the matter of current account balances of designated and undesignated funds, the Committee looked back to FY2016 at the available Town Reports and Audits, capturing the balances in each of the funds. Note that in some cases there are minor discrepancies between fund balances when reported in one year vs the following year as well as in the fund names. On the matter of reporting on fund balances, the Committee unanimously recommends that the Town standardize on the format used in the 2019 Audit and publicize just the audited financials in the Town Report instead of the prior summary format. This recommendation will reduce the confusion and discrepancies that can be seen in the past few years of designated fund reports.

The format used in the 2019 Audit most similarly matches the well-understood presentation of fund accounting balances and reflects those used in other Town reports.

Notably missing in this summary is an analysis of the cash balance of the designated funds and the undesignated fund. In order to understand the cash balances of the designated funds and therefore the balance of the undesignated fund, the Selectboard would need to refer back to bank statements from the end of each fiscal year, cross referencing them with the audit report. This task is complicated by the timing of both the large FEMA grant due to the Town and the large line of credit used to maintain an adequate cash balance. The Committee therefore recommends that the Selectboard take a fresh assessment of the actual cash on hand at the end of Fiscal 2020 and use this as a baseline for future reporting.

The Committee briefly reviewed the designated fund history. A deeper analysis of each funds origin will require additional time to research the relevant Town Meeting articles, donations, and grants that established each of these funds. The majority of the designated funds were established by the voters for use in expenditures that could not be funded in one budget year such as capital project studies, equipment purchases, and larger infrastructure projects. Some funds were established by donations. The Committee recommends that the Selectboard undertake an annual review of the voter established funds at the beginning of each fiscal year to assess whether the voters should be asked to continue appropriating capital to each fund, hold the fund at the current balance in expectation of future expenses, or retire the fund and transfer the balance to another fund or the general fund.

The Committee discussed the use of designated funds for capital equipment, whether the designated funds should be capped, and how the Selectboard should evaluate the use of funds on a per project basis. The Committee considered how other Towns plan and how Norwich has historically planned for, established, and managed capital equipment purchases as well as other capital projects. The discussion was focused primarily on funds established for specific expenditures such as capital equipment or capital project assessment. The current practice of establishing funds for project assessment and for long-term saving of non-bondable large equipment purchases or infrastructure expenditures is consistent with the practice both historically in Norwich and in other Towns.

Where other Towns deviate from Norwich is in the use of designated funds to account for projects that were bonded or otherwise financed. In those cases, other Towns do not establish designated funds, reserving the designated fund structure for recurring expenditures that cannot be borrowed against. Designated funds are also consistently used for assessing projects that may end up being borrowed against for implementation. As per the Committee's earlier analysis in determining the designated fund balances, establishing designated funds for large capital projects only serves to complicate the understanding the balance of appropriated funds separate from borrowed funds.

The Committee also noticed that other Towns follow two processes that differ from the current practice in Norwich and which the Selectboard should consider adopting. The Committee recommends that during the budget planning process, any budgetary items that have a revenue generating component be considered together with the revenue impact and potential changes to revenue. Further the Committee found that historically in Norwich and as common practice in other Towns, a Capital Improvement Program Committee reviews and provides recommendations to the Selectboard on financing strategies for all long-term expenditures. This Committee typically considers a 10-year period and takes into account the requirements of the Town Manager and departments, recommendations from other Committees, the results of capital program assessments, and the ongoing budget changes. The Committee recommends that the Selectboard establish such a Committee or charge an existing Committee with establishing and maintaining a 10 year capital improvement program.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'O' followed by a series of loops and a long horizontal stroke extending to the right.

Omer Trajman
Chair, Norwich Finance Committee

	2016 TR	17 re 16	2017 TR	18 re 17	2017 Audit	2018 TR	18 Audit re 17	2018 Audit	2019-08 Report	2019 Audit
Designated Funds										
Affordable	\$45,286		\$45,395		\$45,395	\$45,671		\$45,671	\$45,671	\$46,176
Alura	\$102		\$103		\$103	\$104			\$104	
Bandstand	\$1		\$1		\$1	\$1			\$1	
Builds and Grounds	\$11,759		\$18,952		\$18,952	\$26,096		\$26,096	\$26,096	\$33,413
Conservation	\$181,319		\$150,011		\$150,011	\$151,477		\$151,477	\$151,476	\$153,083
Cemetery					\$38,978			\$40,973		\$52,879
Cemetery Care					\$174,673			\$179,942		\$192,480
Citizen	\$2,343		\$3,051		\$3,052	\$4,073		\$4,074	\$4,074	\$2,201
Corridor Tree	\$129		\$0							
Comms Study	\$28,212		\$28,280		\$28,280	\$16,312		\$16,312	\$16,312	
Comms Equip										
DPW Bridges	\$152,730		\$141,991		\$141,991	\$201,790		\$207,237	\$207,237	\$249,633
DPW Paving	\$134,605		\$10,392		\$988	\$176,131		\$176,131	\$176,131	\$220,807
Fire App	\$390,660		\$457,665		\$457,665	\$525,424		\$525,425	\$525,425	\$547,030
Fire Equip	\$56,696		\$54,850		\$54,849	\$68,168		\$68,167	\$68,167	\$86,989
Fire Station	\$16,828		\$20,874		\$20,874	\$19,756		\$18,161	\$19,756	\$10,995
GA	\$22,038		\$26,462		\$26,462	\$31,444		\$31,444	\$31,444	\$37,314
Generator	\$5,007		\$10,026		\$10,026	\$15,107		\$15,107	\$15,108	\$23,307
Highway Equip	\$338,366		\$341,176		\$281,398	\$241,459		\$237,130	\$241,459	\$172,131
Highway Garage	\$18,556		\$82,150		\$82,149	-\$123,129		-\$122,890	-\$122,890	-\$108,564
Land Mgmt	\$14,208		\$13,841		\$13,841	\$13,925		\$13,925	\$13,925	\$10,132
Long term Facility	\$12,591		\$455		\$455	\$458		\$458	\$458	\$463
Flags	\$1,304		\$1,307		\$1,308	\$1,315			\$1,315	
Police Cruiser	\$77,221		\$59,537		\$59,537	\$69,940		\$69,940	\$69,940	\$80,754
Police Spec	\$12,299		\$15,308		\$15,308	\$11,268		\$11,268	\$11,268	\$12,385
Police Station	\$3,985		\$7,499		\$7,500	\$7,038		\$7,039	\$7,039	\$10,631
Public Safety Bond			-\$48,753	\$1,328,175	\$1,328,175	-\$85,521		-\$85,521	-\$85,521	-\$107,216
Records	\$24,972		\$31,421		\$31,421	\$37,763		\$37,763	\$37,762	\$14,773
Recreation Facility	\$32,962		\$30,538		\$30,538	\$38,348		\$38,348	\$38,348	\$53,446
Recreation Fund							\$4,457	\$1,871	\$1,871	\$1,892
Recreation Scho	\$2,593	\$2,589	\$3,245			\$4,357	\$3,246	\$4,358	\$4,358	\$5,085
Rec Tennis	\$14,645		\$19,187		-\$1,989	\$4,530		\$4,529	\$4,530	\$8,288
Sidewalk	\$46,704		\$56,830		\$56,830	\$67,216		\$67,216	\$67,216	\$80,581
Solid Waste	\$37,997		\$18,458		\$18,458	\$27,105		\$27,105	\$27,105	\$33,391
Tower	\$10		\$31,482		\$31,482					
Town Pool	\$4,446		\$4,457		\$4,457	\$1,871				
Town Reappraisal										
Tracy Hall	\$25,993		\$14,937		\$14,936	\$21,608		\$25,431	\$25,431	\$45,787
WCTU Fountain	\$1,075		\$1,078		\$1,078	\$1,085			\$1,085	
Total DF	\$1,717,642		\$1,652,206	\$3,029,134	\$3,149,182	\$1,622,190		\$1,844,187	\$1,631,701	\$1,970,266

From: Douglas Wilberding <wilberding@me.com>
Sent: Friday, January 31, 2020 11:56 AM
To: Miranda Bergmeier
Subject: SB Mtg correspondence - Article 36 - Town Meeting 2019 - Warning

Miranda,

Can you include this email in the next SB meeting packet?

ARTICLE 36. Shall the voters of Norwich direct all Town officials to take immediate and sustained efforts to gradually and continually reduce the Town's direct use of fossil fuels, beginning at a rate of no less than 5% per year starting in the 2019-20 fiscal year and continuing until they are eliminated entirely, and shall the Town Manager be charged with monitoring such efforts and reporting on them each year in the annual Town Report, and no capital expenditures shall be made that contradict or undermine this direction, absent a majority vote of the Selectboard?

Questions:

1. Has the Town created a fossil fuel line item in the 2019-20 Town budget? and if not, why?
2. Will the Town clearly state the fossil fuel use and associated expense in the 2020-21 town budget?
3. Will fossil fuel expenses be delineated by department? e.g. DPW, X gallons projected to be used and Y cost per gallon. fire, police, DPW fuel cost and town building fossil fuel energy cost (gallons and price per gallon)
4. The aforementioned warrant states the the TM is tasked with monitoring and reporting the efforts, is a report being prepared for the Town Report?
5. The aforementioned states "all Town officials" shall take immediate and sustained efforts to gradually and continually reduce direct fossil fuel use. Have "all town officials" done this? please list the efforts.

Please forward this email to the Finance committee members (all) and the energy committee members (all) and the SB members (all)

Thank you

Doug Wilberding
Norwich, Vermont

From: Kathleen Shepherd <kkshepherd447@gmail.com>
Sent: Wednesday, February 05, 2020 4:00 PM
To: Miranda Bergmeier
Cc: Paul Manganiello; Chipper
Subject: A query about the use of the Public Safety room

To: Members of the Norwich Selectboard

From: Kathleen Shepherd, Christopher Ashley, Paul Manganiello

Re: How are decisions made for use of the meeting room in our Public Safety Building?

It recently came to our attention that Chief Jennifer Frank has scheduled a training event regarding school safety in the meeting room in the week of April 20-24. Having talked with Chief Frank about this last week, we understand that participants will be pairs of personnel from several towns in our area: a member of each town's police force paired with the school safety director or officer from that school district. For the Dresden School district, it's Tony Daigle. The training is being offered, free of charge, by representatives of the NRA, the National Rifle Association.*

While we all share total commitment to the safety of our schools and children, we asked Chief Frank if she had discussed her choice of trainers with town leadership. We are concerned that the NRA – well known as a major lobbyist on behalf of the US gun industry – will be controversial in Norwich. She declined to reply about whether she shared her plans.

We learned that the Select Board and the School Board members did not know of this training. We learned that principal Sean Gonyaw was aware of it, but we wonder whether permission has been granted for the participants to enter our schools, particularly during school hours.

If there were a series of steps in getting permission to use the room, we believe someone would have cautioned Chief Frank and perhaps re-directed her to better programming on this topic.

- The gold standard for school safety programs is the US Government's School Safety training, operated by the Department of Homeland Security, based on sound research into what actually increases school safety.**
- In addition, starting with the Columbine massacre in 1999, Vermont has required that every school have a safety plan. Perhaps training could focus on renewal of existing school safety programs, in light of the best current research and practice.
- Finally, 11 million students have now been trained by the 6,500 Promise Leaders of the Sandy Hook Promise organization. Many dangerous situations have been

averted through their free, research-based curricula. *Start with Hello* focuses on practices of assertive inclusion for all students and *Know the Signs* provides safe communication systems when students become aware of dangerous plans or behaviors. *** SHP programs also build community and a sense of efficacy among youth.

We look forward to your reply.

Sincerely,

Kathleen Shepherd
Christopher Ashley
Paul Manganiello

*State of Vermont Criminal Justice Training
page: <https://vcjtc.vermont.gov/training/conferences-workshops#NRA%20School%20Shield%20Security%20Assessor%20Training>

**<https://www.dhs.gov/cisa/school-safety-and-security>

*** https://www.sandyhookpromise.org/get_educated

<https://sandyhookpromise.tumblr.com>

https://www.sandyhookpromise.org/our_impact

From: Roger Arnold <rogerarnoldvt@gmail.com>
Sent: Wednesday, February 05, 2020 2:32 PM
To: John Langhus
Cc: Frank, Jennifer; Herb Durfee; John Pepper; claudette brochu; Mary Layton; Miranda Bergmeier
Subject: Re: S.54 - Cannabis retail regulation

It's out of Ways of Means as of today.

My understanding from following the activities of Montpelier is that this language was *intended* to prevent municipal zoning bylaws and ordinances from banning cannabis establishments after a community votes to allow them. (2291 and 4414)

This language may possibly be read to mean that *all* communities that vote to allow a cannabis establishment must also *accommodate* cannabis establishments within zoning regulations, regardless of whether related operations are permitted.

Lots of organizations, namely VLCT, have asked for more clarification. Their concern is that this language in S.54 can be used to challenge a town's zoning that doesn't accommodate establishments authorized by an opt-in or opt-out vote. They want to ensure cannabis establishments are treated the same as, say, alcohol establishments and not given treated differently within municipal land use regulations.

And what this does for Vermont farmers interested in hemp is another whole email.

Broadly, I am 1) in favor of reading beyond intentions to understand pernicious loopholes or other possible interpretations of the law and 2) getting the Planning Commission back to their zoning work.

In general I would prefer and request that this correspondence and shared information be made available in Selectboard packets rather than over email because the temptation to reply all and violate OML violations is too great. If information is to be shared, sharing an analysis is unfair because we are barred from providing our own reply all.

With thanks,
Roger

On Wed, Feb 5, 2020 at 12:34 PM John Langhus <johnlanghus@gmail.com> wrote:
Thanks Chief. That will pretty much eliminate any scope for us to act on this so an important thing for us to be aware of and track. Appreciate the heads up.

On Wed, Feb 5, 2020 at 12:29 PM Frank, Jennifer <Jennifer.Frank@vermont.gov> wrote:
Recently the selectboard engaged in some discussion regarding drafting an ordinance regarding regulating retail cannabis and sales establishments within the town of Norwich. During that discussion it was noted that additional information and fact gathering may be needed in order to have a fully informed discussion prior to drafting or considering any ordinances. Recently, the House Ways and Means Committee drafted S.54 which aims to block municipalities from regulating retail cannabis via ordinance and or zoning. While the bill is still in draft form and has not been submitted, approved or put into effect, it may potentially impact any

ordinances we are considering. I wanted to be sure to get the information out to the board so that we can all stay informed as we move forward. I have attached the pertinent elements of the bill below.

(Draft No. 12.1 – S.54)

1/31/2020 - MRC - 01:49 PM

VT LEG #345636 v.7

1 (d) A municipality shall not:

2 (1) prohibit the operation of a cannabis establishment within the
3 municipality through an ordinance adopted pursuant to 24 V.S.A. § 2291 or a
4 bylaw adopted pursuant to 24 V.S.A. § 4414;

5 (2) condition the operation of a cannabis establishment, or the issuance
6 or renewal of a municipal permit to operate a cannabis establishment, on any
7 basis other than the conditions in subsection (b) of this section; and

8 (3) exceed the authority granted to it by law to regulate a cannabis
9 establishment

Chief J. Frank

Norwich, VT Police Department

10 Hazen Street / P.O. Box 311, Norwich, VT 05055

(802)649-1460 (Office)

(802)649-1775 (Fax)

Jennifer.Frank@Vermont.gov

--

John Langhus

(802) 369-4415 (cell)

--

Please note that any response or reply to this electronic message may be subject to disclosure as a public record under the Vermont Public Records Act.

Subject: FW: S.54 - Cannabis retail regulation

From: Herb Durfee

Sent: Wednesday, February 05, 2020 8:09 PM

To: Frank, Jennifer; John Pepper; claudette brochu; Mary Layton; John Langhus; Roger Arnold; Miranda Bergmeier

Subject: RE: S.54 - Cannabis retail regulation

Thanks, Chief. You're essentially reiterating why the VLCT is asking municipalities to sign on to the resolution that was on the Board's agenda a meeting or so ago. VLCT is actively trying to ensure "localism" and decisions re: cannabis retail regulation include local input, the ability to regulation such land use (e.g., location of dispensaries, etc.) according to the methods towns are used to (i.e., zoning ordinances, local ordinances, et al), and, importantly, that affected municipalities be able to share in the sales tax and any other related revenue source created related to cannabis retail sales.

Herb

Herbert A. Durfee, III

Town Manager

Town of Norwich

PO Box 376

Norwich, VT 05055

802-649-1419 ext. 102

802-698-3000 (cell)

802-649-0123 (fax)

DRAFT Minutes of the Selectboard Meeting of
Wednesday, January 15, 2020 at 6:30 pm

46

Members present: John Pepper, Chair; Claudette Brochu, Vice Chair; Roger Arnold; John Langhus (via telephone); Mary Layton; Herb Durfee, Town Manager; Miranda Bergmeier, Assistant to the Town Manager.

There were about 20 people in the audience.

Also participating: Sharon Racusin, Liz Blum, Kathleen Shepherd, Mike Davey, Jeff Harrington, Linda Gray, Linda Cook, Cheryl Lindberg, Kris Clement, Eric Friets, Christopher Ashley, Jack Cushman, Norm Levy, Pam Piper, Omer Trajman.

1. Approval of Agenda. Selectboard (SB) members agreed to move agenda items 5d (EEI/Task Force Report) and 5e (Town Meeting Warning) forward in the agenda, just after item 2 (Public Comments).
2. Public Comment. Sharon Racusin spoke in favor of a proposed Fair and Impartial Policing Policy (FIPP). Racusin said that Winooski has adopted a policy exactly like the proposed policy, which is more restrictive than the model policy, and has suffered no adverse effects. Racusin would like to see Norwich enact the same policy as Winooski. The State of Vermont has said they will not pursue adverse action against any community that enacts the restrictive FIPP. Liz Blum said she would like to see Norwich enact the FIPP as proposed. Blum read from a statement by Dan Fraser in support of the proposed FIPP. Blum said that the Vermont dairy industry is dependent on undocumented employees. Kathleen Shepherd supports the proposed FIPP. Shepherd read from a prepared statement by a Dartmouth student who is an undocumented resident and fears for their safety and the safety of students' families coming to the area. Arnold distributed a memo to SB members detailing the revisions in the proposed FIPP.
4. Consent Agenda. Brochu **moved** (2nd Layton) to approve the consent agenda. **Motion approved unanimously.**
5. d. EEI / Task Force Report. Mike Davey and Jeff Harrington, of Energy Efficient Investment (EEI) presented to the SB a set of PowerPoint slides detailing the process and research leading to the EEI and working group proposal. *[a copy of the PowerPoint presentation will be included in the 1/22/20 SB packet as correspondence]* Davey explained that geothermal energy did not make sense in the DPW garage. The presentation included information about options for heating Tracy Hall. The working group decided that geothermal was the best option. Kris Clement asked if there was a breakdown of the costs that comprise the \$2 million estimate for energy work. Davey said that information was included in the 1/8/2020 SB packet. Linda Gray said that EEI is not charging Norwich for their work unless and until the town decides to pursue the suggested improvements. Eric Friets suggested that EEI should add complete life cycle costs to all of the options detailed in the presentation so that people can understand all the costs of each option. SB discussed whether to include a question about the EEI-proposed improvements on the March Town Meeting ballot. Christopher Ashley said he would like to see this question on the March 2020 town ballot. Racusin said she would like to see this question on the March 2020 ballot because it will be a tremendous benefit to the town. Jack Cushman said he was struck by the fact that we will need to replace the current system soon, so it is best to act as soon as possible. Pepper asked about how the construction will affect town offices. Davey said they would work area by area, in phases. Pepper wants to be sure we consider all options during the construction. Langhus said the language of the Norwich Selectboard DRAFT Minutes – 01/15/2020 Mtg

proposed warning article is drafted to allow for whatever borrowing method is decided to be best, if the article is passed. Cook asked whether a blower test was performed as part of the energy audit. Davey said that a blower test was performed. Cook asked about the return on investment from the project. Davey said an ROI analysis would be difficult in this case, because the existing building is not currently up to code and has no proper ventilation, so a large portion of the work would have to be done, regardless of the geothermal project. Layton **moved** (2nd Arnold) to accept all work of the Town Facilities Working Group, including meeting notes, memos and related documents, as posted on the town website and provided to the Selectboard. **Motion passed unanimously.** Layton **moved** (2nd Arnold) to dissolve the Town Facilities Working Group. **Motion passed unanimously.**

e. Town Meeting Warning. Arnold said he thinks that the SB should definitely put the article about FIPP on the Town Meeting warning. SB members agreed that the article should be part of the warning. Durfee said that he thinks the EEI-related article allows for multiple options, but may require further language and a possible additional town-wide vote on a future ballot. Langhus suggested that the SB approve the warning as is, with the provision for Durfee to add language to the article if the town's bond attorney says it is necessary. SB members agreed. Arnold said he thinks the SB needs to make sure to get information out to all residents prior to voting. Gray said that the Energy Committee will take the responsibility to get ample information regarding this question out to the voting public. Pam Piper said she would like more information about the fund proposed in Article 7. Langhus said the fund could be used on road repairs, to help pay for the financing costs of a Tracy Hall renovation. The money would be spent as authorized by the SB. Gray said she is in favor of the concept of a climate fund, but would suggest starting it with less money, perhaps a penny on the tax rate, rather than \$450,000. Arnold said that the most interesting part of the fund idea is to gain resiliency for the town. Arnold wants to be specific about the fund's use, so as not to become a climate slush fund. Cook said she thinks this too much to put into the fund all at once. Layton said she is concerned about the large amount of money proposed for the fund. Brochu agreed that \$450,00 is too much in this budget year. Pepper said he is in favor of the concept of a climate fund with specific uses, and \$450,000 is too much. Langhus said he would be open to other fund amounts. SB members discussed options and agreed on the amount of \$40,000. Brochu **moved** (2nd Layton) to remove Article 7 from the 2020 warning. **Motion failed (yes- Brochu, Layton; no- Pepper, Langhus; abstain- Arnold).** Arnold **moved** (2nd Brochu) to amend Article 7 to \$40,000, instead of \$450,000. **Motion passed (yes- Arnold, Brochu, Langhus, Pepper; no- Layton).** Brochu said that the SB will need to take up the issue of the climate fund's uses after the March 2020 Town Meeting, assuming Article 7 passes. Brochu **moved** (2nd Arnold) to approve the Town portion of the 2020 Town Meeting Warning as amended this evening and to include the school district article information when provided to the Town Clerk's office. **Motion passed unanimously.**

a. Finance Committee Report. Omer Trajman said the Finance Committee will meet again on Monday, 1/20/2020 and hope to have their report to the SB just after that meeting.

b. Capital Budget and Plan. Durfee gave SB members hardcopies and a quick overview of the capital budget plan *[which will be part of the next SB packet for 1/22/2020]*.

c. Budget Adoption. Brochu said that she had asked Durfee about CATV's funding request and learned they are asking the same amount as last year. Brochu also said she has learned that the school and Recreation Department have agreed they will share the costs equally of maintaining facilities used by both. Brochu **moved** (2nd Layton) to recommend to the voters a FYE 2021 Town budget of \$4,441,173 (not inclusive of other monetary articles). **Motion passed unanimously.**

(5) f. Fraud Policy Revision. Brochu said that the SB was asked by VLCT PACIF to review the fraud policy each year. Brochu has suggested some edits, which are shown in the SB packet. Brochu **moved** (2nd Arnold) to adopt the revised Fraud Policy, as revised and presented in the 1/15/2020 Selectboard packet. **Motion passed unanimously.** Brochu **moved** (2nd Arnold) to establish the annual Selectboard review of the Fraud Policy at their annual organizational meeting, to reaffirm or amend its content. **Motion passed unanimously.**

6. Town Manager Report. Durfee suggested that the SB amend Article 33 of the warning [regarding due date/time for property tax payments] to read “close of business” instead of “4:30 pm”. This would allow the Finance Office to stay open later on the due date to allow people extra time to pay their taxes without penalty. Cheryl Lindberg disagreed and said she wants the deadline to stay at 4:30 pm because people know they have to pay their taxes on time.

7. Town Manager Evaluation/Contract. Brochu **moved** (2nd Layton) to enter executive session under VSA §313(a)(3) to discuss the Town Manager evaluation/contract. **Motion passed unanimously.**

SB moved into executive session at 10:33 pm.

Brochu **moved** (2nd Arnold) to enter public session. **Motion passed unanimously.**

SB moved into public session at 11:32 pm.

10. Adjournment. Brochu **moved** (2nd Arnold) to adjourn. **Motion passed unanimously.**

Meeting adjourned at 11:33 pm.

By Miranda Bergmeier

Approved by the Selectboard on _____, 2020

John Pepper
Selectboard Chair

Next Meeting – January 22, 2020 – Meeting at 6:30

PLEASE NOTE THAT CATV RECORDS ALL REGULAR MEETINGS OF THE NORWICH SELECTBOARD.

Miranda Bergmeier

From: claudette brochu <cbrochu30@gmail.com>
Sent: Tuesday, January 21, 2020 8:56 PM
To: Miranda Bergmeier; John Pepper; John Langhus; Mary Layton; Roger Arnold; Herb Durfee
Subject: minutes from 1/15/20

Hi Miranda,
A couple of additions to minutes from 1/15/20:

Under 5d: EEI discussion-After Kris Clement asked if there was a breakdown in costs...
add: Kris Clement asked for clarification on contracting out the work. Langhus responded that various components of the work did not fall under the strict definition of a Performance Contract so this option was not being pursued. EEI would be the General Contractor with all work falling under the Town's Purchasing policy.

Under 5e: Add the following to immediately Brochu moved (2nd Arnold) to approve the Town Meeting warning--article 33 (payment of taxes). Spirited debate on whether to change the wording to "close of business" versus 4:30PM. Consensus was to leave the wording as presented in draft.

C

DRAFT Minutes of the Selectboard Meeting of
Wednesday, January 22, 2020 at 6:30 pm

46

Members present: John Pepper, Chair; Claudette Brochu, Vice Chair; Roger Arnold; John Langhus; Mary Layton; Herb Durfee, Town Manager; Miranda Bergmeier, Assistant to the Town Manager.

There were about 10 people in the audience.

Also participating: Cheryl Lindberg, Rod Francis, Omer Trajman.

1. Approval of Agenda. Selectboard (SB) members made no changes to the agenda.
2. Public Comment. No public comment was offered.
3. Selectboard Comments. Brochu asked about the taxes due reminder postcard that was recently mailed out, which stated a due date/time of 6:00 pm on 2/14/2020, rather than 4:30 pm, as was passed at the 2019 Town Meeting. Durfee said that the postcard was already printed and ready for mailing before the SB's last meeting when the issue was discussed. The 6:00 pm time was to allow taxpayers a little extra time to pay their taxes without penalty, because the finance office is willing to stay late to offer that courtesy. Cheryl Lindberg said that if there is never a penalty for late payment, then people won't pay on time. Lindberg said that's what credit card companies do; it's good to have a penalty to incentivize people to pay.
4. Consent Agenda. Brochu asked if there was a noise complaint that prompted the SB correspondence regarding a noise ordinance. Rod Francis, Planning Director, said that last fall, the issue was brought up and has been dealt with. Brochu **moved** (2nd Langhus) to approve the consent agenda. **Motion approved unanimously.**
5. a. A/P Warrants. Brochu asked about the higher-priced gasoline being purchased; specifically, she wanted to know when the town will stop buying all non-ethanol gas. Durfee said he will be looking into options for purchasing cards for employees to fill vehicles with regular gas. Layton **moved** (2nd Langhus) to approve check warrant #20-15 for Recreation Facility and Improvement Fund in the amount of \$1,096.45 and for General Fund in the amount of \$172,501.45. **Motion passed unanimously.**

b. December 2019 Revenue/Expense Report. Durfee said he is providing the SB with financial statements at every meeting at this point. Brochu said she prefers the "percentage of budget" format for financial statements. Brochu asked about additional types of reports. Durfee offered to meet with Brochu to review report options.

c. Open Mtg Law (OML) Handout. Layton said she will develop a one-page overview guide on OML for distribution to town committees. Langhus said that a training session would be an option, as well. SB members discussed various options for training.

d. Cannabis Resolution. Arnold said that VLCT has asked the towns to consider approving a resolution to support Vermont legislation that allows localities to regulate and tax cannabis. Arnold said that VLCT has asked towns to support an "opt in" regime of regulation. Arnold said he is not sure that Norwich should weigh in on the statewide issue. Langhus suggested the Town Meeting might be a good time and forum for discussing this issue and get input from townspeople. Rod Francis said that when medical cannabis was first permitted by Vermont law, the state set up

regulations for siting any dispensaries. With recreational cannabis, towns could enact zoning regulations to try to regulate the location of cannabis shops. Brochu asked for Police Chief Jennifer Frank's opinions. Frank said she would consider the size of the proposed business, for one, because the scale of the operation would influence its attractiveness as a target for burglary. Frank thinks that conversations need to happen with a large number of groups in town before the SB takes any action. SB members declined to take action on the resolution.

e. Town Plan. Langhus **moved** (2nd Layton) to acknowledge formal receipt of the Town Plan as of Friday, January 17, 2020. **Motion passed unanimously.** SB members discussed options for scheduling Town Plan public hearings. Langhus **moved** (2nd Brochu) to schedule the initial public hearing concerning the Norwich Town Plan at 6:30 PM on February 26, 2020 in the Tracy Hall Multipurpose Room and the second public hearing at 12:00 noon on March 7, 2020 in the Tracy Hall Gym, which hearing shall also be known as the first 2020 Town Eating Day. **Motion passed unanimously.**

6. Finance Committee Report. The Finance Committee submitted materials to the SB at the meeting [those materials will be included in the next SB packet as correspondence]. Omer Trajman, Finance Committee (FC) Chair, gave an overview of the FC memo and materials. SB members thanked the FC for their work in compiling information.

7. Town Manager Report. Durfee mentioned several issues, including: FEMA has hopefully finished asking for additional documents and will be issuing final payments; union contract bargaining will re-start tomorrow; cybersecurity training for town staff has begun; town staff are putting together an RFQ for general municipal attorney services and for IT services; Durfee will look into a SB question about whether there is any asbestos concern for Tracy Hall, in the event the town voters approve renovation plans for the building.

8. Town Manager Evaluation/Contract. Brochu **moved** (2nd Langhus) to enter executive session under VSA §313(a)(3) to discuss the Town Manager evaluation/contract. **Motion passed unanimously.**

SB moved into executive session at 8:41 pm.

Langhus **moved** (2nd Brochu) to enter public session. **Motion passed unanimously.**

SB moved into public session at 9:54 pm.

10. Adjournment. Langhus **moved** (2nd Pepper) to adjourn. **Motion passed unanimously.**

Meeting adjourned at 9:54 pm.

By Miranda Bergmeier

Approved by the Selectboard on _____, 2020

John Pepper
Selectboard Chair

Next Meeting – February 12, 2020 – Meeting at 6:30

PLEASE NOTE THAT CATV RECORDS ALL REGULAR MEETINGS OF THE NORWICH SELECTBOARD.

Draft Minutes

Special Selectboard Meeting

January 24, 2020-4 PM

Tracy Hall, Small Conference Room

Present: John Pepper-chair, Claudette Brochu-vice chair, Mary Layton, Roger Arnold and John Langhus (via phone). No members of the public were present. Meeting was called to order at 4:03PM.

1. Agenda Review-item added to the agenda: New #4 –action related to Executive Session. Adjournment changed to #5.
2. Public Comments: None.
3. Executive session for Town Manager contract discussion-**Layton** moved (2nd Brochu) to enter into executive session under VSA section 313(a)(3) to discuss the Town Manager evaluation/contract and to invite Herb Durfee into the meeting at some point. **Vote was 5 yes, zero opposed to enter exec session.** The Selectboard entered Executive Session at 4:07 PM. **Durfee** entered the meeting at 4:55 PM and left at 4:58 pm. **Motion made by Layton (2nd Brochu) to enter into public session at 5:05 pm.**
4. **Layton** moved (2nd Arnold) to enter into discussion with the Town Manager regarding a new contract that would be for a period beyond the expiration of his current contract. **Motion failed** (Layton, Arnold-yes; Brochu, Langhus, Pepper-no).
5. **Brochu** moved (2nd Arnold) to adjourn. **Motion passed unanimously.**

Miranda Bergmeier

46

From: claudette brochu <cbrochu30@gmail.com>
Sent: Sunday, January 26, 2020 9:19 PM
To: Miranda Bergmeier; John Pepper; John Langhus; Mary Layton; Roger Arnold; Herb Durfee
Subject: correction to minutes 1/24/20

Hi Miranda,

I have one correction to the 1/24/20 minutes:

Pepper's name was misspelled under members present. Change Peper to Pepper.

Thx

C

5d

Herb Durfee

From: Norwich Conservation Commission <norwich.conservation.commission@gmail.com>
Sent: Wednesday, January 22, 2020 10:18 AM
To: Herb Durfee
Cc: Miranda Bergmeier
Subject: Request from Connecticut River Conservancy
Attachments: CRC comments GRH U Study Reports 2-3_18_21.pdf; ATT00001.htm; image001.png; ATT00002.htm

Herb,

Do you think the Select Board would be interested in/willing to send the following letter to the Federal Energy Regulatory Commission? Other towns along the CT river with shorelines affected by abrupt dam-induced water level changes are submitting the same or similar requests. If the regulatory commission includes shoreline considerations in the dams relicensing process, the hydro-energy company will need to allocate funds that would be available to towns for shoreline protections and restorations. Below the proposed letter is more information in an attachment and a condensed letter from the CT River Conservancy about the issue.

Thank you.
Craig

To: The Federal Energy Regulatory Commission
From: The Town of Norwich, VT

"Whereas, the peaking operations of Wilder, Bellows Falls and Vernon dams have been causing daily fluctuations of, on average, 2-3 feet every day in the impoundments behind the dams for 70 years resulting in loss of land for landowners in VT and NH and degradation of water quality and habitat of the river for decades;

Whereas, in the late 1970s, during the last relicensing process, the Army Corps of Engineers (ACOE) conducted an erosion study on the project area; and FERC issued the last licenses in early 1979 just months before the ACOE completed their study in November of that year; and the ACOE study clearly states that pool level fluctuations are the *second most important causative factor* for erosion in the project areas.

Whereas, the erosion study completed for the current relicensing by Great River Hydro, the current owner of these three projects did not look at the effect of pool level changes on erosion, instead, focusing only on potential erosion due to velocity along the bank edge that would be typical for a natural river system; and the Connecticut River in the project area does not function as a natural river, instead functioning as a hybrid river with a series of impoundments controlled by the dams.

Whereas, many towns and landowners up and down the river have used billions of dollars in public and private money to attempt to stabilize and restore their streambanks to protect property and infrastructure over the past 70 years;

Therefore, be it resolved that the Town of Norwich, formally requests that the Federal Energy Regulatory Commission require, via license article, the current and any subsequent owners of the Wilder, Bellows Falls and Vernon Dams to modify current dam operations to minimize peaking; provide for ongoing monitoring; develop a shoreline adaptive management plan; and commit funding for riverbank restoration and/or property owner compensation to reimburse towns and landowners for any and all damages resulting from the deterioration of the riverbank."

5d



Connecticut River Conservancy

Clean water. Healthy habitat. Thriving communities.

15 Bank Row, Greenfield, MA 01301
413.772.2020 · www.ctriver.org

April 23, 2018

Honorable Kimberly D. Bose Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Wilder Dam Project No. 1892
Bellows Falls Project No. 1855
Vernon Dam Project No. 1904
**Connecticut River Conservancy Comments on Great River Hydro, LLC Study Reports filed by
February 9, 2018; Request for Study Modification to Require Compliance with the RSP.**

Dear Secretary Bose,

The Connecticut River Watershed Council, Inc. (CRWC), now doing business as the Connecticut River Conservancy (CRC), is a nonprofit citizen group established in 1952 to advocate for the protection, restoration, and sustainable use of the Connecticut River and its four-state watershed. We have been participating in the relicensing of the five hydropower facilities on the Connecticut River since the beginning of the process in late 2012. We have reviewed the set of Study Reports that were posted by Great River Hydro between November, 2017 and February 9, 2018. CRC attended the study report meeting held on March 8, 2018. Where necessary in our comments below, we will also refer to the Revised Final Study Report for Study 2 and 3, dated February 4, 2017.

ILP Study 2 and Study 3 Riverbank Transect and Riverbank Erosion Study Supplement to Final Study Report dated 11/15/2017

Comments based on peer review

CRC again hired consulting engineering firm Princeton Hydro (<http://www.princetonhydro.com/>) to conduct a peer review of the ILP Study 2 and Study 3 Riverbank Transect and Riverbank Erosion Study Supplement to Final Study Report ("Supplement") which was submitted by Great River Hydro on November 15, 2017. Princeton Hydro's review is attached to this comment letter. We include some of their major conclusions below as part of our formal comments.

- The Final Study Report indicated that, "Flow velocities were measured at three impoundment erosion monitoring sites and three riverine erosion monitoring sites with an acoustic Doppler current profiler (ADCP) that measures flow velocities using the Doppler effect of sound waves scattered back from particles within the water column." The FERC's Determination on Requests for Study Modifications and New Studies dated July 21, 2017 ("FERC Determination") states, "...Commission staff recommends that Great River Hydro include, in the November 15, 2017 addendum, near-bank velocities associated with multiple water surface elevations... as

measured at the six sites with ADCPs.” This information was not included in the supplemental report.

- Princeton Hydro (and CRC) request plotted cross-sections for each site with the following information shown on the same figure for each of the 21 monitoring sites: (i) annotations of erosional features (as depicted in the 2/4/17 Final Report Appendix A), (ii) water surface elevation fluctuations as measured by water level loggers, and (iii) the locations of the three sediment samples analyzed at each site in the Supplement.
- Regarding the HEC-RAS modeling, the use of a single Manning’s N, or roughness, with no differentiation between in-channel and floodplain could produce erroneous results. The model was run in “unsteady flow” at a single flow. This is equivalent to running the model in “steady flow” and is an unusual use of the model. Our key concern is the effect of daily river fluctuations on the riverbanks, so running the model at a steady flow precludes analysis of the main source of project effects.
- Critical shear stress is not as conservative a measure as claimed in the Supplemental Study because it does not account for cohesion, compaction, and other forces resisting entrainment.
- The presence of beaches at 18 of the 21 sites indicate that water fluctuations influence the bank similarly to the action of water in lakes and tidal areas – through repeated surface water elevation changes. Great River Hydro implies that beaches are natural. They are not natural in a riverine system. Water surface elevation fluctuations also inhibit vegetative growth on the beaches, which otherwise would contribute to the stability of banks.
- The Supplemental Study and the Revised Study do not address the role played by operational water surface fluctuations in perpetuating the bank erosion cycle. Water surface fluctuations directly contribute to bank failure resulting in sediment deposits at the toe of the bank. Without addressing the effect of water surface elevation changes at the transect sites, the Supplemental Study does not prove that project operations are not contributing to bank erosion.
- Though the report and the final sentence of Great River Hydro’s meeting summary conclude that, “Study 2/3 results continue to show that operational flows contribute little to bank erosion,” Princeton Hydro’s peer review points out that 8 out of 21 sites showed some potential for sediment entrainment, which is a significant portion (30%) of the sites. See below for CRC’s additional comments on study conclusions.

Additional CRC comments

1. The FERC Determination states that “The goals of studies 2 (Riverbank Transect Study) and 3 (Riverbank Erosion Study) were to: (1) monitor the riverbank erosion at selected sites in the project impoundments and riverine sections of the Connecticut River that are affected by the projects, (2) determine the location of erosion in areas affected by the projects and compare these locations with previously compiled erosion maps, (3) characterize the process of erosion,

(4) ascertain the likely causes of erosion, [emphasis added] and (5) identify the effects of shoreline erosion on other project resources.” By avoiding any direct analysis of water surface elevation changes at the transects, Great River Hydro has not sufficiently characterized the process of erosion or ascertained the likely causes of erosion.

2. The Study Plan Determination dated September 13, 2013 states, “the requested correlation [comparing water level fluctuations caused by project operations with elevations along the riverbank where there is a lack of vegetation, undercutting, or other visual signs of erosion] would provide information and would be useful to identify the causes of erosion (§5.9(b)(5) and (6)). Besides water level fluctuations, other causes of erosion include land use practices, ground water seeps, gullies, and high flows. A stated objective of the study is to ascertain the likely causes of erosion [emphasis added] at various locations. Project operations would be a likely cause of erosion where visible signs of erosion closely track project-caused water level fluctuations... [emphasis added]. Additionally the Study Plan Determination states, “As a result, we recommend modifying study 3 to correlate visible indicators of erosion with project-caused water level fluctuations [emphasis added] at the 20 transect locations...” Project caused water fluctuations include daily surface water elevation changes at the dam. The Revised Final Study Report and Supplement have failed to adhere to the Study Plan Determination.
3. The FERC Determination states that, “Great River Hydro file an addendum... that includes an analysis of estimated critical shear stress, near-bank velocity, and the potential correlation of these factors with project operation at the 21 monitoring sites. This discussion should include a table for each monitoring site that lists critical shear stresses and near-bank velocities with respect to water surface elevations corresponding to project operation... [emphasis added]. Project operations include daily fluctuations in surface water elevation at the dam, not just changes in flows with the dam held at a single elevation. Great River Hydro chose to take sediment samples based on modeled surface water elevations at transects while maintaining no surface water fluctuation at the dam. CRC contends that this was not what was asked of them in the FERC Determination and this limited interpretation of the FERC Determination does not support the goals of the study.

Not only did the analysis for the supplemental report not involve river fluctuations, but the dam elevations used to run the velocity and sheer stress analysis do not correspond with dam operation elevations typically used for those flows. Figures in the Pre-Application Documents dated October 2012, for example Figure 2.5-1 in the Wilder PAD, provide “normal generation ranges” for each impoundment, and it also shows the reservoir profile operation for elevation at each dam. The table below summarizes the dam elevations used in the supplemental report for the “minimum,” “average operational,” and “capacity” flows vs. the flows those elevations correspond to under normal operations according to the PAD. The dam elevation used for most of the Vernon Dam analysis is particularly odd, since it lies outside of the normal operational range. According to the PAD, each dam is held at higher elevations for flows within the facility’s operational control, and for higher flows, each dam’s elevation is lowered. That is the opposite of what was done for the analysis in this Supplement. Therefore, the dam elevations used for the analysis do not appear to reflect typical operation elevations for those flows, potentially calling the entire analysis into question.

Project	Flows used in supplemental report (cfs)			Dam elevation used in, Appendix A (NAVD88 ft msl)	Elevation converted to NGVD29 ft msl	Flow corresponding to the NGVD29 elevation in PAD Figure 2.5-1
	min	ave	capacity			
Wilder	700	5,000	12,000	382.6 384.6 (W09 and W12 max only)	383.04 385.04	14,000 cfs <10,000 cfs
Bellows Falls	2,000	5,000	12,000	290.2 291.2 (B09 max only)	290.7 291.7	~20,000 cfs <11,000 cfs
Vernon	2,000	6,000	15,000	217.6 219.6 (V06 max only)	218.06 220.06	Unknown, outside of normal operation range <15,000 cfs

4. Princeton Hydro’s peer review of the Revised Final Study Report dated 5/15/2017 noted, “The data presented in Table 5.8-1 [of the Revised Final Study Report] actually show that velocities increase between 36% and 400% during these periodic operational drawdowns, resulting in velocities significantly in excess of the threshold velocity for sediment entrainment later discussed in Section 5.1. The data presented in Table 5.8-1 therefore suggests that periodic operation drawdowns, in preparation for high flows, could regularly mobilize sediment at the toe of the streambank at 9 of the 13 monitored impoundment cross sections.” We had hoped that because of FERC’s request for additional analysis, the Supplement would shed some more light on this observation, but Great River Hydro instead set up their model runs for the supplemental analysis to completely avoid this issue altogether. They held the impoundment at the same elevation, and for the sites closest to the dam, the model used a higher impoundment level to run the “max” elevations, which is directly contrary to their practice of lowering the impoundment elevations for higher flows.
5. The FERC determination stated that, “Great River Hydro include... an analysis of the stratigraphy at the 21 monitoring sites, including, at a minimum, a discussion of any potential correlation between erosive features (e.g., notches, undercutting) and soils present within normal operation ranges” [emphasis added]. Normal project operational ranges would include daily fluctuations in surface water elevation (SWE) at the dam and the resulting fluctuations at transect sites at various points along the river. The license allows surface water elevations at the dam to fluctuate by several feet. By maintaining the SWE at the dam at the same elevation they are not actually modeling the operations of the dam. Both variables, SWE fluctuations and velocity of water, need to be considered.
6. CRC is concerned that many of the transect sediment samples were taken at elevations that do not correspond to where the surface water elevations would actually fall on the bank. Slide 28 presented during the Updated Study Report meeting clearly gives the impression that the sediment station at the upper part of the bank corresponds to the “maximum flow,” the mid part of the bank corresponds to the “medium” flow, and the lower part of the bank corresponds to the “minimum” flow. This does not seem to be how it was actually done, though. For instance, the Supplement states, “Similarly, at some sites, especially impoundment sites just upstream of a dam (e.g., W12), the WSE for the 3 operational conditions were essentially at the

same elevation since the nearby dam WSE remained unchanged for all operational flows considered." Additionally, the sediment sample elevations for many of the sites either fall completely outside of the median WSE fluctuation or only one sampling site falls within that area of the bank. As far as we can tell, the soil samples have no particular connection with the river flows and dam elevations used in the model, and moreover, some don't include samples within typical operational ranges. See attached graphs for B03, V03, V06, W03, and W10 depicting where we think the soil samples were collected, given the information provided in the Supplement [note: we could only use the sample elevation to determine sample station location because the "sample station (ft)" corresponded to a horizontal distance from the hydraulic model which differ from the horizontal distances shown in figures Appendix A of the Final Revised Study]. We have also plotted the logger data for W10 as an example of where the sediment samples fall in relation to daily fluctuations – we note for this figure that the Supplement Appendix A lists the "max" elevation of 383.4 as "dry" for the 700 and 5,000 cfs model runs, therefore giving no velocity readings, but according to the logger graph included here, listing the max elevation as dry at 5,000 cfs does not appear to be accurate.

7. Also of concern is the fact that we have no way to know actual or average surface water elevation fluctuations for December to May of most years since actual SWE for those months was not provided due to the difficulty of logger placement in winter. As mentioned above, the validation of the model using surface water elevations at the 6 ADCP sites was not included in the supplement. We request that this information be provided and it should include maximum historic operational surface water elevation changes at the dam and resulting surface water elevation changes at the transect sites for various flows.
8. The analysis of entrainment of average sediment particle size is problematic. It may very well be that the average sediment particle size is high because clays and fines have been removed from the bank due to surface water fluctuations. This would skew the velocity needed to move sediments to be a higher threshold velocity. Additionally, focusing on the velocity needed to move the average size particle ignores the erosion of up to 50% of the sediment material, including the loss of clays and fines and resulting reduced bank cohesion. Ignoring the impact on clays and fines also ignores the possibility that the structure of the bank is being destroyed.

Shear stress (and entrainment) is based on the description of moving materials away from the base - it is not what causes the material to be at the base. CRC contends that shear stress at various operational flows is not the issue. At issue is the change in cohesion due to repeated wetting and drying of the banks as a result of water surface elevation changes. The velocity of water draining out of the bank as water surface elevations go down and sediments are removed was not considered. By not considering cohesion or the process of upper bank erosion, the Supplemental Study primarily examines the mechanism of moving sediments that have already eroded from the bank.

9. The FERC determination states that, "Great River Hydro include near bank velocities associated with multiple water surface elevations... as measured at the six sites with ADCPs. For the remaining 15 sites... the average velocity associated with multiple water surface elevations as calculated by the HEC-RAS model. If, possible, Great River Hydro should include a discussion or estimate of the near-bank velocity or these 15 sites based on available data."

During the study plan meeting on March 8, 2018, Lissa from GEI stated that, "Sub-critical flow - in the riverine flow you would have downstream flow. Sub-critical flow is in the pools where

flow might go upstream; for each 10 feet by 10 feet cell in the HEC-RAS model you would have velocity that could flow in multiple directions. It could pick up and model an eddy if it did exist." While GRH provided tables for each transect site, it is not clear if the velocity listed is "near-bank" or average velocity. Additionally, based on Lissa's comment it is not clear the direction of the flow of velocity. Is it downstream, based on an eddy, or upstream?

10. The Supplemental Report states, "Colluvial material derived from erosion higher on the bank still covered the stratigraphy at the base of the banks at many of the monitoring sites as was the case during the two years of monitoring from 2013 to 2015." The question is not why the colluvial material hasn't moved (and erroneously, thus erosion is not taking place). It is instead, "why is there colluvial material at the toe of the bank?" If the study had answered that question it might have "ascertained the likely causes of erosion" as required as a goal of the study.
11. The Revised Final Study Report also states, "The degree of change at the [ADCP] monitoring sites does not appear to be related to flow velocities as some of the sites with the highest flow velocities experienced no or little change during the two year monitoring period... Similarly, some of the sites with the lowest flow velocities experienced the greatest amount of change during the two years of monitoring as at the Bellavance Site. The comparison between flow velocity and documented change at the monitoring sites shows no strong relationship and indicates that other factors [emphasis added]... may also exert some control on the location of bank changes." Those other factors may well be the loss of fines and clays from repeated water surface elevation fluctuations. The Supplement and Revised Final Study Report did not address this.
12. The licenses for Wilder, Bellows Falls and Vernon were issued in 1979, prior to the completion of the *USACE Connecticut River Streambank Erosion Study: Massachusetts, New Hampshire and Vermont (1979)*. The 1979 license states, "The New Hampshire Fish and Game Department recommended that NEPCO [New England Power Corporation, the previous owners of these dams] be required to stabilize bank conditions within the impoundment area. The Department contends that fluctuation of the reservoir level has caused serious bank erosion and resultant siltation in the Connecticut River. Intervenors including For Land's Sake, have also raised this issue. Over 100 protests to the issuance of a long-term license to NEPCO, prior to the completion of the US Army Corps of Engineers Study have been received on the subject of erosion... In our order we denied For Land Sake's motion that we not issue a license for the Wilder Project until the erosion study was complete."

The *USACE Connecticut River Streambank Erosion Study: Massachusetts, New Hampshire and Vermont, 1979 study* ("1979 Army Corps Study") states, "Evaluation of forces causing bank erosion verifies the relative importance of causative factors. In descending order of importance they are: shear stress (velocity), pool fluctuations, boat waves, gravitational forces, seepage forces, natural stage variations, wind waves, ice, flood variations, and freeze-thaw. Analysis of the causes of bank erosion shows that these causes can be subdivided into those that cause general bank erosion and those that cause upper bank erosion. Tractive forces exerted by flowing water cause general bank erosion, with their maximum attack occurring at about two-thirds of the depth below the water surface. Hence, even if the upper bank is stable or stabilized, the flow can erode the lower bank causing failure of the lower and upper banks. Forces such as wind waves, boat waves, pool fluctuations, ice, etc., are the most common causes of upper bank erosion... In time, a berm or beach is formed... Furthermore, limited control of upper bank erosion can be achieved by limiting pool fluctuations associated with

hydropower development..." [emphasis added]. CRC contends that the focus on instream velocity and entrainment only addresses part of what is going on. The Final and Supplemental reports for Studies 2 and 3 have still not addressed pool level fluctuations and the resulting effects of upper bank erosion. Focusing on the entrainment and movement of already eroded and non-cohesive sediment is not proof that project operations do not contribute to the overall erosion cycle.

13. The 1979 Army Corps study states, "The magnitude of the energy gradient has been altered by the low head hydropower dams... the analysis of the stability of the system must consider the changes imposed on the slope of energy gradient by the systems of dams. The system no longer operates as a free-flowing alluvial channel. Its energy gradient and the velocity have been reduced except for those reaches above the influence of the pools." Additionally the Revised Final Study states, "NRCS' (2007) publication on thresholds for small channel design recommends a maximum permissible velocity of 1.5 feet per second (ft/s) for fine sand in clear water without any detritus but 2.5 ft/s in water carrying colloidal silts as higher velocities are needed to transport silt and clay, because of their cohesiveness, than fine sand." Hence, basing the velocity threshold on the NRCS thresholds for small channel design may not be appropriate.
14. The 1979 Army Corps study says on page 67, "Comprehensive literature surveys reveal that numerous experienced engineers and geologists have concluded that 90-99% of all significant bank erosion occurs during major flood events. These observations are not based upon concept or theory, but on field observation." [emphasis added]. We went into this relicensing process knowing that major flood events cause changes in river morphology, and we did not need several years of study to confirm this. As we said in our comments from July 15, 2013 on the Preliminary Study Plan for Study 2, "The problem of erosion is not just a matter of high flows and ice out scour. There is legitimate concern that daily reservoir level fluctuation causes piping of water in and out of a saturated bank, piping that would be an important contributor to the erosion problems landowners are experiencing in the impoundment areas." Great River Hydro, and FirstLight as well, have both focused on the erosion processes related to high flow events, ignoring the impact that daily river fluctuations from project operations contribute to bank erosion (including instability that can then lead to bank failure during high flow events).
15. The Kleinschmidt *Lower Connecticut River Shoreline Survey Report (2011)* states that, "Sand and silt particles that make up the bank and bed material along the river erode most readily. Also, decreases in shear strength of the soil bank material may lead to failure. This is especially true where swelling of fine soil materials from absorption of water increases groundwater pressure within the bank, and soil creep (downhill slope movement) weakens the bank.... Bank slumping, sometimes described as mass failure or collapse can occur from various mechanisms, but is most commonly a result of rapid draw down of stream flow following a prolonged period of bank-full flow (high water or flood flows with a relatively rapid reduction in flow) resulting in saturation of bank material." Even though Great River Hydro paid for the Kleinschmidt study, with the conclusions of their Supplemental Study they still are ignoring the impact that daily river fluctuations from project operations have on bank erosion.
16. We have included our notes from the March 8, 2018 study report meeting to be added to the record to supplement the summary provide by Great River Hydro in order to provide additional detail in regard to specific questions asked and the flow of discussion.

CRC recommendations and conclusions

Based on the peer review and our own analysis, CRC continues to believe that Studies 2-3: (1) were conducted in violation of the Revised Study Report (RSP) dated August 14, 2013 and approved with modifications from FERC on September 13, 2013; (2) did not follow several recommendations from FERC's Determination on Requests for Study Modifications and New Studies dated July 21, 2017; and/or (3) otherwise reached conclusions that the science, data or evidence do not support.

In order to comply with 18 CFR §5.15(a), CRC recommends GRH do the following:

- As mentioned above, the validation of the model using surface water elevations at the 6 ADCP sites was not included in the supplement. We request that this information be provided and it should include maximum historic operational surface water elevation changes at the dam and resulting surface water elevation changes at the transect sites for various flows.
- Prepare figures showing cross-sections for each site with (i) annotations of erosional features (as depicted in the 2/4/17 Final Report), (ii) water surface elevation fluctuations as measured by water level loggers, and (iii) the water surface elevations corresponding to the three discharges analyzed in the Supplement.
- CRC request that Great River Hydro provide graphs that show velocity across the span of the river at transect sites as shown in Slide 27 in the Study Report meeting presentation.
- Great River Hydro indicated that they have a gradation of sediment size for all samples taken. Please provide a table showing the percentages of particle sizes in the corresponding sediment samples and what particle size could be moved by various near bank velocities.

The issue of erosion continues to be widespread in the project area and worsens year by year. These issues were brought to the attention of FERC by a significant number of river citizens almost 40 years ago during the last relicensing process and were not addressed at that time or since. We request that the FERC recognize its public trust responsibility and ensure that erosion control and streambank stabilization figure prominently in the relicensing of these facilities.

Great River Hydro's conclusion that project operations do not cause erosion has not been proven and is not supported by the evidence provided in numerous studies. **The Supplemental study was not designed in a way that reflects normal operational conditions and ultimately only examined the velocity needed to entrain an average sediment particle.** CRC contends that the studies conducted by GRH have not adequately considered or identified the possible causes of erosion. At this point in the process, we believe the licensees of the Connecticut River projects are not going to adequately look at operational effects on bank erosion. Consequently, CRC requests that FERC conduct a robust review of the Great River Hydro and FirstLight erosion studies, including the raw data from all underlying models used (HEC-RAS, River2D, BSTEM). Impoundment fluctuations are widely understood to contribute to erosion. Both companies will have to provide ways to avoid, minimize, and mitigate the impact. CRC recommends a publicly warned site visit by qualified FERC personnel to examine the eroding riverbanks first-hand. The FERC site visits that took place during the fall of 2012 as part of the relicensing scoping process are now more than five years in the past, the tours did not look at erosion sites close up from

Connecticut River Conservancy comments on Great River Hydro Study Reports dated February 9, 2018
April 23, 2018

the land nor cover much of the impoundment, and many FERC staff currently involved in the relicensing were not at the tours. CRC is glad to help coordinate this site visit if needed.

ILP Study 18: American Eel Upstream Passage Assessment

A primary goal of the study was to determine how well temporary eel ramps might work when the fish ladder is not functional. During the study period, the ladder was open three weeks longer than usual, until August 7, and this may have confounded the study results.

We appreciate the ongoing support and enhancements that Great River Hydro is making to provide eel passage. As upgrades are made to the ladder, pit tag studies should be conducted to evaluate the efficacy of changes made. Additionally, the ladder should be open to allow for the full seasonal upstream and downstream migration.

ILP Study 21: American Shad Telemetry Study – Vernon

A goal of Study 21 was to evaluate downstream passage routes and survival. It would be helpful to have analysis that shows routes specific to project operation states, and associated survival. For example, what are common routes and survival rates when there is spill vs. when there is not spill? Similarly, what are routes and survival rates when there are certain turbines operating vs. not operating? Without this information there is not enough data to inform operational scenarios that support the success of downstream migration.

In addition to the comments provided above for both Study 18 and Study 21, please note that CRC also supports the comments submitted by the natural resource agencies, including but not limited to, the New Hampshire Fish and Game Department (NHFGD), the Vermont Fish and Wildlife Department (VTFWD), and the U.S. Fish and Wildlife Service (USFWS).

We appreciate the opportunity to provide comments on the studies submitted by February 9, 2018. I can be reached at kurffer@ctriver.org or (802) 258-0413.

Sincerely,



Kathy Urffer
River Steward

ATTACHMENTS:

Princeton Hydro peer review dated May 15, 2017
River Stage profiles for B03, V03, V06, W03, W10
Logger Data for W10
K. Urffer notes from March 8, 2018 Study Report Meeting

CC:

George Twigg, (Rep. Peter Welch) George.Twigg@mail.house.gov

Connecticut River Conservancy comments on Great River Hydro Study Reports dated February 9, 2018
April 23, 2018

Tom Berry, (Sen. Patrick Leahy) Tom_Berry@leahy.senate.gov
Haley Pero, (Sen. Bernard Sanders) Haley_Pero@sanders.senate.gov
Corey Garry, (Rep. Annie Kuster) <mailto:Corey.Garry@mail.house.gov>
Sam Cooper-Wall, (Rep. Annie Kuster) Sam.Cooper-Wall@mail.house.gov
Sarah Holmes, (Sen. Jeanne Shaheen) Sarah_Holmes@shaheen.senate.gov
Chris Scott, (Sen. Jeanne Shaheen) Chris_Scott@shaheen.senate.gov
Kerry Holmes, (Sen. Maggie Hassan) Kerry_Holmes@hassan.senate.gov

R. Arnold

Outline of Town Meeting Presentation

Board Members:

Below please find a high-level outline for the upcoming Town Meeting Day presentation. A complete PowerPoint draft will be part of the February 26 meeting packet. At our February 12 meeting I would like to discuss everyone's expectations and hear suggestions. I will work with John Pepper on the draft of the presentation and get feedback from our Town Manager.

In the past the Board has presented the budget and other monetary articles but here I have proposed that we additionally provide highlights from the year and a spotlight on upcoming issues in the year ahead. At our meeting we may wish to discuss if this is appropriate for the time we are allotted. Perhaps we may put a fuller presentation together for the website and then choose to only formally present the monetary portion during town meeting day.

Overview slide**Presentation of FY 20-21 budget**

What is unique about this year's budget?

- Staff positions in public works

- Other notable increases and decreases

- Notable operating expenses

- Notable revenue streams outside of property taxes

- Status of Designated Funds

Overview of other monetary articles

Article 5 – Charles Brown Brook Bridge

Pull current image of bridge and future modeled image for slide from past Trails presentation

Article 7 – Climate Emergency Designated Fund

One sentence justification for climate emergency designated fund paired with image from July '17 storm

Article 8 – Tracy Hall and Public Safety Building Energy Improvements

Justifications and reasoning for article including but beyond last year's Article 36. Create or include visuals from work on Energy Cmte website)

No more than three slides outlining EEI's proposed work

Slide on bonding options
Potential tax impact

Article 9 – Regional Energy Coordinator
Lift stated intention from past presentation

Property Tax impacts of Budget with and without articles

Provide estimated tax impact calculations for five homes ranging from \$250,000 to \$1.2 million

Highlights and updates from the past year

Town Plan
Financial Scam
RRFBs
FEMA

Looking ahead

Bullet point list of the following:

Gile Mountain
Animal Control Ordinance
Ongoing policy work!
Capital Budget planning
Shared Finance Cmte
Cannabis
Plastic recycling

Solid Waste Committee

Purpose: The purpose of the Committee is to assist with the implementation and maintenance of a solid waste disposal plan in conjunction with the Town Manager (TM), Director of Public Works (DPW), and Selectboard (SB) that will:

- Reduce the volume of solid waste.
- Reduce the consumption of non-recyclables and hazardous materials.
- Reuse packaging materials and household goods.
- Recycle to save natural resources and reduce the volume of waste sent to landfills.
- Compost organic materials.
- Research new markets and/or methods to increase recycling.
- Remove household hazardous wastes to reduce contamination of the environment.
- Dispose of residuals in an environmentally sound, socially acceptable and economically prudent manner.
-

Composition: The Committee will be composed of five to nine residents, each appointed by the SB to serve a one, two or three year term. One SB member may be appointed to the Committee by vote of the SB. At the organizational meeting, the Committee will elect a Chairperson from its members to serve one year, determine the frequency of meetings, set meeting dates and times, review Open Meeting Law requirements and Town of Norwich Reports from Committees to the SB.

Responsibilities: The Committee will investigate current practices as the Transfer Station with an emphasis on reducing the volume of material sent to the landfill and research alternatives to current practices. In addition, the Committee will review the current fee schedule and make recommendations for changes to that fee schedule.

6a

TOWN OF NORWICH
P. O. Box 376
NORWICH, VERMONT 05055-0376

SOLID WASTE COMMITTEE

Purpose.

The purpose of the Committee is to write and maintain a plan which will implement the following goals of the Norwich Solid Waste Program.

Reduce the volume of solid waste. Reduce the consumption of non-recyclables and hazardous materials. Reuse packaging materials and household goods. Recycle to save natural resources and reduce the volume to be landfilled. Compost organic materials to make rich soil and reduce the volume to be landfilled. Remove household hazardous wastes to reduce contamination of the environment. Dispose of residuals in an environmentally sound, socially acceptable and economically prudent manner.

Composition.

The Committee will be composed of nine people, each appointed by the Selectmen to serve a three year term. Three terms will expire each year. The Selectmen will appoint members as needed to full out the unexpired terms of members who resign. The current Solid Waste Coordinator may be a member of the Committee.

The Committee will elect a Chairman from its members to serve one year. The Committee will meet at least monthly. A member may be removed from office by the Selectmen for non-attendance of 25% or more meetings in one year.

Responsibilities.

The Committee will review the monthly solid waste and recycling volume, cost and income figures as presented by the Coordinator. They will check that the user fee income is in line with the disposal costs and advise the Selectmen of any changes needed. They will collect data and work with the solid waste coordinator to prepare the annual operating budget for solid waste.

The Solid Waste Committee may suggest names to the Selectmen for appointments to the Solid Waste Committee and for representatives to any regional solid waste planning groups. The Solid Waste Committee may participate in the search and be present at the interview of candidates for Solid Waste Coordinator.

The Committee will assist the Solid Waste Coordinator on all matters involving the maintenance and development of the Solid Waste Program.

The Committee will plan and carry out educational programs on solid waste, including research and preparation of printed material and mailings as needed. They may sponsor and hold public educational meetings. Members may attend regional meetings and workshops that are available. The Committee will work with other community groups and with the School to promote solid waste programs.

The Committee chairman will be responsible for preparing brief minutes of each monthly meeting and will send a copy to the Selectmen.

Any funds needed to carry out these responsibilities will be included as a line item in the annual solid waste budget.

Adopted by the Board of Selectmen April 17, 1990.



Town Manager Update

January 2020

Inside This Issue

- 1 Snippet from the Manager
- 2 Employee News
- 2 Department Profile
- 3 Some addit'l accomps.
- 3 TM & Dept Heads
- 4 Upcoming Events

Front Page Accomplishments

Budget. The Selectboard with support from the Town Manager's Office and Town Department Heads completed its annual budget proposal process. After careful deliberation, the Board is recommending a 3.97% operational budget (\$4,441,173) increase for voter approval at March Town Meeting. Other Monetary Articles (\$552,868) if all pass represents an increase of 26.74% from the prior year. On the other side of the coin, to ensure sufficient funding to offset those expenses, new property taxes will need to increase by 6.73% (4.16% for operational budget expenses and 26.74% for Other Monetary Article costs).

FEMA. The Town continues to wait for its final reimbursements from costs incurred due to the July 1, 2017 storm event. To date, reimbursement received amounts to about \$2.2M with about \$685K still owed the Town by FEMA and the State. Currently, it's anticipated that funding will be received before the end of this fiscal year. Receipt of the reimbursements to date has resulted in paying off the \$1.4M line of credit and eliminating the Town's negative fund balance. Final reimbursements will further support the Town's fund balance.

Snippet from the Manager

According to the US Dept of Homeland Security's US Citizenship and Immigration Services, a citizen has seven basic responsibilities to exercise. Four are pretty "mom and apple pie":

- Supporting and defending the Constitution.
- Respecting and obeying federal, state, and local laws.
- Serving on a jury when called upon.
- Defending the country if the need should arise.

A few we all know:

- Participating in the democratic process.
- Paying income and other taxes honestly, and on time, to federal, state, and local authorities [BTW, the next property tax payment deadline is on or before Friday, February 14, 2020 ☺]
- Respect the rights, beliefs, and opinions of others.

But, the final two should really resonate with any and all Norwich citizens:

- Stay informed of the issues affecting your community.
- Participate in your local community.

Two of the seven responsibilities of a US Citizen:

Stay informed of the issues affecting your community.

Participate in your local community.

Employee News

Sadly, **Police Officer Frank Schippert** took a new position with the Windsor County Sheriff's Department. While he'll be missed at NPD, it's a good move for him, and we wish him well in his new position. He'll be at the Windsor County Court House, so if you do see him, hopefully, it's for good reasons! BTW, **Chief Frank** still has him handcuffed for some part-time duties when she needs some shifts filled, so he hasn't totally disappeared. Also, the Chief is amid interviewing candidates for the officer vacancy.

There's a new (interim) face in the Finance Office. **Becky Grammer** is holding down the fort, so to speak, since the business e-mail compromises and other bookkeeping issues the Town weathered during the fall of 2019. Further discussion with the Board about the Finance Office's staffing is pending.

Finally, congrats to **Christopher Connor** for making it through his first year of employment in the Highway Department! He's now off "probation"!

Police Officer Frank Schippert took a new position with the Windsor County Sheriff's Department.

Department Profile: Planning & Zoning

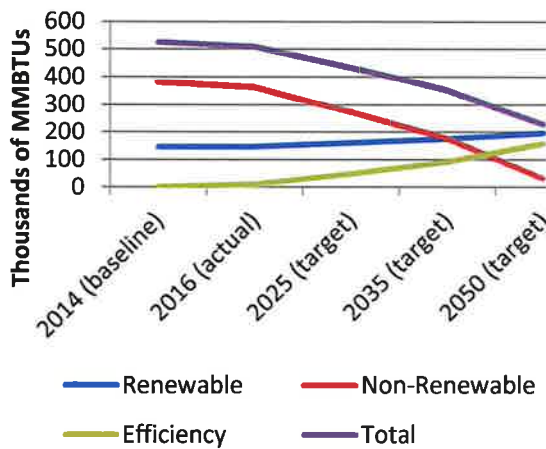
Looking to build a house or an addition to your house? Does your business need an outdoor sign? Are you looking to convert that unused shed into an apartment? If so, and any other similar question, you probably need to obtain at least a zoning (building) permit. **Rod Francis**, Director of Planning & Zoning and **Pam Mullen**, Planning Assistant are the staff persons you need to consult.

Not only are these two responsible for development applications and related land use regulations (e.g., Zoning Ordinance), but they are key staffers for how the Town plans for its growth and development, natural resource protection, and social/cultural influences affecting land use. In tandem with the Planning Commission, the Selectboard, and the public at-large, Rod and Pam have to piece together all these land use considerations. The result is a comprehensive plan (i.e., the Town Plan) that lays out the Town's overall vision for land use, while maintaining the delicate balance between statutory requirements and value-added local insight.

To that end, a fully updated **draft Town Plan** has been prepared by the Planning Commission with Rod/Pam's expertise, and now resides at the Selectboard level. Public hearings on the plan are scheduled for Wed., Feb. 26th (6:30 pm at Tracy Hall) and Sat., March 7th (Noon at Tracy Hall which promises to include a potluck Town "Eating" Day). Copies of the plan are posted on the Town's webpage – www.norwich.vt.us – and available at Tracy Hall (300 Main St.)

Graph based on Fig 12, draft Town Plan

Norwich Energy Targets



Source: Energy Action Network 2050 Energy Pathways Analysis

Some Additional Accomplishments...

- OSHA 300 annual workplace injury filing completed/posted.
- RFP released to hire a consultant to help with preparing the Town's Hazard Mitigation Plan – a critical document necessary to receive FEMA funding for any future disaster event.
- Re-constituting Manager Safety & Health/Wellness Committee – a committee helping to keep insurance rates at a minimum
- Set up all staff mandatory, on-going cyber security training, especially given financial issues last fall.
- Amid drafting RFQ's for overall IT/digital realm assessment and for legal services (since former attorney retired).
- Assisting Finance Office with proposed budget, capital budget & program, designated funds status, filing W-2's on-line, Town Report items, expenditure reports, payroll, A/P Warrants, FEMA documentation, grant requirements, Town audit and Single Audit reporting, and other efforts related to organizing/staffing the office, including working with NEMRC under the "bulk time agreement".
- Collaborating with NPD on filling an officer vacancy along with filling another short-term officer vacancy.
- Working with local residents for the start-up Norwich Community Nurse (coming later this spring).
- Helping Town Clerk prepare for Town Meeting (e.g., drafting Warning).
- Met with interim Congregational Minister and REMAX officials concerning possible Tracy Hall energy project. In addition, participated with EEI, Energy Committee, and ad-hock working group related to the project, essentially elimination of fossil fuel use at Tracy Hall with proposed installation of a geo-thermal system for heating/cooling (along with other related energy efficiency and ventilation code projects).
- Serving as Town liaison for the *Prevention Network Grant through Mt. Ascutney Hospital and Health Center, and the VT Department of Health Grant* – a short-term pass-through grant that will offer multiple programs/events for youth and families between now and June 30, 2020 intending to help prevent youth from becoming involved with tobacco, marijuana, illegal drugs/substances, etc.
- Numerous other projects, individual resident requests, e-mails, and the like. If more information is necessary, please ask.



"Coming together is a beginning. Keeping together is progress. Working together is success."

Henry Ford

Town Manager & Department Heads

Herb Durfee, Town Manager	802-649-1419 x1
Jennifer Frank, Police Chief	802-649-1460
Larry Wiggins, Public Works Director	802-649-2209
Bonnie Munday, Town Clerk	802-649-1419 x3
Alex Northern, Fire Chief	802-649-1133
Rod Francis, Planning & Zoning Director	802-649-1419 x8
Brie Swenson, Recreation Director	802-649-1419 x9
Becky Grammer, Interim Finance Officer	802-649-1419 x6

Upcoming Events

The following information are meetings and hearings of the Selectboard, along with other important dates (e.g., tax payments, Town Meeting Day, and an attempt to bring back Town "Eating" Day – a potluck opportunity for the community to get together and, in this case, talk about the draft Town Plan.

Selectboard Meeting	Feb 12
TAX PAYMENTS DUE	Feb 14
Presidents' Day Holiday	Feb 17
School Vacation	Feb 17 - 21
Selectboard Meeting / Plan Public Hearing	Feb 26
Public Informational Meeting	March 2
Town Meeting (VOTING)	March 3
Selectboard Re-Organizational Meeting	TBD – March 4 (?)
Town "Eating" Day / Plan Public Hearing	March 7
April Selectboard Meetings	TBD

FEBRUARY 2020						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

MARCH 2020						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

APRIL 2020						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Public Works Department

Monthly Report for January 2020

By: L. Wiggins, Public Works Director

Highway Department

The Highway crew plowed and/or treated roads on 14 days in the month of January. The Highway Dept also performed snow pickup on two days. In addition to the routine maintenance duties, the Highway Dept installed mailboxes, prepared weight restriction posting signs, picked up trees on several roads, put road salt in salt shed, added salt to delivered winter sand, installed parking signs at the Police Dept., plowed out Transfer Station vehicle areas as well as in between the equipment, placed paint pallets out for pickup and pushed down the C&D and metal in the rolloffs. The Highway crew also performed vehicle maintenance duties such as oil changes, washed trucks, replaced diesel fuel environmental filters, rebuilt worn tire chains, replaced cutting edges and serviced the wood splitter. The Highway Dept staff assisted the Buildings & Grounds Dept. with delivery of the skating rink liner to the school playground and replacement of the fabric on the appliance building frame at the Transfer Station.

Again, this month, one man performed mechanical repairs for most of the month.

Buildings and Grounds

The B&G Dept repaired stairs at the Transfer Station plow share building, installed a railing at the Transfer Station office, and installed the new drinking fountain at Tracy Hall.

The B&G Dept also assisted the custodian with the lay down and pick up of the gym mat in Tracy Hall on several occasions. Custodial duties were also performed when the custodian was out of work. Trash was picked up at the skating rink and Huntley Field.

As usual the B&G Dept assisted the Highway Dept with winter maintenance of roads and sidewalks.

Transfer Station

Revised and updated the Transfer Station information posted on the Greater Upper Valley Solid Waste District website regarding basic operational information and the accepted/not accepted materials.

Miscellaneous Public Works Dept Activities

The Director:

1. Worked with Chief Frank in an attempt to resolve the low heat issues at the Public Safety Building. The Director sent a letter identifying the list of problems at the Public Safety Building to Wright Construction. As a result of the letter, Chief Frank and the Director met with Wright Construction, Green Mountain Plumbing and Heating and Total Climate Control to discuss a plan of action to resolve issues on: a) lack of accurate as-built drawings and operational manuals, b) lack of heat in several areas, c) condensation from ceiling ductwork in bath area d) a site drainage problem, d) outside light timer issues, e) existing generator capacity is insufficient to power all building circuits in power outage. It was agreed Total

Climate Control would review the revised as built drawings, specifications and manuals and prepare a report on proposed solutions to the HVAC issues.

2. Discovered the Holder sidewalk tractor sander attachment needs significant repair to be used for salt application to sidewalks.
3. Continued with reports to Comcast that calls are continuing to be dropped on the PWD land line. This condition has been unable to be resolved in over a year of troubleshooting by Comcast.
4. Prepared the documentation required to submit a VTRANS Structures Grant application to replace the RT 132 concrete bridge just north of Bowen Road.
5. Continued to work on the overall plan to replace the generators at Tracy Hall, Public Works and the Public Safety Building. With the realization that the existing generator at the Public Safety Building does not have sufficient capacity to power all building circuits during a power outage and the Tracy Hall energy renovation project is forthcoming, the Director is now working on receiving proposals on replacing the generators at the Public Safety Building and the Public Works Garage. Preliminary generator sizing and load analysis have determined the Public Safety Building generator does not have sufficient capacity to be used at the Public Works Garage. The existing Public Safety Building generator is also no longer produced and repair parts in the future will be difficult to obtain. The Tracy Hall generator replacement will be addressed during the energy renovation project. The Director obtained a proposal to revise the existing generator emergency panel to load shed during a power outage. This proposal will be compared to the proposal to replace the generator with a unit which will power all circuits.
6. Prepared a PO for Town Manager/BOS approval to purchase additional winter sand for road maintenance. The sand was delivered to the Public Works Garage in January. As a result of the winter sand additional purchase, the Highway – Sand line item is severely overexpended.
7. Posted the Norwich weight restrictions for highways and bridges online and prepared a letter of notification to the VTDMV regarding the weight restriction posting.
8. Prepared the Public Works Dept annual report.
9. Received a request from the Recreation Dept and the School regarding the Public Works Dept assuming lawn care duties at the school. The Director is requesting additional information to define the scope of work which would enable a corresponding manpower and equipment estimate.
10. Prepared the VDEC required Tier II report for the Town on storage of sand, gravel, salt, diesel fuel and gas.
11. Worked with T. Mgr Durfee to arrange a kickoff meeting on the Beaver Meadow Bike and Ped Grant for studying the addition of a sidewalk.
12. Prepared comments regarding the road closure and closure posting as part of a review of the initial issue of the Tigertown Road box culvert drawings.
13. Prepared responses to BOS regarding the Public Works Dept's budget submittal.
14. Performed an annual evaluation of one employee.
15. As a result of receiving the December 2019 expense report, the Director worked with Becky (Finance Dept) to revise some line item coding. Also, as part of the December 2019 budget expense report review, the Director prepared a budget status (expenses as of Jan 7) and a

projected budget status at the end of the fiscal year. Based on the projection, the Director prepared a summary email for the T Mgr's review and in that email stated: a) the PWD budget status is not good and b) the Public Works Dept will restrict all expenses to only the non-discretionary items due to the budget status. This will affect the department's work this summer (by delaying contracting services, purchasing materials, etc.) and projects will not be completed in the normal time frame.

16. Responded to resident's concerns regarding road maintenance, drainage, trees, etc.



From: Alexander Northern JD, MPA
Town of Norwich Fire Chief
Deputy EMD
Deputy Fire Warden

To: Town Manager/Town of Norwich Selectboard

Re: Summary of Fire Chief/D-EMD, Departmental & NFD Member Activity-
January, 2020

Date: February 5, 2020

Here are some highlights from January:

Chief:

- Began Fire Inspector practicum
- Began preliminary work on the FEMA AFG Grant
- Began preliminary work on the State VLCT Grant
- Produced town annual report
- Coordinated the testing of all NFD Air Packs

D-EMD:

- Continued the process of updating the Towns' Hazard Mitigation Plan
 - Sent out RFP
- Attended the Critical Asset Risk Management two-day class held at the DPS Waterbury complex

Departmental:

- NFD Apparatus Committee continues to work with all of the major fire truck manufacturers to secure competitive bids to replace Engine 2, including Seagrave, E-One, HME, Spartan, Pierce, KME, Rosenbauer, E-One and Sutphen.
- Helped the Rec. Dept. prepare the MCS ice rink for use
- The department responded to 18 Fire/EMS & Mutual Aid calls

Town of Norwich, Vermont



CHARTERED 1761

MEMORANDUM

TO: Norwich Selectboard
 FROM: Herbert A. Durfee, III, Town Manager 
 DATE: February 6, 2020
 SUBJECT: Finance Office Staffing – Becky Grammer

As you are well aware, during the latter half of 2019, the Finance Office has witnessed some changes in staffing among other issues (e.g., business e-mail compromises). During this period, the Town used the temporary employment services of "Accountemps", an organization specializing in temporary accounting, bookkeeping, and other financial services. Becky Grammer assigned by Accountemps is the individual that has been managing all the day-to-day activities of the Finance Office.

Additionally, you allowed me to execute a "bulk time agreement" with NEMRC to assist with carrying out the higher level financial functions (e.g., working with the auditor, interfacing with Cheryl Lindberg, Town Treasurer, preparing 1/4ly filings for the IRS and the state tax department, etc.) In addition, NEMRC, specifically Cynthia Stoddard, was used to help train Becky not only with the day-to-day activities required of the Finance Office but, also, with other duties typically carried out by the Finance Director.

At this point, I believe that Becky handles well most of the required duties of the office. Clearly, there is more on which to train her, but she has quickly and easily grasped the tasks that Cynthia, Cheryl, and Roberta Robinson, former Finance Director, have coached her on.

I'm at a stage where I feel comfortable offering her a position in the Finance Office on a full-time, permanent basis. However, I would like to hire her as "Interim Finance Officer" rather than as Finance Assistant (Step 14) or as Finance Director (Step 21) – meaning her skillset currently is somewhere between those two positions. As such, I would like to hire her at Step 18A (\$53,326.47). In the position I'm suggesting "interim" since there is more on-boarding that Becky requires, and I'm suggesting "officer" since her capability is above "assistant" but not yet at the expertise required for "director".

While I understand I can make this decision as part of my office, I'm seeking your approval as part of the hiring, especially due to the issues experienced in the office in 2019. To carry out this hiring, please remember that we would have to buy out Becky's contract with Accountemps. Assuming a transition period where Becky would be a Norwich employee beginning the week of February 17th, the conversion fee payable to Accountemps would equal \$3,000. To me, this is an amount well worth the value to obtain Becky's knowledge of our systems already; attention to accuracy, proper application of the Town's internal financial controls; excellent "customer service" skills; and, a general desire to remain in the position with a true willingness to continue to improve her knowledge of the Finance Office and its required functions.

Thank you in advance for your consideration. In the interim, if you have any questions, please let me know.

7

Herb Durfee

From: Rita Seto <rseto@trorc.org>
Sent: Thursday, January 30, 2020 9:22 AM
To: Stone, Laura; Bonnie Munday; Miranda Bergmeier; David Ormiston; Miranda Bergmeier; Larry Wiggins; Planner; Norwich Fire District
Cc: Beard, Daniel; Matthew Langham; Katharine Otto
Subject: RE: Local Concerns Questionnaire for Norwich IM 091-2(89)
Attachments: Norwich IM 091-2(89) Community questionnaire.doc; Norwich Town Maps.pdf

Hi Laura

Thanks for the poke. I was able to coordinate with the town and here are our answers to the questionnaire.

Thanks
Rita

Rita Seto, AICP | Senior Planner



Two Rivers-Ottawaquechee Regional Commission
128 King Farm Rd, Woodstock, VT 05091
Tel: 802.457.3188 | Cell: 802.281.2927 | Fax: 802.457.4728
rseto@trorc.org | www.trorc.org | [TRORC Facebook](#)

From: Stone, Laura <Laura.Stone@vermont.gov>
Sent: Monday, January 27, 2020 11:10 AM
To: Town Clerk Norwich <clerk@norwich.vt.us>; John Pepper <selectboard@norwich.vt.us>; Herb Durfee <manager@norwich.vt.us>; manager-assistant@norwich.vt.us; Larry Wiggins <lwiggins@norwich.vt.us>; planner@norwich.vt.us
Cc: Beard, Daniel <Daniel.Beard@vermont.gov>; Matthew Langham <matthew.langham@vermont.gov>; Rita Seto <rseto@trorc.org>
Subject: FW: Local Concerns Questionnaire for Norwich IM 091-2(89)

Good Morning,

I'm checking in on the status of this request?

Thanks,
Laura

From: Stone, Laura
Sent: Friday, September 20, 2019 9:05 AM
To: Clerk@norwich.vt.us; Selectboard@norwich.vt.us; manager@norwich.vt.us; manager-assistant@norwich.vt.us; LWiggins@norwich.vt.us; planner@norwich.vt.us
Cc: Beard, Daniel <Daniel.Beard@vermont.gov>; Langham, Matthew <Matthew.Langham@vermont.gov>; Rita Seto <rseto@trorc.org>
Subject: FW: Local Concerns Questionnaire for Norwich IM 091-2(89)

Good Morning,

I am checking in the on request to complete the attached Local Concerns Questionnaire. This questionnaire is one of the essential elements of our scoping process and the information is used to help refine the preferred alternative. Can you please complete the questionnaire as soon as possible? Rita Seto from the Two Rivers-Ottawaquechee Regional Commission can assist you as needed. In fact, working with your RPC is encouraged.

Please let me know if you have any questions.

Thanks,
Laura

Laura J. Stone, P.E. | Scoping Engineer
Structures | Project Initiation and Innovation
Vermont Agency of Transportation
Davis Bldg | 1 National Life Drive | Montpelier, VT 05633-5001
802-917-4996 phone | laura.stone@vermont.gov
<http://vtrans.vermont.gov/highway/structures-hydraulics/project-initiation-and-innovation>



From: Beard, Daniel <Daniel.Beard@vermont.gov>
Sent: Tuesday, July 30, 2019 11:12 AM
To: Clerk@norwich.vt.us; [Selectboard@norwich.vt.us](mailto>Selectboard@norwich.vt.us); manager@norwich.vt.us; manager-assistant@norwich.vt.us; LWiggins@norwich.vt.us; planner@norwich.vt.us; Bucossi, Sommer <Sommer.Bucossi@vermont.gov>; Rita Seto <rseto@trorc.org>
Cc: Wark, Nick <Nick.Wark@vermont.gov>; Stone, Laura <Laura.Stone@vermont.gov>
Subject: Local Concerns Questionnaire for Norwich IM 091-2(89)

From the desk of Laura Stone.

Good Day

Please see the attached correspondence requesting your input on a bridge project in your town (Interstate 91, Bridges 48 N&S, over VT Route 10A) that we will begin working on soon in our Scoping section. No hard copies will be sent unless requested.

I have attached the questionnaire for the project, and a Town map showing the location of the bridge. The questionnaire is in Microsoft Word format so you can type your responses after the questions and send back via email if that is convenient.

I do recommend that you communicate with the Regional Planning Commission for input on these questionnaires.

If there is a different contact person I should be communicating with than the ones shown here, please provide that information so I can reach the proper contact.

We would like to have the questionnaire back to us by September 19th, 2019 to keep our schedule on track.

Let me know if you have questions and I look forward to hearing from you.

Thank you for your time.

Daniel Beard,
For Laura Stone.

Local & Regional Input Questionnaire

Project Summary

This project, IM 091-2(89), focuses on bridge 48N&S on Interstate 91 over VT Route 10A in Norwich, Vermont. The bridges are deteriorating and are in need of either a major maintenance action or replacement. Potential options being considered for this project include major deck and substructure repairs or removal of the existing bridges and replacement with new bridges placed in the same locations. It is possible that VTrans will recommend a road closure and detour traffic off of the interstate for the duration of the work. Efforts will be made to limit the detour to State roads.

Community Considerations

1. Are there regularly scheduled public events in the community that will generate increased traffic (e.g. vehicular, bicycles and/or pedestrians), or may be difficult to stage if the bridges are closed during construction? Examples include annual bike races, festivals, parades, cultural events, weekly farmers market, concerts, etc. that could be impacted? If yes, please provide approximate date, location and event organizers' contact info.

The 91 bridges are not as big of a concern for the construction. It's VT10A that runs under the bridges is a key commuter route into Hanover NH for Dartmouth College and Dartmouth Hitchcock Medical Center. It's a heavily traveled route and is key in maintaining open traffic during construction somehow (perhaps a similar traffic plan to the Hartford 91 bridge slide project where US5 remained opened but limited to traffic). The Montshire Museum <https://www.montshire.org/> and a child care center off Montshire Rd traffic may be impacted.

The Prouty race in July may have impacts more with traffic trying to access Hanover during construction. https://secure3.convio.net/dhmc/site/TR/FNCCC/General-FNCCC?sid=1270&type=fr_informational&pg=informational&fr_id=1590

Dartmouth College / Hanover events for traffic consideration: graduation, alumni weekend, Prouty

The communities use Interstate Exit to access the Norwich Farmers Market on Saturdays and also King Arthur Flour Bakery, <https://www.kingarthurflour.com/visit>

2. Is there a "slow season" or period of time from May through October where traffic is less or no events are scheduled?

No

3. Please describe the location of the Town garage, emergency responders (fire, police, ambulance) and emergency response routes that might be affected by the closure of the bridge, one-way traffic, or lane closures and provide contact information (names, address, email addresses, and phone numbers).

See town facilities map attached.

Local & Regional Input Questionnaire

4. Are there businesses (including agricultural operations and industrial parks) or delivery services (fuel or goods) that would be adversely impacted either by a detour or due to work zone proximity?

None

5. Are there important public buildings (town hall, community center, senior center, library) or community facilities (recreational fields, town green, etc.) close to the project?

Not immediately adjacent to the project. See town facilities map.

6. What other municipal operations could be adversely affected by a road/bridge closure or detour?

None

7. Are there any town highways that might be adversely impacted by traffic bypassing the construction on other local roads? Please indicate which roads may be affected and their condition (paved/unpaved, narrow, weight-limited bridges, etc), including those that may be or go into other towns.

If the Interstate exit is closed for on/off ramp access, traffic will use US5/VT10A and/or use NH10 to access the area.

8. Is there a local business association, chamber of commerce, regional development corporation, or other downtown group that we should be working with? If known, please provide name, organization, email, and phone number.

Upper Valley Business Alliance (Hanover Chamber of Commerce) -
<https://www.hanoverchamber.org/>

Upper Valley Chamber of Commerce
<http://www.uppervalleychamber.com/>

9. Are there any public transit services or stops that use the bridge or transit routes in the vicinity that may be affected if they become the detour route?

Yes – Advance Transit’s Brown route goes through the I91 interchange twice every 45 minutes, and the two Green route buses are traveling through that section 4 times an hour. In all, that is about 7 buses an hour on VT10A to and from Hanover, NH.

Contact: Van Chesnut vchesnut@advancetransit.com and Chris Andreasson
candreasson@advancetransit.com

There is a bus stop on VT10A at Montshire Rd and McKenna Rd.

Local & Regional Input Questionnaire

Schools

1. Where are the schools in your community and what are their yearly schedules (example: first week in September to third week in June)?

Norwich Elementary School – Marion Cross - <https://www.marioncross.org/>

Dartmouth College, Hanover, NH

2. Is this project on specific routes that school buses or students use to walk to and from school?

The project is over VT10A which is a school bus route and students of Dartmouth College walk/run on VT10A.

3. Are there recreational facilities associated with the schools nearby (other than at the school)?

Not recreational facilities associated with the school BUT there is the Appalachian Trail that goes along VT10A at that section under the I-91 bridge.

Pedestrians and Bicyclists

1. Is pedestrian and bicycle traffic heavy enough on VT Route 10A that it should be accommodated during construction?

Yes.

2. Does the Town have plans to construct either pedestrian or bicycle facilities leading up to the bridge? Please provide any planning documents demonstrating this (scoping study, master plan, corridor study, town or regional plan).

Not at this time. There was a recent Road Safety Audit completed in the vicinity. See attached Summary as well as the full RSAR report.

3. In the vicinity of the bridge, is there a land use pattern, existing generators of pedestrian and/or bicycle traffic, or zoning that will support development that is likely to lead to significant levels of walking and bicycling?

The level of walking and bicycling are fairly significant between commuters to and from Hanover, NH/Lebanon NH for Dartmouth College, Hanover High School, Dartmouth Hitchcock Medical Center, Montshire Museum.

Local & Regional Input Questionnaire

Design Considerations

1. Are there any concerns with the alignment of the existing bridges? For example, if the bridge is located on a curve, has this created any problems that we should be aware of?

No.

2. Are there any concerns with the width of the existing bridges?

No.

3. Are there any special aesthetic considerations we should be aware of?

No.

4. Are there any known Hazardous Material Sites near the project site?

No.

5. Are there any known historic, archeological and/or other environmental resource issues near the project site?

No.

6. Are there any utilities (water, sewer, communications, power) attached to the existing bridges? Please provide any available documentation.

Unknown.

7. Are there any existing, pending, or planned municipal utility projects (communications, lighting, drainage, water, wastewater, etc.) near the project that should be considered?

The Town has an 8-inch water main near the north abutments. These were installed when interstate was built back in the 60s. District #4 still has plans.

8. Are there any other issues that are important for us to understand and consider?

Land Use & Zoning

1. Please provide a copy of your existing and future land use map or zoning map, if applicable. See attached.

Local & Regional Input Questionnaire

2. Are there any existing, pending or planned development proposal that would impact future transportation patterns near the bridge? If so, please explain.
No.
3. Is there any planned expansion of public transit or intercity transit service in the project area? Please provide the name and contact information for the relevant public transit provider.

No planned expansion of existing transit routes. Advance Transit's Brown route goes through the I91 interchange twice every 45 minutes, and the two Green route buses are traveling through that section 4 times an hour. In all, that is about 7 buses an hour on VT10A. Contact: Van Chesnut vchesnut@advancetransit.com and Chris Andreasson candreasson@advancetransit.com

Communications

1. Please identify any local communication outlets that are available for us to use in communicating with the local population. Include weekly or daily newspapers, blogs, radio, public access TV, Facebook, Front Page Forum, etc. Also include any unconventional means such as local low-power FM.

Valley News
Norwich Listserv/Front Porch Forum
Hanover Listserv
2. Other than people/organizations already referenced in this questionnaire, are there any others who should be kept in the loop as the project moves forward?

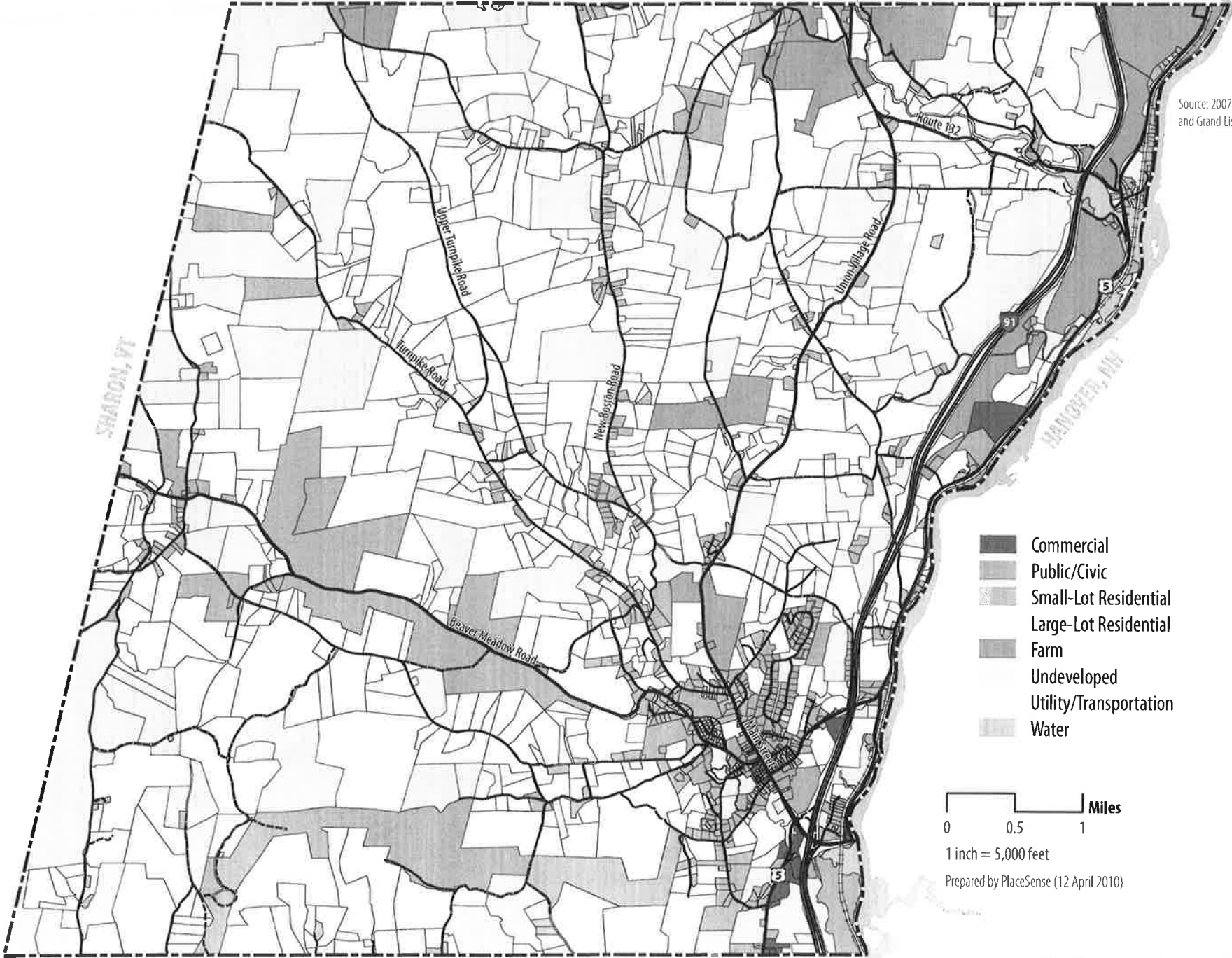
Montshire Museum
Child Care Center of Norwich
Dartmouth College
Advance Transit
Residents living on McKenna Dr (the Town will have a list of residents)

THETFORD, VT

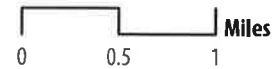
SHARON, VT

MANCHESTER, NH

Source: 2007 Town Parcels and Grand List



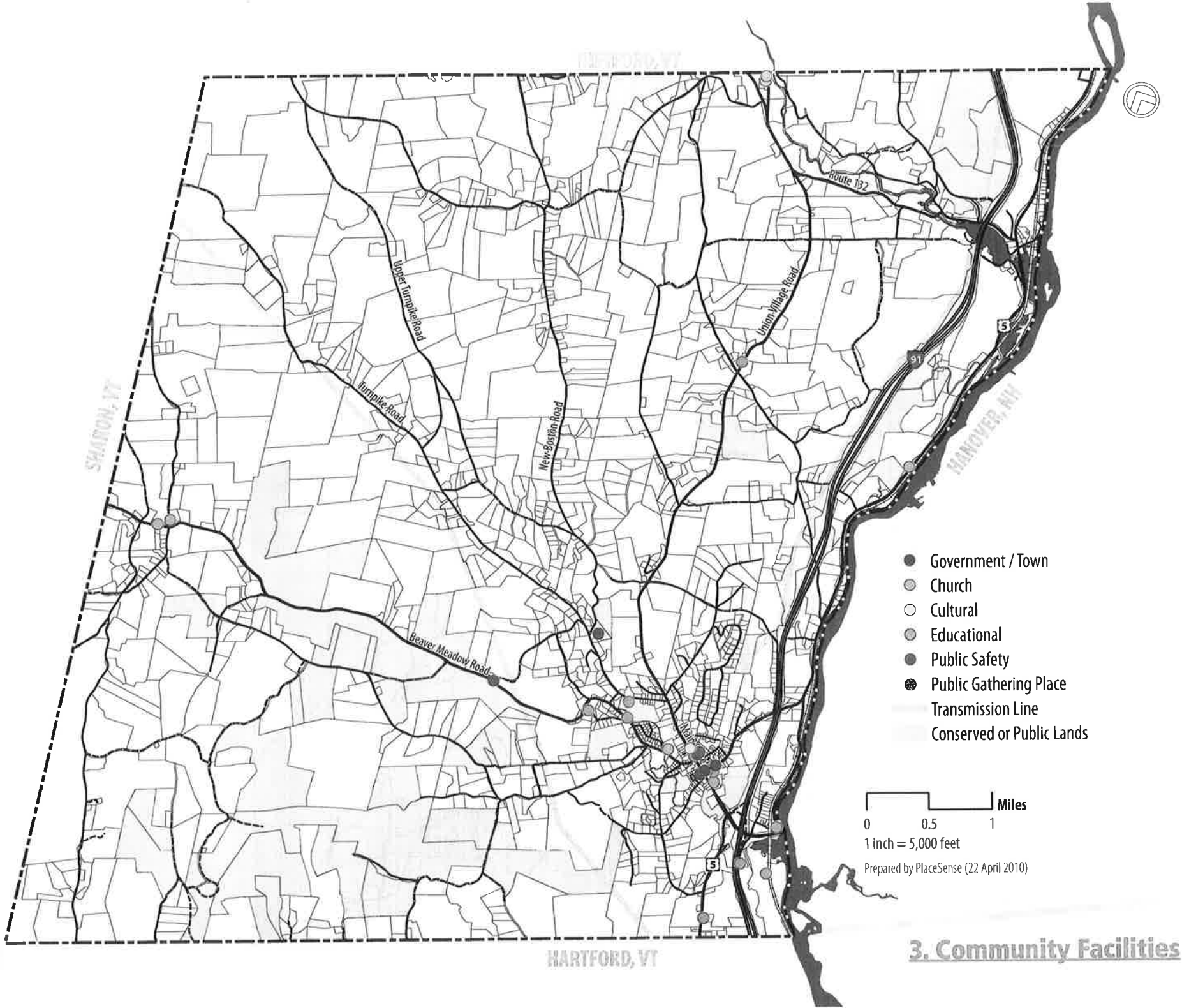
-  Commercial
-  Public/Civic
-  Small-Lot Residential
-  Large-Lot Residential
-  Farm
-  Undeveloped
-  Utility/Transportation
-  Water



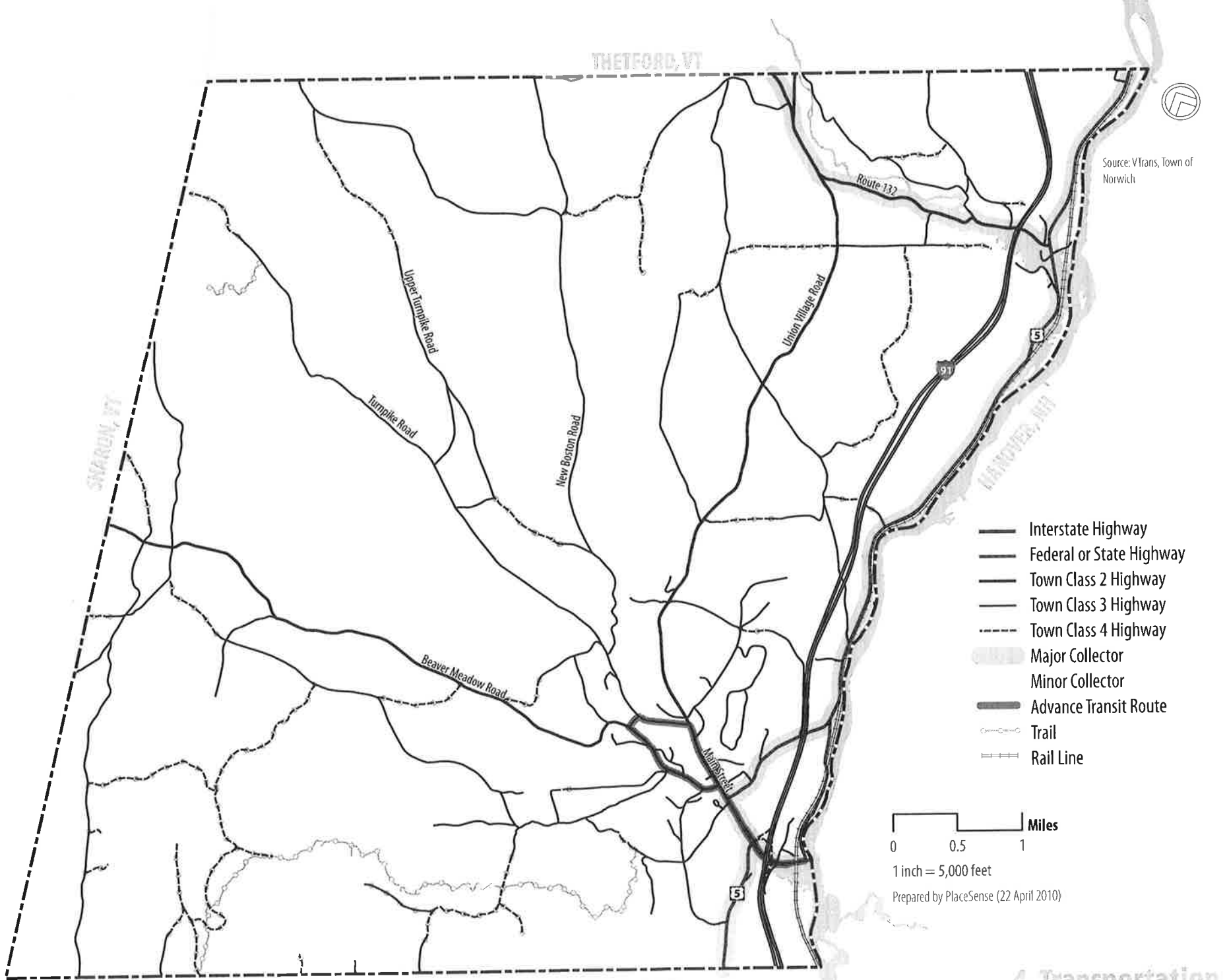
1 inch = 5,000 feet

Prepared by PlaceSense (12 April 2010)

2. Current Land Use

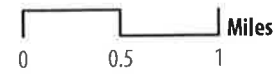


3. Community Facilities



Source: VTrans, Town of Norwich

- Interstate Highway
- Federal or State Highway
- Town Class 2 Highway
- Town Class 3 Highway
- - - Town Class 4 Highway
- Major Collector
- Minor Collector
- Advance Transit Route
- Trail
- Rail Line



1 inch = 5,000 feet

Prepared by PlaceSense (22 April 2010)

Herb Durfee

From: Rod Francis
Sent: Wednesday, January 29, 2020 2:51 PM
To: Rita Seto; Bonnie Munday; Miranda Bergmeier; David Ormiston; Miranda Bergmeier; Larry Wiggins; Planner
Subject: RE: Local Concerns Questionnaire for Norwich IM 091-2(89)

Hi Rita,
There are no permitted or proposed projects under consideration near the work zone area.

Thanks,

Rod

Planning Director
Town of Norwich

From: Rita Seto <rseto@trorc.org>
Sent: Wednesday, January 29, 2020 11:56 AM
To: Bonnie Munday <BMunday@norwich.vt.us>; Miranda Bergmeier <MBergmeier@norwich.vt.us>; David Ormiston <DOrmiston@norwich.vt.us>; Miranda Bergmeier <MBergmeier@norwich.vt.us>; Larry Wiggins <LWiggins@norwich.vt.us>; Planner <planner@norwich.vt.us>
Subject: RE: Local Concerns Questionnaire for Norwich IM 091-2(89)

Morning!

I took a first round stab at this and now am passing onto the Town to help fill in any remaining items I may have missed. Apologies – I didn't get around to getting this completed before I left for baby leave.

Send it back to me, and I'll include maps and the road safety audit.

Thanks
Rita

From: Stone, Laura <Laura.Stone@vermont.gov>
Sent: Monday, January 27, 2020 11:10 AM
To: Town Clerk Norwich <clerk@norwich.vt.us>; John Pepper <selectboard@norwich.vt.us>; Herb Durfee <manager@norwich.vt.us>; manager-assistant@norwich.vt.us; Larry Wiggins <lwiggins@norwich.vt.us>; planner@norwich.vt.us
Cc: Beard, Daniel <Daniel.Beard@vermont.gov>; Matthew Langham <matthew.langham@vermont.gov>; Rita Seto <rseto@trorc.org>
Subject: FW: Local Concerns Questionnaire for Norwich IM 091-2(89)

Good Morning,

I'm checking in on the status of this request?

Thanks,

Laura

From: Stone, Laura

Sent: Friday, September 20, 2019 9:05 AM

To: Clerk@norwich.vt.us; [Selectboard@norwich.vt.us](mailto>Selectboard@norwich.vt.us); manager@norwich.vt.us; manager-assistant@norwich.vt.us; LWiggins@norwich.vt.us; planner@norwich.vt.us

Cc: Beard, Daniel <Daniel.Beard@vermont.gov>; Langham, Matthew <Matthew.Langham@vermont.gov>; Rita Seto <rseto@trorc.org>

Subject: FW: Local Concerns Questionnaire for Norwich IM 091-2(89)

Good Morning,

I am checking in the on request to complete the attached Local Concerns Questionnaire. This questionnaire is one of the essential elements of our scoping process and the information is used to help refine the preferred alternative. Can you please complete the questionnaire as soon as possible? Rita Seto from the Two Rivers-Ottauquechee Regional Commission can assist you as needed. In fact, working with your RPC is encouraged.

Please let me know if you have any questions.

Thanks,

Laura

Laura J. Stone, P.E. | Scoping Engineer
Structures | Project Initiation and Innovation
Vermont Agency of Transportation
Davis Bldg | 1 National Life Drive | Montpelier, VT 05633-5001
802-917-4996 phone | laura.stone@vermont.gov
<http://vtrans.vermont.gov/highway/structures-hydraulics/project-initiation-and-innovation>



From: Beard, Daniel <Daniel.Beard@vermont.gov>

Sent: Tuesday, July 30, 2019 11:12 AM

To: Clerk@norwich.vt.us; [Selectboard@norwich.vt.us](mailto>Selectboard@norwich.vt.us); manager@norwich.vt.us; manager-assistant@norwich.vt.us; LWiggins@norwich.vt.us; planner@norwich.vt.us; Bucossi, Sommer <Sommer.Bucossi@vermont.gov>; Rita Seto <rseto@trorc.org>

Cc: Wark, Nick <Nick.Wark@vermont.gov>; Stone, Laura <Laura.Stone@vermont.gov>

Subject: Local Concerns Questionnaire for Norwich IM 091-2(89)

From the desk of Laura Stone.

Good Day

Please see the attached correspondence requesting your input on a bridge project in your town (Interstate 91, Bridges 48 N&S, over VT Route 10A) that we will begin working on soon in our Scoping section. No hard copies will be sent unless requested.

Prevention grant budget Adjusted Jan. 2020

Event	#	Description	cost- 11/201	modified cost -1/2020	
Staffing		Town of Norwich staffing included in 10% and consultant	0	10944	15/ week x 19 weeks
Benefits		Staff (soc. Security, Medicare) VLCT workermans comp	0	1374	estimate of ir
		total		12318	0
consultants		Program Coordinator (\$32 per hour x 18 x 21 weeks)	12096	0	
		Bookstore consultation for staff hours to organize author event	100	100	
		Rec. Staff time for 12 pro social events over 6 months	3692		
		modified to 4 months Feb to May		100	
		total			
	7-Feb 1	Round robin hockey 3 on 3 4 to 7, feb 7th		60	Norwich Rec Hanover hockey?
	7-Feb 2	Night ball , 8 to 10pm		60	Norwich Rec HHS
	10-Feb 3	Game Night at NPL 6 to 8pm		0	NPL HHS/RMS
	14-Feb 4	Valentines parents night out: Kids Movie night supported by Rec. & ?		0	MCS/ other g tickets cover cost
	14-Feb 4	Middle school movie night		0	Norwich Rec tickets cover cost
	22-Feb 5	Women in Sports (at Dartmouth) staffx2 transportation van		80	Norwich Rec HHS/RMS
	24-Feb 6	Game Night at NPL -supervised by NPL		0	NPL Sierra Club?
	29-Feb 7	Winter Fest: 9-1030 am MPNA - independent Bird Walk		0	Norwich Rec with partner
	29-Feb 7	Winter Fest: 9 - 12pm: skating on green- independent		0	Norwich Rec HHS/RMS
	29-Feb 7	Winter Fest: 1- 4pm x-country skiing huntley - independent		0	Norwich Rec HHS/RMS
	29-Feb 7	Winter Fest: 4 -7pm hockey round robin- staff supervised		60	Norwich Rec Hanover hockey?
	29-Feb 7	Winter Fest: 5- 7pm Non profits/ bake sale etc		0	Norwich Rec look for spon vital comm. Mt. Ascutney
	29-Feb 7	Winter Fest: 5-7pm volunteer & NGO fair: youth, sub. Prev. and health lifes		60	Norwich Rec look for sponsors
	29-Feb 7	Winter Fest: 7 - 9pm: Karaoke at Norwich congragation		0	NCC? look for sponsor
	6-Mar 8	Night Ball 8 to 10		60	Norwich Rec HHS/RMS
	13-Mar 9	Parent social- building RMS Parent community		0	RMS parents self sustaining
	13-Mar 10	round robin hockey		60	Norwich Rec Hanover hockey?
	19-Mar 11	March madness thursdays nights supervised NPL		0	NPL
	26-Mar 12	March madness thursdays nights supervised NPL		0	NPL
	28-Mar 13	FamilyContra Dance, caller, 6th grade leadership & MCS Family musicians		300	Norwich Rec MCS families
	28-Mar 14	potluck dinner afterwards in tracy hall, multi/ ice cream fundraiser		0	MCS families 6th graders
	3-Apr 15	April night ball		60	Norwich Rec HHS
april	16	April game night at NPL		0	NPL HHS/RMS
april	17	April game night -during break		0	NPL HHS/RMS
april	18	Teens take over tech- NPL		0	Norwich Rec HHS/RMS
April	19	April or May Community Awareness series hosted by NPD		500	Norwich Rec NPD
May	20	Spring fling "Norwich Style" staff, HH and Tuck rock bands		880	Norwich Rec NPD/ NCC Committee needed
May	21	Health Symposium 9th "Life Hacks"		0	guidance counselor Committee needed
May	22	Health Symposium 12th "Life Hacks" & Norwich book store		0	guidance counselor/ book : Committee needed
april	23	Teen cooking class or pizza oven class/ event: " Beyond Ramen"		179	Norwich Rec NCC Committee needed
	8-May 25	May Huntely Meadow Programming (night sports camp)		179	Norwich Rec committee needed
	15-May 24	pizza oven for high schoolers		179	Norwich Rec committee needed
	22-May 25	May Huntely Meadow Programming (night sports camp)		179	Norwich Rec committee needed
may		Youth leadership meeting		50	
may/ June		Report out meeting (s)		50	
		total consultants	15888	3196	
material/ supp		office supplies for survey duplication and activity outreach	1822	1000	youth survey?
		karoke sound equipment	608	610	
		House rec sports eague uniforms for 4 teams (2 sports both ge	1400	0	
		Generator and lights for night time huntley meadow games/ act	2500	2500	
		health symposium with HS Guidance counselors \$20 x 20 for bo	400	400	

7

Prevention grant budget Adjusted Jan. 2020

	Health Symposium 9th "Life Hacks"- food		100	
	Health Symposium 12th "Life Hacks" food		100	
	food for Teen cooking class and pizza night		300	find sponsors or use tickets
	pizzas for game night and March Madness (2 nights/ month x 3)		180	
	books for teen @ cooking class &/ or life Hacks 12 x 20		240	
	role play games for game night		100	
	food for youth leadership meetings		50	
	Food for report out event		50	
	Total Materials	6730	5630	
Travel	Mileage for Results Based Training in Windsor VT \$57 each x 3 (121)		121	
	Van/ Small bus from Hanover to Tracy Hall or Huntley Meadow events (\$190/ event x 4)		760	
	Author travel \$150		150	
	total travel	1307	1031	
other fees		0		
Required RBA	3 partnership members will attend conference	225	225	
conference	feb. 13th			
				0 22500
	subtotal	24150	22500	
Indirect	10%	2415	2499	
total	total grant application/ award	28458.64	24999	

2020 Prevention Network Subgrant

Modified Workplan and Budget

Dated: January 21, 2020

Norwich VT

January - June 2020

IV. Workplan

1. Build Norwich prevention awareness and dedication to healthy youth and a healthy community.

Activity	January	February	March	April	May	June
Build Norwich prevention awareness and dedication to healthy youth and a healthy community.	<p>1. Map current resources and organizations.</p> <p>2. Gather update & review grant proposal with local organizations and potential partners.</p> <p>3. Discuss survey in All together's survey in Norwich, adult version of YRBS.</p>	<p>1. Network activity specifics and how we can incorporate boost all partners and existing prevention organizations and build capacity within Norwich/SAU 70 relations.</p> <p>2. RBA training.</p>	<p>* Implement Adult survey in Norwich (see #2)</p> <p>* Follow up on Youth substance free activities</p> <p>* Youth leadership progress</p> <p>* Report progress to partners. Build network/ sustainable plan to keep work going forward.</p>	<p>* Review progress of all areas.</p> <p>* Plan for the future.</p> <p>* Submit PNG report by 4/15/2020</p>		
Present to Selectboard (SB) Project Summary, suggestions for improvements, needs and next steps recommendations.					Develop Presentation	<p>Provide follow up with School Board, partners, Select Board</p> <p>* PNG grant report</p>

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

2. Gauge public support in Norwich for more substance-free community events and the establishment of zoning regulations to limit additional vending of age-limited products.

Activity	January	February	March	April	May	June
Gauge public support	<p>*Review existing data now available.</p> <p>*Collaborate with ALL Together to prepare an adult survey to answer data gaps/ unanswered questions related to substance use, prevention of youth using substances</p>	<p>Coordinate with Director of Planning and Zoning to determine options.</p> <p>* Volunteer and non profit fair at Winterfest – gauge support</p>	<p>Support dissemination of ALL together survey.</p> <p>Encourage participation.</p>	<p>Develop presentation & secure time on Planning Commission agenda early June.</p>		
Present to SB					<p>Develop presentation & secure time on Planning Commission agenda</p>	<p>Provide follow up with Planning Commission if requested</p>

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

3. Build and Support Youth leadership and youth involvement

Activity	January	February	March	April	May	June
Build Youth leadership in Norwich. Teens to help develop teen activities, calendar, teen mentoring younger youth.	1. Attend RBA training. 2. Develop and grow Teen leadership through Recreation Department and other partners. With their objects to strengthen teen leadership and teen connection to Norwich. 3. Also, gauge support for other activities or information campaign or mentoring efforts they have High School with Middle School age student or Marion Cross students	Infuse youth leadership and consultation in as many venues as possible in Norwich.	Host Activities Empower youth ideas and leadership Consider a Norwich Jr. Advisory Board	Infuse youth leadership and consultation in as many venues as possible in Norwich. Evaluation plan and Review for input and long range planning.		
Present to Rec. Council					Youth to Present to Rec. Council	Provide follow up on Suggestions

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

4. Advocate and support for more Pro-social, substance-free Youth events in Norwich and Supervisory Union 70. See proposed activities listed on attached Excel Spreadsheet.

Activity	January	February	March	April	May	June
Build Norwich youth focused healthy, substance free and Norwich based options lead by Norwich Rec., Hanover High School, and as many partner organizations and individuals.	<ul style="list-style-type: none"> *Implement baseline *Finalize activities for Jan to March. * Youth leadership review baseline data for communication and activity plans *Create with youth leadership, Upper Valley youth calendar/ event communication 	<ul style="list-style-type: none"> * Host at least 2 Norwich based event (s), indoors or winter sports camp 	<ul style="list-style-type: none"> * Hosting at least 2 Norwich events, indoors or winter outside activities 	<ul style="list-style-type: none"> * Hosting at least 2 Norwich events. *Consider night time home team leagues. 	<ul style="list-style-type: none"> *Review data gathered and activity experiences develop and plan long range efforts. Post-evaluate sent to all Rec. supported programs. 	
Present to School board and Rec. Council	Introduce project plans to Rec. Council and Norwich School Board			Get on School Board and Rec. Council last meeting in May agenda	Present	Provide follow up with if requested and sustainable options

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

5. Project Coordinator to organize and implement efforts #1-4

Activity	January	February	March	April	May	June
Coordinate / Manage: 1 -4# efforts	<p>*Develop fiscal management, collaboration expectations, and reporting systems with Subgrant team and Town of Norwich</p> <p>*Create transparency communication and working relationship with partners.</p> <p>*Action plan for #1 to 4</p> <p>*Report Monthly to Town of Norwich and Rec. Council</p>	<p>*Report Rec. Council and Town of Norwich</p> <p>*Continue # 1-4 workplan</p> <p>*Collaborate and support Network</p>	<p>*Report Rec. Council and Town of Norwich</p> <p>*Continue # 1-4 workplan</p> <p>*Collaborate and support Network</p>	<p>*Report Rec. Council and Town of Norwich</p> <p>*Continue # 1-4 workplan</p> <p>*Collaborate and support Network</p> <p>*Analyze results to share with network and develop long range goals, expectations collaborations</p> <p>* Report to Subgrant committee Qtr. Report.</p>		

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

Present to Rec. Council School Board and Select board				Develop presentation Get on agenda	Present to Rec. Council School Boards, and Selectboard	Provide follow up from presentations. Summarize and report to Subgrant committee
---	--	--	--	---	--	---

Budget Norwich (500 words)

V. Budget Norwich (500 words)

Topic	Description	\$ Total amount
Staffing	Town of Norwich Staffing: Tracey Hayes, Program Coordinator hired temporarily for this specific grant	\$10944
Benefits (include the overall percentage)	Match: Federal Medicare and Social Security for TH and VLTC Workmen's Comp for TH and possibly Rec. Staff (numbers are over estimates until we hear back from VLCT) if there is extra funds we will reallocate to support more community events or collaborations for Youth leadership or Substance prevention efforts.	\$1374

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

Consultants	<p>*Community Programming (Pro social Youth activities and Youth Leadership) Feb. to May (\$3096)</p> <p>*Bookstore consultation and staff hours (100)</p>	\$3196
Materials & Supplies (printing, curriculum, training materials, etc.)	<p>* Office supplies for surveys duplication, outreach, and coordinator's use</p> <p>*Karaoke sound equipment (\$607.49)</p> <p>* Generator and lights for night time Huntley Meadow games/ activities = \$2500</p> <p>* Book/ Author Norwich event books \$20 x 20 participants = \$400</p> <p>* Food & Materials for events</p>	\$5630
Travel	<p>*Gas to RBA training in Windsor VT = \$57</p> <p>*Van/ small Bus from Hanover HOP to Tracy Hall or Huntley Meadow for Pro social events (\$190 per event x 4 events using van (\$760)</p> <p>Author travel \$150</p>	\$1031
Other (fees for conferences, trainings etc.)		0

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

Required RBA Conference	At least 3 network member (one Town of Norwich Staff member, Project Coordinator, and youth leader ideally or adult who works with youth)	\$225
Indirect __10__%	Limited to 10% unless another rate has been federally negotiated	\$2499
Total:	Should equal the amount you are applying for	\$24,999

Budget Narrative (1500 words)

A. Town of Norwich has committed to being the fiscal agent for this project as it recognizes the important to build a prevention network to promote healthy lifestyles and prevent youth from using substances.

Currently there is no separate organization/network, we will be building the network as apart of this grant.

B. Federal funds must be used to supplement existing state and local funds for project activities. Norwich does not receive federal funding for prevention.

C. Other grants known to support the same objectives? The Town does not Federal grants that cover the same area.

However, I understand that ALL Together has a SAMHSA Drug Free Community grant covering over the same school district. As they just receive notice of the grant acceptance, a representative from the Town of Norwich will meet with ALL Together to ensure that there will be no overlap of services or replacement of there costs with the Subgrant funds. ALL Together could conduct a survey in Norwich with the same

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

questions as Hanover Community Survey, which will be helpful to better assess our community's thoughts and use culture and practices. Norwich PNG Subaward funds will not be used to ask the same questions. We want to ask different questions to augment this information. Please see the Hanover Community Assessment questions attached.

Staffing: This project needs a contracted coordinator to keep communication flowing, organize and handle logistics and make the grant objectives thrive. We happen to have a resident who has a background in public health and is available to coordinate this effort. Coordinator's time 15 hours per week for 19 weeks (Jan to June minus Feb and April break weeks) .

Financial and overseeing time to support over site of grant management as included in the Indirect 10% cost.

Benefits: Grant coordinator's Federal social security and Medicare will be included.

Also, we are working out the dollar amount of the VLTC workman's comp. for clarity.

We know it is 5.95% per \$100 but we need clarification from VLTC of which \$100.

Consultants: The Town of Norwich does not currently have a community health or prevention specialist on staff. Nor do we have the capacity to relocate employees' time to manage this project in its entirety. With that said, the Town Manager, Assistant to the Town Manager, Rec. Department Director, and the Public Health Officer Deputy are supportive of the effort but have their own full time work. The Norwich Recreation Director and staff hourly fees will be included per event. Book/ Author discussion night Norwich Bookstore, in partnership, substance free, thought provoking book reading/ discussion:

Each event will involve bookstore staff in the planning, publicizing, and facilitation.

$\$20 \times 5 \text{ hours} = \100

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

Total modified staff time can be seen on the attached Excel spreadsheet for the pro social and other events. These below are options if needed.

→ Teen calendar of events

→ Police Dept provide educational sessions on Internet safety and

Environmental / Substance issues/ awareness (for families)

→ Youth mentoring youth

Families with youth

→ Guidance Counselor Seminars :

*RMS counselor will conduct a RMS parent “check in” at Norwich to share RMS guidance counselor and health curriculum and supports. Also, provided tips for healthy youth (open to all RMS parents)

*(9th and 12th grade “healthy lifestyle choices and realities of pressures and substance use and risks” in Norwich with parents & students)

* Background checks at the Norwich Police Dept with Fingerprinted via Norwich Police Dept. - no charge to the grant

Supplies/ Materials:

*Youth focused activities supplies: Food, bands, books

*Survey copies (paper and other office supplies) for pre and post youth survey and Adult Norwich Community survey by this grant. Printer drum/ toner and 5 reams of

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

paper (reporting, fliers, surveys, communication, fiscal management.) *Community Awareness - Norwich Rec. with Norwich Police Dept. will charged fees to community cover costs, \$500 to grant

*Surveys Third party survey company, Epiphany Community Services (recommended by ALL Together)

+ 40 questions survey with 2 drafts \$250 x3=\$750

The Norwich Bookstore will host a series of a Thursday evening discussions centered on books which address the topics of substance free youth and healthy families.

+The Not Good Enough Mother

+Light it Up (young adult fiction)

+The Last True Poets of the Sea

+Benefits of Being an Octopus (middle school fiction,)

+ Red Zone

+ Cooking book (Perhaps cooking \$5/ day)

+ Healthy Teen to adult, independent tips (title unknown)?

*Books \$20 x 20 participants= \$400

*Karaoke sound equipment for Norwich Youth activities

The amp is the LD- Maui5 for \$549.00and the mic package is the three in one with

Shure PGA48-XLR

Mic, mic. stand, and foam cover for \$58.49.

total = \$ 607.49

Purchased on Amazon and individuals are willing to use their prime accounts

For free shipping if they are reimbursed.

Modified Norwich Workplan and Budget , MAHHC PNG Subgrant award

* Norwich Library events/ hosting costs- no cost charged for use of Library space

Travel:

+Mileage for RBA training (44 miles round trip x \$.58/ mile reimbursement x number of staff) \$25.52 per staff attending x 1 staff attending + youth + Coordinator)=

+Norwich Books store event: \$150 travel for Author

Training: RBA training only.

Indirect 10% will be used by the Town of Norwich to pay for fiscal management (billing, reporting and updates) and oversight of this grant staff.

7

Herb Durfee

From: Fred Satink <fsatink@vlct.org>
Sent: Wednesday, January 22, 2020 9:00 AM
To: Herb Durfee
Subject: RE: Fair & Impartial Policing

Good Morning Herb:

As you are probably aware, providing exacting coverage opinions is very challenging, as every claim presents with its own unique fact set. That said, I do want to provide as much information as I can. Given that the town has a town meeting article that modifies their Fair & impartial Policing policy in such a way that it could potentially authorize or require municipal law enforcement actions or non-actions that may violate law, the town should be aware that there could be coverage implications.

This email provides some clarification on the potential insurance coverage implications if the proposed article is enacted. It is not our intent to sway the town's decision either way, but to simply provide insurance coverage advisory information. The fact that each situation or claim has its own unique set of factors and characteristics, makes it extremely difficult to determine whether a given scenario qualifies for coverage. In reality, each "incident" is evaluated on its own merits and facts, and is adjudicated according to the Agreements, Conditions, Definitions, and Exclusions in the PACIF coverage documents. With regard to the proposed article, **exclusion "6" in the Public Officials Liability coverage (page 87 of the Property and Casualty Coverage Document) may come into play.** It reads:

"For any loss brought about or contributed to by the fraud, dishonesty, or bad faith of a Member *or arising from the deliberate violation of any federal, state, or local statute, ordinance, rule or regulation.* This exclusion will not apply to the Named Member if the fraud, dishonesty, bad faith or deliberate violation of statute, ordinance, rule or regulation was not committed by or with the knowledge and consent of the Named Member."

What this means is that if a public officials liability claim occurs, and it is determined that the town deliberately violated a law as it relates to that claim, that the result may be that there is no public officials liability coverage. I should note that other lines of coverage are not impacted by the above exclusion. To determine if the exclusion might come into play with regard to this specific article, the town may wish to consult with independent legal counsel to clarify whether the article as proposed would require the town to violate any laws, etc., as noted above.

We greatly respect the autonomy of our individual municipal members, and therefore only provide this information in an advisory role, to fulfill the town's request for an insurance coverage opinion on this issue. I appreciate you reaching out for our input, as I had planned to touch base if you did not. I should note that the Town of Hartford asked for and received a similar opinion with regard to proposed changes in their Fair & Impartial policing policy. Winooski did not – and we were unaware that such a proposal was being considered – or would have provided them with the same information.

Please feel free to contact me if you have additional any questions.

Regards,
Fred

Frederick J. Satink

Vermont League of Cities & Towns
Deputy Director, Underwriting & Loss Control

89 Main St.
Montpelier, Vermont 05602
802-262-1948 (direct line)
800-649-7915
fsatink@vlct.org

From: Herb Durfee <HDurfee@norwich.vt.us>
Sent: Tuesday, January 21, 2020 4:55 PM
To: Fred Satink <fsatink@vlct.org>
Subject: RE: Fair & Impartial Policing

CAUTION: This email originated from outside of VLCT's email system. Maintain caution when opening external links/attachments

Thx, Fred.

Herb
Herbert A. Durfee, III
Town Manager
Town of Norwich
PO Box 376
Norwich, VT 05055
802-649-1419 ext. 102
802-698-3000 (cell)
802-649-0123 (fax)

From: Fred Satink [<mailto:fsatink@vlct.org>]
Sent: Tuesday, January 21, 2020 3:39 PM
To: Abigail Friedman; Herb Durfee
Cc: Jim Carrien
Subject: RE: Fair & Impartial Policing

Hi Herb-

Joe had passed this information along to me – and frankly, I'm glad to see your request because I did happen to catch your Police Chief on WCAX discussing this issue. It is an important question, since there are potential coverage implications. We provided a formal response to the Town of Hartford, with regard to coverage and I'll work to find that and will share with you tomorrow.

Regards,
Fred

Frederick J. Satink
Vermont League of Cities & Towns
Deputy Director, Underwriting & Loss Control
89 Main St.
Montpelier, Vermont 05602
802-262-1948 (direct line)
800-649-7915
fsatink@vlct.org

From: Abigail Friedman <afriedman@vlct.org>
Sent: Tuesday, January 21, 2020 3:29 PM
To: Herb Durfee <HDurfee@norwich.vt.us>
Cc: Jim Carrien <jcarrien@vlct.org>; Fred Satink <fsatink@vlct.org>
Subject: FW: Fair & Impartial Policing
Importance: High

Hi Herb,

I've sent your question about the petitioned article over to the MAC attorneys. When do you need to hear back from them? Please let me know.

For your PACIF question, I'm forwarding your message with the PACIF piece highlighted in yellow to Jim Carrien and Fred Satink.

Also, if you're interested in information about Winooski, you could reach out to Jessie Baker JBaker@winooski.vt.gov

Sincerely,

Abby Friedman

Director, Municipal Assistance Center
Vermont League of Cities and Towns
89 Main Street, Suite 4
Montpelier, VT 05602
Direct Phone: 802-262-1926
Website: vlct.org

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) to whom it is addressed above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is prohibited. If you are not the intended recipient, please contact the sender by reply email or telephone and destroy all copies of the original message. Thank you.

From: Herb Durfee <HDurfee@norwich.vt.us>
Sent: Tuesday, January 21, 2020 12:49 PM
To: Abigail Friedman <afriedman@vlct.org>
Cc: Miranda Bergmeier <MBergmeier@norwich.vt.us>; Frank, Jennifer <Jennifer.Frank@vermont.gov>; Karen Horn <khorn@vlct.org>; Maura Carroll <mcarroll@vlct.org>
Subject: Fair & Impartial Policing
Importance: High

CAUTION: This email originated from outside of VLCT's email system. Maintain caution when opening external links/attachments

Abby,

FYI, the Norwich Selectboard has allowed on the 2019 March Town Meeting a petitioned article related to fair & impartial policing:

Article 32. *Shall the voters of Norwich approve an enhanced state model Fair and Impartial Policing Policy as it is written which will limit collaboration with federal immigration officials and welcome and protect the rights of all people living in and passing through Norwich?*

According to the supporters of the petitioned article, the text matches the Winooski “language” (whatever this is). I’m wondering if VLCT has a formal legal position for municipalities, since the implications of the policy and recent judicial decisions affect all municipalities in Vermont.

In good conscience, as TM, I will not direct the NPD Police Chief to violate any law (local, state, or federal). On the same token, my Police Chief will not order any of her officers to violate any such law either. However, I find that with adoption of such policy (or ordinance), I and/or my officers may be asked to compromise our sworn oaths – PD especially.

Would you please offer any insight that you can. Also, as a related question, would VLCT-PACIF insurance cover any such compromise of sworn oaths (e.g., legal costs incurred, lack of adherence to “policy”, etc. that VLCT typically covers)? Thanks in advance.

Herb

Herbert A. Durfee, III
Town Manager
Town of Norwich
PO Box 376
Norwich, VT 05055
802-649-1419 ext. 102
802-698-3000 (cell)
802-649-0123 (fax)

7

Herb Durfee

From: Garrett Baxter <gbaxter@vlct.org>
Sent: Wednesday, January 22, 2020 10:02 AM
To: Herb Durfee
Subject: RE: Fair & Impartial Policing
Attachments: LRN Skiff.docx

Dear Herb,

To my knowledge an article requesting the Selectboard to adopt such a policy would be a non-binding advisory article as this authority lay with the Selectboard, not the voters. For future reference, since such a question is outside the province of the voters to determine, a timely voter backed petition to place such a question on the Town Meeting warning would not have to be honored (see attached VLCT Newsletter article on non-binding advisory articles).

VLCT has not developed a formal legal opinion on the matter. The VT Attorney General's (AG) Office has developed a guidance document for municipalities and it is available here: <https://ago.vermont.gov/wp-content/uploads/2017/12/Guidance-to-VT-Cities-and-Towns-re-Immigration-Enforcement.pdf>

The attorneys at VLCT had some very limited input into the creation of the AG's document, but it is not something that we are touting or specifically encouraging.

One difficult issue presented in this realm is that although an employer may direct how an employee may or may not use town resources in regard to immigration issues, our opinion is that an employer may NOT prohibit an employee from communicating with federal officials about certain immigration information. This is because federal law 8 U.S.C. § 1373 provides that "Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual." The AG's model document recognizes this prohibition in their guidance document (see section number 3 on page 15). This is also recognized in Section VII(4) of the State of Vermont Criminal Justice Training Council's Fair and Impartial Policing Policy which states that "(c)ontact with federal authorities made to determine an individual's identity is restricted to the purpose of determining his or her identity, though this provision does not prohibit any communication governed by 8 U.S.C. §§ 1373 and 1744. See Section XI below." That document is available here: <https://vcjtc.vermont.gov/content/model-fair-and-impartial-policing-policy> For that reason I'm not aware that the State's model fair and impartial policing policy (if that is the policy the petition is referring to) would require any municipal to violate federal law through its implementation though as Fred stated in her earlier correspondence the town may wish to consult with its town attorney to clarify whether the article as proposed would require the town to violate any laws if it is in fact adopted and if the Selectboard decides to abide by the wishes of its voters.

Sincerely,

Garrett A. Baxter

Garrett A. Baxter, Esq.
Senior Staff Attorney, Municipal Assistance Center
Vermont League of Cities and Towns
1-800-649-7915

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) to whom it is addressed above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is prohibited. If you are not the intended recipient, please contact the sender by reply email or telephone and destroy all copies of the original message. Thank you.

From: Herb Durfee <HDurfee@norwich.vt.us>

Sent: Tuesday, January 21, 2020 12:49 PM

To: Abigail Friedman <afriedman@vlct.org>

Cc: Miranda Bergmeier <MBergmeier@norwich.vt.us>; Frank, Jennifer <Jennifer.Frank@vermont.gov>; Karen Horn <khorn@vlct.org>; Maura Carroll <mcarroll@vlct.org>

Subject: Fair & Impartial Policing

Importance: High

CAUTION: This email originated from outside of VLCT's email system. Maintain caution when opening external links/attachments

Abby,

FYI, the Norwich Selectboard has allowed on the 2019 March Town Meeting a petitioned article related to fair & impartial policing:

Article 32. *Shall the voters of Norwich approve an enhanced state model Fair and Impartial Policing Policy as it is written which will limit collaboration with federal immigration officials and welcome and protect the rights of all people living in and passing through Norwich?*

According to the supporters of the petitioned article, the text matches the Winooski "language" (whatever this is). I'm wondering if VLCT has a formal **legal** position for municipalities, since the implications of the policy and recent judicial decisions affect all municipalities in Vermont.

In good conscience, as TM, I will not direct the NPD Police Chief to violate any law (local, state, or federal). On the same token, my Police Chief will not order any of her officers to violate any such law either. However, I find that with adoption of such policy (or ordinance), I and/or my officers may be asked to compromise our sworn oaths – PD especially.

Would you please offer any insight that you can. Also, as a related question, would VLCT-PACIF insurance cover any such compromise of sworn oaths (e.g., legal costs incurred, lack of adherence to "policy", etc. that VLCT typically covers)? Thanks in advance.

Herb
Herbert A. Durfee, III
Town Manager
Town of Norwich
PO Box 376
Norwich, VT 05055
802-649-1419 ext. 102
802-698-3000 (cell)
802-649-0123 (fax)

Vermont Supreme Court Upholds Municipalities' Rights to Reject Nonbinding Advisory Petitions

On occasion, there comes a case that works its way up to the Vermont Supreme Court which involves such an important issue of municipal law, policy, or administration – with the potential to significantly impact a considerable portion of municipalities across the state – that the VLCT Board of Directors approves submission of an *amicus curiae* (friend of the court) brief to represent our members' interests. The Municipal Assistance Center (MAC) researches and writes the brief on behalf of the VLCT Board. *Robert A. Skiff, Jr. et al. v. South Burlington School District*, 2018 VT 117, was such a case. The Vermont Supreme Court decided that South Burlington residents could not force their school district to put the question of naming its school sports teams to a district-wide vote. The *Skiff* case is of particular interest to VLCT's membership because school districts are considered "municipalities" under Vermont law, and the laws governing a school district's decision whether to warn a nonbinding, advisory article (i.e., 17 V.S.A. §§ 2642 and 2643) are the same that govern cities, towns, and villages.

The facts of the *Skiff* case have been well publicized and do not bear much repeating. Suffice it to say that the South Burlington School Board decided to retire the "Rebels" name for the district's athletic teams. A group of South Burlington residents presented the board with a petition signed by five percent of the district's voters requesting a district-wide, non-binding, advisory vote on whether to retain the Rebel team name. The school board refused and the residents sued in Chittenden County Superior Court for an order forcing the district to hold a vote on the question alleging that the district deprived them of their constitutional right to instruct their representatives.

The superior court sided with the residents, but the Vermont Supreme Court reversed on appeal, holding that "the 'right to instruct' in Article 20 of the Vermont Constitution is an individual right [not a collective one] and does not require the district to present a petitioned advisory article to voters." Because the right of individuals, the Court noted, is limited in a representative form of government, it is the school board – which has been given the authority to act by the legislature – that has discretion to submit the advisory ballot to a district-wide vote. The recourse for individual voters is at the ballot box, not the courthouse. "If the public is dissatisfied with the performance of school directors, 'they may, in due course, replace their school directors at the end of their respective terms.'"

In past cases, the Court had ruled that voter-backed petitions did not have to be honored if they were unrelated to municipal business. "We hold that it was not the legislative intent in enacting 24 V.S.A. Sec. 705, to compel the selectmen of a town to hold a special town meeting upon application of five per cent of the voters for a useless, frivolous or unlawful purpose." *Royalton Taxpayers' Protective Ass'n v. Wassmansdorf*, 128 Vt. 153 at 160 (1969). This petition, residents argued, was not "useless" because it would help inform the school board. Such a reading of the word "useless" was too broad for the Court which opted for a narrower interpretation. "[U]seless' as used in the case means something that would have no binding effect." Since the school board, not the voters, had the authority to decide the name of the district's sports teams, a district-wide vote would have no legal effect and the petition could be rejected. "The statute does not include a right to include articles for a vote over which voters may have an opinion, but ultimately do not have the power to decide."

Ultimately, the Court's ruling is more notable for what it does not do than what it does. It does not erase the nearly half century of clear precedential guidance that Vermont courts have provided municipalities on how to handle voter-backed petitions. Everything is as it was before; the status quo has been maintained. In light of the *Skiff* case, MAC's guidance with respect to voter-backed petitions remains unchanged. If a voter-backed petition does not deal with a matter over which municipal voters have

been given authority in statute, the legislative body may choose how to respond to that petition, including refusing to place it on the warning or placing it under the nonbinding, advisory section of the warning.

The *Skiff* case is archived at www.vermontjudiciary.org/sites/default/files/documents/op18-054.pdf.

Garrett A. Baxter, Senior Staff Attorney
VLCT Municipal Assistance Center

Guidance to Vermont Cities & Towns Regarding Immigration Enforcement



March 2017

**Thomas J. Donovan Jr.,
Vermont Attorney General**

PREAMBLE

“Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which one may receive in person, property or character; every person ought to obtain right and justice, freely, and without being obliged to purchase it; completely and without any denial; promptly and without delay; conformably to the laws.”

Vermont Constitution, Chapter 1, Article 4

Purpose and Policy

The purpose of this document is to provide guidance to local governments and law enforcement in Vermont as they consider policies regarding enforcement of federal immigration law, and cooperation and information sharing with federal immigration authorities.

The foundational purpose of any government is to protect the rights, security and safety of those who come within its jurisdiction. Local elected officials and law enforcement agencies in Vermont are dedicated to promoting and preserving public safety while protecting vulnerable communities and persons. Vermont's dedication to these principles is evident in recent efforts to address bias in policing and craft standards that afford fair treatment to everyone who finds themselves under the protection of Vermont's laws and constitution. A relationship of trust between law enforcement officials and immigrants will promote public safety throughout Vermont by encouraging all persons, whether Vermont residents or not, to report crimes and cooperate with criminal investigations.

Without adopting indefinable labels such as "sanctuary" city or town, this document provides guidance to those municipalities that are considering adopting policies to govern how municipal law enforcement personnel should interact with federal immigration officials.

Please note that 8 U.S.C. § 1373 prohibits state and local governments from restricting the ability of state and local officials to share certain information with federal immigration authorities. These Model Provisions are intended to fully comply with the lawful requirements of 8 U.S.C. § 1373. It should be noted that President Trump's Executive Order No. 13768, Enhancing Public Safety in the United States (January 25, 2017), provides that if a jurisdiction willfully refuses to comply with that statute, it may lose federal law enforcement grants except as deemed necessary for law enforcement purposes by the U.S. Attorney General or the Secretary of the Department of Homeland Security.¹

¹ *Id.*, § 9(a) ("In furtherance of this policy, the Attorney General and the [DHS] Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary."). The Executive Order – "Enhancing Public Safety in the Interior of the United States" Exec. Order 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017) – is available online at <https://www.federalregister.gov/documents/2017/01/30/2017-02102/enhancing-public-safety-in-the-interior-of-the-united-states>.

Local Government Authority under State Law

The legal authority of Vermont's cities, towns and other municipalities derives from express or implied grants of authority from the State. If there are reasonable doubts about whether the State has granted legal authority to a municipality, the question must be resolved in favor of the State.² Ch. I, Art. 5 of the Vermont Constitution provides "[t]hat the people of this state by their legal representatives, have the sole, inherent, and exclusive right of governing and regulating the internal police of the same."

In the context of immigration enforcement, this means that the scope of municipalities' legal authority to provide law enforcement services is based upon whatever grants of authority have been provided to them by the State of Vermont. For example, one Vermont statute, 24 V.S.A. § 291a, authorizes Sheriff's Departments to contract with the State or with federal agencies to provide law enforcement or related services. The statute does not mention immigration, and to date, no Sheriff's Department in Vermont has sought to enter into any contract relating to immigration enforcement.

While state law does authorize municipalities to enter into agreements with other municipalities to provide police services,³ the State has not granted Vermont municipalities the legal authority to enter into independent contracts or otherwise arrange with the federal government to enforce federal customs or immigration law. Moreover, the State retains the legal authority to prohibit or limit municipalities from performing such federal duties.⁴

Local Law Enforcement Authority Under Federal Law

Nationwide unless authorized by state law to make a criminal arrest, municipalities may perform immigration-related activities only with express authorization from federal immigration authorities, which operate within the U.S. Department of Homeland Security (DHS) and its sub-components, Immigration and Control Enforcement (ICE) and U.S. Customs and Border Patrol (CBP).

² *Morse v. Vt. Div. of St. Bldgs.*, 136 Vt. 253, 255 (1978) (citing *City of S. Burlington v. Vt. Elec. Power Co.*, 133 Vt. 438 (1975); *Univ. of Vt. St. Agric. Coll. v. City of Burlington*, 131 Vt. 70, 75 (1973)).

³ 24 V.S.A. § 1938. The statute does not authorize agreements with federal authorities to provide such services.

⁴ The Vermont Legislature is currently considering a Senate bill (S. 79) that would generally require gubernatorial approval for any state or local government entity to enter into immigration-related agreements with federal authorities under 8 U.S.C. § 1357(g) or 19 U.S.C. § 1401(i). Agreements under those statutes are discussed at pp. 5-7 below.

Section 287(g) and Similar Programs

DHS's authority to enter into working agreements with state or local law enforcement agencies stems from a number of federal laws. One of the better-known federal laws is Section 287(g) of the Immigration and Nationality Act ("INA"),⁵ which Congress added in 1996. Although neither the State of Vermont nor any Vermont municipality nor any Sheriff's Department has ever entered into such an agreement, it is worthwhile to understand how such agreements work — particularly given the Trump Administration's expressed desire to expand its Section 287(g) program.

Section 287(g) authorizes DHS to delegate immigration enforcement power to state or local government agencies. Specifically, the law provides that DHS may seek state or local assistance in the functions of the "investigation, apprehension, or detention of aliens in the United States."⁶ These arrangements are detailed in Memoranda of Agreement (MOAs) signed by DHS and the concerned state or local law enforcement agency.

Before delegating federal immigration authority to state or local law enforcement, DHS must determine the agency is qualified and provide the affected officers with comprehensive training on federal immigration law. Thereafter, approved and trained officers perform immigration-related duties under DHS supervision. DHS does not compensate state or local governments for performing this work.⁷

Congress has authorized DHS to enter various other forms of partnerships with federal law enforcement — including task forces relating to human trafficking or child exploitation. One broader program, somewhat similar to the Section 287(g) program, known as the Title 19 Officer Designation Program, authorizes DHS to designate state or local law enforcement to act as designated customs officers pursuant to an MOA with the concerned state or local agency.⁸ This designation provides local law enforcement with broad authority to enforce a sweeping variety of federal laws without compensation to the local department. In many instances, this program is focused on smuggling and narcotics interdiction. However, DHS retains the authority to expand the duties of designated customs officers to include various aspects of immigration enforcement.

⁵ Section 287(g) is codified in the United States Code (U.S.C.) as 8 U.S.C. §§ 1357(g), which is part of the INA, 8 U.S.C. §§ 1101, et seq. Although the legal citations are interchangeable, the statute is more commonly referred to as Section 287(g).

⁶ 8 U.S.C. § 1357(g).

⁷ 8 U.S.C. § 1357(g)(1)-(3).

⁸ 19 U.S.C. § 1401(i).

Absent a legally-authorized agreement to perform immigration- and customs-related duties on behalf of DHS, there are limited circumstances where state or local law enforcement agencies may enforce immigration laws on their own.⁹ The agencies and their employees may, but are not required to, communicate with immigration enforcement agencies regarding the immigration status of an individual¹⁰ and cooperate with immigration enforcement agencies in their investigation, detention, and removal of individuals unlawfully present in the United States.¹¹

Current Status of Section 287(g) Program

President Trump's Executive Order No. 13768, Enhancing Public Safety in the United States (January 25, 2017)¹² directs the Secretary of DHS to reinstitute agreements under the 287(g) program. DHS does not currently have any valid agreement with any locality in the United States to enforce immigration laws. Nor has DHS promulgated new rules for the 287(g) program.

The Executive Order directs the DHS Secretary to enter into Section 287(g) Program agreements with the Governors of the States as well as local officials, "to empower State and local law enforcement agencies across the country to perform the functions of an immigration officer in the interior of the United States to the maximum extent permitted by law." The Executive Order explains that this "authorization shall be in addition to, rather than in place of, Federal performance of these duties." Further, the President instructed the Secretary to structure the agreements under Section 287(g) "in the manner that provides the most effective model for enforcing Federal immigration laws and obtaining operational control over the border for that jurisdiction."

ICE and CBP Detainers and Applicable Law

ICE and CBP often submit to state or local law enforcement written requests, often called "immigration detainers" or "detainers" asking them to hold

⁹ 8 U.S.C. § 1324(c) (ability to arrest individual for criminal acts under INA of harboring certain aliens); 8 U.S.C. § 1252c (ability to arrest aliens who are unlawfully present in the United States and were previously removed after being convicted of a felony once unlawful immigration status has been confirmed by ICE). State law governing the authority to arrest does not distinguish between Vermont crimes, federal crimes, or crimes under the laws of other states. V.R.Cr.P. 3; *State v. Towne*, 158 Vt. 607, 630 (1992).

¹⁰ 8 U.S.C. §§ 1373 and 1644.

¹¹ 8 U.S.C. § 1357(g)(10).

¹² Executive Order No. 13768, Enhancing Public Safety in the Interior of the United States, *supra* note 1 and accompanying text.

individuals in custody for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays) in order for ICE or CBP to determine if they will take them into custody for lawful immigration purposes and to transfer them into the hands of federal officers.

The INA makes clear that a detainer *is a request* from the immigration agency. The law imposes no legal obligation or authority on a local law enforcement agency to detain an individual.¹³ Thus, a law enforcement agency's cooperation with a detainer from immigration authorities is *strictly voluntary and not mandatory*. The forms currently used by ICE state that detainees are voluntary.¹⁴

Further, a state or local law enforcement agency receiving an ICE or CBP detainer must be mindful of state¹⁵ and federal¹⁶ constitutional prohibitions against unreasonable searches and seizures.¹⁷ If a law enforcement agency complies with an immigration agency's request and detains an individual for longer than necessary for the law enforcement agency's own purposes, the continued detention of the individual constitutes a further seizure of the person that must be legally justified by, for example, probable cause that the individual committed a criminal offense and is subject to removal from the United States. Importantly, it is *not* a criminal offense for an individual to be unlawfully present in the United States.¹⁸ Unlawful presence *alone* is a civil, not criminal, violation and complying with a detainer request on this basis alone will not meet the warrant requirement under the Constitution. However, a properly obtained judicial warrant or an exception to the warrant requirement would satisfy both the Fourth Amendment and Article 11.

A law enforcement agency's cooperation with a detainer request in violation of the Fourth Amendment could result in the imposition of monetary damages against the local agency.¹⁹ Law enforcement agencies must comply with Vermont and Federal constitutional obligations in responding to immigration detainer requests.

¹³ *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. 2014).

¹⁴ DHS Form I-247D, Immigration Detainer - Request for Voluntary Action.

¹⁵ Vt. Const., Ch. I, Art. 11

¹⁶ U.S. Const., Amend. IV.

¹⁷ See *Morales v. Chadbourne*, 793 F.3d 208 (1st Cir. 2015); *Miranda-Olivares v. Clackamas Cnty.*, 2014 U.S. Dist. LEXIS 50340 (D. Or. April 11, 2014).

¹⁸ *Arizona v. United States*, 132 S. Ct. 2492, 2505 (2012).

¹⁹ See *Santos v. Frederick Cty. Bd. of Comm'rs.*, 725 F.3d 451, 464-66, 470 (4th Cir. 2013).

Collecting and Sharing Information and Applicable Law

ICE and CBP often ask state or local law enforcement agencies for information about detained individuals in order to determine their removability or whether to take custody of them. Whether agencies provide such information absent a request is purely voluntary.

At the same time, a federal statute, 8 U.S.C. § 1373, provides that state and local governments may not prohibit their employees from sharing information about the citizenship or immigration status of an individual.

§ 1373 Communication between governmental agencies and the Immigration and Naturalization Service

(a) In general

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) Additional authority of government entities
Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

- (1)** Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
- (2)** Maintaining such information.
- (3)** Exchanging such information with any other Federal, State, or local government entity.

A similar federal statute, 8 U.S.C. § 1644 provides that state and local agencies may not be prohibited from such information sharing.

§ 1644 Communication between State and local government agencies and Immigration and Naturalization Service

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the

United States.

These statutes do not mandate the collection of information nor forbid policies that prohibit the sharing of other, non-public or confidential information about an individual. Two important consequences follow from the limited scope of § 1373 and § 1644.

First, the laws do not expressly require any government or law enforcement agency to collect immigration-related information. Thus, state and local governments may prohibit their employees from asking individuals about their immigration status. But law enforcement agencies may inquire about nationality when necessary to allow for consular notification pursuant to the Vienna Convention. Moreover, in some criminal investigations, such as those involving human trafficking or hate crimes, an individual's immigration status may be relevant information and an inquiry would be appropriate.

Second, the laws do not require state or law enforcement authorities to disclose immigration status information to federal authorities or to spend any of their budget or resources providing such information.

In addition, courts have not yet had the opportunity to examine the full scope of § 1373 and § 1644, and there remain questions about whether and to what extent those provisions intrude upon state and local government rights accorded under the Tenth Amendment to the U.S. Constitution. The Tenth Amendment reserves any power not delegated to the federal government to the states. The Amendment may be interpreted to provide government and law enforcement agencies the authority to prohibit or restrict voluntary sharing of information if it interferes with the operations of state and local government.²⁰ To date, there has been only one reported court decision addressing § 1373 and § 1644 and the Tenth Amendment. In that case, decided in 1999, the U.S. Court of Appeals for the Second Circuit held that the Tenth Amendment did not permit New York City to command "passive resistance" to federal law by prohibiting city employees from transmitting information regarding immigration status to federal immigration authorities.²¹ The court acknowledged, however, that state and local governments need to collect information, and guarantee its confidentiality, in order to perform their sovereign functions, and that "preserving confidentiality may in turn require that state and local governments regulate the use of such information by their employees."²² A fair reading of this decision is that § 1373 and § 1644 may not

²⁰ *City of New York v. United States*, 179 F.3d 29 (2nd Cir. 1999).

²¹ *Id.*

²² *Id.* at 37.

constitutionally prohibit state and local governments from maintaining confidentiality policies directly serving sovereign state interests — even if immigration status is included in the class of protected information. Although no court has yet addressed that set of circumstances, the Second Circuit’s decision has been understood by many to provide state and local governments a “safe harbor” in which they may require confidentiality as a means of carrying out their sovereign functions.

The Vermont Public Records Act (PRA) also provides guidance on the type of information a state or local government could restrict from sharing with federal immigration authorities.²³ 1 V.S.A. § 317(c) identifies records and types of information that are exempt from public copying and inspection; including records dealing with the detection and investigation of a crime that disclose information which would constitute an invasion of privacy. Thus, the PRA acknowledges some expectation of privacy with respect to information obtained by state and local governments.²⁴

²³ 1 V.S.A. § 317. Definitions; public agency; public records and documents

(c) The following public records are exempt from public inspection and copying:

- (1) Records which by law are designated confidential or by a similar term.
- (2) Records that by law may only be disclosed to specifically designated persons.

...

(5)(A) Records dealing with the detection and investigation of crime, but only to the extent that the production of such records:

- (i) could reasonably be expected to interfere with enforcement proceedings;
- (ii) would deprive a person of a right to a fair trial or an impartial adjudication;
- (iii) could reasonably be expected to constitute an unwarranted invasion of personal privacy;
- (iv) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;
- (v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecution if such disclosure could reasonably be expected to risk circumvention of the law;
- (vi) could reasonably be expected to endanger the life or physical safety of any individual.

²⁴ The statement of policy in the PRA provides, in part, that “[a]ll people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer.” 1 VSA § 315(a).

Policy Principles and Considerations for Adopting Policies

The policy principles below offer municipalities and local law enforcement agencies guidance on their ability to prohibit and restrict certain actions with respect to working with the federal government on enforcing federal immigration law. Broadly speaking, and with exceptions, the principles declare that law enforcement will not dedicate time or resources to the enforcement of federal immigration law, and that federal immigration detainer requests should be declined, except under specific circumstances. The model principles also prohibit inquiry into an individual's immigration status for the sole purpose of investigating and enforcing compliance with federal immigration laws.

In 2016, Vermont law required the Vermont Criminal Justice Training Council (VCJTC) to adopt a model Fair and Impartial Policing (FIP) policy,²⁵ and required all law enforcement agencies to adopt a FIP policy incorporating at least the essential elements of that policy. On July 1, 2016, the VCJTC adopted and promulgated the FIP policy. The policy bans racial profiling by law enforcement and contains specific policies ensuring that local law enforcement officers remain uninvolved in the enforcement of civil immigration law. The policy language covers many of the same issues as the policy principles below. For further information, please refer to the FIP policy in Appendix A.

Before considering adopting a municipal law enforcement policy, it is worthwhile to summarize local governments' requirements with respect to assisting the federal government in enforcing federal immigration law. Doing so will help ensure that municipalities avoid putting their federal grant funding at risk. Put simply, local governments are under no obligation to enter into memoranda of agreement (MOAs) regarding immigration enforcement with the federal government, nor are they required to detain an individual through a federal "immigration detainer" request.

While federal law does not *require* municipalities to share immigration status information, § 1373 and § 1644 both state that municipal agencies and their employees cannot be *prohibited* from sharing such information. Although the Second Circuit has suggested those two statutes might not apply in all instances, the issue has not been fully resolved by the courts.²⁶ Thus, municipalities **should not** adopt any policies or practices that prohibit or punish voluntary disclosure of immigration status information to federal authorities.

²⁵ See Appendix A.

²⁶ See discussion at p. 8 and n. 20 above.

If your municipality is informed by a federal agency that it is ineligible to receive federal grants as a consequence of adopting the following policy, please contact your municipal attorney and the Vermont Attorney General's Office at (802) 828-3171 immediately.

In addition, if your municipality becomes aware of any allegations of unlawful discrimination or any alleged hate crimes, please contact the Vermont Attorney General's Civil Rights Unit at (802) 828-3657. You may also contact the Unit via e-mail at ago.civilrights@vermont.gov.

Cities and towns should also consult with their attorney for guidance prior to the adoption of such policies.

Principles of Municipal Law Enforcement and Cooperation and Information-Sharing with Federal Authorities

Vermont towns and cities have in interest in furthering a criminal justice system that affords protection to all people and fosters confidence and respect for our legal system. It is essential that victims and witnesses report crimes and fully cooperate in investigations; that witnesses come forward and provide testimonial and other evidence; that people report suspicious activity and other information to reduce crime and disorder; and that help is summoned when needed. Trust between law enforcement agencies and the communities they serve is therefore critical to their law enforcement mission.

To build trust with the communities they serve, Vermont law enforcement agencies have an interest in ensuring that people's confidential information is not disclosed inappropriately. Confidential information may include immigration status alongside other personal characteristics such as sexual orientation, gender identity, receipt of public assistance, national origin, physical or mental condition, status as a victim of domestic violence or sexual assault, or status as a crime witness. This list is not exhaustive. Law enforcement officers should not voluntarily disclose confidential information where such disclosure may (a) jeopardize someone's health, welfare, or safety, or (b) discourage crime victims or witnesses from cooperating with law enforcement efforts.

In light of the strong Vermont public policy against the detention and harassment of authorized visitors, immigrants, and citizens who do not have or carry certain identification documents, inquiry into and disclosure of information regarding immigration status should only occur in limited circumstances.

In light of these principles, Municipal Law Enforcement personnel should consider adhering to the guidelines set forth below. These guidelines are in addition to, and should not be viewed as a substitute for, the VCJTC model FIP Policy set forth in Appendix A. Sections below marked with a double asterisk (**) reflect provisions of the VCJTC model FIP Policy that the VCJTC identified as optional for law enforcement agencies.

It is recognized that Vermont law enforcement agencies located near the Canadian border have more frequent contact with federal customs and border authorities (e.g., United States Border Patrol). The guidelines are not intended either to impair relationships with federal border authorities, compromise officer safety, or hinder local or federal enforcement priorities. Nonetheless, even the most vigorous efforts to ensure public safety must be free of practices that may unnecessarily reduce willingness to cooperate with law enforcement efforts. Such sentiments can serve to hinder the overall mission of protecting public safety.

Municipal Law Enforcement Involvement in Enforcement of Immigration Law

Purpose and Policy: Immigration is a federal policy issue between the United States government and other countries, not local or state entities and other countries. Absent formal agreements with federal immigration agencies, federal law does not grant local and state agencies authority to enforce civil immigration law. Similarly, state law does not grant local and state agencies authority to enforce the civil immigration laws. Therefore, it is the policy of [Municipality/Department] that:

1. [Law Enforcement Officers] shall not stop, question, interrogate, or detain any individual solely for the purpose of enforcing federal immigration laws.
2. [Law Enforcement Officers] shall not inquire about the immigration status of crime victims, witnesses, or others who call or approach the police seeking assistance where such an inquiry is not germane to the investigation of a crime. Where such inquiries are appropriate (e.g., investigations of suspected human trafficking or of hate-motivated crimes), officers should explain the reasons for making them, unless doing so would compromise the investigation or officer safety.
3. [Law Enforcement Officers] shall not use an individual's personal characteristics as a reason to ask about, or investigate, a person's immigration status. [Law Enforcement Agency members] may inquire about immigration status only when it is necessary to the ongoing investigation of a criminal offense.

4. Law enforcement personnel who interact with crime victims whose presence in the United States is currently unauthorized should be aware that there may be immigration relief available based on a person's status as a crime victim and inform them that resources may be available.
5. Given competing state and local investigative and prosecutorial priorities, [Law Enforcement Officers] shall not dedicate time or resources to the enforcement of federal immigration law.
6. ** Unless ICE or CBP agents have a criminal warrant, or [Agency members] have a legitimate law enforcement purpose exclusive to the enforcement of immigration laws, ICE or CBP agents shall not be given access to individuals in [Agency's] custody, and [Agency members] shall not expend public time or resources responding to ICE or CBP inquiries or communicating with ICE or CBP by providing information beyond what is available to the general public under open records laws.**
7. Nothing in this Policy shall preclude any Municipality, department, agency, commission, officer or employee from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:
 - a) Sending such information to, or requesting or receiving such information from, the ICE and CBP;
 - b) Maintaining such information;
 - c) Exchanging such information with any other federal, state, or local government entity.

Response to Federal Immigration Detainer Requests

Purpose and Policy: The Vermont Constitution provides that no person shall be arrested and detained unless upon a warrant or pursuant to an exception to the warrant requirement.

1. [Law Enforcement Officers] should not enforce an ICE detainer from a federal agency to detain or transfer an individual for immigration enforcement or investigation unless the request is accompanied by a judicial warrant or a recognized exception to the warrant requirement.
2. ** [Law Enforcement Officers] shall not arrest or detain any individual based on a civil immigration warrant, including DHS Forms I-200, I-203, I-205, and any administrative warrants listed in the National Crime Information Center Database (NCIC). These federal administrative warrants have not been reviewed by a judge or any neutral magistrate. Moreover,

federal regulations direct that only federal immigration officers can execute such warrants. Finally, Vermont law enforcement agencies do not have any authority to enforce civil immigration law.**

3. If a detainer is accompanied by a judicial warrant, the detainer and warrant shall be provided to the individual named in those documents. The named individual shall be given an opportunity to consult an attorney.

Responsibility Regarding Sharing Information With Federal Immigration Law Enforcement Agencies

Purpose and Policy: It is the policy of [Municipality/Department] to cooperate with federal law enforcement whenever doing so is consistent with state law or required by federal law. However, recognizing the limited resources of each agency, [Municipality/Department] resources shall not be used solely for the purpose of collecting information for federal immigration enforcement agencies or local agencies carrying out immigration enforcement activities.

1. [Municipality/Department] shall not use funds, personnel or resources to collect any information regarding an individual's immigration status unless necessary to an ongoing criminal investigation.
2. Nothing in this policy shall be interpreted to prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.
3. [Law Enforcement Officers] may not be prohibited or in any way restricted from providing information regarding the immigration status of any individual to federal immigration authorities or maintaining such information. In disclosing the immigration status of an individual to federal immigration authorities, the [Municipal / Department] employee making the disclosure should make a record that specifically articulates whether the information was requested by federal immigration authorities, and if, so:
 - a) whether disclosure of that individual's immigration status to federal authorities was in the public safety interests of the community, and if so, how;
 - b) whether disclosure advanced the agency's essential mission to serve and protect equally all individuals who are present in the community, and if so, how; and

- c) the anticipated effect of disclosure on any ongoing investigation involving that individual.

Nothing in this policy shall prohibit any employee or agency from responding to or providing information pursuant to a valid judicial subpoena.

VERMONT CRIMINAL JUSTICE TRAINING COUNCIL
FAIR AND IMPARTIAL POLICING POLICY

PURPOSE

The purpose of this policy is to communicate the requirement that all [agency or department] conduct policing in a fair and impartial manner, to clarify the circumstances in which officers can consider personal characteristics when making law enforcement decisions and to reinforce processes and procedures that enable us to provide services and enforce laws in an equitable and impartial way.

POLICY

Employees are prohibited from engaging in biased policing. This means no member of [this agency] shall take actions based on any personal characteristics, except as described below, in the services our employees provide to the community in connection with our law enforcement activities. To achieve this objective [agency or department] will implement a combination of best practices including but not limited to: hiring, in-service training, policy development, supervision, reporting and investigative processes, appropriate discipline, and community outreach/partnerships.

CONTENT

I. Definitions

“Biased policing” is conduct by law enforcement officers motivated by an individual’s actual or perceived or self-identified personal characteristics.

“Personal characteristics”: May include but is not limited to actual or perceived identity, race, ethnicity, national origin, color, gender, sexual orientation, gender identity, marital status, mental or physical disability, age, religion and socio-economic status.

“Immigration status”: Refers to an individual’s lawful or unlawful presence in this country.

“Reasonable suspicion”: Suspicion, for which an officer can articulate factual reasons, does not need to rise to the level of probable cause.

“Probable cause”: Facts or circumstances that would lead a reasonable person to believe that a crime has been committed, or is being committed, or is about to occur.

“Member” or “employee”: any employee employed by [agency/department], regardless of their assigned tasks or duties.

II. Policing Impartially

- A. As required by statutes, Chapter I, Article 11 of the Vermont Constitution and Amendment IV of the United States Constitution, all enforcement actions by law enforcement officers, such as investigation, detentions, traffic stops, arrests, searches and seizures, etc. must be based on reasonable suspicion, probable cause or other required legal standards.
- B. [Agency members] must be able to articulate specific facts, circumstances, and conclusions which support the required standard for a given enforcement action.
- C. [Agency members] may take into account reported race, ethnicity or other personal characteristics of persons based on credible, reliable, locally relevant information that links a person of specific description to particular criminal incidents.
- D. [Agency members] should comply with Title VI of the 1964 Civil Rights Act and utilize professional interpreter services either in person or telephonically when necessary to speak with a person with limited English proficiency.
- E. Under federal and state law, law enforcement agencies are required to provide qualified interpretation services to any person in need of it. [Agency members] shall not contact federal authorities for interpretation services, unless a clear emergency requires it and licensed interpretation services are not available through any other means. Unless one of the exceptions included in Section VIII applies, the [agency member] shall not ask about the immigration status of the person for whom interpretation is required.

III. Community Relations

To cultivate and foster transparency and trust, each [agency member] shall do the following when conducting pedestrian and vehicle stops or otherwise interacting with the public:

- A. Be courteous and professional;
- B. Introduce him/herself to person (providing name and agency affiliation), and state the reason for the stop as soon as practical unless providing this information will compromise officer or public safety;
- C. Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense and that the person understands the purpose of reasonable delays;
- D. Provide [agency member's] name verbally when requested. [Agency members] may also provide the information in writing or on a business card.

In addition to the above, officers should answer relevant questions the person may have if doing so will not compromise safety and/or the investigation.

IV. Responding to Bias-Based Reports or Reports Regarding Bias from the Community

- A. If any [agency member or employee] receives a call for service that appears to be based solely on an individual's perceived personal characteristics or immigration status, the [agency member] will attempt to ascertain if there are other circumstances or facts that would constitute reasonable suspicion or probable

cause. If the complainant can offer no further information, the complainant will be advised that the shift supervisor will be in contact at the first opportunity.

- B. The shift supervisor should attempt to familiarize the caller with the [agency or department] Fair and Impartial Policing policy. If the caller is concerned about the person's perceived immigration status, the caller should be referred to federal authorities.
- C. At the conclusion of the call, the shift supervisor will document the contact using [agency's] incident report system.
- D. If an [agency member] receives a report of a potentially biased or hate-motivated incident, [agency] shall either dispatch an officer to evaluate the complaint or refer the caller to the officer in charge.

V. Due Process and Immigration Enforcement

- A. Building trust between police and all residents is vital to the public safety mission of [Agency]. Policing in a fair and impartial manner is essential to building such trust. Therefore, [Agency members] shall not use an individual's personal characteristics as a reason to ask about, or investigate, a person's immigration status. [Agency members] may inquire about immigration status only when it is necessary to the ongoing investigation of a criminal offense.
- B. Immigration is a federal policy issue between the United States government and other countries, not local or state entities and other countries. Federal law does not grant local and state agencies authority to enforce civil immigration law. Similarly, state law does not grant local and state agencies authority to enforce civil immigration laws. [Agency members] shall not dedicate [agency] time or resources to the enforcement of federal immigration law where the only violation of law is presence in the United States without authorization or documentation.
- C. The Constitution's 4th Amendment Right against unreasonable search and seizure applies equally to all individuals residing in the United States. Therefore, [agency members] shall not initiate or prolong stops based on civil immigration matters, such as suspicion of undocumented status. Similarly, [agency members] shall not facilitate the detention of undocumented individuals or individuals suspected of being undocumented by federal immigration authorities for suspected civil immigration violations.
- D. "Administrative warrants," "immigration detainers," and "requests for notification" issued by Immigration and Customs Enforcement (ICE) have not been reviewed by a neutral magistrate and do not have the authority of a judicial warrant. Therefore, [agency members] shall not comply with such requests.

VI. Training and Compliance

- A. The [agency/department] will ensure that, at a minimum, all members and employees are compliant with Council and legislative requirements regarding fair and impartial policing training.
- B. Additional trainings may include but not be limited to instruction on anti-bias, power and privilege, non-English speaking communities, undocumented communities, and victim/witness services.
- C. Violations of the policy shall result in appropriate disciplinary action as set forth in the [agency's/ department's] rules and regulations.

VII. Accountability and Supervision

- A. Accountability is a vital element of policing. Police agencies are better able to achieve the goals of protecting the public safety, enhancing the quality of neighborhood life, and serving community needs if the communities they serve trust them. The process for making a complaint shall be readily available to the public.**
- B. All members of this agency are required to promptly report allegations, complaints or knowledge of biased policing or suspected violations of this policy to their supervisor and the department's internal investigation function. Where appropriate, employees are required to intervene at the time the biased policing incident occurs.**
- C. Shift supervisors will accept any complaint from the public regarding any provision of this policy and shall follow the agency's procedure for handling citizen's complaints.**
- D. Supervisors shall ensure that all employees in their command are familiar and in compliance with the content of this policy. Supervisors will be alert and respond to indications of potential biased policing.**

VIII. Additional Guidance Regarding Due Process and Immigration Enforcement

A. VICTIM AND WITNESS INTERACTION

The following guidelines are based on best practices and offer guidance on how to best support crime victims/witnesses and to ensure procedural justice and enhance trust between the police and community.

- a. Federal law does not require law enforcement agencies to ask about the immigration status of crime victims/witnesses. It is essential to the mission of the [agency/department] that victims report crimes and fully cooperate in investigations; that witnesses come forward and provide testimonial evidence; that persons report suspicious activity and other information to reduce crime and disorder; and that help is summoned when needed. These activities must be undertaken without hesitation and without fear that the victim, witness, or reporting person will be subject to prosecution or deportation for no reason other than immigration status.**
- b. To effectively serve immigrant communities and to ensure trust and cooperation of all victims/witnesses, [agency members] will not ask about, or investigate, immigration status of crime victims/witnesses unless the victim/witness is also a crime suspect and immigration status is necessary to the criminal investigation. [Agency members] will ensure that individual immigrants and immigrant communities understand that full victim services are available to documented and undocumented victims/witnesses. [Agency members] should communicate that they are there to provide assistance and to ensure safety, and not to deport victims/witnesses and that [agency members] do not ask victims/witnesses about their immigration status nor will**

they report immigrants or the immigration status of victims/witnesses to the Department of Homeland Security.

- c. Therefore, [Agency members] will act first and foremost in the best interests of our community and our mission when dealing with undocumented foreign nationals who come to the agency/department for help or to make reports, giving full priority to public safety and justice concerns.

B. IMMIGRATION STATUS:

- a. [Agency member's] suspicion about any person's civil immigration status shall not be used as a basis to initiate contact, detain, or arrest that person. The exception to this would be in those instances where the agency member is working with Federal partners in the Stone Garden program or similar Federal initiatives.
- b. [Agency members] may not inquire about a person's civil immigration status unless civil immigration status is necessary to the ongoing investigation of a criminal offense. It is important to emphasize that [Agency] should not use a person's characteristics as a reason to ask about civil immigration status.
- c. [Agency members] shall not make warrantless arrests or detain individuals on suspicion of "unlawful entry," unless the suspect is apprehended in the process of entering the United States without inspection. Arrest for "unlawful entry" after a person is already within the United States is outside the arrest authority of Vermont officers.

C. ESTABLISHING IDENTITY:

- a. [Agency members] may make attempts to identify any person they detain, arrest, or who come into the custody of the [Agency].
- b. Acceptable forms of identification, which must include a photograph of the individual, include, but are not limited to driver's licenses from any U.S. state or foreign country, government-issued IDs by a U.S. jurisdiction, foreign passports, and consular ID cards. An individual should not be stopped or detained solely for the purpose of establishing his or her identity. [Agency members] may utilize federal databases in attempts to establish an individual's identity. [Agency members] shall utilize federal databases in attempts to establish an individual's identity only when all other attempts to identify the person have failed. Contact with federal authorities made to determine an individual's identity is restricted to the purpose of determining his or her identity.

D. CIVIL IMMIGRATION WARRANTS:

- a. [Agency members] shall not arrest or detain any individual based on a civil immigration warrant, including DHS Forms I-200, I-203, I-205, and any administrative warrants listed in the National Crime Information Center Database (NCIC). These federal administrative warrants are not valid warrants for Fourth Amendment purposes because they are not reviewed by a judge or any neutral magistrate. Moreover, federal regulations direct that only federal immigration officers can execute said warrants. Finally, Vermont law enforcement agencies do not have any authority to enforce civil immigration law.

E. RESTRICTIONS ON COLLABORATION WITH FEDERAL IMMIGRATION OFFICERS:

- a. [Agency members] shall not contact CBP or ICE for assistance on the basis of a suspect's or arrestee's race, ethnicity, national origin, or actual or suspected immigration status.
- b. **[Agency members] shall not prolong any stop in order to investigate immigration status or to allow CBP or ICE to investigate immigration status.**
- c. **Sweeps intended solely to locate and detain undocumented immigrants shall not be conducted unless acting in partnership with a Federal agency as part of a formal partnership.** [Agency members] are not permitted to accept requests by ICE or other agencies to support or assist in operations that are primarily for immigration enforcement.

F. USE OF RESOURCES:

- a. [Agency members] shall not hold for or transfer people to federal immigration agents unless the federal agents provide a judicial warrant for arrest. An immigration detainer (Form I-247, I-247D, I-247N, or I-247X) is not a warrant and is not reviewed by a judge, and therefore not a lawful basis to arrest or detain anyone. Valid criminal warrants of arrest, regardless of crime, shall not be confused with immigration detainers. This General Order does not affect the proper handling of arrests and detentions associated with criminal arrest warrants.
- b. Unless ICE or Customs and Border Patrol (CBP) agents have a criminal warrant, or [Agency members] have a legitimate law enforcement purpose exclusive to the enforcement of immigration laws, ICE or CBP agents shall not be given access to individuals in [Agency's] custody, and [Agency members] shall not expend public time or resources responding to ICE or CBP inquiries or communicating with ICE or CBP by providing information beyond what is available to the general public under open records laws.
- c. **Citizenship, immigration status, national origin, race, and ethnicity should have no bearing on an individual's treatment in [Agency's] custody. Immigration status or perceived immigration status, including the existence of an immigration detainer, shall not affect the detainee's ability to participate in pre-charge or police-initiated pre-court processes. Furthermore, immigration status or perceived immigration status shall not be used as a criteria for citation, arrest, or continued custody Rule 3 of the Vermont Rules of Criminal Procedure.**

STATE OF VERMONT

Criminal Justice Training Council

SEARCH

CONTACT

MODEL FAIR AND IMPARTIAL POLICING POLICY

This FIP policy was approved by the Council at its regular meeting on 12-07-2017, and replaces all other versions of the policy. Agencies are required, by March 1, 2018, to adopt every provision of this policy verbatim. Agencies are free to add further language as long as it doesn't contradict any provision of this policy. Agencies wishing to retain the language in their current policy must submit that policy to the Council to have it evaluated by the Attorney General's Office for a determination regarding its compliance with the provisions of this policy.

Please contact Executive Director Gauthier with any questions concerning this policy.

[Download Model Fair and Impartial Policing Policy \(PDF\)](#)

[\(/sites/vcjtcc/files/files/Fair%20and%20Impartial%20Policing%20Policy%2012-7-2017.pdf\)](/sites/vcjtcc/files/files/Fair%20and%20Impartial%20Policing%20Policy%2012-7-2017.pdf) [Word Document \(/sites/vcjtcc/files/files/Fair%20and%20Impartial%20Policing%20Policy%2012-7-2017.doc\)](/sites/vcjtcc/files/files/Fair%20and%20Impartial%20Policing%20Policy%2012-7-2017.doc)

VERMONT CRIMINAL JUSTICE TRAINING COUNCIL

FAIR AND IMPARTIAL POLICING POLICY

PURPOSE

The purpose of this policy is to require that all [agency or department] conduct policing in a fair and impartial manner, to clarify the circumstances in which officers can consider personal characteristics, or immigration status, when making law enforcement decisions and to reinforce processes and procedures that enable us to provide services and enforce laws in an equitable and impartial way. [Agency] is required to adopt each component the Vermont Criminal Justice Training Council's model fair and impartial policing policy. [Agency] may adopt additional components.

MENU

INTRODUCTION

Employees are prohibited from engaging in biased policing. This means no member of [this agency] shall take actions based on any personal characteristics, or immigration status, except as described below, in the services our employees provide to the community in connection with our law enforcement activities.

Because partnership with Vermont residents is the most effective way to ensure public safety, maintaining the public's trust is a primary concern. To secure this trust personal characteristics, or immigration status, should have no adverse bearing on an individual's treatment in [Agency's] custody. Enforcement of civil immigration law is a federal responsibility and agencies should not engage in such enforcement except as otherwise outlined in this policy. Vermont residents are more likely to engage with law enforcement and other officials by reporting emergencies, crimes, and acting as witnesses; to participate in economic activity; and to be engaged in civic life if they can be assured they will not be singled out for scrutiny on the basis of the personal characteristics or immigration status.

To achieve these objectives [agency or department] will implement a combination of best practices including but not limited to: hiring, in-service training, policy development, supervision, reporting and investigative processes, appropriate discipline, and community outreach/partnerships.

POLICY

I. Definitions

"Biased policing" is conduct by law enforcement officers motivated by an individual's actual or perceived or self-identified personal characteristics.

"Personal characteristics": May include but is not limited to actual or perceived identity, race, ethnicity, national origin, color, gender, sexual orientation, gender identity, marital status, mental or physical disability, age, religion and socio-economic status.

"Immigration status": Generally refers to the legal rights, if any, of a non-citizen to enter or remain in this country. Examples include, without limitation, "lawful permanent resident," "temporary worker," "refugee" and "undocumented"

MENU

“Reasonable suspicion”: Suspicion, for which an officer can articulate factual reasons, does not need to rise to the level of probable cause.

“Probable cause”: Facts or circumstances that would lead a reasonable person to believe that a crime has been committed, or is being committed, or is about to occur.

“Member” or “employee”: any employee employed by [agency/department], regardless of their assigned tasks or duties.

“Federal immigration authorities”: federal agencies, departments, or employees or contractors thereof, tasked with enforcement of immigration law and border entry, including without limitation, the Department of Homeland Security (DHS), Immigration Control and Enforcement (ICE), and U.S. Customs and Border Patrol (CBP).

II. Policing Impartially

1. As required by law, all enforcement actions by law enforcement officers, such as investigation, detentions, traffic stops, arrests, searches and seizures, etc. must be based on reasonable suspicion, probable cause or other or relevant exigent circumstances, supported by articulable facts, circumstances, and conclusions that support the given action.
2. [Agency members] may take into account reported race, ethnicity or other personal characteristics of persons based on credible, reliable, locally relevant, temporally specific information that links a person of specific description to particular criminal incidents and is combined with other identifying information.
3. Under federal and state law, law enforcement agencies are required to provide qualified interpretation services, either in person or telephonically, to any person in need of it. [Agency members] shall not contact federal immigration authorities for interpretation services, unless a clear emergency requires it and qualified interpretation services are not available through any other means. Unless one of the exceptions included in Section VIII applies, the [agency member] shall not ask about the immigration status of the person for whom interpretation is sought.

III. Community Relations

MENU

To cultivate and foster transparency and trust with all communities each [agency member] shall do the following when conducting pedestrian and vehicle stops or otherwise interacting with members of the public unless circumstances indicate it would be unsafe to do so:

1. Be courteous and professional;
2. Introduce him/herself to person (providing name and agency affiliation), and state the reason for the stop as soon as practicable unless providing this information will compromise officer or public safety, or a criminal investigation;
3. Ensure that a detention is no longer than necessary to take appropriate action for the known or suspected offense and the [agency member] conveys the purpose of the reasonable delays;
4. Provide [agency member's] name verbally when requested. [Agency members] may also provide the information in writing or on a business card;
5. In addition to the above, officers should answer relevant questions the person may have if doing so will not compromise safety and/or the investigation.

IV. Responding to Bias-Based Reports or Reports Regarding Bias from the Community

1. If any [agency member or employee] receives a call for service that appears to be based solely on an individual's perceived personal characteristics or immigration status, the [agency member] will attempt to ascertain if there are other circumstances or facts that would constitute reasonable suspicion or probable cause. If the complainant can offer no further information, the complainant will be advised that the shift supervisor will be in contact at the first opportunity.
2. The shift supervisor should attempt to familiarize the caller with the [agency or department] Fair and Impartial Policing policy. If the caller is concerned about the person's perceived immigration status, the caller should be referred to federal authorities.
3. At the conclusion of the call, the shift supervisor will document the contact using [agency's] incident report system.
4. If an [agency member] receives a report of a potentially biased or hate-motivated incident, [agency] shall either dispatch an officer to evaluate the complaint or refer the caller to the officer

MENU

V. Training

1. The [agency/department] will ensure that, at a minimum, all members and employees are compliant with Council and legislative requirements regarding fair and impartial policing training.
2. Additional trainings may include but not be limited to instruction on anti-bias, power and privilege, non-English speaking communities, undocumented communities, and victim/witness services.

VI. Accountability and Compliance

1. The process for making a complaint shall be readily available to the public. Reasonable efforts should be made to accommodate language barriers.
2. All [agency members] are required to promptly report allegations, complaints or knowledge of biased policing or suspected violations of this policy to their supervisor and the department's internal investigation function. Where appropriate, employees are required to intervene at the time the biased policing incident occurs.
3. State law requires all Vermont law enforcement agencies to conduct valid investigations of alleged biased law enforcement, even if the named member or employee resigns. Effective July 1, 2018, [the Agency] is required to report to the Criminal Justice Training Council instances in which officers have willfully engaged in biased law enforcement or substantially deviated from policies prohibiting such enforcement. The regulating authority may, in turn, impose sanctions up to revocation of officers' certification.[i]
4. Violations of the policy shall result in appropriate disciplinary action as set forth in the [agency's/department's] rules and regulations. Supervisors shall ensure that all employees in their command are familiar and in compliance with the content of this policy. Supervisors will be alert for and respond to indications of potential biased policing.

VII. Establishing Identity

1. [Agency members] may make attempts to identify any person they detain, arrest, or who come into the custody of the [Agency].
2. Acceptable forms of identification, which must include a photograph of the individual, include, but are not limited to, driver's licenses from any U.S. state or foreign country, government-issued IDs by a U.S. jurisdiction, foreign passports, and consular ID cards. All identification is subject to reasonable scrutiny and follow-up for authentication consistent with the provisions of this policy.
3. An individual shall not be stopped or detained solely for the purpose of establishing his or her identity. However, if the individual has already been stopped for a lawful purpose, he or she may be subject to objectively reasonable additional detention in order to establish identity (e.g., inquiry into identity during the course of a lawful traffic stop).
4. In exercising their discretion to use federal resources to establish an individual's identity, [Agency members] should remain mindful that (1) their enforcement duties do not include civil immigration enforcement and (2) [the Agency] stands by its mission to serve all Vermonters, including immigrant communities, and to ensure trust and cooperation of all victims/witnesses. Contact with federal authorities made to determine an individual's identity is restricted to the purpose of determining his or her identity, though this provision does not prohibit any communication governed by 8 U.S.C. §§ 1373 and 1744. See Section XI below.

Due Process, Immigration and Citizenship Matters

VIII. Federal Civil Immigration Law: Stops, Detention, Arrests and Administrative Warrants/ Detainers

[Agency members] do not have authority to enforce federal civil immigration law. The Constitution's Fourth Amendment and the Vermont Constitution's Article 11 right against unreasonable search and seizure apply equally to all individuals residing in Vermont.

1. [Agency members] will not inquire of a person about that person's immigration status unless it is necessary to the ongoing investigation of a criminal offense. Agency members shall not use individual personal characteristics to ask about or investigate immigration status. This directive does not apply to communications governed by 8 U.S.C §§ 1373 and 1644. See Section XI below.

2. [Agency members] shall not facilitate the detention of undocumented individuals or individuals suspected of being undocumented by federal immigration authorities for suspected civil immigration violations. This directive does not apply to communications governed by 8 U.S.C §§ 1373 and 1644. See Section XI below.
3. [Agency members] shall not initiate or prolong stops for the purpose of enforcing civil immigration matters, such as suspicion of undocumented status, nor shall they prolong stops for the purpose of allowing federal immigration authorities to conduct such investigation.
4. [Agency members] shall not arrest or detain any individual based on an immigration "administrative warrant" or "immigration detainer." These documents have not been issued or reviewed by a neutral magistrate and do not have the authority of a judicial warrant. In addition, these documents do not meet the probable cause requirements of the Fourth Amendment and Article 11 of the Vermont Constitution.
5. [Agency members] shall not hold for, or transfer people to, federal immigration agents unless the federal agents provide a judicial warrant for arrest. An immigration detainer is not a warrant and is not reviewed by a judge, and therefore is not a lawful basis to arrest or detain anyone. Valid criminal warrants of arrest, regardless of crime, shall not be confused with immigration detainers. This provision does not affect the proper handling of arrests and detentions associated with judicially-issued criminal arrest warrants.
6. In assessing whether to seek continued custody under Vermont Rule of Criminal Procedure 3, [agency members] shall not presume that undocumented individuals necessarily present a risk of flight. Instead, such judgments shall be made on the facts presented in each case, rather than made simply on the basis of immigration status. In addition, personal characteristics shall not be used as a reason to arrest someone instead of citing them, and personal characteristics shall not impact the decision on whether to seek continued custody pursuant to Vermont Rule of Criminal Procedure 3.
7. Personal characteristics and/or immigration status, including the existence of a civil immigration detainer, shall not affect the detainee's ability to participate in pre-charge or police-initiated pre-court processes such as referral to diversion or a Community Justice Center.

IX. Federal Criminal Law: Border Crossings

[Agency members] have authority to enforce federal criminal law. Unauthorized border crossings by persons who are not U.S. citizens or nationals can be a federal crime. (Generally speaking,

MENU

immigration removal is a felony.). All laws and constitutional rights applicable to criminal investigations apply to the enforcement of federal criminal law.

However, mere unauthorized presence in the country (e.g., overstaying a visa) is not a federal crime, but a civil infraction.

1. As stated in Section VIII(a), [Agency members] shall not inquire of a person about that person's immigration status unless it is necessary to the ongoing investigation of a criminal offense. Agency members shall not use individual personal characteristics to ask about or investigate immigration status. (For example, they cannot ask someone about immigration status merely on the basis race, color, or perceived national origin.) This directive does not apply to communications governed by 8 U.S.C §§ 1373 and 1644. See Section XI below. If an [agency member] is contacted by federal authorities please refer to Section XI, Collaboration with Federal Immigration Officers.

X. Victim and Witness Interaction

The cooperation of immigrant communities is essential to prevent and solve crimes and maintain the safety and security of all residents. The following provisions are intended to support crime victims/witnesses and enhance trust between the police and community.

1. [Agency and members] shall not ask about or investigate immigration status of crime victims/witnesses, except as allowed in subsections (b) and (c) below. Federal law does not require law enforcement officers to ask about the immigration status of crime victims/witnesses.
2. To effectively serve immigrant communities and to ensure trust and cooperation of all victims/witnesses, [agency members] will not ask about, or investigate, immigration status of crime victims/witnesses unless information regarding immigration status is an essential element of the crime (such as human trafficking).
3. If a victim/witness is also a suspect, [agency members] should follow the provisions in Section VII related to stops, detention and arrest and Section VIII(a) related to ongoing criminal investigations.
4. [Agency members] will ensure that individual immigrants and immigrant communities understand that full victim services are available to documented and undocumented victims/witnesses

MENU

safety, and not to deport victims/witnesses. In considering whether to contact federal authorities pursuant to 8 U.S.C. § 1373, [Agency members] should remain mindful that (1) their enforcement duties do not include civil immigration enforcement and (2) [the Agency] stands by its mission to serve all Vermonters, including immigrant communities, and to ensure the trust and cooperation of all victims/witnesses.

5. [Agency members] may, in appropriate situations, advise an individual that if they are undocumented they may be eligible for a temporary visa.[ii]

XI. Collaboration with Federal Immigration Officers

[Agency members] have no obligation to communicate with federal immigration authorities regarding the immigration or citizenship status of any individual. Two federal statutes, 8 U.S.C §§ 1373 and 1644, provide that local and state agencies and officials may not prevent or restrict their employees from communicating with other government officials (for example, ICE or CBP) regarding an individual's "citizenship or immigration status". [Agency and members] shall apply this policy in a manner consistent with the lawful operation of these two statutes.

1. Information about an individual that is outside the scope of Sections 1373 and 1644 (*i.e.*, information other than "citizenship or immigration status") should not be shared with federal immigration authorities unless there is justification on the grounds of (i) public safety, (ii) officer safety, or (iii) law enforcement needs that are not related to the enforcement of federal civil immigration law.
2. Sweeps intended solely to locate and detain undocumented immigrants without reasonable suspicion or probable cause of a crime shall not be conducted unless acting in partnership with a federal agency as part of a formal agreement entered into by the governor.
3. [Individual Agency members] are not permitted to accept requests by ICE or other agencies to support or assist in operations that are primarily for civil immigration enforcement. This directive does not apply to communications governed by 8 U.S.C §§ 1373 and 1644.
4. Unless ICE or Customs and Border Patrol (CBP) agents have a judicially-issued criminal warrant, or [Agency members] have a legitimate law enforcement purpose exclusive of the enforcement of civil immigration laws, [Agency members] shall not propose granting ICE or CBP agents access to

MENU

SAVINGS CLAUSE

Pursuant to 8 U.S.C §§ 1373 and 1644, [Agency] may not prohibit, or in any way restrict, any government agent or official from sending to, or receiving from, federal immigration authorities information regarding the citizenship or immigration status, lawful or unlawful, of any individual. [Agency] also may not prohibit, or in any way restrict, the sending, receiving, maintaining, or exchanging information regarding the immigration status of any individuals. Nothing in this policy is intended to violate 8 U.S.C §§ 1373 and 1644.

This policy was approved by the Council at its regular meeting on 12-07-2017.

[i] VT Act 56 (2016), codified in 20 V.S.A. § 2402(2) (biased enforcement as Category B unprofessional conduct), § 2403 (duty to report to Council), . § 2404 (duty to investigate) and § 2406 (Council-issued sanctions).

[ii] For example, an individual might qualify for a U, S, or T visa if they are a victim or material witness to certain serious offenses.

Contact Information

Vermont Criminal Justice Training Council

317 Academy Road - Main Building

Pittsford, VT 05763

Phone: 802.483.6228

Fax: 802.483.2343

[General Information E-mail](#)

[Webmaster E-mail](#)

Send Public Information Requests to:

Gail.Williams@vermont.gov

[Click Here For Public Records Database](#)



MENU



OFFICE OF THE VERMONT ATTORNEY GENERAL

TJ Donovan, Vermont Attorney General

 HOME

 ABOUT

 FOR CONSUMERS

 IN THE COMMUNITY

 OPEN GOVERNMENT

 NEWS/MEDIA

CONTACT PAGE

 > [Criminal Justice](#) > [Fair and Impartial Policing](#)

**COLLATERAL
CONSEQUENCES
OF
CONVICTION**

**CONDUCTED
ELECTRICAL
WEAPONS**

**COMPUTER
CRIME**

**CRIMINAL
LAW
MONTHLY**

**DOMESTIC
AND SEXUAL
VIOLENCE**

GAMBLING

GUN LAWS

**HOME
IMPROVEMENT
FRAUD
REGISTRY**

Fair and Impartial Policing

At the request of the Vermont Advisory Committee to the United States Commission on Civil Rights, the Attorney General's Office developed a proposed bias-free policing policy for Vermont law enforcement agencies. The policy was released on November 19, 2010. The proposed policy clearly states that law enforcement will treat all persons living in, visiting, or traveling through Vermont, equally, regardless of race, ethnicity, immigration status, or other personal criteria.

"This policy was developed in collaboration with law enforcement agencies and community advocates from around the state and it reflects the most fundamental concept of our democracy – that

OFFICER INVOLVED SHOOTING

government, in this case police, shall treat all people equally," said Attorney General William Sorrell.

VICTIM SERVICES

To view the policy click here.

FAIR AND IMPARTIAL POLICING

To view the Advisory Committee Report click here.

RECENT POSTS

- Honeybee Health SBN to Consumers
- The UPS Store SBN to Consumers
- J.D. England Notice of Data Breach to Consumers
- Kayne Anderson Capital Advisors, Notice of Data Breach to Consumers
- Attorney General Donovan Joins Coalition Fighting Immigration Arrests at State Courthouses

109 State St
Montpelier, VT 05609
(802) 828-3171

- Careers
- Contracts
- Policies
- Disclaimers
- Site Map

Vermont's lobbyist registration and disclosure law applies to certain communications with and activities directed at the Attorney General. Prior to any interactions with the Office of the Vermont Attorney General, you are advised to review Title 2, Sections 261-268 of the Vermont Statutes Annotated, as well as the Vermont Secretary of State's most recent guide to compliance, available at <https://www.sec.state.vt.us/e>

Social Security Administration

Retirement, Survivors and Disability Insurance

Important Information

7a

Office of Central Operations
P.O. Box 33006
Baltimore, Maryland 21290 -3006
Date: January 29, 2020
EIN: 03-6000913



0004889 00005411 1 MB 0.428 0128M5IRE5PN T17 P3



HERBERT ASHLEY DURFEE III
TOWN OF NORWICH, VERMONT
98 HYDE ROAD
GRAND ISLE, VT 05458-2116

On January 28, 2020, you requested access to one or more services of the Social Security Administration's (SSA) Business Services Online. We acknowledge your request to use Business Services Online as an authorized representative of TOWN OF NORWICH, VERMONT. Look to the following pages for instructions related to the services you requested.

Things To Remember

- Do not share your password or leave it where others can read it. If your password security is compromised, you can change it online at any time by accessing Business Services Online at <http://www.socialsecurity.gov/bsowelcome.htm>.
- If your employment with this company ends or your authorization to represent it changes, please deactivate your User ID or remove the services that you are no longer authorized to use. Your company should also notify us of any changes to your authorization status.
- If you request access to any other services that BSO provides, you will receive additional letters from the Social Security Administration explaining the services requested and the actions you must take.

Maintaining your User ID

The password you chose during the registration process will be valid for 90 days. You will be forced to change your password during the log in process if your password is older than 90 days. Passwords may contain any combination of eight alpha and numeric characters (e.g. 9580859A or frog2828). No special characters are allowed.

You can update your registration information or change your password at any time by logging into Business Services Online at <http://www.socialsecurity.gov/bsowelcome.htm>. After successfully logging in, and going to the "BSO Main Menu", select the "Account Maintenance" link.

See Next Page



Suspect Social Security Fraud?

Please visit <http://oig.ssa.gov/r> or call the Inspector General's Fraud Hotline at 1-800-269-0271 (TTY 1-866-501-2101).

If You Have Questions

If you have any questions, please call us at 1-800-772-6270 between 7:00 a.m. and 7:00 p.m. Eastern time, Monday through Friday. We can answer most of your questions over the phone. When you call, please have this letter with you to help us answer your questions. You can also e-mail your questions to employerinfo@ssa.gov or write us at the address shown on the first page of this letter.

Social Security Administration



Your employer, TOWN OF NORWICH, VERMONT, in NORWICH, VT has been notified of your request to access "Social Security Number Verification Service (SSNVS)", and "View Status, Errors, and Error Notices with Name and SSN Errors". Your employer's notice contains your activation codes. Upon approval your employer has been instructed to give you the activation code. Once you have your activation code: you must login, select Enter Activation Code(s) from the Main Menu and enter your activation code.

Your activation code will expire 45 days from the date you requested this service.

If it has been more than 10 days and your employer hasn't received your activation code, you can request to have a new one mailed by logging in and selecting "View Pending Services".

If it has been more than 45 days and your activation code has expired, you can again request this service by logging in and selecting "Request New Services".

