



**CITY OF BURLINGTON  
DEPARTMENT OF PUBLIC WORKS**

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**Steven Goodkind, P.E.**  
DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER

# MEMORANDUM

TO: PUBLIC WORKS COMMISSION  
FM: STEVEN GOODKIND, DIRECTOR  
DATE: FEBRUARY 8, 2012  
RE: PUBLIC WORKS COMMISSION MEETING

Enclosed is the following information for the meeting on February 15, 2012 at 6:15 PM at 645 Pine St, Main Conference Room.

1. Agenda
2. Addition of Handicap Spaces in Front of 208 Flynn Ave
3. 2012 Street Reconstruction Work List
4. Minutes of 1/18/12

An Equal Opportunity Employer

*This material is available in alternative formats for persons with disabilities. To request an accommodation, please call 802.863.9094 (voice) or 802.863.0450 (TTY).*



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**Steven Goodkind, P.E.**  
DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER

## MEMORANDUM

To: Martha Gile, Clerks Office  
From: Steve Goodkind, Director  
Date: February 8, 2012  
Re: Public Works Commission Agenda

Please find information below regarding the next Commission Meeting.

Date: **February 15, 2012**  
Time: 6:15 – 9:00 p.m.  
Place: 645 Pine Street – Main Conference Room

## AGENDA

### ITEM

- 1 Agenda
- 2 Public Forum – 5 Minutes
- 3 10 Min Addition of Handicap Spaces In Front of 208 Flynn Avenue
  - 3.10 Communication, J. Fleming
  - 3.20 Discussion
  - 3.30 Decision
- 4 10 Min 2012 Street Reconstruction Work List
  - 4.10 Communication, E. Demers
  - 4.20 Discussion
  - 4.30 Decision

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- 5 20 Min Water Finances & Need For FY13 Rate Increase
  - 5.10 Oral Presentation, R. Goodwin, L. Adams & S. Goodkind
  - 5.20 Discussion
  
- 6 20 Min Wastewater Finances, Need for Promissory Note & FY13 Rate Increase
  - 6.10 Oral Presentation, R. Goodwin, L. Adams & S. Goodkind
  - 6.20 Discussion
  - 6.30 Decision
  
- 7 10 Min FY 2013 Budget Update
  - 7.10 Oral Communication, S. Goodkind
  - 7.20 Discussion
  
- 8 10 Min FY 2012 Budget Update
  - 8.10 Oral Communication, S. Goodkind
  - 8.20 Discussion
  
- 9 Minutes of 1/18/12
  
- 10 Chair's Report
  
- 11 Director's Report
  
- 12 Commissioner Communications
  
- 13 Committee Reports
  
- 14 Policy Update
  
- 15 Adjournment



MEMORANDUM

February 15, 2012

**TO:** Public Works Commission  
**FROM:** Joel Fleming *Joel Fleming*  
**RE:** Handicapped Spaces in front of 208 Flynn Avenue

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**Background:**

Staff received a request from Toby Richman, a business owner in 208 Flynn Ave, for the addition of two handicapped parking spaces in front of 208 Flynn Avenue. There are 20 businesses located in this building with a mixture of uses, from retail to dining and offices. There is only one handicapped parking space on site for the building.

**Observations:**

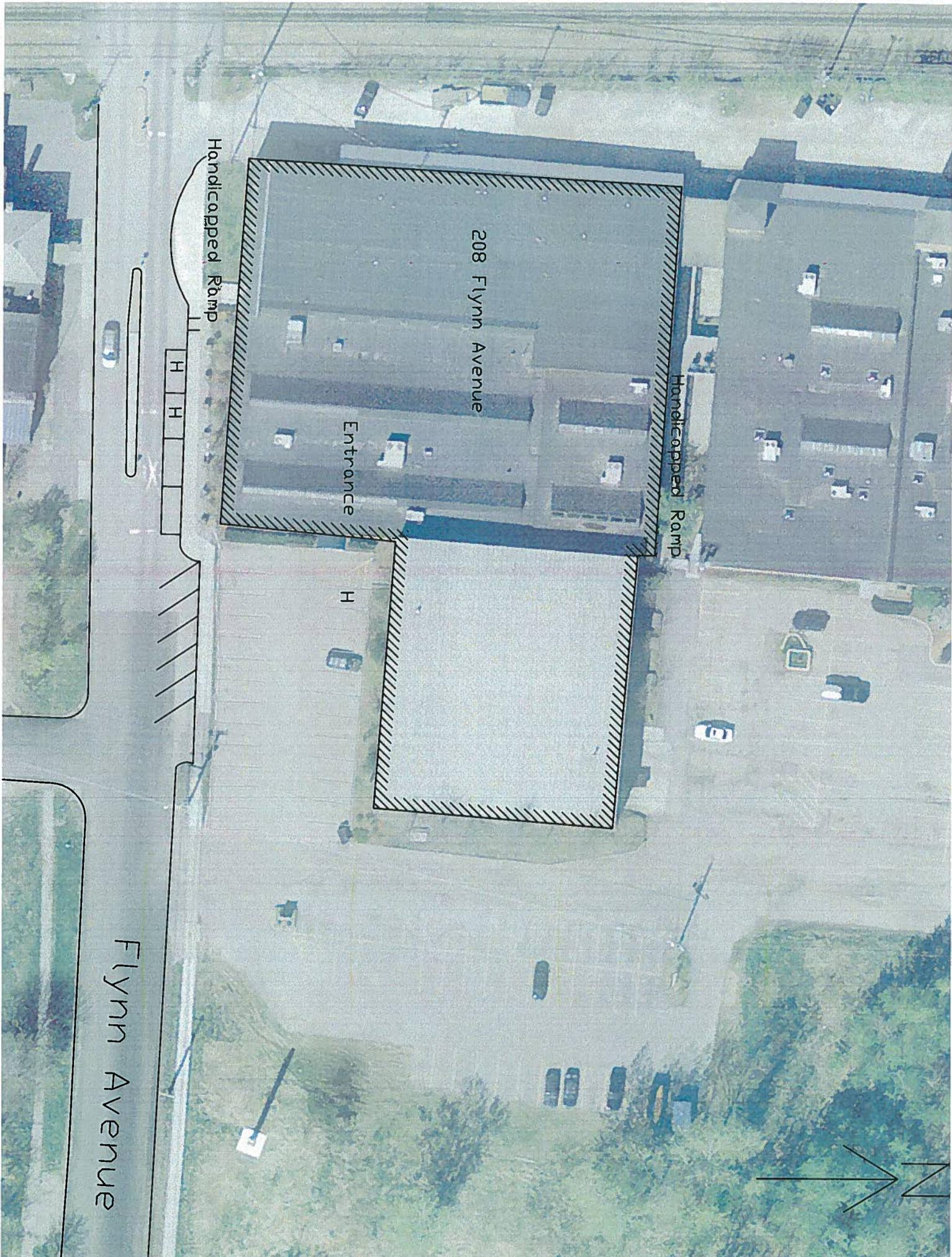
Staff sent a letter out, dated January 31, 2012 asking for feedback on adding two handicapped parking spaces in front of 208 Flynn Avenue. Staff sent it to the businesses in located at 208 Flynn Avenue, as well as putting the notice up on a bulletin board located by the front door of the building.

**Conclusions:**

Staff received no feedback against the handicapped parking spaces. Many of the responses stated that they would like handicapped parking spaces in the parking lot as well. Staff requested that the business owners request handicapped spaces from the owners of the building to get more handicapped spaces put on site.

**Recommendations:**

Staff recommends that one handicapped parking space is put in place on the street



208 Flynn Avenue

Entrance

Handicapped Ramp

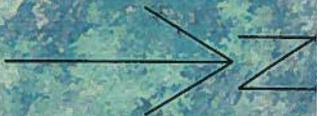
Handicapped Ramp

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H

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Flynn Avenue



## Joel Fleming

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**From:** Toby Richman <toby@tobypt.com>  
**Sent:** Tuesday, January 24, 2012 12:38 PM  
**To:** Joel Fleming  
**Subject:** handicap spaces at 208 Flynn Ave

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello Joel,

I have owned a physical therapy practice at 208 Flynn Ave for 8 yrs. Formerly, I was at 33 Kilburn Street, where I successfully petitioned the City to designate a handicap space on Kilburn Street outside of my office. Currently, there is a designated space provided by the building owners, on either side of the building in the parking lots, that are not observed I may add, near the ramps at the opposite end of the building from where my practice is located. I have had numerous complaints from patients over the years, but tried to encourage them to park and walk for their health, but now they are having to park too far away. This has been complicated recently by the new Chef's Corner Bakery in my building. They have attracted a large number of visitors, making it increasingly difficult for my patients, many of whom are recovering from various joint replacements, to find a place to park anywhere near the door. In fact, a few times my patients have given up and returned home, costing me money and time.

At this time I find it necessary and my responsibility as a rehabilitative healthcare professional to request 2 designated handicap spots to be located on Flynn Ave directly outside the door at the south end of the building. There is already a sidewalk cut/ ramp there to accommodate a wheelchair if necessary. It may be prudent to mention at this time that there is an additional physical therapy business in the building who does rehabilitation for workers comp recovery.

I appreciate your consideration and I hope you find it as necessary as my patients and I do. I look forward to your prompt response.

Thank you so much for your time!

Toby Richman, PT

**toby richman, pt/owner/polestar trained pilates instructor**  
**every woman physical therapy, plc**

also owner of **forever fit physical therapy** and **O PT**

208 flynn avenue, studio 3a

burlington, vt 05401

802.860.0356 t

802.860.2356 f

## Joel Fleming

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**From:** Bren@flynndog <bren@flynndog.net>  
**Sent:** Thursday, February 02, 2012 11:37 AM  
**To:** Joel Fleming  
**Cc:** Jeff Clarke; brickboxco  
**Subject:** HC parking at 208 Flynn Ave

Hi Joel

Jeff Clarke just advised me that you are looking for input into the possibility of providing HC parking at 208 Flynn Ave. The accessible entries are located to the east and west side of the buildings where there are gently sloped ramps that lead to the main entry of the café and public space. Perhaps a sign just to the west of the building entry at the entrance to the west parking area indicating that the accessible parking and entry are located just to the south would be the best solution.

On the other hand, many people are authorized to use HC space who are ambulatory and certainly there could be a designated space close to the doors off the 208 entry that has steps with a sign indicating that there is a ramp entry to the south (as described above).

Thank you for your time and efforts~  
Bren

**Bren Alvarez**

FLYNNDOG | 208 Flynn Ave | **south end arts district** | Burlington, Vermont | USA | 05401 |  
p: **802.363.4746** | f: 802.863.0093 | [www.flynndog.net](http://www.flynndog.net) |

## Joel Fleming

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**From:** Jeff Clarke <jclarke@jclarke.com>  
**Sent:** Wednesday, February 01, 2012 11:06 AM  
**To:** Joel Fleming  
**Subject:** 208 Flynn Ave.

Dear Joel,

I'm writing in response to your letter and the handicapped parking spaces proposed.

The building already has two handicapped ramps on the north side of the building. Seems more logical to put handicapped parking next to them. You can see the ramps in the photo you left with your letter.

I'm not opposed to the spaces in front, just doesn't make sense. Perhaps signage that directs folks to the ramps will help.

Peacefully,  
Jeff

Jeff Clarke Photography  
(802) 863-4393  
[www.jclarke.com](http://www.jclarke.com)



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STEVEN GOODKIND, P.E.  
DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER

Date: February 7, 2012

## Memo

To: DPW Commission

From: Erin Demers, E.I.T.   
Public Works Engineer  
Street Capital Program Manager

Subject: 2012 Street Reconstruction Paving List Proposed Approval

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During last month's DPW Commission meeting, I brought a status update of the Street Reconstruction Program. I have attached the "Proposed 2012 Street Reconstruction Program List" for your approval during the February 2012 meeting. This list is unchanged from last meeting, though I have updated quantities and estimate costs. I am proposing just over 3.5 miles of street reconstruction with this plan.

This list highlights next season's street reconstruction work on much needed downtown and neighborhood streets totally approximately \$980,000 of paving. The remaining funds of Fiscal Year 2013 Street Reconstruction Program of \$169,022 will be directed towards a new crack seal program on our 2008-2009 streets and carryover work from 2011.

If approved, the next steps would be to complete the full construction documents, drawings and estimates and advertise for bidding the project later this month. If you have any questions regarding the proposed street paving list for your approval, please do not hesitate to contact me directly at [edemers@ci.burlington.vt.us](mailto:edemers@ci.burlington.vt.us) or 802-863-9094.

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**PROPOSED 2012 STREET RECONSTRUCTION PROGRAM LIST**

Location	From	To	Length (Ft)	Width (Ft)	Area (Sq-Ft)
1 ADAMS ST	ST. PAUL ST	SO. UNION ST	1240	30	37200
2 CHESTNUT TERR	GLENWOOD	END	275	30	8250
3 COLLEGE ST	SOUTH UNION ST	BATTERY ST	2100	35	73500
4 DALE RD	WOODLAWN	END	1450	30	43500
5 HARDY AVE	DERWAY	WESTWOOD	1400	30	42000
6 HOME AVE	PINEST	INDUSTRIAL AVE	1200	30	36000
7 HUNGERFORD TERR	PEARL	COLLEGE	590	30	17700
8 INSTITUTE RD	NORTH AVE	ROCK POINT RD	1060	32	33920
9 KILBURN	PINE ST	ST PAUL	460	40	18400
10 JANET CIRCLE	JAMES	JAMES	898	30	26940
11 LEDGE RD	SHELBURNE ST	S PROSPECT	1800	30	54000
12 MAIN ST 1	CHURCH ST	ST PAUL	265	50	13250
13 MAIN ST 2	WINOOSKI AVE	WILLARD ST	1300	50	65000
14 OVERLAKE PARK	CLIFF ST	END	1200	22	26400
15 PEARL ST 1	WINOOSKI AVE	S. PROSPECT	2250	35	78750
16 PEARL ST 2	WINOOSKI AVE	ST PAUL	830	45	37350
17 VINE ST	BRIERWOOD	SHORE	470	30	14100
		<b>2012 PAVING ESTIMATE TOTAL</b>	<b>18,788</b>	<b>LF</b>	<b>626260</b>
		<b>CRACKSEAL PROGRAM</b>		<b>3.56</b>	
		<b>*2011 CARRYOVER WORK</b>		<b>MILES</b>	
		<b>TOTAL FY'13 PAVING BUDGET</b>			

\$980,978  
 \$100,000  
\$69,022  
 \$1,150,000

**\*2011 CARRYOVER WORK, SPRING 2012**

- \$50,000 Drew Street reconstruction
- \$10,000 Colchester Ave (Prospect to Nash) restriping
- \$3,822 North Ave @ flynn school traffic calming
- \$5,200 Starr Farm Rd - 2 rumble strips to be reconstructed
- \$69,022 TOTAL 2011 CARRYOVER

BURLINGTON PUBLIC WORKS COMMISSION  
645 Pine Street  
Minutes – January 18, 2012

**Commissioners present:** Robert Alberry, Margaret Gundersen, Nathan Lavery, Mark Porter, Maxwell Tracy and Jared Wood; **Absent:** Marc Sherman

Commissioner Alberry called the meeting to order at 6:20 pm. Vice Chair Commissioner Lavery chaired the remainder of the meeting.

**Item 1: AGENDA:** Commissioner Lavery asked if there were changes to the Agenda; no changes.

**Item 2: PUBLIC FORUM:** Commissioner Lavery invited members of the audience to come forward to speak on items NOT on the Agenda:

Evzen Holas of 55 Lyman Avenue came to the meeting to give Mr. Joel Fleming a three-page petition signed by residents in the Pine Street/Lyman Avenue/Home Avenue neighborhood asking "...to either put stop signs on Pine St, making the intersection a 4 way stop, or to install speed bumps on Pine St between Home Ave and Lyman, on the north bound lane..." This is in response to residents' concerns about traffic accidents at the Pine St. and Lyman Avenue intersection. Now that Mr. Fleming has the petition, he will contact the residents in the affected area to get a consensus on how they feel about the options. Adding a "STOP" sign to Pine Street will have a major impact and needs further exploration. Assistant Director Norman Baldwin added that Pine Street is a major thoroughfare and Lyman Avenue is a minor street; their different characteristics require different applications. Traffic isn't typically stopped (in this case, using a "STOP" sign) unless there is balanced traffic. Mr. Baldwin feels that this discussion pertains more to the interior of the neighborhood where there is more traffic balance and is not a topic that can be discussed at this meeting. Commissioner Porter asked whether the residents' request warranted action in the near future; Mr. Baldwin stated that an analysis of the area must be done.

Steve Norman, on behalf of the Walk/Bike Council and Alliance Francais of The Lake Champlain Region, requested that he be included on the February agenda. Mr. Norman is following through on the City Council resolution from last summer regarding bilingual signage and would like to work with the Commission to develop a policy statement. He also encourages updating the 2008 Wayfinding Plan. Since October 2011, Mr. Norman has attended Commission meetings, sent e-mails to the commissioners and met with Director Goodkind. The Commission agreed to add the item to the February agenda.

**Item 3: 59-61 NORTH PROSPECT APPEAL OF CODE ENFORCEMENT ORDER – EGRESS REQUIREMENTS** (William Ward, Director, Code Enforcement and Appellants Alan and Hildegard Cooke)

Mr. Tim Ahonen of Code Enforcement distributed to the commissioners and appellants, copies of a written communication (outlining what Director Ward would be commenting on tonight entitled, "Report on Appeal of 59-61 North Prospect Street" dated January 18, 2012), and photo showing a key inside the front door of the third floor unit whose purpose is to allow access to the apartment across the hall in the event of an emergency. According to Director Ward's communication to the Commission, "...The North side unit does not meet code because it requires the use of a key and it requires passing through another unit to gain access to the 2<sup>nd</sup> means of egress."

Director Ward explained that it is the responsibility of the Code Enforcement office to ensure compliance with the minimum housing ordinance for the City of Burlington, found in Chapter 18 of the Burlington City Ordinances. (Assistant Director Norman Baldwin later distributed copies of Sections 18-90 – 18-111 from the “Code of Ordinances for the City of Burlington, Vermont.”)

Director Ward reported that he was with Mr. Ahonen the day he (Mr. Ahonen) inspected the property, which is a three-story wooden structure at the northwest corner of North Prospect Street and Brookes Avenue. The listed address is 59-61 North Prospect Street and the property owners (Alan and Hildegard Cooke) are present at the meeting. The property is listed in the AMANDA database (used by Code Enforcement) as a low density zoning district, has five rental units in the building, is registered with Code Enforcement and fees are paid up to date. The previous minimum housing inspection conducted before the 2011 inspection was conducted in 2007. That folder was not closed in the Code Enforcement file, so the inspection never had a full completion. There is no record of a follow-up inspection (since that 2007 inspection) so the 2011 inspection was the first completed one in several years.

Director Ward reported that the property looked great, was painted this year, and the owners had done a substantial amount of work on the property, which Code Enforcement appreciated. During the June 21, 2011 routine minimum housing inspection, the greatest concern to Director Ward and Mr. Ahonen was that the floor unit on the north side (side of property facing North Prospect Street) did not have a 2<sup>nd</sup> means of egress, except for one primary entrance (the main door) and a key next to the inside of the main entrance to the third floor apartment, which, according to Mr. Cooke, was the key that was used by that tenant as the 2<sup>nd</sup> means of egress (see copy of photo distributed by Mr. Ahonen). Mr. Cooke had explained to Director Ward and Mr. Ahonen that in the event of an emergency, the tenant knew that if he needed to get out of the property, other than the main entryway, he would have to use that key and go through the adjoining apartment, which has, on the west/back side of the property, a 2<sup>nd</sup> means of egress (fire escape). Director Ward and Mr. Ahonen had informed Mr. Cooke that that was not standard practice and is a violation of City ordinance. Mr. Cooke had pointed out that previous inspections had not noted him of that violation. Director Ward stands by the ordinance and brought it to Mr. Cooke’s attention that “Section 18-95 – Means of egress” (see page 2 of the communication distributed by Mr. Ahonen) specifically requires that all doors requiring means of egress shall be readily openable from the inside without the use of keys and exits from dwelling units shall not lead through other units or through toilet rooms or bathrooms. Third floor units are required to have a 2<sup>nd</sup> means of egress.

Director Ward stated that he wants to have this unit a useable space and hopes for cooperation from the property owner (Mr. Cooke). Director Ward had instructed Mr. Cooke to speak with the Fire Marshall and the Building Inspector, and understands that Mr. Cooke has complied. Director Ward would like Mr. Cooke to explore the opportunity to change the building in a way that would meet the Building Inspector’s satisfaction, changing part of the area from another section of a unit that has a fire escape to create some sort of a hallway so that that second unit would not have to go through the unit but would have its own hallway to get to that back fire escape. Another option may be having it sprinkled; the sprinkler system in the building would potentially negate the problem requiring the 2<sup>nd</sup> means of egress. Director Ward had asked Mr. Cooke to work on that with the Building Inspector and the Fire Marshall; Director Ward does not know the final results of that. As it stands today, the property is in violation of that section of the ordinance. The minimum housing inspection is incomplete without the 2<sup>nd</sup> means of egress being corrected. There are no other deficiencies at the property. This needs to be closed before Code Enforcement can finish the minimum housing inspection. Director Ward reiterated that the tenant in the third floor apartment having to use a key to get to a 2<sup>nd</sup> means of egress, *and* having to go through another unit, are both *not* allowed by code. Director Ward said that while the third floor tenant without a 2<sup>nd</sup> means of egress has a key to another unit to gain access to a 2<sup>nd</sup> means of egress, there is no guarantee that the tenant whose apartment would need to be entered has not installed a deadbolt or chain on the

inside of their apartment, negating the effectiveness of the key. Additionally, the hallway that both third floor tenants go through has a common entryway: The same door that the tenant uses to go into their apartment would have to be used to get to the stairs and across the landing to get to the other apartment to access their 2<sup>nd</sup> means of egress.

Because the building requires and construction and design change, Director Ward referred Mr. Cooke to the Building Inspector, Ned Holt, to hear Mr. Holt's suggestions on acceptable options in order to meet the building code. Being an historic building adds to the challenge of deciding on an acceptable structural exterior change; another option would be to combine the two third floor units into one large unit, with the 2<sup>nd</sup> means of egress already in place.

Commissioner Gundersen recused herself from voting on this Item due to a conflict of interest: Her daughter was once a tenant of Hildegard Cooke but agrees with Director Ward that we must keep up to the fire code.

Mr. Cooke introduced himself and Hildegard Cooke as co-owners of 59-61 North Prospect Street. Number 59 is a single unit on the first floor (3 bedroom unit taking up the entire first floor). Referring to the photo of the building on Page 2 of the communication Mr. Ahonen has distributed at the beginning of the discussion, Mr. Cooke pointed out that the side entrance is the common access to Units 2 and 3 on the 2<sup>nd</sup> floor and Units 4 and 5 on the third floor. Unit 4 is the unit in question. Mr. Cooke explained that when you take that (side entrance) stairway you are at the 3<sup>rd</sup> floor level. If you take an immediate right, on your left is the door to Unit 4. The hall is approx. 4 ½' wide x 9' long, with approximately 9' between the doors of Units 4 and 5. Through that door (you can access the fire escape that exits down to the ground level on the back of the house. The key (for Unit 5) is just inside the door of Unit 4, in a picture frame under glass.

Mr. Cooke stated that "Mrs. Cooke does the leasing and the tenants have to be comfortable with this situation or we don't rent to them or they don't rent from us." He added that they are fairly strict about that, adding, "...we know there's...potentially a safety issue for people that don't cooperate."

Mr. Cooke said that he and Mrs. Cooke have owned the property for about 35 years and feel they provide very safe housing. Mr. Cooke said, "It's all written in the leases and the tenants are usually very cooperative, as these two tenants are, and they've agreed to this...in the lease, prior...to signing."

On one of the previous Code Enforcement inspections, Mr. Cooke claims that Code felt that there should be an Exit sign clearly marking the exit was put up; the Cookes have done that.

Hardwired battery back-up carbon monoxide smoke detectors are in all units. Mr. Cooke changes the batteries on request. If there is any failure in smoke detectors or carbon monoxide detectors, it is taken care of right away. They are a nuisance in some cases and we're in the apartments doing maintenance on a fairly regular basis. Mr. Cooke makes sure that they aren't tampered with and said that if he finds that one of the detectors is disabled, he would call Director Ward.

One the 3<sup>rd</sup> floor area, there are 3 fire extinguishers (1 in each apartment and 1 in the hall). They are inspected annually by D&M Fire and Safety Equipment. The halls are well-lit and tenants in the four units have switches to the hall lights in their apartments. Some of the key lights in the common use areas are on timers, which Mr. Cooke takes care of. The Cookes have property insurance and there are no outstanding fire or safety issues with them. About 3 years ago there was a thorough inspection. One item that Mr. Cooke was instructed to follow through on was the fire escape wasn't safe enough because it had too much of a gap between the top rail, middle rail and the bottom. The Cookes rectified that. Mr. Cooke

said that he and Mrs. Cooke cooperate with things that they feel are important to safety. He does quite a bit of the maintenance himself and employs a person for jobs needing more experience.

Mr. Cooke summarized that "...what we're here requesting is, we request that this...key arrangement that's been established and in practice ever since we've owned the...property, we feel that that is an acceptable safe 2<sup>nd</sup> means of egress for Unit number 4." Mr. Cooke guesses that the fire escape was put up some time in the late 30's.

Mr. and Mrs. Cooke have been working with the various departments to try to find a workable solution, but space is limited partly because of the Victorian style of the building. Because the building is historic Mr. Cooke has had to "do things just so" and does not know how he would put in a fire escape to allow a 2<sup>nd</sup> means of egress coming from the 3<sup>rd</sup> floor down. He believes "...one reasonable solution would be to sprinkle the unit that's out of compliance..." though he has heard different messages about the acceptability of sprinkling one unit vs. the whole building.

Director Ward deferred the sprinkling question to Mr. Ned Holt, Building Inspector (not present) but said having just one point of safety in a building (one sprinkled unit) would not make sense and offer much protection if the rest of the building was burning. Mr. Cooke added that there are other protections in place (smoke detectors and a fire escape for the other unit on the 3<sup>rd</sup> floor). He sees "...it as being "degrees." It's not that we don't have a 2<sup>nd</sup> means of egress; it's that we don't have one that quite meets every paragraph of the code."

Commissioner Porter pointed out the possibility of a fire in the third floor hallway; there would then be no 2<sup>nd</sup> means of egress for the tenant in Unit 4. He pointed out that having to access a common area to get to a 2<sup>nd</sup> means of egress means that if the common area becomes engulfed in flames, there would be *no* exit.

Mr. Cooke countered that he and Mrs. Cooke inspect the halls regularly and the tenants are not allowed to leave anything, including recycle bins, in the hallway (they have a closet for that purpose). Mr. Cooke said that he could not conceive how there would be a fire in the 9' hallway. Mrs. Cooke stated that she and Mr. Cooke have a "no open fire" policy; "...nobody smokes in the unit..." When Mrs. Cooke checks in tenants she gives them a talk about the responsibility of safe practices such as the safe burning of candles. Mrs. Cooke stated that their tenants are very responsible because they realize that they are responsible for their building and all the people in their house. She and Mr. Cooke are very concerned about their tenants' safety. Their practice of having the key on the inside of apartment number 4: the key has never been touched. It is under glass. The tenants meet each other if there is a new tenant. They have to agree to it before the lease is signed. The hall is only 9' to the next door and there is no obstruction in the hallway of Units 4 and 5. Unit 4 has a 24' long x 16' living room. The hallway is so small and just separated by two small closets. Unit 5 (which has access to the fire escape) has no obstruction in the hallway. The tenants know this would be an emergency exit.

Mrs. Cooke stated that they have had inspections since 1988. She feels it is an excellent solution (the key) without changing the structure of the building (she reminded the Commission that she and Mr. Cooke have to be very careful that they don't alter anything about the building, including the paint color). She does not know how putting "...another monstrosity off a huge fire escape..." or any part of the building would fit, stating that she feels the big fire escape is perfectly suitable. She feels that this has worked even before Code was enacted, and feels "...the way we have it should be now grandfathered in to an acceptable situation. It has been accepted by Code inspectors...from '88 until now... We had several inspections and the Code inspector inspected it. If the 2007 inspection is still open...pending...it was accepted then and deemed satisfactory, except for that "EXIT" sign so a person would know, "Here's an exit"...and they all accepted it. Only Mr. Ahonen found it is not an unacceptable situation...He didn't say it was unacceptable, he said he wasn't sure if it would fly...I feel it is an excellent way without

having the expense or the change-around that would be necessary to do it...If we have to put up another great structure...and we don't know where to put it – the room is just not there...it's just not a workable situation. And I feel we should not have to combine the entire upstairs because it's just not that layout. The house is beautiful. We want to preserve it for the future buyer. We have wonderful tenants who cooperate, who are responsible, and I think we have a workable solution that should just be left because the situation does not need to be repaired.”

Commissioner Gundersen repeated that she recuses herself from voting on this Item, and added that if she were looking strictly at fire code, she would have to support Director Ward's decision.

Commissioner Alberry stated that the commissioners need to look at code, and the code states that there has to be another means of egress. **Commissioner Alberry moved** to deny the appeal; Commissioner Tracy seconded. **Discussion:** Commissioner Wood questioned the Commission's authority to override Code. In response to Mrs. Cooke's request to grandfather the current situation, Commissioner Alberry said that the Commission has not grandfathered anything pertaining to the code.

Eugene Bergman introduced himself as Senior Assistant to the Attorney, saying he was present on behalf of the Commission to help with questions such as “grandfathering.” Atty. Bergman said that “...Grandfathering applies to Zoning law, land use law...It is not applicable to...life safety codes like this. It's just not a doctrine of law that can be used...Variances can be granted...if there are things that can be done that will get the equivalent fire safety. You'd have to make those determinations...giving a variance, it would have to be the...minimum...change necessary...” Atty. Bergman said that he could speak further about his analysis of that principle but recommends it be done in Executive Session.

Atty. Bergman continued, saying that these appeals come to the Commission because they are fire safety parts of the minimum housing code. There isn't in the Section on the appeals from the Building Inspector, variance language, though there is in the State Code. There IS a provision in the Housing Board of Review which is what would hear any of the appeals besides fire safety from Code Enforcement minimum housing. There is a provision there related to variances (you would make the most minor deviation from the code as is necessary and you would have to see that there is an equivalent fire safety provision that's allowed. Atty. Bergman believes that what the Cookes are asking for would be a variance, not a grandfathering. There are very clear rules related to egress that are very problematic with this particular situation.

**The Commission voted 5 – 0** in favor of denying the appeal (with Commissioner Gundersen having recused herself from voting). The Cookes requested enough time to make a good plan which would be feasible, acceptable and attractive, and would need to wait until spring. Director Ward prescribed a joint meeting with the Cookes, Director Ward and the Building Inspector, Ned Holt, with Director Ward being the contact person. Mr. Cooke requested that all parties involved in making decisions about what's acceptable/not acceptable around this Item be present at that meeting. He has been dissatisfied with responses (his calls are not always returned and he receives contradictory answers). Commissioner Gundersen told Mr. Cooke that the DPW Commission does not have authority over *all* parties involved; some of the other departments report directly to the Mayor. She suggested that he bring up his dissatisfaction with the Mayor's office, but directed the Cookes to work through Director Ward.

Mr. Cooke asked for clarification of the Housing Board Review's role in any appeal if the Cookes ask for a variance. Atty. Bergman said that they don't have a role in this particular issue as it is a fire and safety issue. The Public Works Commission is the Commission that governs the Building Inspector, Ned Holt, for consistency purposes.

**Item 4: 19-21 NORTH STREET VACANT BUILDING APPEAL** (William Ward, Director, Code Enforcement and Appellant)

Mr. Alfred Lunde distributed copies of 21 black and white photos taken on January 18, 2012, of the interior and exterior of 19-21 North Street. Mr. Lunde also distributed copies of a 6-page packet containing: 1) Memo to Alfred W. Lunde from the City of Barre, Vermont, dated January 16, 2012; 2) Property Activity Summary Report as of December 19, 2011; 3) Letter to Ms. Linda Ayre (Ayer) from Nel Lunde, dated October 21, 2011; 4) Letter to Administrator, Dept. Public Works, from Nelberta B. Lunde, dated October 22, 2011; 5) Letter to Ms. Linda Ayer, Code Administrator, from Nelberta Brink Lunde, dated October 22, 2011; and 6) Letter to Ms. Linda Ayer, Code Administrator, from Nelberta Brink Lunde, dated December 7, 2011.

Director Ward distributed copies of 3 color photos taken on January 18, 2012, of the exterior of 19-21 North Street, and “Vacant Building Ordinance Fact Sheet.” He introduced himself and stated that, under the City ordinances, the Code Enforcement office is authorized by ordinance and by agreement with the Department of Public Works, to administer the Vacant Building Program. The property of 19-21 North Street was placed on Code Enforcement’s “check building” list after a fax led them to believe that it may not be occupied. The City records indicated that it hadn’t been used as a registered rental in a number of years, and a check with City departments indicated no water usage. There was also a report of an abandoned vehicle in the back of the property, so on September 30, 2011, Director Ward was at the property with Mr. Ahonen. Director Ward referred the Commission to the picture of the abandoned vehicle left in the backyard; it had flat tires and Director Ward understood it was inoperable. He also found in the backyard something else that concerned him: a brick-lined hole partially filled with sand (as described in his written comments forwarded to the Commission with their meeting packets). Director Ward put the plywood back over the top of the hole. He hopes Mr. Lunde would inform him what the hole is for, as neither he nor Building Inspector Ned Holt know its purpose.

The history on the property: Two-story wooden structure located on North Street between the Opportunities Credit Union and the Olde Northender Pub. It’s listed in the AMANDA database as an “R3,” meaning it is zoned as a three-family property. The City Assessors list it with a building value of \$97,400 and land value of \$101,600. The property was registered and inspected through the 1980’s, 1990’s and early 2000’s.

The owner sent a notice to the Department of Public Works on March 31st (as recorded in the AMANDA database), indicating that the property would no longer be used as a rental as of that date. Also recorded in the AMANDA database is a “vacant building” permit application dated July 1, 2004 indicating that the owner was renovating the property and expected the period of vacancy to be six months total, the fee being \$1,000. There is a letter in the file from the property owner’s attorney dated July 6, 2004, which states, “...Please find the \$1000 check and the vacant building permit for Nelberta Brink. With the receipt of these items, please drop the charges against my client per our agreement...” Director Ward reports that there is no record of follow-up in the database indicating what follow-up took place following the receipt of the attorney’s letter, no permit activity indicating that the property became a rental again or used for any other purpose.

Director Ward stated that he determined whether the property was or was not vacant was based on the following facts:

- Director Ward went to the property on September 30<sup>th</sup>. He and Mr. Ahonen knocked; no one answered and it appeared that no one was there. They left a message for the property owner at the number that Code had listed in their database, informing the owner that they had been there.
- A check of the City Water Department revealed that there had not been any water usage on that property for at least three years.

- A check on the electric consumption indicated minimal usage. (Dates of utility usage are on record for the last two years.) Director Ward noted that according to the Vermont Department of Public Service, the average household consumption of energy in Vermont is about 750 kilowatts per month.
- Code Enforcement notified the property owners that they were subject to the “vacant building” notice, sent to them on October 12, 2011, indicating that it was Director Ward’s determination that the building was vacant and subject to the “vacant building” ordinance. The letter sent by Code indicated that they had scheduled an inspection for October 27<sup>th</sup>. The owner responded in writing that the inspection was not acceptable to them, with no provision to meet with Code or have a further discussion. An inspection of the exterior *only* was conducted on October 27<sup>th</sup> by Director Ward and Mr. Ahonen, (the owner was not present) to see if anyone was at the property that day. The only significant finding was that the inoperable vehicle that had been in the backyard as of September 30<sup>th</sup> was no longer there. Mr. Ahonen completed a “vacant building inspection check sheet” during the inspection on October 27<sup>th</sup>.
- Director Ward stated that, generally, the building was in “okay” shape and secured (a main factor for the Code Enforcement office). However, the exterior trim and painted surfaces displayed a large amount of peeling and chipped paint, which is a violation of the City ordinance. The building was built prior to 1978 so it is subject to the lead ordinance: you can’t have more than one square foot of peeling, chipped painted surfaces.
- The other concern noted by Director Ward is the subterranean brick vault that was just covered by a piece of plywood, which appeared to be 80-90% full of sand.
- Entries made in the database by Building Administrator Linda Ayer (who handles vacant buildings for the office of Code Enforcement) noted that Mr. Alfred Lunde came to the office on October 24, 2011 with a blank application and a letter from Nelberta Brink Lunde stating that she was appealing the “vacant building” notice dated October 12<sup>th</sup>. Mr. Lunde stated that he uses the apartment when he is in town and brings spring water from the town of Williamstown. That addressed one of Code’s questions about City department records showing no water usage (indicating the building being not fit for human habitation).
- The City Assessor’s Office lists the address of record for the property owner as Barre (Vermont), to which Code sends the Lundes’ correspondence.
- The property is not registered as a rental and Code has no knowledge of it being rented or occupied by anyone, though Director Ward admits not having directly communicated with either property owner to confirm this. He expressed a desire for good communication, stating it is an essential component to administering the “vacant building”.

Commissioner Lavery invited questions from the Commission. Commissioner Gundersen said that it (one of the pictures) makes the property appear as though it has four apartments. Director Ward admitted to having never been inside and agreed with the commissioner, yet referred to the listing in the AMANDA database as “R-3.” Director Ward said that it was possible that at one time the building was owner-occupied, with three rental units, and hoped that that question could be cleared up. The next step would be to ask for Ken Lerner from the Planning and Zoning Office to assist Code Enforcement with that determination. Director Ward further stated that there were three rental units at one point, and if they will no longer will rental units, there should be a “change of use” on record with Planning and Zoning.

Director Ward witnessed no activity on the property during his visits during the months of September through November. He called attention to two photographs submitted earlier in the meeting, of two black Hefty bags at the back steps of the property (one photograph was dated December 9, 2011; the other, January 18, 2012). At some point in November a spare tire appeared on the front steps of the property, remaining there through most of December. There was a snowstorm on December 8<sup>th</sup>, and Director Ward noted that the tire was still there, and there were no footprints leading to the front steps or back steps (he

has photographs dated December 8<sup>th</sup>). On January 3<sup>rd</sup>, Director Ward noted that the tire had been removed.

Commissioner Lavery invited Mr. Lunde to speak. Mr. Lundy distributed copies of photos he took on this day, of the inside of the property, where he said he lives (see 1<sup>st</sup> paragraph of this Item). He introduced himself as Alfred Lundy, co-owner of the building, and living at 21-B North Street, the upstairs apartment on the right side. Mr. Lunde said that there is one apartment on the west side of the building and two apartments on the east side; one downstairs and one upstairs (there are two floors).

Mr. Lunde said that the item Director Ward is concerned about behind the building is what appears to be an old cistern that was filled with sand, which then settled. He said that he needed to put more sand on it. Mr. Lunde said that that was supposed to be taken care of last summer or fall, in addition to touching up some of the trim paint (the building is covered in vinyl, sided about ten years ago). He had contracted the work last summer, and people were working there last fall on the exterior of the building. The decks were painted and only some of the trim; the weather conditions prohibited the work from continuing.

Mr. Lunde stated that Nel (Nelberta Brink Lunde) owns a house in Barre, where he used to live. "...She was the original/only owner of the building." She received a letter from Ms. (Linda) Ayer from the City indicating it (the North Street property) was a vacant building and she needed to pay \$500. At Ms. Lunde's request, Mr. Lunde went to the Code Enforcement office to get things straightened out. He said that Ms. Ayer thought that the North Street property was a multi-family building and was asking him for a form that is supposedly sent annually to owners of apartment buildings. Mr. Lunde said that he told Ms. Ayer it was not an apartment building and "...it hadn't been for a long time..." Further, he stated that "they" took it off in '04, referring the Commission to the 2<sup>nd</sup> page of one of his handouts ("Property Activity Summary Report as of 12/19/11"). Because he was managing the property, he had "...sent in forms that said that it was no longer..." (a rental property) but "...they kept sending forms..." Mr. Lunde said that he knew "...he sent in at least two forms telling them it was now a residence." He finally wrote "them" a letter and said it was a residence and "they" stopped sending the forms. Mr. Lunde assumed that the day "they" received his letter and recorded that the property was no longer a rental property was the date on the above-mentioned "Property Activity Summary Report...": April 5, 2004.

Mr. Lunde referred the Commission to the 1<sup>st</sup> page of one of his handouts, a copy of the letter from the City of Barre dated January 16, 2012, verifying that "...the statewide voter checklist indicates you were purged from the Barre City checklist on February 26, 2003. He said that he has been a Burlington voter since that time.

If this building is determined to be a vacant building, Mr. Lunde said that, "...from our point of view...for one thing it would cancel the insurance because you can't...insure a vacant building." If he is not a resident of Burlington, he would not have been allowed to vote in Burlington. After reading information on vacant buildings, he feels that his property should not be considered one.

When Mr. Lunde stopped in and spoke with Ms. Ayer at the Code Enforcement office and asked her if he should appeal "it," she wasn't clear. He had come prepared to appeal, and did so. He told Ms. Ayer that they (he and Ms. Lunde) were considering selling that building, "...so it really perhaps isn't an issue to begin with...because it was going to go on the market as far as we knew..." Mr. Lunde said that he gave Ms. Ayer the name of the realtor he had spoken to (Steve Lipkin), and he and Ms. Lunde are in the process of listing it.

Mr. Lunde claims he was working with Ms. Ayer to try to reclassify the building as "...not a multi-family building..." but as a residence like it supposedly had been. He referred the Commission to the copy of the letter dated October 26, 2011 (5<sup>th</sup> page in packet) wherein Ms. Lunde claims the reclassification (of

public building) was erroneous. He claims that Ms. Ayer said she was working on information on record in Code Enforcement.

Mr. Lunde stated that he had not been using City water for “quite a while.” He and Ms. Lunde have an old farmhouse in Williamstown and they “...just haul the water all the time...” Mr. Lunde said that he has cancer and is reluctant to use the public water supply because of toxins such as chloride and fluoride, so he just uses the farm water. He said that the City contacted Ms. Lunde because they wanted to check the water meter to make sure it was working properly but does not know the status. He explained that when he uses the City water, he activates a ball valve in order to tap into the water supply, but it is off most of the time. He said that the contractors should have used City water last fall to scrub down parts of the building as they worked on it.

Mr. Lunde said that the last electricity bill “...was over \$100 for the apartment I was in...” He clarified that he is in 21-B (there is also a 21-A).

Ms. Lunde sent a letter to Ms. Ayer on December 7<sup>th</sup> since neither she nor Mr. Lunde had received a response to Ms. Lunde’s letter dated October 26<sup>th</sup>. Mr. Lunde called attention to the notes he jotted on the copy of Ms. Lunde’s December 7<sup>th</sup> letter, one of which indicated that “...Ayer was directed by Bill not to respond because it was turned over to Norm Baldwin. Public Works was responding...” Mr. Lunde’s note had not been completed. He claims that he asked Ms. Ayer about a hearing on the 12<sup>th</sup> but doesn’t recall getting a response.

Mr. Lunde began to read another note on the same letter, but Commissioner Lavery interrupted, asking Atty. Bergman if the timing of the correspondence was pertinent; Atty. Bergman admitted he did not see the relevance to whether the building was occupied, and asked cameraman Charlie Giannoni to confirm that Mr. Lunde’s comments were audible for purposes of the record (Mr. Lunde later verified that Mr. Lunde’s mic was picking up his comments). For expedience sake, Atty. Bergman advised the Commission to determine the times Mr. Lunde has been living at the property; the frequency; and if there has been another case similar to this one (he cited a case on Archibald Street which has been upheld in the Superior Court, related to a person who had two residences). He encouraged them to get the facts on the record so that they have a full factual record from which they can make a decision.

Commissioner Gundersen asked Atty. Bergman if there is a record of a “change-over” when a commercial property becomes a residential property. She referred to Mr. Lunde’s photos which indicate that part of the building was being used as office space. Atty. Bergman said that that was a Zoning issue, and questioned the relevancy of whether that would satisfy the determination of being a vacant building. However, he noted that a change of use from residential to commercial use would require a Zoning Permit, in his opinion. Commissioner Gundersen also asked whether the recent reappraisal would show the status of the building. Atty. Bergman did not know, and advised that not every building was entered in order to perform a full appraisal. The commissioner finally asked whether it was permissible for a property owner to deny access to City officials, including Code Enforcement officials. Director Ward answered, saying that his office could get a search warrant but doing so is detrimental to a good working relationship between a property owner who is just coming into the system and the Code Enforcement office, leading Director Ward to exhaust all other remedies before taking that position. Director Ward feels it is better to work cooperatively with the property owner.

Atty. Bergman said that for purposes of the Commission’s preceding tonight, they can take that evidence and the relationship to the credibility of the witnesses because what they are presenting tonight does speak to the evidence. The Commission can determine how much weight they wish to give to a statement made here tonight.

Commissioner Alberry attempted to clarify with Mr. Lunde the year he began living at the property. Mr. Lunde was unable to confirm both the year he began living there (possibly 2003 or 2004) and the frequency at which he stays. He could not estimate with any confidence the number of days he spends per week or month at the property (“...It varies a lot...”), though he admitted that it was his “...home, it’s where I stay most of the time...I don’t sit in that apartment a lot...” Mr. Lunde said that he was “...usually there at least once a week...” Commissioner Porter asked Mr. Lunde when he was last there; Mr. Lunde stated that he was at the property “today” (January 18<sup>th</sup>). The commissioner said that he visited the property the previous Monday (January 16<sup>th</sup>) and observed that there were two meters working on the side of the building with the one on the bottom working faster than the one on the top and the middle one not working at all – “dead.” It had snowed on January 13<sup>th</sup> or 14<sup>th</sup> and on January 16<sup>th</sup> Commissioner Porter noted no tracks in the snow on the front or back steps, but observed tracks in the snow in the yard which he assumed to be from people walking their dogs. (Mr. Lunde later said that he was at the property on Saturday and shoveled). Commissioner Porter asked Director Ward if he simply needed to gain access to the building to determine occupancy; Director Ward responded “yes.” He added that there is still the concern about the water, feeling it is not plausible for someone not to have evidence of water usage, even with the flushing of a toilet. Mr. Lunde stated later that it takes about a gallon to a gallon and a half to flush the toilet, and if he doesn’t have the (City) water on, and he has the water (from Williamstown), he will use it (the water from Williamstown).

Commissioner Porter asked about the property being a four- or three-unit apartment building, noting four separate entrances in the back. The one closest to the Opportunities Credit Union is now a single unit, top and bottom, and two on the Olde Northender Pub side; Mr. Lunde concurred. The commissioner then asked that, if Director Ward could prove occupancy, would the building be considered a vacant building. Director Ward said no. However, not knowing prior to this meeting what the facts were and not being allowed inside the building for a conversation with the property owner, Director Ward was forced to make the decision he made and still feels it is the correct decision.

Commissioner Lavery asked Director Ward to clarify the time period that he is trying to establish that the building was vacant. Director Ward answered, saying “...For a period from 210 days prior to...October 1<sup>st</sup> which was the first...quarter that we were requiring them to comply with the vacant building ordinance.” Mr. Lunde clarified for Commissioner Lavery that the pictures he took of the property were taken today (January 18, 2012). Commissioner Lavery asked for clarification that said pictures were not pertinent to the time period in question. Atty. Bergman said that Commissioner Lavery was correct; the Commission should “... be looking at October 1, 2011 and the 210 days prior to that. Whatever would happen after that...would not be relevant to the determination as to whether it was subject to the law on October 1<sup>st</sup>.” Commissioner Lavery asked Mr. Lunde about the pictures of his property that he submitted at this meeting, asking how long the majority of things in the pictures had been there. Mr. Lunde replied “years.”

Mr. Lunde said that there should have been evidence of people on the property last fall because people were working there during the day. He admitted that he didn’t spend a lot of time there, especially during the day.

Director Ward asked Mr. Lunde to identify the ownership of the car that had been left in the backyard. Mr. Lunde said that the car had belonged to Ms. Lunde but then he was using it. He then said a neighbor removed the tires and rims from one side of it and then stole the car. Mr. Lunde said that he never reported the vehicle’s being stolen to the local police, claiming that his son had information about the vehicle with him and was supposed to report it. Mr. Lunde said, “...I don’t think he reported it.” He said that he asked his son to check the junk yards to see if they accepted a vehicle that matched the Lunde’s vehicle, but didn’t “...believe he ever did it.”

Commissioner Tracy said that it is his belief that this is *not* an occupied house and encouraged Mr. Lunde that, if he really intends to sell the building, to expedite the process in order to get someone living there.

**Commissioner Tracy made a motion** to reject the appeal. Commissioner Gundersen seconded. The Commission unanimously voted to deny the appeal. Commissioner Lavery asked Director Ward that if Mr. or Ms. Lunde decide to sell, would that then give them some relief from future vacant building...Director Ward said that tonight he would give Mr. Lunde a copy of a "Vacant Building Ordinance Fact Sheet," and will include Director Ward's name and cell number. The fact sheet talks about the "vacant building" fee being waived if there is evidence of a sale contract.

In order for Mr. Lunde to demonstrate occupancy in the future, Director Ward suggested that he and Mr. Lunde communicate regularly to promptly address any questions. He reminded Mr. Lunde that if he disagrees with future decisions made by Director Ward concerning his property, he may come back to the Commission. When asked by Commissioner Lavery whether he understood and was comfortable with regular dialog with Director Ward, Mr. Lunde said that he was willing to work with the City in every way, though he added that there is no record of him *not* living at the property, no proof offered.

Atty. Bergman recommended that the Commission work with staff to put their decision in writing, considering evidence submitted and based on tonight's discussions, submitting the written finding as directed by the ordinances. Section 8-8 dealing with appeals states that decisions be in writing. Mr. Lunde stated that he was not planning to appeal the decision.

**Commissioner Gundersen moved** to put the decision in writing, clearly stated for both Director Ward and Mr. Lunde to review. Commissioner Wood seconded.

#### **Item 5: PROPOSED HANDICAP PARKING SPACE AT 61 GREENE STREET**

(Joel Fleming, Public Works Engineer)

DPW staff received a request for a handicap-accessible parking space in front of 61 Greene Street from resident Jack Detore, who had recently moved to that address. Staff sent a letter dated December 19, 2011, asking for feedback from residents; no one responded. Mr. Detore notified staff that several residents expressed support directly to him regarding his request. Staff recommends that the request be granted. **Commissioner Gundersen moved** to accept staff's recommendation; Commissioner Wood seconded. Unanimous approval. Mr. Detore produced proof of his need for the designated space to DPW staff, and Mr. Fleming asked him to notify DPW once he moves out so that they may remove the specially designated space.

#### **Item 6: REQUEST TO REMOVE HANDICAP PARKING SPACE AT 125 COLLEGE STREET**

(Joel Fleming, Public Works Engineer)

Last October, DPW received a request to remove and replace with metered parking, a handicap-accessible space in front of 125 College Street. The building manager who submitted the request stated that the space had previously been used regularly by an employee at that address who was no longer an employee.

After reviewing the space and monitoring its frequency of use, staff recommended that it remain a handicap-accessible space.

**Commissioner Gundersen moved** to accept staff's recommendation to *not* remove the handicap-accessible space; Commissioner Alberry seconded. Unanimous approval.

**Discussion:** Commissioner Porter asked staff to consider having a two-year sunset on handicap-accessible spaces, bringing them before the Commission for review and revalidation, which he then withdrew.

**Item 7: PROPOSAL TO INSTALL 4-WAY STOP CONTROL AT LYMAN AVENUE, FOSTER STREET AND FERGUSON AVENUE** (Joel Fleming, Public Works Engineer)

Last August, DPW staff received from resident Katherine Riegelman, a petition containing 40 signatures, asking staff to make the intersection of Foster Street and Ferguson Avenue a 4-way STOP. Mr. Fleming then wrote a letter dated November 29, 2011 in which he asked for feedback from residents of Lyman Avenue and Foster Street. At his request, Ms. Riegelman posted his letter on “Front Porch Forum,” and staff hand-delivered the letter to all residents as indicated on the map provided in the commissioners’ packets. The letter asked respondents to call or e-mail Mr. Fleming directly (8 responses were received, 6 of which supported the 4-way STOP and making all of the intersections in the neighborhood 4-way STOP controlled).

After considering the existing stop control for the neighborhood and any changes which would affect the surrounding neighborhoods and the City, staff recommends that the two intersections – Ferguson Avenue at Foster Street and Lyman Avenue at Foster Street – become 4-way STOP controlled. This would make the stop control in the neighborhood predictable and consistent, resulting in improved traffic safety.

**Commissioner Alberry moved** to accept staff’s recommendations (that the two intersections – Ferguson Avenue at Foster Street and Lyman Avenue at Foster Street – become 4-way STOP controlled); Commissioner Gundersen seconded. Unanimous approval. Director Goodkind stated that it is not possible to put a pole in the ground at this time of year, so installing the STOP signs will be delayed until the frost is out of the ground. Commissioner Gundersen asked Mr. Fleming to e-mail or send a letter to the residents notifying them that the installation of the STOP signs was approved by the Commission but the installation will be delayed until the spring due to the ground being frozen.

Mr. Fleming responded to the commissioners’ request at last month’s meeting to follow up with them on the signage on Alfred Street: The installation of the signs will also be delayed until spring due to the frozen ground. Mr. Fleming sent a letter to the Alfred Street residents/business last week.

Also in response to Commissioner Lavery’s request for Mr. Fleming to put together a layout of standard steps that should be followed when a resident submits a parking-related request (e.g., have the neighbors been contacted? Have the local businesses been contacted?), Mr. Fleming distributed a draft of a “Traffic Request Checklist.”

Assistant Director Baldwin explained to the commissioners that he and his staff are working toward consistency, simplicity and clarity in written communications regarding traffic-related requests which are brought before the Commission. He asked the commissioners for input on the new format and/or suggestions on improvement.

**Item 8: STREET RECONSTRUCTION PROGRAM** (Erin Demers, Public Works Engineer)

Ms. Demers handed out a copy of her presentation, “2012 Street Reconstruction Program” and presented an update on the Street Capital Program, primarily the Street Reconstruction Program. She talked about where the Program was a couple of years ago, the current and future status of the Program, and a draft of the list of streets slated for repaving next year.

Using a database tool software program to perform an analysis of the condition of the streets, in conjunction with yearly inspections, staff is able to anticipate when streets will require work. In order to maintain their current condition, DPW needs to continue to fund the paving of 3.7 miles of streets each year.

Director Goodkind asked the Commission for their annual approval of the “Proposed 2012 Street Reconstruction Program List” at next month’s meeting so his staff can put the projects out to bid (finds that they are able to get the best prices doing so at this time of year). The Department is working strictly with operating money for this program so work would not begin until July 1, 2012.

Commissioner Gundersen asked Director Goodkind or his staff to pursue recent public criticism of DPW as part of the mayoral campaign, by sending Ms. Demers’ presentation packet to each of the mayoral candidates. She gave Director Goodkind permission to use her name as the person who recommended that they be sent the information, adding that any questions or requests for accurate information about the work DPW is doing during the candidates’ campaigns would be welcomed.

Commissioner Wood asked Director Goodkind to investigate what he perceives as poor “feathering” and structure settlement from the Colchester Avenue reconstruction, where the Avenue links to Mansfield Avenue, East Avenue and Prospect Street. Ms. Demers agreed to look at those areas.

Commissioner Tracy asked Ms. Demers how the bike facilities would interface with the proposed street work. Ms. Losch oversees the bike program, so she would be responding to the question. Commissioner Wood asked that Ms. Losch’s handouts on the sidewalk strategic plan also be forwarded to the mayoral candidates.

#### **Item 9: SIDEWALK STRATEGIC PLAN**

(Nicole Losch, Transportation Planner and Bicycle/Pedestrian Program Manager)

Director Goodkind brought to the commissioners’ attention his Memo dated January 10, 2012, “Proposed 2012 Street Reconstruction Paving List and Sidewalk Strategic Plan,” which he distributed at this meeting. His Memo stresses the importance of considering the condition of the City’s sidewalks. He informed the Commission that, unlike streets, sidewalks cannot be regularly maintained or repaired but need replacement when they begin to deteriorate or become damaged. DPW has worked hard to prepare a Strategic Plan for the sidewalk system, involving “...a comprehensive data gathering effort and the development of a methodology for analyzing the data and recommending approaches for addressing the system deficiencies...”

Ms. Losch handed out a Memo from her to the Commission dated January 9, 2012: “Sidewalk Strategic Plan – background, status, and moving forward.” The Memo describes the list of goals DPW staff developed in 2008, completing in the Spring of 2009 an inventory of the 150 miles of existing sidewalks, and creating the “Sidewalk Deficiency Index.” The inventory took into consideration the Transportation Plan, so includes an additional 4.5 miles of new sidewalk that would need to be constructed (adding sidewalks where none exist, and where one is recommended as part of the *Complete Streets* program), as well as some repairs to curbs and greenbelts. Any deficiency (e.g., vertical or horizontal displacement, drainage problem, cracks, deterioration, etc.) found in each 5’ section of sidewalk was noted as needing replacement, and ADA requirements were followed in the creation of the inventory. Additionally, staff developed a system to identify the most-traveled pedestrian routes and combined the indexes for a “Sidewalk Condition Index,” which “...allows us to identify and prioritize the sidewalks in the worst condition, in the most heavily traveled areas...” The budgeting breakdown in percentages and funds needed can be found on the other handout distributed at the meeting, “January 18, 2012, Sidewalk

Strategic Plan.” Director Goodkind said that approximately \$700,000 is budgeted for sidewalks this year. Applying for State grants would be an additional funding source. Commissioner Porter confirmed with Director Goodkind that \$45 million would bring the majority of the sidewalks up to an acceptable index. Director Goodkind stated that DPW has “...never let a sidewalk grant drop off our list...” saying that securing grant funds through the State is a long process but once the funds are secured, DPW follows through with the work. Grants secured by DPW recently were funneled through the Regional Planning Commission and transferred through VTrans.

The entire sidewalk plan is accessible electronically but was too large and cumbersome a document to print out for the Commission; Ms. Losch will send the link to the commissioners. Per Commissioner Tracy’s request, Ms. Losch also agreed to e-mail to him a copy of her January 9<sup>th</sup> Memo and PowerPoint presentation him to share with the mayoral candidates. Commissioner Porter suggested that staff approach and offer to share information about the sidewalk plan with the AARP and LocalMotion.

**Item 10: CCTA BUS PARKING ST. PAUL STREET**

(Mr. Aaron Frank, Assistant General Manager, Chittenden County Transportation Authority – CCTA)

Mr. Frank provided an informative handout at the meeting. He explained that the current downtown station was built in in 1981 for 3 buses; there were 7 buses on opening day (there are now 16 local and commuter buses). The break room (downtown on Cherry Street) has proven inadequate for the number of drivers (65). A couple of years ago, DPW allowed CCTA to erect glass bus shelters at the far north end of St. Paul Street to serve the Montpelier, Middlebury, St. Albans, Williston, Milton and Hinesburg commuter routes. Mr. Frank estimated that the number of people using CCTA’s commuter services equals approximately 550, the equivalent of a parking garage. CCTA has worked to secure grants to expand ridership through new or more frequent routes, with a 63% rise in ridership in the last ten years and an average annual growth of 42%/year Link Ridership. Further, all routes focus on Burlington. He expressed gratitude for Burlington providing the parking spaces for the buses.

Commissioner Alberry asked Mr. Frank to address some inappropriate use of the bus parking spaces on the west side of St. Paul Street, north of Cherry Street by CCTA. Mr. Frank apologized, saying that he understood the cones placed around the vehicles inappropriately parked, as having been left behind by a construction contractor. He is conscious of the parking restrictions on St. Paul Street and is working to adhere to the agreement with DPW. In response to Commissioner Alberry’s concern about CCTA buses parking up to or in the two crosswalks on Cherry Street, just outside the Mall entrance, Mr. Frank advised that CCTA was adjusting the schedules so that the number of buses needing parking spaces will decrease. s. Losch added that DPW staff is also looking into improving that intersection, including the crosswalks at that intersection, to try to accommodate safe pedestrian crossings as well as CCTA bus parking.

**Item 11: FY 13 BUDGET PRESENTATION (Director Steven Goodkind)**

Director Goodkind said that DPW is in the process of preparing the FY 13 budget. The Administration asked the departments to come up with a budget that was level funded, based on their FY 12 budget, and absorb the 3 ½% COLA. DPW did so; it will not affect their services. Three major points Director Goodkind focused on: 1) The Department is a twelve-month department, though snowplowing is a major part of the budget; 2) DPW has established revenue streams outside of the general fund; and 3) DPW changed the Department structure so that stable, experienced snow fighting staff stay on through the entire year.

The Administration also looked at water and wastewater rates. In regard to the wastewater rates, the City is trying to get the wastewater funds into a position where they can look at refinancing two large bonds that are going to come due, with balloon payments on the end. They have to be refinanced, and there may still be rate increases this year.

Commissioner Porter strongly encouraged Director Goodkind to show how the Department is affected budget-wise by “eating” the 3 ½% COLA year after year.

Charlene Wallace from LocalMotion asked Director Goodkind about the status of the bike set-aside budget for next year (created as 2% of the DPW budget, or \$37,000 each year for the past 3 years because of the bond for improving the streets). Assistant Director Baldwin stated that the first time DPW got \$0.04 on the tax for street capital, part of that funding was a 2% earmark for bike set-aside. DPW continues the bike set-aside. The more recent addition to the tax involved approximately \$0.03: \$0.02 going to DPW and \$0.01 to pay for the funding of the debt service for paving. DPW understands that the money was specifically earmarked for paving *alone* and did not include money for bike set-aside. The 2% continues to be the 2% from the original \$0.04 tax DPW received before this recent tax. Director Goodkind added that the total shown in Ms. Demers’ budget draft presented tonight is \$47,600.

Commissioner Wood asked Director Goodkind how much it cost to make one sweep of sidewalk clearing after a storm, and one sweep of the City streets. Director Goodkind said that it is not possible to give a blanket estimate since each storm is different, and to do so does not benefit the Department to figure this out in their budget planning. The City Charter allows DPW to exceed the snow removal budget; if DPW runs out of money before the end of the snow season, they are allowed to continue snow removal efforts. Director Goodkind offered to provide the cost of salt usage and staff hours *after* a particular storm if that would be helpful, or even where the Department stands this year compared to this time last year.

#### **Item 12: FY 12 QUARTERLY BUDGET REPORT (Director Steven Goodkind)**

Director Goodkind will e-mail his handout to the Commission. The Department is doing well. Inspection Services is doing well, a partial indicator of the health of the City. Streets had a very good first half of the year with doing forced account work so they are going into the winter season with a cushion that may cover overages in snow removal. Engineering has experienced a problem with billing, so Director Goodkind and Assistant Director Baldwin are working with knowledgeable people who will develop a new billing program for them. One area of concern and which is more of an accounting issue around depreciation and principal payments, particularly in the Water Division. Assistant Director Laurie Adams and Director Goodkind were asked about four years ago to change the way they did the accounting, and neither has been comfortable with the suggested changes. The accounting system has not been questioned by audits, and they continue to have a good balance sheet, but the operating budget seems to be heading into a negative cash situation each year. They have been consulting with the new CAO and Assistant CAO for guidance on changing the way they had been asked to do their accounting four years ago.

Commissioner Gundersen asked Director Goodkind to add this to the February agenda and invite Assistant Director Adams to attend. Director Goodkind agreed. In addition, Mr. Rich Goodwin will be in attendance to talk about the wastewater bond (the refinancing of the debt from the first of the two bonds from 20 years ago, which matured this year, with a balloon payment of about \$4 million).

Commissioner Lavery asked for assurance that at February’s meeting, Mr. Goodwin will be prepared to talk about the origins of the debt and why there is a balloon payment now.

Commissioner Gundersen will inform the mayoral candidates of the date of the February Commission meeting, and will notify them that the item on the bond/balloon payment will be part of the agenda.

**Item 13: MINUTES OF 12/21/11**

Commissioner Alberry moved to approve the Minutes as recorded; Commissioner Tracy seconded. Commissioners Lavery, Alberry, Tracy and Porter voted in favor; Commissioners Gundersen and Wood abstained as they were absent from the December meeting.

**Item 14: CHAIR'S REPORT:** No report.

**Item 14: DIRECTOR'S REPORT** (Director Steven Goodkind)

Archibald Street: DPW staff is looking into a redesign of the street including the traffic signals, and though they did not get the grant they applied for, will proceed with the traffic signal work this year.

Commissioner Gundersen asked that Director Goodkind bring up his follow-up responses to the Commissioners' questions from the December meeting, at the beginning of the February meeting.

**Item 15: COMMISSIONERS' COMMUNICATIONS**

- Commissioner Tracy: Was contacted by a resident who felt that the sidewalk plowing on North Street during the last storm was lacking. Director Goodkind acknowledged that the nature of that snow event included freezing, so the plows were required to make multiple passes with different conditions. He said that that area is a primary concern to his staff and they are doing their best to keep it in as good walking condition as possible. For street lighting concerns, Commissioner Tracy was directed the Burlington Electric Department. Another resident had also contacted Commissioner Tracy with their dissatisfaction with the recent street sign replacements in the Crombie Street/Winooski Avenue area (too big for the neighborhood). Director Goodkind said that the size of the new signs are mandated; Assistant Director Baldwin added that it was part of the State paving project, which requires that the City's cooperative maintenance agreement follow MUTCD standards. DPW asked the State to replace the double poles with one pole; this will be done this spring, along with the removal of the double poles.

**Item 17: COMMITTEE REPORTS:** No reports.

**Item 18: POLICY UPDATE:** No policy updates.

**Item 19: ADJOURNMENT:** 10:00 p.m.: Commissioner Alberry moved to adjourn; Commissioner Tracy seconded. Unanimous approval.

**Commissioner Alberry informed those present that he will not be present at the February meeting.**