



BROWNFIELDS COMMITTEE

Thursday, December 18, 2025, 10 – 10:30 am

Participation via Zoom¹

<https://us02web.zoom.us/j/88055614529?pwd=c2dVaTMvUnc0VU55bUd1TEhTWjkzUT09>

Dial in via phone: +1 929 436 2866 | Meeting ID: 880 5561 4529 | Passcode: 215936

Download the app at least 5 minutes before the meeting starts: <https://zoom.us/download>.

Persons with disabilities who require assistance or alternate arrangements to participate are encouraged to contact CVRPC at 802-229-0389 or cvrpc@cvregion.com at least 3 business days prior to the meeting for which services are requested.

Page # AGENDA

- 10:00² Recording Reminder & Adjustments to the Agenda**
- 10:05 Public Comment**
- 10:10 Review and Respond to Open Meeting Law Violation Allegation** (Action possible - enclosed)³
- 10:15 Review and Approval of Draft Minutes from 12/4/25 Meeting** (Action possible - enclosed)³
- 10:30 Adjourn**

¹ Dial-in telephone numbers are "Toll" numbers. Fees may be charged to the person calling in dependent on their phone service.

² All times are approximate unless otherwise advertised

³ Anticipated action item.



MEMO

Date: December 16, 2025
To: Brownfields Advisory Committee
From: Christian Meyer, Executive Director
Re: Response to Open Meeting Law

☒ **ACTION REQUESTED:** Respond to the notice of alleged violation of Open Meeting Law by acknowledging the violation of open meeting law and state our intent to cure the violation or by determining no violation has occurred.

The following memo outlines the alleged violation of open meeting law received by CVRPC, and the possible actions triggered by said allegation.

Allegation

On, December 11, 2025, CVRPC received the attached notice of alleged violation of open meeting law from Stephen Whitaker, a resident of Montpelier. Whitaker is alleging that the CVRPC Brownfields Committee (a Public Body) violated open meeting law as described below.

Background

1. Defective and misleading agenda notice

Whitaker states the agenda of a public meeting must accurately state its time and place per 1 V.S.A. § 312(d). Each sub section of 1 V.S.A. § 312(d) is addressed below. Staff acknowledges the header of the meeting agenda specified 11:00 AM, while items on the agenda began at 10:00 AM. Whitaker has demonstrated no harm caused by this inconsistency and was able to attend the meeting.

1 V.S.A. § 312(d) states:

(d)(1) At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be:

(A) posted to a website, if one exists, that the public body maintains or designates as the official website of the body; and

(B) in the case of a municipal public body, posted in or near the municipal office and in

at least two other designated public places in the municipality or a neighboring municipality.

Staff Response: More than 48 hours before the meeting time, CVRPC staff posted the meeting agenda at the CVRPC office entrance, at the entrance of 29 Main Street, on the CVRPC web site, and sent it to the town clerks in Cabot and Waitsfield for local posting as dictated by CVRPC policy and CVRPC Resolution 2025-01 - Complying with Vermont Open Meeting Law most recently readopted by the CVRPC Board of Directors, February 11, 2025.

(2) A meeting agenda shall be made available to a person prior to the meeting upon specific request.

Staff Response: No requests for copies of the agenda were made.

(3) A meeting agenda shall contain sufficient details concerning the specific matters to be discussed by the public body. Whenever a public body includes an executive session as an item on a posted meeting agenda, the public body shall list the agenda item as “proposed executive session” and indicate the nature of the business of the executive session.

Staff Response: Agenda contained specific reference to the matters to be discussed by the Brownfields Advisory Committee. No Executive Session was proposed.

(4)(A) Any addition to or deletion from the agenda shall be made as the first act of business at the meeting.

(B) Any other adjustment to the agenda may be made at any time during the meeting.

Staff Response: Adjustments to the agenda were made immediately upon calling the meeting to order.

Whitaker further alleges that the agenda did not include a list of committee representatives. This is accurate. However, it is not CVRPC practice, nor is it required that the meeting agenda state all committee members.

2. Failure to properly post the agenda.

Per 1 V.S.A. § 312(d)(1) *more than 48 hours before the meeting time, CVRPC staff posted the meeting agenda at the CVRPC office entrance, at the entrance of 29 Main Street, on the CVRPC web site and sent it to the town clerks in Cabot and Waitsfield for posting as dictated by CVRPC policy and CVRPC Resolution 2025-01 - Complying with Vermont Open Meeting Law most recently readopted by the CVRPC Board of Directors, February 11, 2025.*

3. Lack of quorum

Whitaker alleges that the CVRPC Brownfields Advisory Committee lacked quorum and therefore all actions taken were invalid. He states that committee members were improperly appointed. This is inaccurate.

The CVRPC Board of Commissioners appoints four commissioners and one alternate to the Brownfields Advisory Committee. These positions were filled in June 2025 for the FY26 cycle

and the Board of Commissioners has reappointed members as needed in the months since.

The Rules of Procedure for the Brownfields Advisory Committee state that the CVEDC and the Vermont Department of Health will appoint their own representatives. Both organizations had representatives present at the December 4 2025 meeting. Further, the committee's rules of procedure state that the committee itself may directly nominate other members or organizations to be represented on the committee.

Proper processes were followed, roll was called at the beginning of the meeting, and quorum was met.

4. Ultra vires actions taken without quorum

Not applicable. See above

5. Failure to provide intelligible materials

Meeting materials were provided in the order they appeared in the agenda. No titles were provided with the tables. Staff walked committee members through the tables before action was taken.

Next Steps

Per 1 V.S.A. § 314(b)(2) possible actions the Brownfields Advisory Committee may take include:

“(A) acknowledging the violation of (Open Meeting Law) and stating an intent to cure the violation within 14 calendar days; or

(B) stating that the public body has determined that no violation has occurred and that no cure is necessary.”

In acknowledging the violation and in moving to cure, Per 1 V.S.A. § 314:

“(b)(4) Within 14 calendar days after a public body acknowledges a violation under subdivision (2)(A) of this subsection, the public body shall cure the violation at an open meeting by:

(A) either ratifying, or declaring as void, any action taken at or resulting from:

(i) a meeting that was not noticed in accordance with subsection 312(c) of this title;
or

(ii) a meeting that a person or the public was wrongfully excluded from attending; or

(iii) an executive session or portion thereof not authorized under subdivisions 313(a)(1)-(10) of this title; and

(B) adopting specific measures that actually prevent future violations.”

Open meeting law violation notice

From Stephen Whitaker <whitaker.stephen@gmail.com>

Date Thu 12/11/2025 11:19 AM

To Christian Meyer <meyer@cvregion.com>

Cc Peter Carbee - CVRPC Commissioner & TAC Appointee - Washington <accuratecounts.vt@gmail.com>

Christian and Chair Carbee,

This is a formal notice of violation under the Vermont Open Meeting Law, 1 V.S.A. §§ 312–314, concerning the December 4, 2025 meeting of the CVRPC Brownfields Advisory Committee (BAC).

The meeting violated multiple statutory requirements, and all actions taken — including the recommendation to expend approximately \$65,000 in Brownfields funds — are void.

Under 1 V.S.A. § 314(b), the public body must meet within 10 days to address the alleged violation, and if it acknowledges a violation, must adopt and implement a cure within 14 days after that meeting.

Because the BAC does not have sufficient duly appointed members to constitute a quorum and therefore cannot lawfully convene, **this violation must be addressed and cured by the full CVRPC Board of Commissioners**, the only body with statutory authority to appoint BAC members and the only body capable of restoring lawful governance.

I. Violations

1. Defective and misleading agenda notice

The posted agenda for the December 4 BAC meeting contains conflicting times: the header states 11:00 AM, while the body of the agenda states 10:00 AM. An agenda must accurately state the time and place of the meeting under 1 V.S.A. § 312(d). This discrepancy materially impaired the public's ability to know when the meeting was occurring.

The agenda also failed to identify who the duly appointed BAC members were, preventing the public from determining whether a quorum existed.

2. Failure to properly post the agenda

Under § 312(d), agendas must be posted at the meeting location, on the public body's website, and in any two additional posting locations designated by policy.

The December 4 agenda was not properly posted in all required locations, and the conflicting times rendered the public posting ineffective.

3. Lack of quorum

The BAC Charter requires that all members be appointed by the full CVRPC Board. Attendance records and transcript statements from the December 4 meeting show that only **two** duly appointed BAC members were present.

Several individuals attempted to “self-appoint” or were treated as members without formal appointment. Such individuals cannot be counted toward quorum, and the BAC lacked legal authority to act.

4. Ultra vires actions taken without quorum

Despite lacking quorum, the BAC took actions and made recommendations involving public funding, including recommending the release of approximately \$65,000 for Brownfields work at the Country Club Road site. Such actions are void *ab initio*.

5. Failure to provide intelligible materials

The packet provided for the December 4 meeting included two copies of two different versions of an unlabeled “Table 1,” with no included site identification, no explanation, and no associated written work plan. The public reading the meeting packet cannot meaningfully observe or understand proposed actions taken on documents that are unlabeled and unexplained, contrary to 1 V.S.A. § 312(a).

II. Required Remedies Under § 314(b)

Because the BAC cannot possibly lawfully convene at this time, all cure actions must be taken by the **full CVRPC Board of Commissioners**.

I request the following remedies:

1. The full CVRPC Board must meet within 10 days of this notice

The Board must meet — not the BAC — to address and acknowledge these violations, as the BAC is not lawfully constituted.

2. The Board must disclose a complete list of duly appointed BAC members

This includes the date of appointment for each member and identification of which individuals present on December 4 were not duly appointed.

3. The Board must acknowledge that the BAC lacked quorum on December 4

This acknowledgement must be recorded in the minutes.

4. The Board must formally acknowledge as void all actions taken at the December 4 meeting

Including the funding recommendation for the Country Club Road site and any other actions or recommendations made that day.

5. The CVRPC Board must reconstitute the BAC

The Nominating Committee must meet promptly to recommend members, and the Board must appoint BAC members at a properly warned public meeting so the committee can lawfully function.

6. The Board must require that no future BAC or Board vote occur without complete documentation

Including:

- a clearly labeled, intelligible budget table tied to a specific site,
- properly prepared packet materials, and
- a written work plan for the proposed project to be funded made available to the public at least 48 hours in advance of any vote.

7. The Board must require proper agenda posting going forward

The Board should identify and publicly disclose the official posting locations for BAC and all other committee and board agendas and confirm compliance with § 312(d).

8. Training must be provided on quorum, appointments, and Open Meeting Law

For staff, BAC participants, and any Commissioners involved in Brownfields oversight.

Please confirm receipt of this notice and inform me of the date selected for the Board's meeting within the 10-day statutory period. If the CVRPC Board does not meet and cure these violations as required by law, I will seek remedies in Superior Court, including invalidation of all actions taken at the December 4 meeting, declaratory relief, and attorney fees.

Respectfully,
Stephen Whitaker

CENTRAL VERMONT REGIONAL PLANNING COMMISSION

Brownfields Committee Meeting – MINUTES

December 4, 2025

Present:

X	Janet Shatney, Chair, Barre City Commissioner
-	Don LaHaye, Vice Chair, Waitsfield Commissioner (Alternate Seat)
X	Alice Farrell, Barre Town Commissioner
X	Peter Carbee, Washington Town Commissioner
X	Ron Krauth, Middlesex Town Commissioner
X	Heather Hurlbert, CVEDC
X	Joan Marie Misek, VT Dept of Health
-	Nicola Anderson, Downstreet Housing and Community Development
X	Liz Scharf, Capstone Community Action
X	Kevin Casey, Hickok and Boardman
-	Vacant, (environment or finance organization)
-	Vacant (environment or finance organization)

Staff present: Eli Toohey, CVRPC Planner

Call to Order: 11:06 am

Adjustments to the Agenda: Noted the agenda listed the times as 10-10:30 in the body of agenda timetable. Meeting was posted and listed the accurate 11-11:30 time at the top of the agenda and on the CVRPC website. Also noted that the site selection matrices on pages 8 and 9 are in the order they fall on the agenda with 203 Country Club Road, Montpelier on page 8 and 9 Heaton Street, Montpelier on page 9.

Public Comment: Any members of the public were invited to speak on any items not on the agenda and to hold comments for items on the agenda to the time when those are addressed on the agenda. No one had public comments at the time.

Review and adopt Meeting Minutes: Draft meeting minutes from July 17, 2025 and September 25, 2025. Peter Carbee made the motion to accept the meeting minutes from July 17, 2025 and September 25, 2025, Ron Krauth seconded and it passed unanimously.

Member Nominations: Noted that Heather Hurlbert will be taking the existing seat for Central Vermont Economic Development Corporation (CVEDC). Peter noted that Lee Cattaneo stepped down and Peter has taken his place.

Kevin Casey was nominated for the real estate seat and Liz Scharf was nominated for the at-risk populations seat. Liz noted she will be trying to recruit someone else from Capstone but will fill the role until that time.

Alice Farrell nominated Liz Scharf to be a member of the Brownfields Advisory Committee, Joan Marie Misek seconded, passed unanimously.

Kevin was nominated to join the Brownfields by Peter Carbee, Alice Farrell seconded, passed unanimously.

Site Selection: Eli Toohey explained changes to process due to new EPA grants and working with the environmental consultant Montrose Environmental and the EPA for site eligibility determination as opposed to MARC Assessment grant where we went out to bid for each project.

Eli explained that we received 2 site nominations for 203 Country Club Road, Montpelier for a Supplemental Phase II and for 9 Heaton Street, Montpelier for a Phase II. Site Selection criteria matrices were explained including the added category lines connected to state planning goals of housing and flood resilience.

Motion was made by Peter Carbee to recommend funding of the Phase II Supplemental to the Board of Commissioners, Alice Farrell seconded.

A member of the public, Steve Whitaker, questioned the motion and if it was the remaining \$2,000 and if we have a budget to complete an entire SSI and what the price for the Phase II was. He asked how this related to the new funding sources.

Eli Toohey clarified the different funding sources and that the ~2,000 is what's left of CVRPC's MARC Assessment funding and will not be used towards the Supplemental Phase II for 203 Country Club Road. She elaborated that the EPA Coalition Assessment Grant Funds will be used to fund the Supplemental Phase II for 203 Country Club Road and that that grant period began on October 1, 2025.

Steve Whitaker asserted that we weren't voting to release those funds because there's no budget for that yet.

Eli clarified that the motion is to vote to move forward on a Supplemental Phase II and that Montrose/Stone and DEC determine the budget.

Steve stated that a Phase II has not been completed. Eli noted that a Phase II was completed by Stone Environmental, and that report is available that a Supplemental Phase II was recommended. The process was further explained and noted that those recommendations are determined by the Qualified Environmental Professional and DEC in the work plan. He again asked about an amount to which Eli said we could wait to vote on a specific proposed amount and Janet noted that that's not what's on the agenda for today.

Peter restated the motion is to recommend to the full Board of Commissioners the funding of the Phase II Supplemental. Peter confirmed that Steve is welcome to bring it to the full Board of Commissioners. Janet explained that the Brownfields Advisory Committee makes funding decisions to get assessments done that inform the work plan, but we don't determine the work plans.

Stephen Whitaker Shared concerns with how the process was being undertaken and stated the Phase II Supplemental should be undertaken before any other uses are considered for the site.

The motion on the table to fund a Supplemental Phase II was reiterated by the Chair. Motion passed unanimously.

Eli Toohey described the 9 Heaton Street project and the scoring criteria. Eli stated it was for a Phase I and Joan Marie asked about the amount proposed. Eli explained there is no proposal as this goes to EPA site eligibility, DEC and the QEP prior to determining the amount. Eli did a review of the Brownfields phases. Joan Marie clarified that it is for a Phase II, not a Phase I as Eli mistakenly stated. Eli confirmed.

Motion was restated the site to the full commission for funding for a Phase II of 9 Heaton Street, Montpelier. Alice made the motion and Joan Marie Misek seconded. Motion passed unanimously.

Eli gave program updates of the final projects for MARC Assessment funding for FY 24 and noted that FY 22/23 is closed out. EPA Brownfields updates were given. Peter reminded that acronyms might be confusing, so Eli explained the acronyms used.

Meeting Adjournment: Motion to adjourn was made by Peter Carbee and Kevin Casey seconded. Passed unanimously. Meeting adjourned at 11:49