



Washington Electric Cooperative, Inc

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East Montpelier, Vermont 05651

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March 24, 2015

Bruce Johnson, Town & Zoning Administrator
Town of East Montpelier
40 Kelton Road
PO Box 157
East Montpelier, VT 05651

Dear Bruce,

As you are aware, the Town of East Montpelier, acting through the Vermont Agency of Transportation (AOT), desires to purchase a 0.55 acre parcel of land on the east side of VT Route 14 (Route 14 Garage/Parking Parcel), and this property is owned by Washington Electric Cooperative (WEC). WEC's Route 14 Garage/Parking Parcel provides additional parking and storage capacity for WEC.

As part of the AOT appraisal, it notes that insufficient parking will exist if the WEC Route 14 Garage/Parking Parcel is transferred to the town. More specifically the appraisal states,

Zoning regulations require 39 spaces for WEC. The current paved parking lot next to the office has 6 parking spaces plus 14 spaces on the garage lot for a total of 20 owned spaces. The addition of the 25 public spaces brings the total spaces available to 45. If the garage/parking lot was removed from this equation, the office lot of 6 spaces plus the public parking of 25 spaces would be insufficient parking for WEC with only 31 spaces available.

As a result, the AOT appraisal provides a "cost to cure" for 8 parking spaces but the amount is minimal. More substantively however, is that their analysis relies on WEC being able to rely and count the 25 public spaces for use as WEC parking.

I also reviewed past documents related to the intersection project known as the "Church Street as part of the Intersection Project" or "CSP Area". WEC had requested from AOT in 2012 that it consider offsetting the potential loss of parking during the CSP Area project by transferring all or part of the CSP Area to WEC. In the files I found the attached letter from AOT. As part of the 2012 letter, it notes that WEC can request from the Town a conveyance or exclusive use of some or all of the 25 parking spaces:

VTrans is in the process of relinquishing the CSP Area to the control of the Town.....Once VTrans has completed the relinquishment and if the Park-and Ride Project proceeds with the acquisition of the VT 14 Parcel, *WEC may decide to make this request of the Town.* (emphasis added)

The letter further states the Town can only grant this request with approval from VTrans and the Federal Highway Administration and that the Town would need to comply with Vermont statutes governing alteration and discontinuance of town highways. The letter also states the then Secretary of Transportation that "should the Town decide to pursue the acquisition of the VT 14 Parcel, WEC needs, including its parking needs, will be addressed at the appropriate time"

WEC believes this is the appropriate time to address its parking needs. Based on the below items, WEC respectfully requests that the Town convey the 25 spaces for WEC's exclusive use:

- September 20, 2012 letter inclusive of assurances that WEC's needs will be addressed;
- VTrans relinquishing the CSP Area to the control of the Town
- AOT appraisal for the WEC Route 14 Garage/Parking Parcel which relies on 25 spaces to be used for WEC parking
- Movement forward for the Town through AOT to pursue the acquisition of the WEC Route 14 Garage/Parking Parcel
- AOT's plans to move ahead with the Park-and-Ride
- Limited nature of Church Street which is not a through street; it is only ~ 100 yards in length and is a dead end. This is not a town highway by a reasonable person's standards other than a short paved dead end way to get to WEC and the Church. Given the limited nature of the Church Street area, we believe this would be an appropriate remedy to solve WEC's parking shortfall as noted in the AOT appraisal.

I look forward to your response. If you have any questions I can be reached at 802-224-2324.

Sincerely,



Patricia H. Richards
General Manager



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Agency of Transportation

September 20, 2012

RECEIVED

SEP 21 2012

Avram Patt, General Manager
 Washington Electric Cooperative, Inc.
 P.O. Box 8
 East Montpelier, VT 05651

WASHINGTON ELECTRIC CO-OP, INC.
 EAST MONTPELIER, VT

Dear Avram:

Thank you for coming to my offices on July 25, 2012 to discuss VTrans' projects in East Montpelier. It was a pleasure meeting with you and your attorney, Josh Diamond, concerning WEC's current and future parking needs and concerns.

During the meeting, WEC advised that in 2009 it had entered into a Settlement Agreement with VTrans in connection with VTrans' East Montpelier intersection project, STPG 028-3(35)S (the Intersection Project). WEC further advised that it had entered that agreement under the assumption that VTrans was constructing the public parking area on Church Street as part of the Intersection Project (the CSP Area) for WEC's exclusive use and ownership. Although WEC referred to the fact that the Intersection Project acquired WEC property across the current VT 14 from the CSP Area that WEC had used for parking (the VT 14 Parcel), WEC did not challenge the fairness of the compensation paid to it by VTrans for the VT 14 Parcel. Instead, WEC requested that VTrans transfer or allow WEC to acquire the CSP Area for its exclusive use.

VTrans staff explained during the meeting that WEC had been informed, on several occasions, prior to the Settlement Agreement, that the CSP Area was for public use, not the exclusive use of WEC. Although the Settlement Agreement references VTrans' construction of a parking area with 25 spaces in the CSP Area, it does not contain any language referring to a conveyance of that parking area to WEC, or any commitment to allow WEC to have exclusive use of that area. Consistently, the Necessity Petition does not indicate that the CSP Area is being acquired for WEC, but rather provides that VTrans will relinquish the CSP Area to the Town of East Montpelier (the Town).

I have therefore concluded that WEC did not acquire any special or exclusive interest in the CSP Area, nor do I find that VTrans staff engaged in any misrepresentations to WEC with respect to the CSP Area. Consequently, I have decided that there is no reason for VTrans to reconsider or reopen the Settlement Agreement with WEC with respect to the Intersection Project. Indeed, as a result of the Intersection Project, WEC shares the public use of a well-constructed and maintained 25-unit parking facility located immediately in front of its building.



WEC also raised the issue of the potential impact of a new project on its parking situation. In particular, WEC advised that the Town of East Montpelier's Park-and-Ride Project, CMG PARK (37) (the Park-and-Ride Project), for which VTrans is performing certain project management functions, may involve the Town's acquisition of the VT 14 Parcel. If the Town does acquire that parcel, WEC contends that it will not own a sufficient parking area to meet its needs or to maintain the value of its office property. WEC has proposed that VTrans consider offsetting that potential loss of parking by transferring all or part of the CSP Area to WEC as a relocation of its parking facilities. Alternatively, WEC also proposed that VTrans allow WEC to retain a portion of the VT 14 Parcel for its exclusive parking purposes.

I have carefully reviewed all of the information provided by WEC and by VTrans, as well as the legal and policy implications of such a transfer. First and foremost, it appears that the issue of relocation due to the Park-and-Ride Project is premature, since the Town has not yet acquired the VT 14 Parcel.

Further, pursuant to the Intersection Project, VTrans is in the process of relinquishing the CSP Area to the control of the Town. (Relinquishment areas retain their legal character as public highways, but pass from state to town control.) This relinquishment, which is imminent, is an integral feature of the Intersection Project. Therefore, it is my opinion that VTrans should not be rendering a decision as to the availability of the CSP Area to WEC for relocation purposes.

Once VTrans has completed the relinquishment and if the Park-and-Ride Project proceeds with the acquisition of the VT 14 Parcel, WEC may decide to make this request of the Town. Please be advised that the Town could only grant such a request with the approval of VTrans and the Federal Highway Administration. Moreover, the Town would need to comply with the Vermont statutes governing alteration and discontinuance of town highways. However, as was explained during the meeting, VTrans has significant public policy concerns with transferring public property to a private entity, particularly where that property not only was acquired by eminent domain for a public purpose, but is serving a public purpose.

Please rest assured that I am confident that, should the Town decide to pursue the acquisition of the VT 14 Parcel, WEC's needs, including its parking needs, will be addressed at the appropriate time.

Sincerely,



Brian R. Searles
Secretary of Transportation

C: C. Bruce Johnson, Chair, East Montpelier Selectboard

TOWN OF
EAST MONTPELIER, VERMONT
SELECTBOARD

Casey Northrup (2014 – 2017)
Steve Sparrow (2014 – 2016)

Kim Swasey (2015 – 2017)
Carl Etnier (2013 – 2016)
Chair, Seth Gardner (2015 – 2018)

April 13, 2015

Patricia H. Richards, General Manager
Washington Electric Cooperative, Inc.
P.O. Box 8
East Montpelier, VT 05651

Re: Request for the conveyance of Church Street parking spots from the town to WEC

Dear Patty:

The Selectboard acknowledges the timeliness of your request that the town convey the Church Street parking spaces to WEC given the phrasing employed by former Secretary of Transportation Searles in his September 2012 letter. We must, however, decline this request. Even if the town supported the concept underlying this request, there are significant procedural and jurisdictional hurdles that must be surmounted under any scenario that would enable a transfer of this public property to WEC, plus the town faces the additional impediment of having to refund the cost of the property development to the appropriate state and federal agencies.

The town continues to believe that the proposed park 'n ride facility is an asset for both WEC and the community at large. Construction of the project should accomplish the following:

- The addition of 20+ public parking spaces, limiting pressure on the Church Street lot;
- The remediation, at public expense, of a targeted brownfields site; and,
- The creation of a permanent home for the commuter bus, removing the need for its relocation to the Church Street lot.

We understand your concern that the WEC office building does not officially control sufficient parking should WEC desire to sell the building in the future. Assuming the park 'n ride is built, we can at least offer the assurance that there are no current plans to alter the use of Church Street, the park, or the parking lot to the detriment of WEC or the Old Brick Church.

Sincerely,

Seth B. Gardner, Chair
East Montpelier Selectboard

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