MEMORANDUM

TO: PUBLIC WORKS COMMISSION
FM: CHAPIN SPENCER, DIRECTOR
DATE: MARCH 7, 2016
RE: PUBLIC WORKS SPECIAL COMMISSION MEETING

Enclosed is the following information for the meeting on March 8, 2016 at 6:30 PM at 53 Lavalley Lane – Main Wastewater Conference Room

1. Agenda
2. 10-12 Intervale Ave Appeal of Plumbing Code

Non-Discrimination
The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at 865-7145.
MEMORANDUM

To: Hannah Cormier, Clerks Office
From: Chapin Spencer, Director
Date: March 7, 2016
Re: Public Works Commission Agenda

Please find information below regarding the next Special Commission Meeting.

Date: March 8, 2016
Time: 6:30 – 9:00 p.m.
Place: 53 Lavalley Lane – Main Wastewater Conference Room

AGENDA

ITEM

1 Call to Order – Welcome – Chair Comments

2 Agenda

3 10 Min Public Forum

4 30 Min 10-12 Intervale Ave Appeal of Plumbing Code
   A Communication, J. Ryan & G. Bergeman
   B Commissioner Discussion
   C Oral Presentation, Appellant
   D Public Comment
   E Action Requested – Vote

12 Executive Session For Appeal

13 Adjournment

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Jeff,

This is all I have to offer as background for this appeal. Most of the information, given the short turnaround time, will be presented at the meeting.

As background information.

There are two work scopes of work that Mr.Khamnei has described and submitted under a permit application to City staff which he was subsequently denied a permit absent a licensed professional to do the scope of work described.

Mr.Khamnei contends that he is exempt by State statute and is contesting our plumbing inspectors decision denying him a permit. City staff(Plumbing Inspector John Ryan) has contended that under our delegated inspection authorities, and local ordinances he is justified in denying Mr.Khamnei of his permit absent a licensed professional.

I hope this is helpful. Thank you for your help on this appeal.

Norman J. Baldwin, P.E.  
City Engineer  
Assistant Director of Public Works  
645 Pine Street  
Burlington, Vermont 05401  
P 802.865.5826  
Email nbaldwin@burlingtonvt.gov

Begin forwarded message:

  From: <scanner@burlingtonvt.gov>  
  Date: February 29, 2016 at 2:52:30 PM EST  
  To: <nbaldwin@burlingtonvt.gov>  
  Subject: Scanned Image

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STATEMENT OF PROCEDURAL RIGHTS
Plumbing Chapter 25 Sec 25-17

Specific to the City of Burlington Code of Ordinances any owner of a building or structure or any other interested person aggrieved by an inspector's directive respective to the BCO and life safety codes, may appeal to the Public Works Board of Appeals by requesting such appeal in writing to the Director of Public Works, 645 Pine St., Burlington VT.

- Submittal of appeals need to be submitted within 10 days from the issuance date of any order or date determined by an inspector
- Define what order or decision being appealed and by who's directive
- Provide legal argument or bases of the appeal

The Public Works Commission acts as the Board of Appeals and as a rule meet every third Wednesday of the month. This office will be in contact with the appellant to confirm dates, times and location where the case will be held and heard upon receipt and review of the appellant's documentation supporting their appeal.

Name: Chris C. Khamnei Submittal Date: 02-24-16

Mailing address: 119 Space Street

1) Please define what enforcement action is being appealed, by who’s directive, property location and date of directive.

Appeal of John Ryan denying a permit to repair a waste, pipe, and 2 another permit to connect that yield water supply to a new hot water heater both located at 10/12 Intruder Avenue, Burlington. John Ryan denied the permit based on the applicant did not have a plumbing license.

2) Provide legal argument or bases of the appeal.

Vermont statute provides an exception to the owner and his maintenance person that they do not need a license to get a permit.

(Please attach additional correspondence to this form)

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).
Norm, Chapin et al,

Please consider this email a formal request of an appeal of John Ryan's decision to the DPW commission. Because this matter is urgent to me and goes to the occupancy of the building, I would like to have an emergency hearing to minimize my damages and costs associated with your department's decision.

Sincerely,
Chris

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On Tue, Feb 23, 2016 at 2:29 PM, John Ryan <JRyan@burlingtonvt.gov> wrote:

This email to in response to your request to secure a Plumbing Permit for the 10—12 Interval Street property. This Department cannot issue you a Plumbing Permit for any plumbing drain or water distribution on any public building, supported by .....

a) Burlington City Ordinances,
b) Vt. Plumbing Rules 2015
c) the Vt. Fire and Building Safety Code 2015.
However, this Department would be happy to issue the necessary Plumbing Permit(s) to a Vt. Licensed Master Plumber for the proposed project.

John P. Ryan
City of Burlington
Plumbing/Mechanical Inspector

(802) 865-7560
25-17 Appeals.

(a) A person aggrieved by an action of the plumbing inspector taken under this chapter may appeal therefrom to the public works commission. A request for the appeal shall be made by filing with the director of the department of public works within ten (10) days of receiving actual notice of the order complained of a notice of appeal setting forth in detail his/her grievances. The director of the department of public works shall notify the chair of the commission of the notice of appeal forthwith. The commission shall meet upon notice of the chair within ten (10) days of the filing of the notice of appeal. All hearings shall be public and all interested parties shall be given an opportunity to be heard and present evidence and arguments.

(b) Four (4) members of the commission must be present to constitute a quorum. The commission shall affirm, modify or reverse an action aggrieved from by a majority vote of the members present. A tie vote shall be an affirmanse of the decision from which the appeal is taken. The commission shall give written notice of its decision, which shall include findings of facts and all necessary orders, to all interested parties not later than thirty (30) days after the date of the hearing. The plumbing inspector may take action in accordance with the decision of the commission immediately upon the sending of the written decision to all interested parties.

(c) A member of the commission shall not pass on any question in which that member had any fiduciary, personal or financial interest, or which otherwise constitutes a conflict of interest.

(d) Any interested person may appeal a decision of the commission by instituting relief in the Chittenden Superior Court under V.R.C.P. 74

(Ord. of 10-24-88; Ord. of 9-26-94)
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- Staff Attorney's availability 6:30 p.m.
- Commission Attorney's availability unknown at this time
February 29, 2016

Chris Khamnei
119 Spruce Street
Burlington, Vermont 05401

NOTICE OF HEARING

Pursuant to Burlington Code of Ordinances Chapter 25 Plumbing, the Public Works Commission will hold a hearing related to an appeal of the Plumbing Inspector’s decision to deny the appellant the issuance of a plumbing permit for his property at 10-12 Intervale Road. This issue will be heard 6:30 p.m. on Wednesday, March 8, 2016 in the Main Conference Room at the Wastewater Treatment Plant at 53 Lavalle Lane in Burlington, Vermont.

In order to expeditiously hear this appeal, the Commission needs and hereby notifies you as the appellant to provide it with a short and concise statement outlining the specific items to be heard and addressed by the Commission. This statement must also specify the factual or legal basis of the appeal.

Each party will be given the opportunity to present the facts, as they believe them to be, and to make legal arguments. The Commission will hear testimony and take documentary evidence in support of each party’s position.

You are welcome to provide supporting documentary evidence in advance of the hearing. Witnesses must be present; the Commission will not accept written statements from absent witnesses, even in affidavit form. The Commission will resolve disputed questions of fact and apply the law governing the situation to those facts. If you intend to present documentary evidence, please bring 9 copies of each document to the hearing.
If you are the person who requested the hearing and you fail to appear, your case will be dismissed. If there are special circumstances as to why you cannot appear in person for a hearing, please call 863-9094. Postponement of your case will be permitted only for good cause. If settlement is reached, please notify the Commission immediately.

If you have any questions, please call 863-9094.

Sincerely,

Norman J. Baldwin, P.E.
Assistant Director of Public Works

cc: Eugene Bergman, Assistant City Attorney
    Chapin Spencer, Director of Public Works
    Valerie Ducharme, Customer Service Representative
    John Ryan, Plumbing Inspector
Norm Baldwin

From: Norm Baldwin  
Sent: Thursday, March 03, 2016 12:06 PM  
To: 'Chris Khamnei'  
Cc: Chapin Spencer; jeffpadgett10@gmail.com; Eugene Bergman; Ned Holt; John Ryan; Andy MacIiwaine (amaciwaine@DINSE.COM)  
Subject: RE: 10-12 Intervale Road Plumbing Appeal Hearing Notice

Chris,

Sorry, Tuesday, March 8th, 2016. Thank you for pointing that out.

From: chriskhamnei@gmail.com [mailto:chriskhamnei@gmail.com] On Behalf Of Chris Khamnei  
Sent: Thursday, March 03, 2016 12:05 PM  
To: Norm Baldwin <nbaldwin@burlingtonvt.gov>  
Cc: Chapin Spencer <cspencer@burlingtonvt.gov>; jeffpadgett10@gmail.com; Eugene Bergman <EBergman@burlingtonvt.gov>; Ned Holt <NHolt@burlingtonvt.gov>; John Ryan <JRyan@burlingtonvt.gov>; Andy MacIiwaine (amaciwaine@DINSE.COM) <amaciwaine@dine.com>  
Subject: Re: 10-12 Intervale Road Plumbing Appeal Hearing Notice

March 8th is a Tuesday.

Did you mean Tuesday, March 8th or Wednesday, March 9th?

Thank you,
Chris

Chris C. Khamnei, Ph.D. 
Green Mountain Real Estate  
199 South Union Street #0  
Burlington, VT 05401  
802.222.6080 (Main Line)  
802.222.6081 (Fax Line)  
802.222.6090 (Maintenance)  
802.222.6091 (Landlord)  
cris@sentinelt.com  
www.RealVeVt.com

On Mon, Feb 29, 2016 at 3:24 PM, Norm Baldwin <nbaldwin@burlingtonvt.gov> wrote:

Mr. Khamnei,

Thank you for taking my call earlier today. As promised I am providing you with written notice of the upcoming appeal hearing for 10-12 Intervale Road. Below is the explicit appeal hearing instructions with the date, time and location for the appeal hearing. Please reply to this email confirming in writing your ability
to attend the scheduled appeal hearing, consistent with our phone conversation earlier today affirming your ability to attend.

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Norman J. Baldwin, P.E.
City Engineer/Ass’t Director
Burlington Public Works Department
645 Pine Street
Burlington, Vermont 05401
V: 802.865.5826
F: 802.863.0466
EMAIL: nbaldwin@burlingtonvt.gov
U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com.

OFFICIAL USE

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Sent To:
Chris Kissi
119 Spuce St
Burlington, VT 05401

PS Form 3800, August 2000 See Reverse for Instructions
Tracking Number: 70121010000199316119

Updated Delivery Day: Tuesday, March 1, 2016

Product & Tracking Information
Postal Product: Certified Mail™

DATE & TIME STATUS OF ITEM LOCATION
March 1, 2016, 10:39 am Notice Left (No Authorized Recipient Available) BURLINGTON, VT 05401

We attempted to deliver your item at 10:39 am on March 1, 2016 in BURLINGTON, VT 05401 and a notice was left because an authorized recipient was not available. You may arrange redelivery by using the Schedule a Redelivery feature on this page or calling 800-ASK-USPS, or may pick up the item at the Post Office indicated on the notice. If this item is unclaimed by March 16, 2016 then it will be returned to sender.

March 1, 2016, 9:27 am Out for Delivery BURLINGTON, VT 05401
March 1, 2016, 9:17 am Sorting Complete BURLINGTON, VT 05401
March 1, 2016, 5:41 am Arrived at Unit BURLINGTON, VT 05401

Available Actions
Schedule Redelivery
Text Updates
Email Updates

Manage Incoming Packages
Track all your packages from a dashboard
No tracking numbers necessary.
Sign up for My USPS

Search or Enter a Tracking Number