

Minutes of the October 14, 2008 Meeting of the Board of Selectmen.

Present: Neal Fox, Bill Richards, Joe DeFreitas, and Delbert Cloud.

The meeting was called to order at 6:00 PM by Chairman Neal Fox, the Board first reviewing and approving the weekly payroll and payables. The minutes of the September 22, 2008 meeting of the Board of Selectmen were approved by motion of Joe DeFreitas, seconded by Bill Richards and unanimously carried. The Constable's report of September 28, 2008 was reviewed and placed on file.

The Board next examined a set of documents from the Financial Management Section of the Vermont Department of Environmental Conservation, these pertaining to the use of the State Revolving Loan Fund to prepare engineering plans for removal of the water main from River Street Bridge in anticipation of the State's bridge replacement project. The following RESOLUTION was then made by motion of Joe DeFreitas, seconded by Bill Richards and unanimously carried:

“ WHEREAS, a majority of the Board of Selectmen of the Town of Bethel (herein called the 'Municipality') being present and voting, hereby find and determine that the public interest and necessity require certain public improvements, namely, the water source exploration for water system improvements; and

WHEREAS, in order to have funds available to conduct water source explorations for such public improvements, the Municipality, acting through its Board of Selectmen has applied to the Vermont Agency of Natural Resources for a planning advance in the form of a loan authorized under 24 V.S.A., Chapter 120; and

WHEREAS, pursuant to powers vested in them under 24 V.S.A. §4756(e), the said Board of Selectmen has accepted the terms of an Approval of Loan Application from the Vermont Agency of Natural Resources and the Vermont Municipal Bond Bank and is about to enter into a Loan Agreement (Exhibit A) on behalf of the Municipality with the Vermont Municipal Bond Bank respecting a loan from said Bank in the amount of \$4,900.00 repayable without interest, as follows:

<u>Payment Due</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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*As per Exhibit B attached.*

AND WHEREAS, the Note to be given by the Municipality to the Vermont Municipal Bond Bank at the time of receiving the proceeds of said loan shall be substantially in the form attached hereto, as Exhibit C;

THEREFORE, be it resolved that the Board of Selectmen proceed forthwith to cause said Note to be executed and delivered to the Vermont Municipal Bond Bank upon the price and terms stated, and be registered as the law provides; and

BE IT FURTHER RESOLVED, that said Note when issued and delivered pursuant to law and the Resolution shall be the valid and binding obligation of the said Municipality, payable according to law and the terms and tenor thereof from unlimited ad valorem taxes on the grand list of taxable property of said Municipality as established, assessed, apportioned and provided by law; and

BE IT FURTHER RESOLVED, that in addition to all other taxes, there shall annually be assessed and collected in the manner provided by law each year until this Note, or any note, bond or bonds issued to consolidate, refund or replace the same, is fully paid, a tax, charge or assessment sufficient to pay such Note or replacement instruments as the same shall become due; and

BE IT FURTHER RESOLVED, that execution of the above-referenced Loan Agreement between the Municipality and the Vermont Municipal Bond Bank is hereby authorized, the Chairman of the Board of Selectmen and Treasurer of the Municipality being directed to execute said Loan Agreement on behalf of the Municipality and the legislative branch thereof; and

BE IT FURTHER RESOLVED, that the Municipality expressly incorporates into this Resolution each and every term, provision, covenant and representation set forth at length in the above-described Loan Agreement, the Loan Application made by the Municipality to the Vermont Municipal Bond Bank, the list of Federal Laws and Authorities (Exhibit D), and the Arbitrage and Use of Proceeds Certificate (Exhibit E) to be delivered in connection with the issuance and sale of the Note, execution and delivery of each of which is hereby authorized, ratified and confirmed in all respects, and the covenants, representations and undertakings set forth at length in said Loan Agreement, Loan Application and Arbitrage and Use of Proceeds Certificate are incorporated herein by reference; and

BE IT FURTHER RESOLVED, that all acts and things heretofore done by the lawfully constituted officers of the Municipality, and any and all acts or proceedings of the Municipality and of its Board of Selectmen in, about or concerning the improvements herein above described and of the issuance of notes, bonds or other evidence of debt in connection therewith, are hereby ratified and confirmed; and

BE IT FURTHER RESOLVED, that in connection with the pending sale of the Municipality's Note in the face amount of \$4,900.00 to the Vermont Municipal Bond Bank, execution and delivery of the Note, this Resolution Certificate, Loan Agreement, Arbitrage and Use of Proceeds Certificate, and incidental documents, all attached hereto, are authorized; and

BE IT FURTHER RESOLVED, that Mark Smith, Senior Accountant for the Facilities Engineering Division, be authorized and empowered to take possession of said documents for delivery to the Vermont Municipal Bond Bank, and to complete said documents by the inclusion of appropriate dates and ministerial changes at the direction of the Board of Selectmen of said Municipality or its designated officer; and to acknowledge receipt of the proceeds of said Note on behalf of the Municipality; and

BE IT FURTHER RESOLVED, that Chittenden Bank in the City of Burlington, Vermont, is hereby designated the Municipality's paying agent with respect to the Note and the Loan Agreement; and

BE IT FURTHER RESOLVED, that the proceeds derived from the sale of said Note be delivered for deposit to Mascoma Saving Bank for disbursement in accordance with the Loan Agreement.

And we, the undersigned officers, as indicated, hereby certify that we as such officers have signed said Note dated September 15, 2008, payable as aforesaid, and reciting that it is issued under and pursuant to this resolution, and we also certify that said Note is duly registered in the office of the Treasurer of the Municipality as prescribed by law.

And we, the said officers of the Municipality, hereby certify that we are the duly chosen, qualified and acting officers of the Municipality as undersigned; that the Note is issued pursuant to said authority; that no other proceedings relating thereto have been taken; and that no such authority or proceeding has been repealed or amended.

We further certify that no litigation is pending or threatened affecting the validity of the Note nor the levy and collection of taxes, charges or assessments to pay it, nor the works of improvements financed by the proceeds of said Note, and that neither the corporate existence of the Municipality nor the title of any of us to our respective offices is being questioned."

The "Planning Loan Note," "Arbitrage and Use of Proceeds Certificate," and the "Loan Agreement" were also approved and accordingly endorsed.

The Board then examined a similar set of documents submitted by the Chittenden Bank pertaining to renewal of a loan for construction of solid waste facilities which were constructed in 1994. The following RESOLUTION was made by motion of Bill Richards, seconded by Joe DeFreitas and unanimously carried:

" WHEREAS, at a regular meeting of the Board of Selectmen of the Town of Bethel, at which at least a majority of the Board of Selectmen was present and voting, which meeting was duly called and held, it was unanimously found and determined that the public interest and necessity required certain public improvements hereinafter described, and it was further found and determined that the cost of completing said improvements would be too great to be

paid out of ordinary annual income and revenue of the Town, and that a proposal to provide such improvements and incur debt of the Town to pay for the same should be submitted to the legal voters at the annual meeting to be called and held for that purpose, and it was so ordered, all of which action is hereby ratified and confirmed; and

WHEREAS, pursuant to the foregoing action, the Board of Selectmen caused to be issued a Warning for a meeting of the Town to be held June 16, 1993 to consider certain proposals described in the Warning, which Warning is duly recorded in the records of the Town of Bethel; and

WHEREAS, said Warning was duly recorded, published and posted; and

WHEREAS, said meeting was duly held on the date, at the place and at the time appointed, and a certain proposal to make improvements and incur debt therefore was voted in the affirmative; and

WHEREAS, the Board of Selectmen has been and is now carrying forward the authorized improvements to completion and funds are needed to meet accruing costs of the same; and

WHEREAS, the Board of Selectmen has negotiated a temporary loan with CHITTENDEN BANK for \$54,000.00 at 3.05% to be evidenced by a single promissory note as hereinafter set forth. The note is being issued in anticipation of the money to be derived from the sale of bonds for solid waste management improvements. The note is issued to refund a previously issued note.

THEREFORE, BE IT RESOLVED, that the Board of Selectmen and the Treasurer proceed forthwith to complete said transaction and issue said evidence of indebtedness to cover the same; and

BE IT FURTHER RESOLVED, that said evidence of debt when issued and delivered pursuant to this Resolution shall be a valid and binding general obligation of the Town of Bethel payable according to the terms and tenor thereof from unlimited ad valorem taxes duly assessed on the grand list of taxable property in said Town, as established by law; and

BE IT FURTHER RESOLVED, that all acts and things heretofore done by the lawfully constituted officers of the Town of Bethel and its Board of Selectmen, in, about, or concerning the improvements or the contracting of loans in connection therewith are hereby ratified and confirmed; and

WE, the undersigned Board of Selectmen and Treasurer, hereby certify that we as such officers have signed the \$54,000.00 face amount bond anticipation note, numbered 1, dated October 23, 2008, of the following denomination and maturity in the form hereto and made a part hereof:

<u>Number</u>	<u>Denomination</u>	<u>Maturity</u>
1	\$54,000.00	October 22, 2009

WE, the undersigned Board of Selectmen and Treasurer of the Town of Bethel, hereby certify that the above-described note is issued under and pursuant to vote of the Town of Bethel, June 16, 1993 and this Resolution, adopted at a duly noticed and warned meeting of the Board of Selectmen of the Town of Bethel held October 14, 2008.

WE, the said Board of Selectmen and Treasurer of the Town of Bethel, hereby certify that we are the duly chosen, qualified and acting officers as undersigned, that the note is issued pursuant to authority, that no proceeding relating thereto has been taken other than as shown in the foregoing recital, that no such authority or action has been amended or repealed, and that there is no litigation threatened or pending in any state or federal court of competent jurisdiction seeking to enjoin either the issuance of the above-described note or the expenditures being financed by the proceeds of the same.

WE further certify that no litigation is pending or threatened affecting the validity of the note or the apportionment and assessment of taxes, if necessary, to pay the same when due, that neither the corporate existence nor the boundaries of the Town of Bethel, nor the title of any of us to our respective offices, is being questioned or contested.

WE further certify to and covenant with CHITTENDEN BANK, its successors and assigns, including the transferees, assignees, holders and owners of the above described note, that:

(1) No proceeds of the note (including investment proceeds thereof) will be used (directly or indirectly) in any trade or business carried on by any person other than the Town of Bethel, nor used to make or finance loans to any person.

(2) The Town of Bethel will file when and as required with the Treasury Department or the Internal Revenue Service information returns relating to the issuance of the note and all other obligations of the Town.

(3) The Town will comply with, perform, maintain and keep each and every covenant, representation, certification and undertaking in the accompanying Non-Arbitrage Certificate, execution and delivery of which is hereby authorized.

(4) During the current calendar year, the Town will not issue debt of any sort aggregating \$5,000,000.00 or more.

(5) The interest charged to and payable by the Town under the note shall be increased and recalculated to the date of issue by 3.25% and paid to the holder thereof in any one of the following events:

(a) It shall be determined that the interest paid under said note, or any Part thereof, is included in the gross income of the holder thereof for federal income tax purposes.

(b) There shall be any breach by the Town of any covenant set forth in paragraphs (1)-(4) hereof.”

The corresponding “Note” and the “Non-Arbitrage Certificate” were then endorsed by the Board members.

The minutes of the September 29, 2008 meeting of the Class 4 Road Committee were then reviewed and placed on file, as well as an informational article from the September 14, 2008 issue of the Valley News which was relevant to the Committee’s work.

Regarding vacancies on Town Offices or Committees, the Board offered a couple of suggestions for Delbert Cloud to follow up with to see if individuals might have interest in serving. The positions included: representative to the South Royalton Senior Center Board of Directors, Council on the Arts, Board of Auditors, and Board of Listers.

A draft of the informational brochure being prepared in support of the bond vote to restore the Town Hall was discussed, the information appearing to be correct; this is being prepared with the use of private funds. Delbert Cloud provided the board with a brief review of the time frame for advertising, holding an informational meeting, and voting, all of which is adequately provided for.

The Board then reviewed language for potential revision of the Town’s Cemetery Rules and Regulations re. the management of cremation remains, this being provided by the Vermont Cemetery Association. It was agreed that Delbert Cloud would prepare revisions of the Town’s Regulations based on the Board’s input and bring the recommended changes back at a future meeting.

The FY09 budgets for the Water Department and the Wastewater Department were next discussed. Given increases in the costs of operations in both Departments, Delbert Cloud recommended that a 5% increase in rates is required in order to provide for the needs covered by the budgets. After due consideration, motion was made by Neal Fox, seconded by Joe DeFreitas and unanimously carried to increase the rates for both Departments as of the second quarter billings by the recommended 5%.

Delbert Cloud informed the Board that the plans for repair of private property damaged by the floods of July 2007 have not yet been provided by the Emergency Watershed Protection Program, although it is still anticipated that the repairs can be done before winter. The following

communications were then reviewed and placed on file: (1) a letter dated September 25, 2008 from the Vermont Department of Environmental Conservation advising that the “Solid Waste Implementation Plan” for the White River Alliance is approved, (2) documents dated September 18, 2008 from the Vermont Department of Housing and Community Affairs advising that the Town’s activities under an Accessibility Modifications Grant #0238/04AM(05) have been successfully completed, (3) a October 1, 2008 letter from Steven Stitzel re. the appeal of the Dunham Road litigation decision, (4) a news item from the “New Hampshire Sunday News” re. cooperative ventures being conducted by Municipalities in the interest of cost savings, (5) the Fall 2008 newsletter of the White River Partnership, and (6) Vermont Department of Environmental Conservation review documents pertaining to permits being sought by William Von Oehsen for development of land on Rindge Hill Road.

At 6:45 PM, the motion was made by Joe DeFreitas, seconded by Bill Richards and unanimously carried to adjourn to Oakes Hall at Vermont Law School in South Royalton to attend an informational meeting regarding the ECFiber initiative. Upon return to the Town Office at 9:30 PM, the following RESOLUTION was made by motion of Joe DeFreitas, seconded by Bill Richards and unanimously carried:

“WHEREAS, the Town of Bethel, Vermont (the ‘Town’), with other Participants, has entered into an Interlocal Contract, dated September 8, 2008 (the ‘Interlocal contract’), with respect to a Proposed Undertaking regarding the construction and operation of a System involving communications plants for the delivery of communications services (each of which capitalized terms being defined in the Interlocal Contract); and

WHEREAS, under the provisions of 24 VSA §§ 1789, 1911-1914 and 4901-4902, the Town and the other Participants have associated and organized themselves as an unincorporated association under the name East Central Vermont Community Fiber (‘ECF’); and

WHEREAS, ECF, on behalf of and for the benefit of the Town and the other Participants, will enter into a Design-Build and Operating Agreement with ValleyNet, Inc., dated as of December 1, 2008, (the ‘DBO Agreement’); and

WHEREAS, ECF directly, and in cooperation with ValleyNet, Inc. under the DBO Agreement, has entered, and from time to time will enter, into various contracts and arrangements for the design, permitting, licensing, financing, construction, equipping, management and operation of the System; and

WHEREAS, the Participants have determined that it is prudent and appropriate to provide funds to construct the System, fund capitalized interest during the construction period, and for initial working capital of the System through a public offering involving the issuance and sale of Certificates of Participation in the Master Lease Agreement, referenced below (the ‘Certificates of Participation’); and

WHEREAS, the Town, acting by and through its Selectboard, hereby finds and determines that it is in the best interest of the Town to proceed with the Certificates of Participation financing and to take such actions as may be necessary in connection therewith; and

WHEREAS, the Town has been and will be required to enter into, or to authorize and direct ECF to enter into for the direct benefit of the Town, certain contracts, agreements and undertakings, and to make and approve certain representations, certifications and commitments regarding the System and the financing thereof, each of which is embodied in the DBO Agreement, and collectively, with the DBO Agreement, the ‘Financing Documents’ namely:

1. The Master Lease Agreement between ECF, on behalf of the Town and the other Participants, and Chittenden Trust Company, together with all Schedules and Exhibits thereto, and the Assignment thereof (the ‘Master Lease’).

2. The Preliminary Official Statement and the Official Statement with respect to the issuance, offering and sale of the Certificates of Participation (together, the ‘Official Statement’).

3. The Certificate Purchase Agreement between ECF, on behalf of the Town and the other Participants, and Oppenheimer & Co., Inc. (the ‘Purchase Agreement’).

4. The Trust and Security Agreement, between ECF, on behalf of the Town and the other Participants, and Chittenden Trust Company, as Trustee (the ‘Trustee’) (the ‘Trust Agreement’).
5. The Continuing Disclosure Agreement between ECF, on behalf of the Town and the other Participants, and the Trustee (the ‘Continuing Disclosure Agreement’).
6. The Financing Statement naming ECF as Debtor and the Trustee as Secured Party.
7. The Tax Certificate executed by the Town.
8. IRS Form 8038-G Informational Return of the Town relating to the sale of the Certificates of Participation.
9. The Purchase Agreement Representations Certificate and the Certificate Regarding the Official Statement with respect to the offering of the Certificates of Participation for sale under the Official Statement.
10. The Declaration of Official Intent adopted and executed by ECF, on behalf of the Town and the other Participants.
11. The Blanket Letter of Representations addressed to The Depository Trust Company, executed by ECF, on behalf of the Town and the other Participants.

NOW THEREFORE, BE IT RESOLVED by the Board of Selectmen of the Town as follows:

Section 1. The Town hereby approves the DBO Agreement, the Master Lease, the Trust Agreement, the Official Statement, the Purchase Agreement and the Continuing Disclosure Agreement (collectively, the ‘ECF Financing Documents’), and hereby authorizes and directs ECF to execute and deliver the ECF Financing Documents (with such changes as the Chair of the Selectboard, with the advice of counsel, may deem necessary or appropriate), in the name of and on behalf of the Town, and upon the due execution of the ECF Financing Documents by ECF and the other parties thereto, the ECF Financing Documents shall constitute the valid, binding, and enforceable obligations of the Town.

Section 2. The Town hereby approves the forms of the Financing Documents (in addition to those Financing Documents listed in Section 2) (the ‘Town Financing Documents’) and authorizes and directs the Chair of the Selectboard to execute and deliver on behalf of the Town the Town Financing Documents and such other documents as said officer, with the advice of counsel, may deem necessary or appropriate for the Town to implement and effect the various and several undertakings, commitments and representations set forth in the Financing Documents, such execution and delivery to be conclusive evidence of authorization and approval thereof by the Town.

Section 3. The Chair of the Selectboard, with the advice of counsel, is authorized and directed to grant, execute and deliver on behalf of the Town, or cause ECF to execute and deliver on behalf of the Town, as the case may be, such other instruments as may be necessary or convenient to secure the Town’s obligations under the Financing Documents or to complete, revise, modify, correct and confirm the same.

Section 4. The Town shall adopt and implement such programs and operations as will assure continued compliance by the Town with the terms and conditions imposed upon it by the Financing Documents, the terms of each of which are hereby approved, adopted and incorporated herein.

Section 5. The use and distribution by Oppenheimer & Co., Inc. in connection with the sale of the Certificates of Participation of the Official Statement, together with such changes as the Chair of the Selectboard, with the advice of counsel, may deem necessary or appropriate, as well as the use and distribution of the Financing Documents for such purpose is hereby approved. Evidence of such changes approved by the Chair of the Selectboard shall be conclusive evidence of authorization and approval thereof by the Town. The Preliminary Official Statement, in the form presented to this Selectboard, is hereby deemed final for purposes of Securities Exchange Commission Rule 15c2-12.

Section 6. The Chair of the Selectboard is hereby authorized to do any and all other things and perform any and all other actions necessary to effectuate the issuance, execution and delivery of any and all additional documents and instruments as may be necessary for the implementation of the actions contemplated in this Resolution, and such execution and delivery shall be conclusive evidence of the authorization and approval thereof by the Town.

Section 7. The foregoing actions, authorizations and approvals are provisional and are conditioned upon the issuance and receipt of all permits, licenses and approvals as may be necessary or required by law prior to the issuance and delivery of the Certificates of Participation.

Section 8. The investment of proceeds derived from the sale of the Certificates of Participation, as well as other System revenue, shall be invested as provided in the Trust Agreement.

Section 9. ECF, on behalf of the Town and the other Participants, is authorized to issue the Certificates of Participation in an aggregate principal amount not to exceed \$106,000,000 in the form and upon the terms set forth in the Trust Agreement and the Purchase Agreement, which terms for the purpose are incorporated in the Resolution and made a part hereof; provided, however, that the final interest rates, prepayment premiums, maturity dates, principal amounts and other terms of the Certificates shall be as set forth in the final form of the Trust Agreement and Purchase Agreement, to be approved, executed and delivered by ECF pursuant to Section 1; provided, further that the effective interest rate on the Certificates of Participation shall not exceed nine and one half percent (9.5%) per annum. The aggregate principal amount of the Certificates of Participation authorized hereunder shall be allocated among the Town and the other Participants in the manner provided in the Interlocal Contract.

Section 10. This Resolution shall take effect immediately upon its passage.

Approved and adopted on the 14th day of October, 2008 at a duly noticed and convened meeting of the Selectboard.”

The motion to adjourn was then made by Bill Richards, seconded by Joe DeFreitas and unanimously carried.

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Neal Fox

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Bill Richards

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Joe DeFreitas