

Why the City of Montpelier Request a Charter Change: Bill H-871

The City of Montpelier seeks the return of its control over its water supply.

1. **Municipal should control its water supply: our water, our cost, our control.**
City of Montpelier should control the water its residents drink and pay for.

86% of Voters on March 1, 2016 supported municipal control over its water.

Its original 1894 charter gave the City control over its water supply, and the language remained the same until a 1974 revision. The City controlled and protected its water supply until the 2012 Vermont Supreme Court decision found the former health department certificate no longer valid and the city charter language insufficient. The Court directed the City to ask for more power if it wanted to once again control its water supply. (See details in #3)

2. **Giving the City of Montpelier control over its water source is not setting precedent.** There are three towns that the State has given control over their water source through their charters: Barre City, Bellows Falls and St Johnsbury. All have a water source that resides within another municipal boundary: Barre City water is in Orange; Bellows Falls water is in Rockingham; and St Johnsbury water is in Waterford. **Why give control to Barre City and not the City of Montpelier?** (See town chart)
3. **Of the Six New England States, all but Vermont, have protections for drinking water sources, either at the state or the local level, regardless of where that source is located.**
(See chart: *New England States Drinking Water Source Management.*)
4. **Vermont Supreme Court 2012 ruling said that the State could cede control of Berlin Pond to the City of Montpelier. The Court affirmed that delegating authority to municipalities over their public water source is constitutional and conforms to Public Trust Doctrine.**

The original 1894 charter gave the city the power to control its water supply, which it maintained until a 1974 revision largely eliminated the previous language. The city requests the returns of these original powers to the city to control its water supply. Also within the court decision, it directs the city to ask for power it needs to control its water.

Supreme Court Citation; City of Montpelier v. Barnett, 191 Vt. 441 (2012):

Pg 4 *444 2. “We conclude only that valid regulation would require action by the State – either by direct regulation or by delegating such power to the City – and this has not yet occurred.”

Pg 8 [5] [6] 19. “State...may delegate certain authority to regulate its (Berlin Pond) use to another body, in this case the City of Montpelier.”

Pg 8 [7] [8] 20. “A municipality may thus assume the state’s authority to regulate public waters consistent with the public trust but only where that authority has been conveyed to the municipality by the state.”

Pg 13 A. 43. “...the 1894 charter specifically granted the city council the power to make all regulations and ordinances for preventing the corruption and for the protection of the water supply of said city...”

Pg 17 [22] 64. “. . . If more powers are needed, more must be asked for.”

5. The State requires the city to have a water Source Protection Plan.

The State gives the city responsibility to protect its water source, without the authority to do so. This lack of control puts the city in the position of failing to follow its own (State required) Source Protection Plan.

City of Montpelier asks for control over its water source so it can do what the State requires the city to do: protect its drinking water by protecting its water source.

Tom McArdle, Montpelier Department of Public Works Director, says that several items within the city's required plan can no longer be done because we no longer control human activity on the pond.

To update the Source Protection Plan (SPP) the City must:

a. "Inspect the source protection area & update the potential sources of contamination (PSOC) maps & inventory".

Recreational use of the source water and human contact will be identified as a new Potential Source of Contamination (PSOC).

b. "Weigh the risks from new PSOCs and identify risk management measures".

The risk of recreational use and human contact is indeterminate. Possible risks include loss of source water control to prevent or at least reduce the possible inadvertent or intentional introduction of contaminants to the source water.

c. "Summarize progress in reducing threats to your source".

To regain loss of source water control following the Supreme Court decision, the City has secured 86% voter support and is now asking Legislative approval of a charter change that will provide the City the necessary control of the source water and return to the original Source Protection Plan (SPP).

6. Costly upgrade to water treatment plant and process will be required to handle higher levels and new forms of contaminations that could have been prevented.

The City of Montpelier's water treatment plant was built to deal with high quality water that was protected from human containments.

7. Increased health risks due to higher levels of contaminations, higher level of treatment chemicals, and higher level of pathogens left in treated water. (See chart Bugs In = Bugs Out : Amount of Bugs/Pathogens left in 'Safe' Water)

The City of Montpelier will hold the State responsible for any increase in contaminations, in water treatment cost and in health issues that arise because the State refused to give the city the necessary control to protect its water source.