
DELIBERATIVE AGENDA
LOCAL CONTROL COMMISSION
CONTOIS AUDITORIUM, CITY HALL
MONDAY, AUGUST 12, 2013
7:00 P.M.

1. AGENDA
2. CONSENT AGENDA
3. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2013-2014):
Speak Easy Arts & Events Center, LLC, d/b/a Arts Riot, 400 Pine Street
4. ADJOURNMENT

REGULAR MEETING, CITY COUNCIL
MONDAY, AUGUST 12, 2013

1. AGENDA
2. INDOOR ENTERTAINMENT PERMIT APPLICATION (2013-2014):
Speak Easy Arts & Events Center, LLC, d/b/a Arts Riot, 400 Pine Street
3. INDOOR ENTERTAINMENT PERMIT APPLICATION (2013-2014):
Vinifera, Inc., d/b/a Vin Bar & Shop, 126 College Street
4. APPOINTMENT: City Engineer and Surveyor
 - 4.01. COMMUNICATION: Mayor Miro Weinberger, re: Appointment of City Engineer and Surveyor
 - 4.02. RESOLUTION: Reclassification of the Assistant Director Public Works – Technical Services Position (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)
5. Nathan Lavery, Chair, Public Works Commission, re: Annual Report to City Council – FY2013
6. PUBLIC FORUM **(Time Certain: 7:30 p.m. – 8:00 p.m. unless extended by the Council President per Council Rules)**
7. CONSENT AGENDA
8. PUBLIC COMMENT ON WARD REDISTRICTING
9. REPORT: Jeff Nick, Chair, Church Street Marketplace Commission, re: Church Street Marketplace Annual Report, FY 13
10. REPORT: Mark Saba, Burlington Fire Commission, Chair, re: 2013 Annual Report of the Burlington Fire Commission to the Burlington City Council
11. REPORT: Jerome F. O'Neill, Chair, Board of Police Commissioners, re: Annual Report of

the Burlington Police Commission to the Burlington City Council June 2012
through May 2013

12. PRESENTATION: Mark Larson, Commissioner of the Department of Vermont Health Access, re: Vermont Health Connect (15 mins.)
13. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE—Adaptive Reuse and Residential Bonuses ZA 13-11 (Planning Department, Planning Commission)(1st reading)(Proposed action: consider this 1st reading and refer it to the Ordinance Committee)
 - 13.01. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning, re: Proposed Zoning Amendment (ZA-13-11)
14. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE—Historic Building Materials ZA 13-12 (Planning Department, Planning Commission)(1st reading)(Proposed action: consider this 1st reading and refer it to the Ordinance Committee)
 - 14.01. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning, re: Proposed Zoning Amendment (ZA-13-12)
15. RESOLUTION: Reorganization Burlington Telecom – Reclassification and Title Change of Burlington Telecom Network Operations Supervisor to Division Manager of Technical Operations and Commercial Sales; and Title Change for Division Manager of Regulatory Affairs, Outside Plant, and Technical Assistance to Division Manager of Regulatory Affairs, Outside Plant, and Forward Planning (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)
16. RESOLUTION: Convening of A Summit to Discuss the Underfunding of the City's Pension Plan and to Explore Options to Address Unfunded Liability (Councilors Blais, Mason, Paul, Aubin, Ayres, Shannon, Worden)
17. RESOLUTION: Adoption of Council Priorities for 2013 – 2014 Council Year (Councilors Shannon, Knodell, Ayres, Paul)
18. COMMITTEE REPORTS (5 mins.)
19. COMMUNICATION: City Councilors, re: General City Affairs (oral)(10 mins.)
20. COMMUNICATION: Mayor Weinberger, re: General City Affairs (oral)(5 mins.)
21. ADJOURNMENT

CITY COUNCIL WITH MAYOR PRESIDING
MONDAY, AUGUST 12, 2013

1. AGENDA
2. CONSENT AGENDA
 - 2.01. COMMUNICATION: Clerk/Treasurer's Office, re: Openings Burlington City Commissions/Boards (1st notice)

*waive the reading, accept the communication and place it on file

2.02. COMMUNICATION: Clerk/Treasurer's Office, re: Openings Burlington City Commissions/Boards (2nd notice)

*waive the reading, accept the communication and place it on file

3. APPOINTMENT: Design Advisory Board, Alternate (Term expires 6/30/14)

4. APPOINTMENT: Board of Tax Appeals (Term expires 6/30/15)

5. ADJOURNMENT

CONSENT AGENDA

REGULAR MEETING, CITY COUNCIL

MONDAY, AUGUST 12, 2013

7.01. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re: Accountability List

*waive the reading, accept the communication and place it on file

7.02. RESOLUTION: Authorization of An Agreement with Switchback Brewery for the Acceptance of Waste at the Main Wastewater Treatment Plant
(Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)

*waive the reading and adopt the resolution

7.03. RESOLUTION: Church Street Marketplace District Commission Authorization to Enter into License Agreement with B. Hospitality Group, Inc. for College Street Kiosk (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)

*waive the reading and adopt the resolution

7.04. RESOLUTION: Authorizing License Agreement Between Prelco, Inc. and Church Street Marketplace for Access to Water for Public Drinking Fountain (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance; Councilor Paul)

*waive the reading and adopt the resolution

7.05. RESOLUTION: Authorization to Enter into License Agreement for Stairs, Sunshades and Roof Overhang on a Portion of the City's Right-of-way with Burlington Housing Authority (Councilors Blais, Tracy, Ayres: License Committee)

*waive the reading and adopt the resolution

7.06. RESOLUTION: Authorization to Enter into License Agreement for Awning, Sign and Lamps Extending Over a Portion of the City's Right-of-way with Orange Leaf (Councilors Blais, Tracy, Ayres: License Committee)

*waive the reading and adopt the resolution

7.07. RESOLUTION: Authorization to Contract for Leddy Park Softball Field Renovation (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)

*waive the reading and adopt the resolution

7.08. COMMUNICATION: Jesse Bridges, Director, Department of Parks & Recreation, re: Leddy Park Softball Field Renovation Contract

*waive the reading, accept the communication and place it on file

7.09. RESOLUTION: Authorization to Execute Amendments to Cooperative Agreements With The State of Vermont for Church Street Marketplace Capital Improvement Projects (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)

*waive the reading and adopt the resolution

7.10. COMMUNICATION: Guillermo Gomez, Public Works Engineer, Department of Public Works, Re: STP 5000 (16)-CA#0186 – Amendment #4; STP 5000 (17)-CA#0187 – Amendment #5; STP 5000 (19) – CA#0303 – Amendment #2

*waive the reading, accept the communication and place it on file

7.11. RESOLUTION: Creation of Regular Full Time Custodian I – Burlington Parks and Recreation Department (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)

*waive the reading and adopt the resolution

7.12. RESOLUTION: Authorization for Land Purchases and Relocation Services (AIP-94) in Anticipation of AIP Grant Funds for Burlington International Airport (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)

*waive the reading and adopt the resolution

7.13. RESOLUTION: Reclassification and Title Change of the Burlington Police Department Assistant to the Officer in Charge Position (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)

*waive the reading and adopt the resolution

7.14. RESOLUTION: Authorization to Execute Amended Lease with Hangar Condo Association at Burlington International Airport (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)

*waive the reading and adopt the resolution

7.15. RESOLUTION: Authorization to Settle Civil Actions Regarding Property Taxation at Burlington International Airport (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance)

*waive the reading and adopt the resolution

7.16. COMMUNICATION: Matt Conger, Member, Public Works Commission, re: Resignation

*waive the reading, accept the communication, place it on file, advertise the vacancy (already did) and send a letter of appreciation thanking Matt Conger for his time served as a member of the Public Works Commission)

7.17. COMMUNICATION: Jackie Gordon, re: F-35 planes

*waive the reading, accept the communication and place it on file

7.18. COMMUNICATION: Miro Weinberger, Acting As Duly Authorized Agent for the Burlington Community Development Corporation, re: Construction of the Champlain Parkway Land

*waive the reading, accept the communication and place it on file

7.19. COMMUNICATION: Karen B. Horn, Director, Public Policy and Advocacy, VLCT, re: 2013 VLCT Municipal and Legislative Service Awards

*waive the reading, accept the communication, place it on file and refer to the Mayor's Office for consideration

7.20. COMMUNICATION: Martha Lang, City Resident and Abutter, re: Proposal to Lease/Sell Ira Allen, Lease Taft School & Purchase/Renovate St. Joseph's (PF 7/15/13)

*waive the reading, accept the communication and place it on file

7.21. COMMUNICAITON: Martha R. Lang, Ph.D., re: Documents Not Properly Researched for School Building on Colchester Avenue

*waive the reading, accept the communication and place it on file

7.22. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator & Amy Bovee, Executive Secretary, re: Draft Minutes, Regular City Council Meeting, December 3, 2012

*waive the reading, accept the communication, place it on file and adopt the minutes at the September 9, 2013 City Council Meeting

7.23. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator & Amy Bovee, Executive Secretary, re: Draft Minutes, Adjourned City Council Meeting, December 17, 2012

*waive the reading, accept the communication, place it on file and adopt the minutes at the September 9, 2013 City Council Meeting

7.24. COMMUNICATION: Alan Matson, Chair, Board of Commissioners, Burlington School Board, Re: Real Estate Authorization

*waive the reading, accept the communication and place it on file

7.25. COMMUNICATION: The Off-Leash Work Group (OLWG), re: Off-Leash Work Group Findings

*waive the reading, accept the communication and place it on file

7.26. REPORT: Elisabeth Mickenberg, Chair, Board for Registration of Voters, re: Annual Report for 2013

*waive the reading, accept the report and place it on file

7.27. SPECIAL EVENT OUTDOOR ENTERTAINMENT PERMIT APPLICATION (one day only):

Church and Main, 156 Church Street, August 11, 2013, 6 p.m. – 10 p.m., Charity event

*waive the reading, accept the communication, place it on file and ratify the one day only special event outdoor entertainment permit application for Church and Main

7.28. SPECIAL EVENT OUTDOOR ENTERTAINMENT PERMIT APPLICATION (Fris in August):

Monkey House, SEABA parking lot on Pine Street, 4 p.m. – 9 p.m., Community Food Truck Stop

*waive the reading, accept the communication, place it on file and ratify the special event outdoor entertainment permit application for Monkey House for 8/2 and 8/9; approve the special event outdoor entertainment permit application for Monkey House for 8/16, 8/23 and 8/30

7.29. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (September only):

Pacific Rim, 161 Church Street, 10 p.m. – 2 a.m., DJ, dancing and amplified music

*waive the reading, accept the communication, place it on file and approve the special event indoor entertainment permit application for Pacific Rim for the following dates only: 9/4, 9/5, 9/6, 9/7, 9/11,

9/12, 9/13, 9/14, 9/18, 9/19, 9/20, 9/21, 9/25, 9/26, 9/27, 9/28; fees are waived for the month of September only

7.30. SPECIAL EVENT OUTDOOR ENTERTAINMENT PERMIT APPLICATION (one day only):

Seven Days, Friday, September 6, 5:00 p.m. – 10:00 p.m., front and right side only of Curtis Lumber parking lot (permission granted by Curtis Lumber)

*waive the reading, accept the communication, place it on file and approve the one day only special event outdoor entertainment permit application for Seven Days

7.31. SPECIAL EVENT OUTDOOR ENTERTAINMENT PERMIT APPLICATION (3 days only):

South End Arts and Business District (SEABA), September 6-8, 2013, Friday: 5:00 p.m.- 10:00 p.m.; Saturday: 10:00 a.m. – 10:00 p.m.; Sunday: 11:00 a.m. – 4:00 p.m., various events/locations

*waive the reading, accept the communication, place it on file and approve the three day special event outdoor entertainment permit application for SEABA

7.32. COMMUNICATION: Karen Lafayette & Erhard Mahnke, Legislative Liaisons, re: 2013 Burlington Legislative Report

*waive the reading, accept the communication and place it on file

Members of the public may speak when recognized by the Chair, during the Public Forum (time certain: 7:30 p.m.) or during a Public Hearing. This agenda is available in alternative formats upon request. Persons with disabilities, who require assistance or special arrangements to participate in programs and activities of the Clerk/Treasurer's Office, are encouraged to contact us at 865-7000 (voice) or 865-7142 (TTY) at least 72 hours in advance so that proper arrangements can be made. This meeting will air live on the night of the meeting on Burlington Telecom, Channel 317. This meeting will also air on Channel 17 on August 14, 2013 at 8:00 p.m., repeating at 1 a.m., 7 a.m. and 1 p.m. the following day. For information on access, call Scott Schrader, Assistant CAO for Administration and Management (865-7140) or Lori Olberg, Licensing, Voting and Records Coordinator (865-7136) (TTY 865-7142).

20 13

FIRST/SECOND CLASS LIQUOR LICENSE AND TOBACCO APPLICATION

LICENSE YEAR IS MAY 1ST THROUGH APRIL 30TH OF THE FOLLOWING YEAR

SPEAK EASY ARTS & EVENTS CENTER, LLC

Print Full Name of Person, Partnership, Corporation, Club or LLC

Doing Business As - Trade Name

ARTS RIOT

Street and street number of premises covered by this application

400 PINE STREET

Town or City & Zip Code

BURLINGTON, VERMONT 05401

Telephone Number

Mailing Address (if different from above)

Email address PJ@ARTSRIOT.COM

Please circle appropriate categories

FIRST CLASS

SECOND CLASS

TOBACCO

Restaurant

Hotel

Cabaret

Club

Commercial Kitchen (a Liquor Control Commercial Caterer's License is needed with this license)

*all standard conditions
*approval contingent upon
All City permits closed out/
Fire Marshal approval
licensed space may
change per DLC
7/30/13
10 mtg

FEES:

FIRST CLASS LICENSE - \$100.00 to DLC and \$100.00 to Town/City

SECOND CLASS LICENSE - \$50.00 to DLC and \$50.00 to Town/City

TOBACCO ONLY LICENSE - \$10.00 to Town/City only
(there is no fee for tobacco if applying for second class)

TO THE CONTROL COMMISSIONERS OF THE TOWN/CITY OF _____, VERMONT

Application is hereby made for a license to sell malt and vinous beverages under and in accordance with Title 7, Vermont Statutes Annotated, as amended, and certify that all statements, information and answers to questions herein contained are true; and in consideration of such license being granted do promise and agree to comply with all local and state laws; and to comply with all regulations made and promulgated by the Liquor Control Board. Upon hearing, the Liquor Control Board may, in its discretion, suspend or revoke such license whenever it may determine that the law or any regulations of the Liquor Control Board have been violated, or that any statement, information or answers herein contained are false.

MISREPRESENTATION OF A MATERIAL FACT ON ANY LICENSE APPLICATION SHALL BE GROUNDS FOR SUSPENSION OR REVOCATION OF THE LICENSE, AFTER NOTICE AND HEARING.

If this premise was previously licensed, please indicate name FRESH MARKET / CHEESE OUTLET
2ND CLASS

I/we are applying as: (please circle one)

INDIVIDUAL

PARTNERSHIP

LIMITED LIABILITY COMPANY
CORPORATION

Please fill in name and address of individual, partners, directors or members.

LEGAL NAME

STREET/CITY/STATE

PATRICK J McHENEY JR 55 HOWARD STREET, BURLINGTON, VT 05401

FELIX WAI 131 LAKEVIEW TERRACE, BURLINGTON, VT 05401

Are all of the above citizens of the UNITED STATES? ☒ Yes ☐ No
(Note: Resident Alien is not considered a U.S. Citizen)

If naturalized citizen, please complete the following:

Name

Court where naturalized (City/State/Zip)

Date

pd mkt #556
\$290.00
lo 4/10/13

CORPORATE INFORMATION:

If you have checked the box marked CORPORATION, please fill out this information for stockholders (attach sheet if necessary)

LEGAL NAME

STREET/CITY/STATE

Date of incorporation _____ Is corporate charter now valid? _____

Corporate Federal Identification Number _____

Have you registered your corporation and/or trade name with the Town/City Clerk? _____ and/or Secretary of State? _____ (as required by VSA Title 11 § 1621, 1623 & 1625).

ALL APPLICANTS

HAVE ANY OF THE APPLICANTS EVER BEEN CONVICTED OR PLED GUILTY TO ANY CRIMINAL OR MOTOR VEHICLE OFFENSE IN ANY COURT OF LAW (INCLUDING TRAFFIC TICKETS) AT ANY TIME?

☒ YES☐ NO

If yes, please complete the following information: (attached sheet if necessary)

Name

Court/Traffic Bureau

Offense

Date

Do any of the applicants hold any elective or appointive state, county, city, village/town office in Vermont? (See VSA, T.7, Ch. 9, §223) complete the following information.

YES ☐ NO ☒ If yes, please

Name

Office

Jurisdiction

Please give name, title and date attended of manager, director, partner or individual who has attended a Liquor Control Licensee Education Seminar, as required by Education Regulation No. 3

NAME: PS McKeay Felix Wai
TITLE: Co-Owner Co-Owner
DATE: 4/10/13 6/25/12

(If you have not attended an Education Seminar prior to making application, please visit www.liquorcontrol.vermont.gov and click on Seminar Schedule for a list of Seminars in your area)

FOR ALL APPLICANTS: DESCRIPTION /LOCATION OF PREMISES (Section 4)Description of the premises to be licensed: CAFE & GALLERYDoes applicant own the premises described? NO If not owned, does applicant lease the premises? YESIf leased, name and address of lessor who holds title to property: STEPHEN UNSWORTH, 26 RAILROAD AVE, ESSEX JCT, VT 05452Are you making this application for the benefit of any other party? NO

FIRST CLASS APPLICANTS ONLY: No first class license may be issued without the following information.

HEALTH LICENSE #: Food _____ Lodging _____ (if licensed as a Hotel)

VERMONT TAX DEPARTMENT: Meals & Rooms Certificate/Business Account # _____

Business is devoted primarily to: (Circle one)

☒ FOOD (restaurant) ☐ ENTERTAINMENT (cabaret) ☐ HOTEL ☐ CLUB ☐ COMMERCIAL CATERING

If you are considering Outside Consumption service on decks, porches, cabanas, etc. you must complete an Outside Consumption Permit. This form can be found on our website at www.liquorcontrol.vermont.gov and then click on licensing and then applications.

CABARET APPLICANTS ONLY:

Applicant hereby certifies that the sale of food shall be less in amount or volume than the sales of alcoholic beverages and the receipts from entertainment and dancing; if at any time this should not be the case, the applicant/licensee shall immediately notify the Department of Liquor Control of this fact.

Signature of Individual, Partner, authorized agent of Corporation or LLC member

ALL APPLICANTS MUST COMPLETE AND SIGN BELOW

The applicant(s) understands and agrees that the Liquor Control Board may obtain criminal history record information from State and Federal repositories prior to acting on this application.

I/We hereby certify, under pains and penalties of perjury, that I/We are in good standing with respect to or in full compliance with a plan approved by the Commissioner of Taxes to pay any and all taxes due the State of Vermont as of the date of this application. (VSA, Title 32, §3113).

In accordance with 21 VSA, §1378 (b) I/We certify, under pains and penalties of perjury, that I/We are in good standing with respect to or in full compliance with a plan to pay any and all contributions or payments in lieu of contributions due to the Department of Employment and Training.

If applicant is applying as an individual: I hereby certify that I/We are not under an obligation to pay child support or that I/We are in good standing with respect to child support or am in full compliance with a plan to pay any and all child support payable under a support order. (VSA, Title 15, §795).

Dated at 04/05/2013 1:28pm in the County of CHITTENDEN and State of VERMONT
this 5th day of APRIL, 20 13

Corporations/Clubs: Signature of Authorized Agent Individuals/Partners: (All partners must sign)

PATRICK McWENY, Co-owner
FELIX WAI, Co-owner

(Title)

[Signature]

NOTICE: After local action, all new applications are investigated by the Enforcement and Licensing Division prior to approval/disapproval of the license by the Liquor Control Board. This process can take anywhere from two weeks to six weeks to complete once the application has reached Liquor Control.

TOWN/CITY APPROVAL/DISAPPROVAL

Upon being satisfied that the conditions precedent to the granting of this license as provided in Title 7 of the Vermont Statutes Annotated, as amended, have been fully met by the applicant, the commissioners will endorse their recommendation on the back of the applications and transmit both copies to the Liquor Control Board for suitable action thereon, before any license may be granted. For the information of the Liquor Control Board, all applications shall carry the signature of each individual commissioner registering either approval or disapproval. Lease or title must be recorded in town or city before issuance of license.

_____, Vermont, _____
Town/City Date

APPROVED

DISAPPROVED

Approved/Disapproved by Board of Control Commissioners of the City or Town (circle one) of _____
Total Membership _____ members present

Attest, _____
City or Town Clerk

TOWN OR CITY CLERK SHALL MAIL ONE APPLICATION DIRECTLY TO THE DEPARTMENT OF LIQUOR CONTROL, 13 Green Mountain Drive, Montpelier, VT 05602. If application is disapproved, local control commissioners shall notify the applicant by letter.

No formal action taken by any agency or authority of any town board of selectmen or city board of aldermen on a first or second class application shall be considered binding except as taken or made at an open public meeting. VSA Title 1 §312.

SECTION 5111 AND 5121 OF THE INTERNAL REVENUE CODE OF 1954 REQUIRE EVERY RETAIL DEALER IN ALCOHOLIC BEVERAGES TO FILE A FORM ANNUALLY AND PAY A SPECIAL TAX IN CONNECTION WITH SUCH SALES ACTIVITY. FOR FURTHER INFORMATION, CONTACT:
THE BUREAU OF ALCOHOL, TOBACCO & FIREARMS (TTB) (513) 684-2979
DEPARTMENT OF THE TREASURY
550 MAIN STREET, CINCINNATI, OH 45202



LIQUOR LICENSE

NEW APPLICANT QUESTIONNAIRE

D/B/A (Business Name) ARTS RIOT

Contact person PJ McHENRY Contact Phone 802-578-3560

1. Have you ever had a liquor license before? If yes, please explain.

NO

2. Please describe your experience serving or selling alcohol?

10^{YRS} CATERING EXPERIENCE, 3 YRS BARTENDING
EXPERIENCE, 6 YEARS SERVING EXPERIENCE

3. Are you familiar with the laws relating to the sale of alcohol in Vermont? Have you completed the training required by DLC? Have your employees? If not, what is your plan for training?

I HAVE COMPLETED THE TRAINING REQUIRED BY
THE DLC AND UNDERSTAND VT STATE LAWS
RELATING TO SALE OF ALCOHOL. OUR
EMPLOYEES WILL BE REQUIRED TO COMPLETE
TRAINING BEFORE SERVING ALCOHOL.

4. Have you had an opportunity to meet with an inspector from the Department of Liquor Control?

YES. I'VE HAD MULTIPLE CONVERSATIONS
WITH MATT GONYO, JAMIE CURTIS AND
MARTIN PREVOST.

5. How many employees will you have?

10-12

6. What is/will the square footage of the public space and what is/will be your occupancy load??

PUBLIC SPACE SQUARE FOOTAGE:
OCCUPANCY LOAD:

7. What kind of precautions will you take to prevent underage sales?

ALL EMPLOYEES WILL RECEIVE TRAINING FROM
MANAGER AND WILL BE OBLIGATED TO COMPLETE
DLC TRAINING BEFORE SERVING ALCOHOL. EMPLOYEES
WILL ALSO BE TRAINED ON OUR POLICIES AND
PROCEDURES SPECIFIC TO OUR BUSINESS. FURTHERMORE
WE WILL INSTILL A COMPANY CULTURE THAT
HONORS A CLEAN, SAFE & SECURE WORK PLACE.

Please note that your application will not go before the License Subcommittee until this application has been satisfactorily completed and returned to the Clerk's Office

ARTSRIOT

*General Description
Business Plan, etc.
available upon
request.*

COMMUNITY ORGANIZING PLATFORM



WHO ARE WE?

ArtsRiot is a mission-driven business. We destroy apathy while daylighting the invisible ties that connect. In short, we build community. We work in the art, food, and music communities. Our website is the **fastest growing online magazine** in Burlington featuring the best of the creative culture of our town. The site not only lists the events happening in town, but also tells the stories of the creative people behind the scenes. We also curate a gallery and community space in the South End Arts District of Burlington. In our new space, the art gallery will continue to feature **socially conscious artists** and host **community events**. The cafe will provide **healthy, locally-sourced food**. The endeavors in our new space support each other- the cafe driving traffic to our gallery and the gallery and events bringing customers to the cafe. In total- web, cafe, and gallery- we will be the thriving cultural hot-spot.

WHAT DO WE DO?

STEP 1: IMMEDIATELY POSSIBLE

Events. We will continue to run our current programming. A space with an increased capacity and supplementary services helps realize the revenue potential of these events. Our initial events will include guest chefs, specialty tastings, art openings, storytelling, poetry nights, and live music.

Rental. We know space and tools are at a premium in our community. We will offer our gallery events space for room rentals and offer our commercial kitchen to food entrepreneurs to rent.

Art Gallery. ArtsRiot Gallery features socially engaging exhibits. We believe in art education- that is art with a message. Our experience showing local and nationally known artists along with our established clientele, high quality LED lighting, and professional curating we'll be setting a new standard for art in Burlington.

Cafe. The cafe will offer simply prepared, nutritious, locally-sourced food. Our selection will be based upon a soup, salad, and sandwich menu catered towards the neighborhood market of offices and businesses in the South End. Our food will be healthy and of the highest quality. A small selection of packaged foods will supplement our offerings.

Catering: We will begin offering our high quality menu at our events, partner events, and to other businesses and organizations.

In-House Production: Based on our market and customers, we will begin producing some of our own food products in house. Potential house made products include muffins, bread, croutons, pesto, kimchee, and pickles. This production will go hand in hand with food-focused community workshops.

Event Promotion: By building our public art initiatives, community events and creative engagement channels we will be positioned to help others with event-based community organizing.

Night time: To truly meet the demand of a casual space to socialize and eat in the South End, we will operate during later hours for dinner and nighttime entertainment.

WHY DO WE DO IT?

Vermont is a national and international driving force in the **local food movement**. Our cafe provides an ideal comfortable space and launchpad for greater community action, naturally fitting in with this movement.

The synergy among the art, food, and events is a powerful intersection to push our country in a positive direction. The art and food (ArtsRiot) combination celebrates **cultural richness**. It's not just living, it's thriving.

We live in Vermont. Our business is rooted in the **vibrancy** of its food, art, and music. As Vermont progresses and grows. So will we.

AN APATHETIC AMERICA?

THE ORIGIN

Every cause, every mission, every reason that someone believes is worth standing up and fighting for quickly leads to the following question:

Why don't people care enough about _____?

Whether its the environment, social security, or equal rights, a common theme of distrust and a lack of ownership lead to hopelessness and/or a passing of the buck. This lack of care and engagement in social, economic, and civic issues points to an apathetic population. ArtsRiot believes apathy is present for two reasons: disempowerment and disconnection. Income disparity, corrupt capitalism, and an oblique mass media lead to a lack of access, lack of opportunity, and lack of economic and political will.

OUR DIRECTION

NGOs and large institutions aren't nimble. In order to keep up with the pace of the modern world the private sector must support the mission of destroying apathy. This is where ArtsRiot comes in. Our network, youth, and agility as a for-profit community organizing organization provides a powerful platform to increase exposure and creatively produce events for your cause.

THE SOLUTION

ArtsRiot believes in social incentives. We leverage the congregative power of art, food, and music to create cultural riots. Each scene or disturbance created by a group of people united by a common cause pushes a relative conversation back into our community's physical streets and virtual world. Our belief is that we must riot. We must let unbridled merriment instigate social change.

Revolutions are dangerous and most often a last resort. In order to prevent the necessity of another American revolution lets riot first. Riot befoRevolution. Apathy destroyed.

ARTSRIOT

CERTIFICATE of ACHIEVEMENT

This is to certify that

Patrick McHenry

has completed the course

Server Training - 1st class Seminar Certification

April 10, 2013



DEPARTMENT OF LIQUOR CONTROL

WfnYjLEVzV

CERTIFICATE OF COMPLETION

This is to certify that

Felix Wai

has completed the course

Server Training - 1st class Seminar Certification

January 25, 2012



DEPARTMENT OF LIQUOR CONTROL

F4QS3DBic4

ARTSRIOT CAFE (Draft 3)

DUMPLINGS

Pork and Leek (6 for \$3.50)

House-made Pork and Ginger Pot Stickers (5 for \$6)

House-made Pulled Pork and Kimchee (5 for \$6.50)

House-made Shitake and Scallion (5 for \$6)

NOODLES

Sesame noodles (rg \$6 / lg \$8)

Yakitori (rg \$7 /lg \$10)

Ramen (rg \$6/ lg \$8)

Ramen Stir Fry (rg \$7 / lg \$9)

House pulled noodles (rg \$12/ lg \$15)

STEAM BUNS

Cha Sui Bao- Bbq pork (\$3)

Shitake, Ginger, Leek (\$3)

SIDES

Seasonal Steamed Veggies \$4

Cucumber Salad \$3.50

Kimchi Salad \$5

TEA

Gen Mai Chai (Green Tea with Roasted Brown Rice) \$2

RECEIVED
2013 APR 17 A 9:45
BURLINGTON CLERK
TREASURY'S OFFICE

Iced Gen Mai Chai with (\$3)

Lai Cha- Hong Kong Milk Tea (\$2)

Vietnamese Coffee (\$3)

Iced Vietnamese Coffee (\$3.50)

Reishi Tea (\$3)

Chaga Coffee (\$3)

JUICE

Fresh Squeezed (12oz \$5/ 16oz \$6.50)

Carrot, Beet, Orange, Apple, Melon

Ginger shot (\$2)

Wheat Grass (\$2)

RECEIVED
2013 APR 17 A 9:45
BURLINGTON CLERK
TREASURER'S OFFICE



OFFICE OF THE CLERK AND TREASURER
149 CHURCH STREET
BURLINGTON, VT 05401

802-865-7131 TTY 802-865-7142

Application Review
First Class Liquor License - Restaurant

05/01/2013 - 04/30/2014

Jeff Herwood

TO: Kathy Dunn, Clerk/Treasurer's Office

FROM: Lori Olberg, Clerk/Treasurer's Office

DATE: Monday, April 15, 2013

COMPANY: Speak Easy Arts & Events Center, LLC

DBA NAME: Arts Riot

FORMERLY: Cheese Outlet/Fresh Market

LOCATION: 400 Pine Street

PHONE: 578-3560

Please review -
Franklin

The above applicant has applied for a new/renewal license. Please complete the appropriate section below verifying the status of the applicant's taxes and return it to this office as soon as possible.

Property Taxes Overdue?

Yes

☐

No

☒

Initials

Property Taxes Delinquent?

Yes

☐

No

☒

Initials

Gross Receipts Tax Overdue?

Yes

☐

No

☒

Initials

Thank You,

Lori Olberg
Clerk/Treasurer's Office
City Hall

Date: Monday, April 15, 2013



OFFICE OF THE CLERK AND TREASURER
149 CHURCH STREET
BURLINGTON, VT 05401

802-865-7131 TTY 802-865-7142

Application Review
First Class Liquor License - Restaurant

05/01/2013 - 04/30/2014

TO: Ken Lerner, Planning & Zoning Office
FROM: Lori Olberg, Clerk/Treasurer's Office
DATE: Monday, April 15, 2013
COMPANY: Speak Easy Arts & Events Center, LLC
DBA NAME: Arts Riot
FORMERLY: Cheese Outlet/Fresh Market
LOCATION: 400 Pine Street
PHONE: 578-3560

Please review
Thanks
LO

Please attach any pertinent information which the City Council License Committee may require.

Please indicate:

Approved?

Yes



No



Initials

LO

Date

4/15/13

Notes:

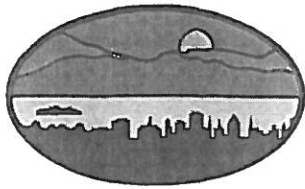
Re: Zoning Permit 13-0828CA

(14 seats)

Thank You,

Lori Olberg
Clerk/Treasurer's Office
City Hall

Date: Monday, April 15, 2013



**ZONING PERMIT
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 3/15/2013

Appeal Expiration Date: 4/12/2013

Project Location: 400 PINE STREET

District: ELM

Owner: Howard Space Partnership, LLP

Address: 26 Railroad Avenue

Essex Jct, VT 05452

Ward: 5

Tax ID: 053-1-015-100

Project Type: Commercial - Renovation/Facade

Project Description: Change of use to include art gallery and performing arts studio. Food processing to remain, and cafe to be reduced from 18 seats to 14 seats. Add rear entry, revise and add second front entry, replace existing entry ramp, and other associated modifications.

Construction Cost:	\$150,000	Lot Size (Sq Ft):	119,090
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	0

Zoning Permit #: 13-0828CA

Decision By: Administrative

Level of Review: 2

Decision: Approved

See Conditions of Approval

Decision Date: March 28, 2013

Project File #: NA

Zoning Administrative Officer

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on April 12, 2013.

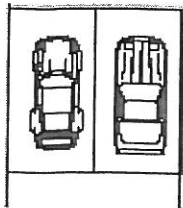
Fee Type	Amount	Paid in Full	Balance Due:	\$0.00
Application Fee:	\$80.00	Yes	Date Paid:	_____
Development Review Fee:	\$0.00	NA	Check #	_____
Impact Fee:	Not Applicable			

Building Permit Required: **Yes**

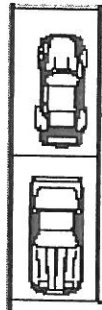
Permit Received by: _____

Date: _____

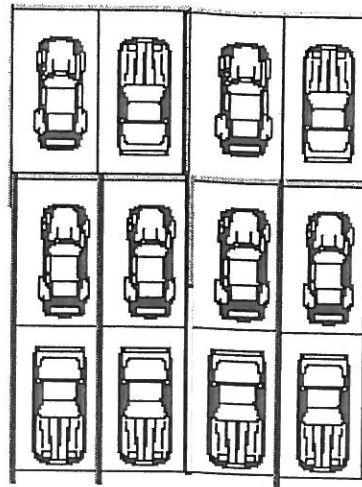
Parking, Tandem: The parking of up to two (2) cars, one behind the other.



Normal

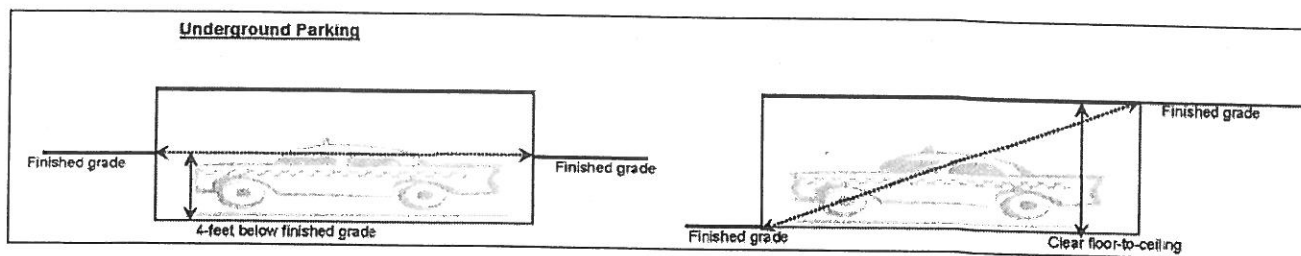


Tandem



Stacked

Parking, Underground: Parking spaces within a covered structure where either: fifty percent of the volume of the parking space is below the finished surface of the ground adjacent to the exterior walls of the building; or, the floor of the parking space is four (4) feet below the finished surface of the ground adjacent to the exterior walls of the building, whichever is greater.

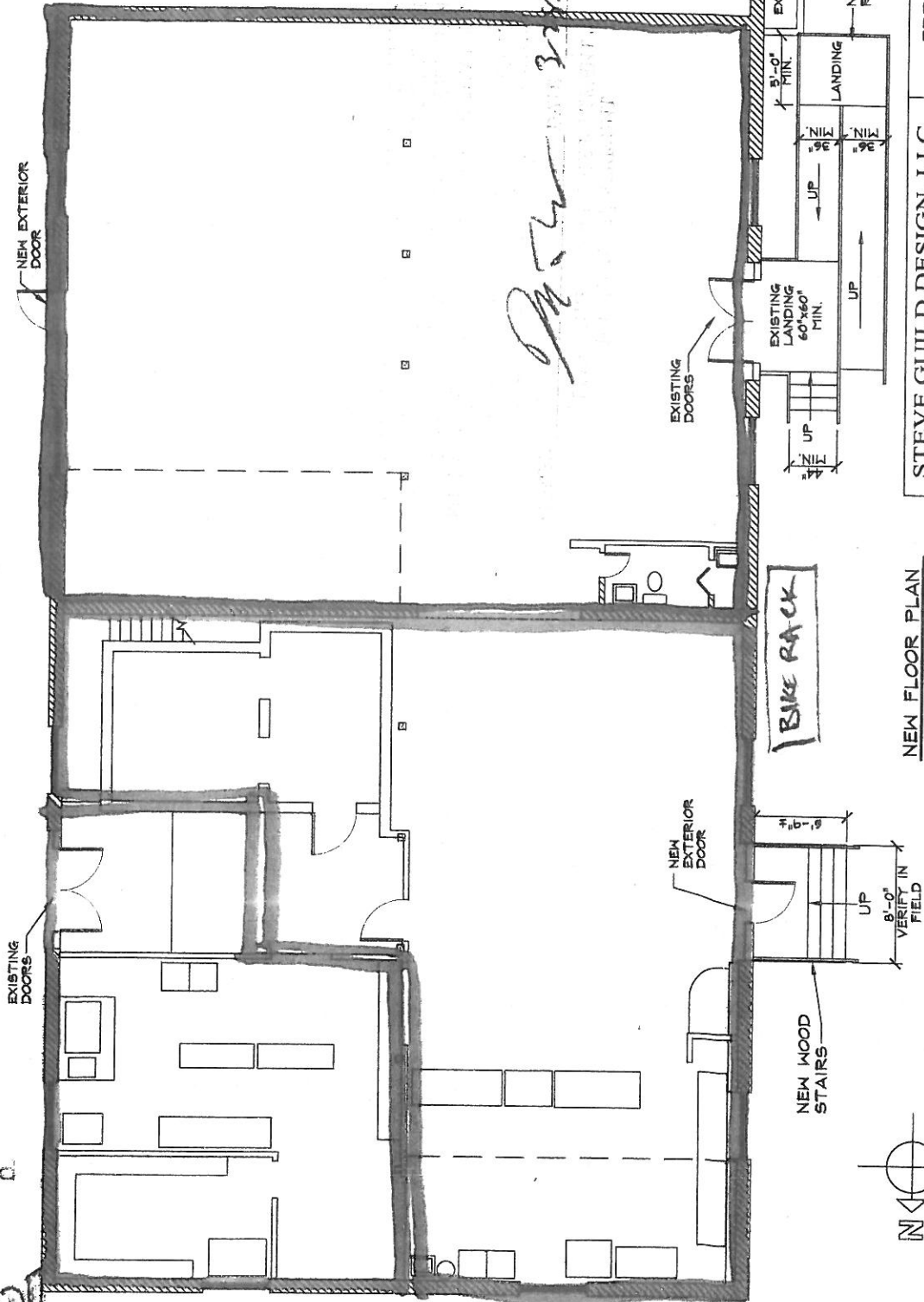


➔ **Performing Arts Center/Theatre:** An establishment primarily used for performing arts performances which may include permanent seating.

➔ **Performing Arts Studio:** An establishment less than 5,000 square feet in size primarily used for acting, music, dance classes, rehearsal, or other instruction in the performing arts. Such an establishment has no permanent seating for performances.

Person: Any individual, corporation, business trust, estate trust, partnership, association, or any other entity or combination thereof.

DEPARTMENT OF PLANNING & ZONING
MAY 15 2013



- HANDICAP RAMP NOTES:
1. HANDRAILS TO BE CONSTRUCTED OF WOOD OR GALV. STEEL. VERIFY WITH OWNER.
2. THE MAXIMUM SLOPE SHALL BE 1:12
3. THE MAXIMUM RISE FOR ANY RUN (RAMP) SHALL BE 30".
4. TOP OF HANDRAILS TO BE 36" ABOVE RAMP AND LANDING.
5. LANDING TO BE AS WIDE AS THE RAMP RUN AND THE LENGTH TO BE A MIN. OF 60 INCHES CLEAR.
6. THE CLEAR SPACE BETWEEN THE HANDRAIL AND THE WALL SHALL BE 1 1/2" MINIMUM.
7. GRIPPING SURFACE SHALL BE CONTINUOUS
8. ENDS OF HANDRAILS SHALL BE EITHER ROUNDED OR RETURNED SMOOTHLY TO FLOOR, WALL OR POST.
9. HANDRAILS SHALL EXTEND HORIZONTALLY ABOVE THE LANDINGS FOR 12" MINIMUM BEYOND THE TOP AND BOTTOM OF RAMP RUNS.
10. THE CLEAR WIDTH OF A RAMP RUN AND, WHERE HANDRAILS ARE PROVIDED, THE CLEAR WIDTH BETWEEN HANDRAILS SHALL BE 36" MINIMUM.
11. GUARDS SHALL BE PROVIDED AT THE OPEN SIDES OF MEANS OF EGRESS THAT EXCEED 30" ABOVE THE FLOOR OR THE FINISHED GROUND LEVEL BELOW.

PERMITS ONLY
NOT FOR
CONSTRUCTION
3/14/13

SHEET NO.
A1

EXISTING
FLOOR PLAN

FRESH MARKET
RENOVATION/ADDITION TO EXISTING BUILDING
400 PINE STREET BURLINGTON, VERMONT

STEVE GUILD DESIGN, LLC
ONE STEELE STREET, BURLINGTON, VT 05401
PHONE: 802-363-1482 EMAIL: steve@stevegulldesign.com

NEW FLOOR PLAN
1/8" = 1'-0"

= Food Processing

= CAFE

= ART GALLERY/STUDIO
= PERFORMING ARTS STUDIO

**UNSWORTH PROPERTY MGMT., LLC
AGENT FOR HOWARD SPACE PARTNERSHIP LLP**

26 Railroad Avenue
Essex Jct., VT 05452
Phone: (802) 879-4504
Email: info@unsworthproperties.com
Web: www.unsworthproperties.com

**COMMERCIAL LEASE
TAX ESCALATOR AND COST OF LIVING**

THIS AGREEMENT OF LEASE made and entered into this as of this 11th day of March 2013 between Unsworth Property Management LLC, agent for Howard Space Partnership LLP, 26 Railroad Ave., Essex Jct., VT 05452, hereinafter referred to as "Landlord" and Felix Wai, Patrick McHenry, Jr., and Speak Easy Arts LLC, hereinafter referred to as "Tenant".

In consideration of the terms and conditions hereinafter contained, the parties hereto agree as follows:

1. **Premises:** The Landlord hereby leases to the Tenant the following land and premises: 4,500 square Feet of Space at 400 Pine Street Burlington Vermont, commonly known as, Howard Space B3 and B4.

Unless indicated otherwise, the premises shall be used as an arts event center, office, café, delicatessen and bakery and not otherwise.

2. **Initial Term:** This Lease shall be for the term of five years commencing on March 11, 2013 and ending February 28, 2018 at noon.

2.1 **Renewal Terms:** The Tenant is hereby given an option to renew this lease for two (2) additional five-year terms.

2.2 The first renewal of five years, is upon the same terms and conditions as herein provided, and as modified as to rental payments as stated below, by giving the Landlord written notice ninety (90) days before the expiration of the then-existing term. Said option is conditioned upon there being no default under this agreement at the time of exercise of the option to renew.

2.3 The second renewal of five years is upon the same terms and conditions as herein provided, except the rent shall be negotiated and agreed to by the parties. If the parties cannot make an agreement, each party shall hire a professional appraiser and the appraisers shall together determine the fair market rent. If they cannot agree, an additional appraisal will be done and two closest appraisals shall be averaged and such average amount shall be binding and shall establish the Appraised Value of the Premises. Said option is conditioned upon there being no default under this agreement at the time of exercise or at the option to renew.



May 1, 2013 ---- April 30, 2014

CITY OF BURLINGTON ENTERTAINMENT PERMIT APPLICATION

☒ New

☐ Renewal

☒ Indoor

☐ Indoor

☐ Outdoor

☐ Outdoor

PART I ORGANIZATION

All information in this section is required

1. Corporation/Sole Proprietor name SPEAK EASY ARTS & EVENTS CENTER, LLC
2. D/B/A (Business Name) ARTS RIOT
3. Bus. Phone 802-578-3560
4. Business Address 400 FIVE STREET, BURLINGTON, VT 05401
5. Mailing Address SAME
6. Contact person PJ McHenry
7. Contact Phone 802-578-3560
8. Email contact address PJ@ARTSRIOT.COM

PART II OPERATION

1. Occupancy Load IN PROGRESS
2. # of Restrooms ≥ 4 LAVATORY, 2 W.C.
3. # of Egresses 3
4. Date of last Fire/Safety Check PRELIMINARY 4/11/13
5. Dancing by Patrons? Yes or No
6. Amplified Music? Yes or No *

PART III TYPE OF ENTERTAINMENT

Please identify with a check mark the entertainment for which you are applying. Check all that apply.

☒ Live Instrumental Music

☒ Live Vocal Music

☐ Jukebox

☒ Disc Jockey

☐ Karaoke

***Please give additional description for any selections below on the next page (REQUIRED)

***Floor/Stage Shows

- ☒ Fashion Show/Trade Show/Exhibition
- ☒ Readings
- ☒ Stage Play/Pantomime
- ☒ Comedian
- ☒ Dance Performance
- ☒ Contests/Games/Amusements
- ☐ Movies
- ☐ Other

pdchic #556
\$290.00

(Continued on back)

do 4/10/13

Additional description

(REQUIRED): ACTS RUT.COM IS A COMMUNITY ORGANIZING ORGANIZATION.
PLEASE SEE ATTACHED SHEET FOR DETAILS.

all types approved that are checked

**11AM-1AM
everyday
do*

PART IV
PROPOSED HOURS OF ENTERTAINMENT

WEEKDAYS	ENTERTAINMENT HOURS
Sunday	8am - 12am
Monday	"
Tuesday	"
Wednesday	"
Thursday	"
Friday	"
Saturday	"

STATEMENT OF APPLICANT: Under the pains and penalties of perjury, I affirm that the preceding answers are true to the best of my knowledge and belief. I have read, understand and agree to comply with all City and State conditions, laws, ordinances, regulations and statutes.

DATE SIGNED: 04/01/2013

SIGNATURE OF APPLICANT 

PRINT NAME: PATRICK MCHENRY

RELATIONSHIP TO BUSINESS OWNER

OFFICE USE ONLY

Fee Paid \$ _____ Date: _____ Fee Returned \$ _____ Date: _____

At their meeting of 7/30/13, the Burlington City Council License Committee recommended
Approval X Denial _____

At their meeting of _____, the Burlington City Council _____ this entertainment permit application.



May 1, 2013 ---- April 30, 2014

**CITY OF BURLINGTON
ENTERTAINMENT PERMIT APPLICATION**

☒ New ☐ Renewal
☒ Indoor ☐ Indoor
☐ Outdoor ☐ Outdoor

**PART I
ORGANIZATION**

All information in this section is required

1. Corporation/Sole Proprietor name Vin. Bar, Inc.
2. D/B/A (Business Name) Vin Bar & Shop 3. Bus. Phone 497-2165
4. Business Address 126 College St. Burlington, VT 05401
5. Mailing Address SAME
6. Contact person Kevin Cleary 7. Contact Phone 999-4232
8. Email contact address info@vinbarvt.com

**PART II
OPERATION**

1. Occupancy Load 94 2. # of Restrooms 2 3. # of Egresses 2
4. Date of last Fire/Safety Check April 2013 5. Dancing by Patrons? Yes or (No)
6. Amplified Music? Yes or (No)

**PART III
TYPE OF ENTERTAINMENT**

Please identify with a check mark the entertainment for which you are applying. Check all that apply.

- ☒ Live Instrumental Music ☒ Live Vocal Music ☐ Jukebox
☐ Disc Jockey ☐ Karaoke

Jazz (light) bar/club

***Please give additional description for any selections below on the next page (REQUIRED)

***Floor/Stage Shows

- ☐ Fashion Show/Trade Show/Exhibition
☐ Readings
☐ Stage Play/Pantomime
☐ Comedian
☐ Dance Performance
☐ Contests/Games/Amusements
☐ Movies
☐ Other

*pd # 1184 7/2/13
\$100.00*

(Continued on back)

Additional description
(REQUIRED):

RECEIVED
2013 JUL 24 P 3:05
BURLINGTON CLERK
TREASURER'S OFFICE

**PART IV
PROPOSED HOURS OF ENTERTAINMENT**

WEEKDAYS	ENTERTAINMENT HOURS
Sunday	—
Monday	5-10
Tuesday	5-10
Wednesday	5-10
Thursday	5-10
Friday	5-10
Saturday	5-10

STATEMENT OF APPLICANT: Under the pains and penalties of perjury, I affirm that the preceding answers are true to the best of my knowledge and belief. I have read, understand and agree to comply with all City and State conditions, laws, ordinances, regulations and statutes.

DATE SIGNED: 7/23/13

SIGNATURE OF APPLICANT [Signature]

PRINT NAME: KEVIN CLARY

RELATIONSHIP TO BUSINESS OWNER

OFFICE USE ONLY

Fee Paid \$ _____ Date: _____ Fee Returned \$ _____ Date: _____

At their meeting of 7/30/13, the Burlington City Council License Committee recommended
Approval X Denial _____

At their meeting of _____, the Burlington City Council _____ this entertainment permit application.



Office of Mayor Miro Weinberger

MEMORANDUM

To: City Councilors
From: Mayor Miro Weinberger
Date: August 4, 2013
Re: Appointment of City Engineer and Surveyor

I respectfully submit for your consideration and approval Norman J. Baldwin, P.E. as the City Engineer and Surveyor for the City of Burlington. I am requesting City Council approval of this appointment at your August 12, 2013 meeting.

This appointment is necessitated by the approaching retirement of current Department of Public Works (DPW) Director and City Engineer and Surveyor Steven Goodkind. Steve has had a long and dedicated career serving our City. Steve's appointment as City Engineer and Surveyor began in 1983, and he continued fulfilling the duties of City Engineer and Surveyor described in the City Charter when he later was promoted to be the Director. (The relevant City Charter sections listing these duties are attached.)

Norm is highly qualified for this appointment. In his current Assistant Director role, he has worked very closely with Steve, advising and consulting with him on City Engineering and Surveying decisions. Norm also has extensive experience with and understanding of the City's infrastructure. Since graduating from the University of Vermont with a B.S. in Civil Engineering in 1990, Norm has spent his entire career in Burlington's DPW in a variety of roles demonstrating outstanding commitment to the City. (Norm's resume is attached.)

This appointment will give the department and the City important continuity during a time of transition at the Director level.

If confirmed, Norm will assume the City Engineer and Surveyor responsibilities when Steve's retirement becomes effective on August 26, 2013, and he will perform them while continuing to serve as DPW's Assistant Director of Public Works -Technical Services.

The Mayor's Office has worked closely with Norm throughout my time in office on the restoration of the Bike Path, Waterfront Access North, the Champlain Parkway, and other

important projects. I have great personal confidence that Norm will succeed in this new role. In addition, I have consulted on this decision with both Steve and incoming DPW Director Chapin Spencer, as well as with Public Works Commission Chair Nathan Lavery. All three are highly supportive of Norm's appointment as City Engineer and Surveyor.

Therefore, I am requesting that the Council take two formal actions with respect to this appointment:

- 1) Confirm Norman J. Baldwin, P.E. as City Engineer and Surveyor; and
- 2) Reclassify the Assistant Director of Public Works -Technical Services position to acknowledge the additional responsibilities Norm will be handling.

The reclassification will include a \$4,429 annualized salary increase for the position, which will be covered by the \$7,611 savings realized by the new DPW Director being placed at step one of the salary range (\$88,845) while the outgoing Director was at step six (\$96,456), resulting in a net savings of \$3,182.

In the event the duties of City Engineer and Surveyor subsequently are assigned to another position(s) within DPW, the Assistant Director of Public Works -Technical Services position will be returned to its current classification. Additional information on the reclassification can be found in the attached materials from Human Resources.

Thank you for your consideration of Norm Baldwin as Burlington's next City Engineer and Surveyor.

Burlington, Vermont, Code of Ordinances
Part I – Charter and Related Laws
Subpart A – Charter
Title V – Officers

ARTICLE 38. - OFFICERS APPOINTED BY MAYOR

§ 122. - Enumerated.

(a) On the first Monday in June 1998, the mayor shall appoint a city assessor and a director of the human resources department for a one-year term commencing July 1, 1998. Commencing on the first Monday in June 1999, and biannually thereafter, the mayor shall appoint such city assessor and human resources director for a term of two years commencing on the first day of July following the appointment, and until their successors have been appointed and qualified. The mayor shall appoint on the first Monday of June, 1998 and annually thereafter, and whenever a vacancy occurs, a chief administrative officer, a city attorney and one or more assistant city attorneys, a city constable and a second, third and fourth constable, a city engineer and surveyor, a city grand juror and assistant city grand juror, a harbor master, a poundkeeper or a firm or corporation to provide the services of such, a director of the community and economic development office, a director of Burlington city arts and civil defense director. All of the above-referenced appointments shall require the approval of a majority of the city council. Additionally, commencing on the first Monday in June 2002, and whenever a vacancy occurs, the mayor shall appoint a director of aviation, a cemetery superintendent, an executive director of the Church Street marketplace district, a general manager/superintendent of the electric department, a chief engineer of the fire department, a librarian(s) of the Fletcher Free Library, a superintendent of the parks and recreation department, a police chief and a superintendent/director of the public works department. The first two appointments of an individual to serve in any such position shall be for one-year terms. After an individual has served in a position for two successive years, the mayor may thereafter appoint such person to serve terms of not more than three years, except that in no case shall an appointment be valid for more than fifteen months following the election of a new mayor. In all cases, such appointments shall continue until their successors have been appointed and qualified. The mayor shall also have the authority to appoint the superintendent/director of any city department which may hereafter be created by the city council. (Emphasis added.)

(b) The appointments described in subsection (a) of this section shall require the approval of a majority of the whole number of the city council. In cases where the mayor appoints an individual for a term longer than one year, the city council must also approve the duration of such term.

ARTICLE 55. - CITY ENGINEER AND SURVEYOR

§ 153. - Duties.

The city engineer and surveyor shall be assigned to the public works department. He or she shall make all public surveys of the streets and public grounds of said city, and shall perform such other services as may be required by the director of public works.

ARTICLE III. CITY ENGINEER*

Sec. 2-35Duties.

The city engineer shall:

- (a) Perform all the engineering services for the city that are required to be performed by him in the city charter;
- (b) Advise the city council on questions relating to all public works or improvements;
- (c) Have charge of all the public works of the city in all the various departments;
- (d) Prepare all necessary plans, specifications, estimates and contracts for any proposed construction, extension or improvement of streets or sewers;
- (e) Be responsible for the execution of work in accordance with the plans, specifications and contracts prepared by him;
- (f) Have charge of all surveys relating to the laying out, widening, extending and grading of the streets, sidewalks, curbs, gutters, sewers and drains of the city;
- (g) Prepare and preserve in his office all books, plats, plans, surveys, specifications, notes, memoranda, estimates and other papers and files required for the use or business of his department; and on the expiration of his term of office deliver the same to his successor;

*Charter references—Authority to appoint, § 122; term of office, § 127; filling vacancy in office, § 130.

Cross references—Buildings and construction, Ch. 8; city engineer to approve plans for construction of illuminated signs, § 8-91; streets and sidewalks, Ch. 27; subdivisions, Ch. 28.

- (h) Make a thorough examination of all the bridges in the city at least twice each year, and more often if he deems it necessary, and report the condition of the same to the street commissioners and board of aldermen, and also include his findings in his annual report;
- (i) Make a thorough inspection of the reservoirs and pumping plant of the city water department once every three (3) months, and more often if directed by the water commissioners or the board of aldermen, and make a report of the condition of the same to the board of aldermen; and
- (j) Perform such other duties as the board of aldermen may direct.

(Rev. Ords. 1962, §§ 371, 373)

Charter reference—Duties generally, § 153.

Sec. 2-36. Compensation.

The city engineer shall receive a salary, without fees, for all work done by himself for the city.
(Rev. Ords. 1962, § 374)

Sec. 2-37. Account of expenses to be kept; bills for work.

The city engineer shall keep an account of the expense of his office, including all labor and supplies, and shall render a bill monthly for all work done and all labor and materials furnished for each department.
(Rev. Ords. 1962, § 374)

Sec. 2-38. Maps of pipes, conduits and other construction.

Before any public or private water pipe, gas pipe, sewer pipe, conduit or other construction is permitted to be placed in any street, lane or alley of the city, the city engineer shall designate a proper location and shall plot the same on a map to be kept in his office. Each pipe, conduit or other construction shall be placed according to the plot and as directed by the city engineer.
(Rev. Ords. 1962, § 375)

Cross references—Gas, Ch. 15; sewers and sewage disposal, Ch. 26; water, Ch. 31.

Sec. 2-39. Map of pipes and other construction below surface of street to be made before paving.

Before paving or macadamizing any street, lane, alley or public way, the city engineer shall make an accurate survey of said street, lane, alley or public way and shall plot on a map the location of all sewer pipes, gas pipes, public or private water pipes, conduits, culverts or any other construction below the surface of the street.
(Rev. Ords. 1962, § 376)

Cross reference—Streets and sidewalks, Ch. 27.

Sec. 2-40. Supervision of curbing and guttering.

All curbing and guttering ordered by the board of aldermen shall be placed by the superintendent of streets under the direction of the city engineer.
(Rev. Ords. 1962, § 376)

Cross reference—Sidewalks, curbs and gutters to conform to specifications, § 27-14.

Sec. 2-41. Record of grades of streets, ways and sewers.

The city engineer shall establish and put on record the grades of all streets, lanes, alleys, public ways and sewers hereafter laid out, accepted or constructed by the city, before said streets, lanes, alleys, public ways or sewers are opened for public use. No pavement shall be placed on any street, lane, alley or public way which has heretofore been accepted or laid out, until the grade of said street, lane, alley or public way has first been established by the city engineer and placed on record.
(Rev. Ords. 1962, § 377)

Cross references—Public records generally, § 2-18 et seq.; books containing surveys, maps or grades adopted as public records, § 27-12; street grades not to be changed without notice, § 27-13.

Sec. 2-42. Giving street or sewer line or grade to resident upon request.

The city engineer shall, upon request of any resident of the city, give the street line or grade, or both, or the sewer line or grade, or both, for use in

setting any building or making any private improvements, or for constructing any curbing or sidewalk not ordered by the city.
(Rev. Ords. 1962, § 378)

28 Meadowbrook Lane
Saint Albans, Vermont 05478

P 802.524.4039
nbaldwinvt@yahoo.com

Norman Joseph Baldwin, P.E.

Objective To serve in a technical leadership role in support of Municipal Capital Projects and Programs that will ultimately provide the greatest benefit to the community I serve.

- Experience**
- July 2000–Present Burlington Public Works Department Burlington, VT
Assistant Director of Public Work-Technical Services
- Responsible for providing leadership to Engineering and Planning Personnel serving as Municipal Project Managers seeking to advance City Capital Projects and Programs.
 - Responsible for providing leadership to the City's Trades Inspection Program that is responsible for the plan review, permitting and inspection of construction projects.
- Feb 1991–July 2000 Burlington Public Works Department Burlington, VT
Traffic Division Head
- Responsible for providing leadership and oversight to Municipal Attended Parking Facilities. A system that included facilities located in the downtown and the airport.
 - Responsible for providing leadership in managing the city's municipal traffic operations that included traffic signalization, traffic control and parking sign systems, and pavement markings.
 - Responsible for providing leadership in managing the city's municipal fire alarm systems.
 - Responsible for providing leadership in managing the city's crossing guard program.
- Nov 1990–Feb 1991 Burlington Public Works Department Burlington, VT
Traffic Field Engineer
- Worked in the field to develop or redevelop Traffic Signalized Intersections.
 - Worked in the field to respond and repair traffic signal trouble calls.
 - Prepared bid documents, procured and managed traffic capital improvement projects.
 - Annual development of the Traffic Budget that included the operational budget and a 5 year capital improvement plan for the city's traffic signal system, structured parking facilities, and surface parking lots.

Educ. & Licensure	Fall 1985–Spring 1990	University of Vermont	Burlington, VT
	B.S., Civil Engineering		
	February 7, 2002	State of Vermont	
	Professional Civil Engineer, License #018.007986		
	Fall 2006–Spring 2011	Champlain College	Burlington, VT
	Certificate in Software Development		
Interests	Skiing, Golf, Travel and time spent with family and friends		



HUMAN RESOURCES DEPARTMENT

City of Burlington

179 South Winooski Avenue, Suite 100, Burlington, VT 0540 Voice (802) 865-7145

Fax (802) 864-1777

Vermont Relay: 7-1-1 or 800-253-0191

To: Board of Finance
From: Susan Leonard, Human Resources Director
Stephanie Reid, Human Resources Generalist
Date: August 5, 2013
Re: Reclassification: Assistant Director Public Works, Technical Services - Department of Public Works

We respectfully request and recommend the reclassification of the Assistant Director of Public Works, Technical Services as per the attached memo from Mayor Weinberger, in which the Mayor set forth his intent to add the City Engineer and Surveyor responsibilities to the Assistant Director of Public Works, Technical Services position.

The specific additions to the qualifications/basic job requirements for the position include, being a registered engineer with the State of Vermont, having experience as a Director, Deputy Director or a City Engineer of a Public Works Department and serving as the City Engineer and Surveyor. Previous and updated job descriptions and before and after org charts are attached.

The modified Willis Compensation System analysis of the Assistant Director Public Works, Technical Services position resulted in the position being reclassified from a grade 23 to a grade 25. Consistent with Section 5.4 Paragraph (c.) of the Personnel Policy Manual, the incumbent who is currently at step 15 of grade 23 (\$78,732), shall be placed at the step in the new pay range reflective of a minimum 5% increase in pay. In this case, step 13 of grade 25. The corresponding salary of \$83,161 represents a \$4,429 increase in annual compensation. Per the Mayor's attached memo, this increase will be covered by the \$7,611 salary savings realized by the new DPW Director being placed at step one of the salary range (\$88,845) while the outgoing DPW Director was at step six of the salary range (\$96,456) with a net savings of \$3,182.

Pending City Council approval and signature of the Mayor on the resolution, the reclassification shall be effective upon the date of hire of the new DPW Director which is anticipated to be August 26, 2013.

Thank you for your consideration.

City of Burlington Job Description

Position Title: Assistant Director Public Works-Technical Services

Department: Public Works

Reports to: Director of Public Works

Pay Grade: 23

Job Code: 1092

Exempt/Non-Exempt: Exempt

Union: Non-Union

General Purpose:

This position is responsible for the management, oversight, and general leadership of the Technical Services Group. In addition, this position will offer guidance, direction and opportunities for staff development, empowerment and open communication among team members.

Essential Job Functions: (This section outlines the fundamental job functions that must be performed in this position. The "Qualifications/Basic Job Requirements" and the "Physical and Mental/Reasoning Requirements and Work Environment" state the underlying requirements that an employee must meet in order to perform these essential functions. In accordance with the Americans with Disabilities Act, reasonable accommodations may be made to qualified individuals with disabilities to perform the essential functions of the position.)

- Manage and oversee Technical Services Workgroup, including but not limited to
 - Trades Inspection program,
 - Major Capital Projects,
 - Traffic Enhancement Program,
 - Street and Sidewalk Capital Program,
 - Excavation Inspection Program,
 - Policy and Programmatic Development for Solid Waste and Recycling issues.
 - Transportation Planning and Policy Development
 - Special Projects
- Develop, manage and oversee Technical Services operating and capital budgets.
- Provide mission and vision leadership for Technical Services.
- Develop and maintain managerial performance reporting systems that assist in benchmarking workgroup function and performance.
- Offer guidance and "coaching" to subordinate positions to promote team philosophy and principles.
- Ability to prioritize workflow, meet established deadlines and work under pressure.
- Ensure employee development and cross training opportunities are present and being utilized efficiently and effectively.
- Carry out employee performance evaluations; provide mediation for employee issues as required, offer opportunities for employee feedback on an on-going basis.
- Performs Technical skilled work developing, planning, organizing, and supervising city's traffic system, including the design and construction of roadways, signal systems, signing and striping, neighborhood mitigation and traffic operations.
- Under the general direction of the Public Works Director, performs and oversees professional field and office civil, and transportation engineering work related to the planning, design, construction and maintenance of city projects and programs.
- Serve as the Departments Safety Officer

- ☐ Promote and encourage safe work practices within the department in accordance with Federal, State, and local regulations.
 - ☐ Recommend, organize, develop, and provide safety training for department personnel.
- Serve as the Public Works Directors representative in carrying out, and administering the requirements established within the city's vacant building ordinance.
- Serve as the City Engineers representative in administering the requirements associated with any blasting activities within the city.
- Serve as the Departments representative at various public meetings and hearings to present, discuss, facilitate, and solicit the opinion of the public and its elected officials.
- Respond and address the public in a timely professional manner

Non-Essential Job Functions:

- Performs other duties as required.

Qualifications/Basic Job Requirements:

- Bachelor's of Science Degree in Civil or Environmental Engineering required.
- Minimum 3 years experience in a management/supervisory capacity required.
- Minimum 5 years experience in municipal engineering required.
- Minimum 2 years experience in traffic engineering required
- Strong professional communication skills both oral and written required.
- Proficient in utilizing traffic modeling software required
- Proficient in utilizing GIS software required
- Proficient in utilizing Computer Aided Design Software
- Proficient in utilizing word processing and spreadsheet software required.
- Experience or background in construction preferred.
- Ability to create and maintain an environment that embraces the 6 operating principles; Customer Service, Fiscal Responsibility, Good Labor Relations, Employee Empowerment, Cooperation and Constant Improvement.
- Ability to oversee and implement long term maintenance programs in a cost effective and efficient manner.

Physical & Mental/Reasoning Requirements; Work Environment:

These are the physical and mental/reasoning requirements of the position as it is typically performed. Inability to meet one or more of these physical or mental/reasoning requirements will not automatically disqualify a candidate or employee from the position.

<input checked="" type="checkbox"/> seeing	<input checked="" type="checkbox"/> ability to move distances	<input checked="" type="checkbox"/> lifting (specify)
<input checked="" type="checkbox"/> color perception	within and between	50 pounds
(red, green, amber)	warehouses/offices	<input checked="" type="checkbox"/> carrying (specify)
<input checked="" type="checkbox"/> hearing/listening	climbing	50 pounds
<input checked="" type="checkbox"/> clear speech	<input checked="" type="checkbox"/> ability to mount and	<input checked="" type="checkbox"/> driving (local/over
<input checked="" type="checkbox"/> touching	dismount forklift/truck	the road)
<input checked="" type="checkbox"/> dexterity	<input checked="" type="checkbox"/> pushing/pulling	
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<input checked="" type="checkbox"/> finger		
<input type="checkbox"/> reading - basic	<input type="checkbox"/> math skills - basic	<input checked="" type="checkbox"/> analysis/comprehension
<input checked="" type="checkbox"/> reading - complex	<input checked="" type="checkbox"/> math skills - complex	<input checked="" type="checkbox"/> judgment/decision
<input type="checkbox"/> writing - basic	<input checked="" type="checkbox"/> clerical	making
<input checked="" type="checkbox"/> writing - complex		

Page 3 of 3

<input type="checkbox"/> shift work	<input checked="" type="checkbox"/> outside	<input type="checkbox"/> pressurized equipment
<input checked="" type="checkbox"/> works alone	<input checked="" type="checkbox"/> extreme heat	<input type="checkbox"/> moving objects
<input checked="" type="checkbox"/> works with others	<input checked="" type="checkbox"/> extreme cold	<input type="checkbox"/> high places
<input checked="" type="checkbox"/> verbal contact w/others	<input checked="" type="checkbox"/> noise	<input type="checkbox"/> fumes/odors
<input checked="" type="checkbox"/> face-to-face contact	<input type="checkbox"/> mechanical equipment	<input type="checkbox"/> hazardous materials
<input checked="" type="checkbox"/> inside	<input type="checkbox"/> electrical equipment	<input type="checkbox"/> dirt/dust

Supervision:

Directly Supervises: 11 Indirectly Supervises:

Disclaimer:

The above statements are intended to describe the general nature and level of work being performed by employees to this classification. They are not intended to be construed as an exhaustive list of all responsibilities, duties and/or skills required of all personnel so classified.

Approvals:

Department Head: _____ Date: _____

Human Resources: _____ Date: _____

Revised 12/5/05

City of Burlington Job Description

Position Title: Assistant Director Public Works-Technical Services

Department: Public Works

Reports to: Director of Public Works

Pay Grade: 25

Job Code: 1092

Exempt/Non-Exempt: Exempt

Union: Non-Union

General Purpose:

This position is responsible for the management, oversight, and general leadership of the Technical Services Group. In addition, this position will offer guidance, direction and opportunities for staff development, empowerment and open communication among team members.

Essential Job Functions: (This section outlines the fundamental job functions that must be performed in this position. The "Qualifications/Basic Job Requirements" and the "Physical and Mental/Reasoning Requirements and Work Environment" state the underlying requirements that an employee must meet in order to perform these essential functions. In accordance with the Americans with Disabilities Act, reasonable accommodations may be made to qualified individuals with disabilities to perform the essential functions of the position.)

- Manage and oversee Technical Services Workgroup, including but not limited to:
 - Trades Inspection program,
 - Major Capital Projects,
 - Traffic Enhancement Program,
 - Street and Sidewalk Capital Program,
 - Excavation Inspection Program,
 - Policy and Programmatic Development for Solid Waste and Recycling Issues,
 - Transportation Planning and Policy Development,
 - Special Projects
- Develop, manage and oversee Technical Services operating and capital budgets.
- Provide mission and vision leadership for Technical Services.
- Develop and maintain managerial performance reporting systems that assist in benchmarking workgroup function and performance.
- Offer guidance and "coaching" to subordinate positions to promote team philosophy and principles.
- Prioritize workflow, meet established deadlines and work under pressure.
- Ensure employee development and cross training opportunities are present and being utilized efficiently and effectively.
- Carry out employee performance evaluations; provide mediation for employee issues as required, offer opportunities for employee feedback on an on-going basis.
- Perform Technical skilled work developing, planning, organizing, and supervising City's traffic system, including the design and construction of roadways, signal systems, signing and striping, neighborhood mitigation and traffic operations.
- Under the general direction of the Public Works Director, perform and oversee professional field and office civil, and transportation engineering work related to the planning, design, construction and maintenance of City projects and programs.

- Serve as the Departments Safety Officer
 - Promote and encourage safe work practices within the department in accordance with Federal, State, and local regulations.
 - Recommend, organize, develop, and provide safety training for department personnel.
- Serve as the Public Works Director's representative in carrying out, and administering the requirements established within the City's vacant building ordinance.
- Serve as the City Engineer and Surveyor, with duties including but not limited to:
 - Perform all the engineering services for the City that are required to be performed as described in the City Charter,
 - Have charge of all the public works of the City in all the various City departments,
 - Oversee the preparation and execution of all plans, specifications, and contracts needed to successfully complete public investment in City capital projects,
 - Responsible for all surveys relating to the layout, widening, extending and grading of streets, sidewalks, curbs, gutters, sewers and drains of the City,
 - Act as the technical spokesperson for the department in various capacities, including preparation and presentation of expert testimony on behalf of the City in litigation,
 - Serve as the first step in the appeal process for actions/decisions/orders issued by the City's Electrical Inspector,
 - Review subdivision submission for conformity to the City's engineering design standards
- Serve as the Department's representative at various public meetings and hearings to present, discuss, facilitate, and solicit the opinion of the public and its elected officials.
- Respond and address the public in a timely professional manner.

Non-Essential Job Functions:

- Performs other duties as required.

Qualifications/Basic Job Requirements:

- Bachelor's of Science Degree in Civil or Environmental Engineering required.
- Licensed Professional Engineer in the State of Vermont required.
- Minimum 3 years of experience in a management/supervisory capacity required.
- Minimum 5 years of experience in municipal engineering required.
- Minimum 2 years of experience in traffic engineering required.
- Strong professional oral and written communication skills required.
- Proficient in utilizing traffic modeling software required.
- Proficient in utilizing Geographic Information System (GIS) software required.
- Proficient in utilizing Computer Aided Design (CAD) software required.
- Proficient in utilizing word processing and spreadsheet software required.
- Experience or background in construction preferred.
- Ability to create and maintain an environment that embraces the 6 operating principles: Customer Service, Fiscal Responsibility, Good Labor Relations, Employee Empowerment, Cooperation and Constant Improvement.
- Ability to oversee and implement long term maintenance programs in a cost effective and efficient manner.

Physical & Mental/Reasoning Requirements; Work Environment:

These are the physical and mental/reasoning requirements of the position as it is typically performed. Inability to meet one or more of these physical or mental/reasoning requirements will not automatically disqualify a candidate or employee from the position.

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<input type="checkbox"/> color perception (red, green, amber)	within and between warehouses/offices	<input type="checkbox"/> 50 pounds
<input type="checkbox"/> hearing/listening	<input type="checkbox"/> climbing	<input type="checkbox"/> carrying (specify)
<input type="checkbox"/> clear speech	<input type="checkbox"/> ability to mount and dismount forklift/truck	<input type="checkbox"/> 50 pounds
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Supervision:

Directly Supervises: 11 Indirectly Supervises:

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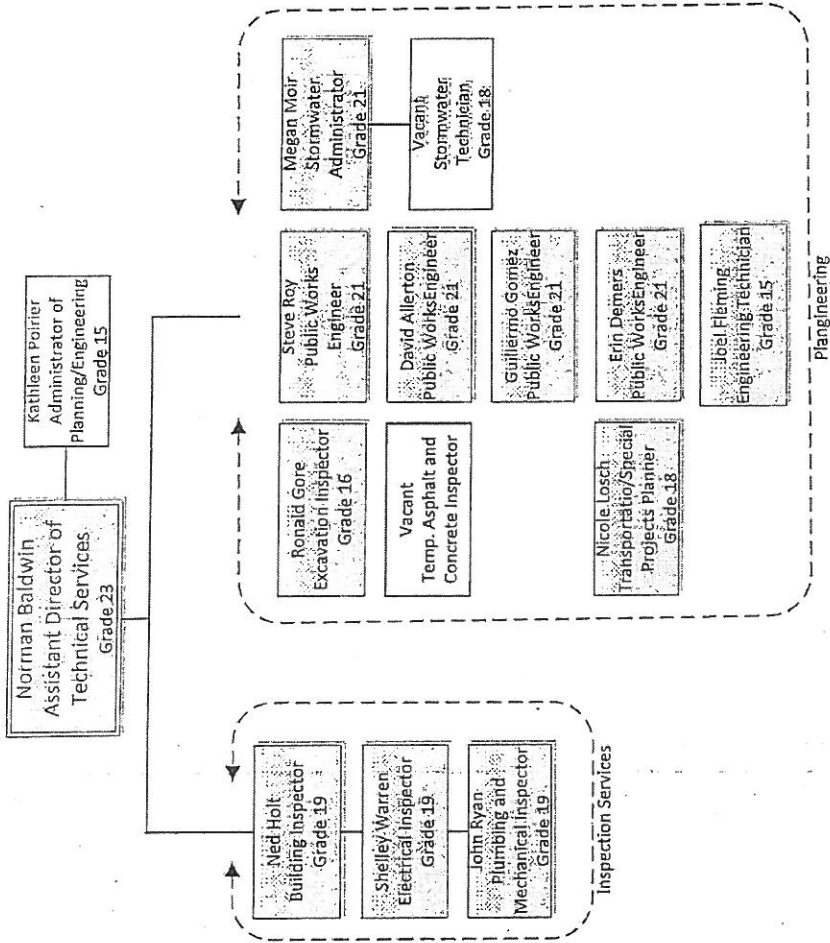
Approvals:

Department Head: _____ Date: _____

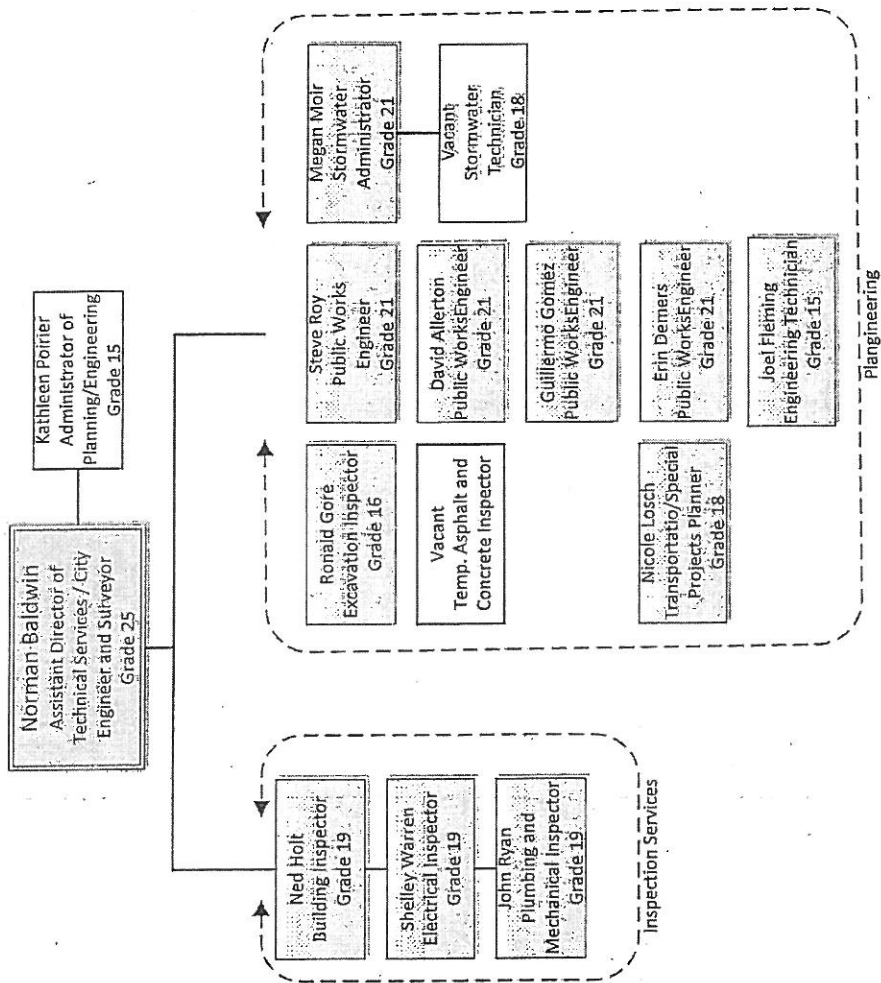
Human Resources: _____ Date: _____

(Revised July 2013)

Department of Public Works
Division of Technical Services
City of Burlington
July 2013



Department of Public Works
Division of Technical Services
City of Burlington
Proposed August 2013



RECLASSIFICATION OF THE ASSISTANT DIRECTOR
PUBLIC WORKS – TECHNICAL SERVICES POSITION

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, there have been changes to the job description of the Assistant Director Public Works – Technical Services Position, currently a Grade 23 in the Willis Classification System; and

WHEREAS, the City Engineer and Surveyor responsibilities have been added to the Assistant Director Public Works – Technical Services Position; and

WHEREAS, these changes have been approved by the Human Resources Director and the position was reclassified using the Willis Classification System; and

WHEREAS, the request has been approved and supported by the Human Resources Director and by the Board of Finance on 8/5/13;

NOW, THEREFORE, BE IT RESOLVED that the Assistant Director Public Works – Technical Services Position will be classified at a Grade 25 in the Willis Classification System. The incumbent will be placed in the new grade consistent with Section 5.4 Paragraph (c) of the City of Burlington Comprehensive Personnel Policy Manual; effective upon approval of the City Council and approval and date of signature by the Mayor.



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

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Burlington, VT 05402-0849
802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY

Steven Goodkind, P.E.
DIRECTOR OF PUBLIC WORKS
CITY ENGINEER

RECEIVED
2013 AUG -8 PM 12:39
BURLINGTON CLERK
TREASURER'S OFFICE

**MEMO: BURLINGTON CITY COUNCIL
FROM: STEVEN GOODKIND
7/12/13
RE: ANNUAL REPORT TO CITY COUNCIL - FY2013**

The Department of Public Works was established 18 years ago through the consolidation of five departments. With a combined budget of over \$32.6 million, we have continued to demonstrate the benefits of cooperation and resource sharing across diverse programs.

The following report is a summary of DPW's budget performance through the end of FY2013 and some operational highlights provided from each DPW workgroup during that same time period.

SUMMARY

FY 13 was an unusual year from the budget tracking standpoint. On July 1, the city switched to the New World financial management system. While this system in the long run will offer some benefits that our former system lacked, its implementation over the past year has been painful. The challenges ranged from establishing the appropriate accounts based on the budget document adopted by the city council to getting timely and accurate monthly reports. DPW made some very significant commitments in FY13 that enabled the city to balance the budget. Had I known the difficulty we would face in tracking our budgets so that those commitments would be met, I don't know that I would have made them. Nevertheless, using our knowledge of our operations and alternative means to evaluate our expenditures and revenues, I believe that DPW has met our budget expectation for FY13 and in the case of the general fund, we may have actually exceeded them.

Because of the problems that New World still has with budget reporting, I am keeping my budget discussions in this report to general descriptions as I lack the specifics that I normally have in the year end report to council.

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).

While this report contains some highlights from the activities of our various workgroups, this year saw the development of a new customer service system that has more long term significance to the future of DPW than just about else we have done. Working with the city's IT department, we have developed a web based tracking system for almost all of the activities undertaken by DPW. Integrated with the city's property database and GIS mapping, it allows us to document all requests for service that DPW handles, thus our name for it is the RFS (Requests for Service) system. The system is being used internally by all groups in DPW and we are still making modifications to suite our needs. Eventually citizens will have virtually full access to the system and be able to follow their own requests and view our data on response time and performance. There will even be a portal to access the RFS through See-Click-Fix, which is being used in a limited fashion by some other city departments. RFS however is a system that is tailored to our management needs and is much more than a reporting tool.

GENERAL FUND

TECHNICAL SERVICES

Technical Services comprises three programs: **Inspection Services** offers consultation and technical advice, issues permits for construction in the city, and inspects the work for adherence to safety codes and standards. It is funded entirely by fees. **Engineering** which include design, construction, and management of streets, sidewalks & pathways, sewers & storm drains, water & wastewater, public buildings, traffic signals, and residential recycling. It does transportation planning develops policy, and provides staff support to various committees. **The Capital Street Program** which is funded from a dedicated portion of the property tax and state aid to help maintain state roads within the city. It provides the resources to repair and reconstruct our transportation infrastructure.

All three of these programs will finish the year within their budgetary authorizations,. Selected highlights from this year's activities are as follows:

Trades Inspection

- Trades is continuing its efforts to improve coordination with the two other three other permitting departments, (Code Enforcement, Planning and Zoning and Fire Department)
 - Code/P&Z and Trades meet on a monthly basis,
 - and there is a second monthly coordination meeting with Code/Fire/Trades Inspection

- With the new demands placed on the homeowners by the lending community there is a continued demand for reviewing permit history and making sure the property is refinanced or newly owned with a clean bill of health
- Permit demand has shifted from larger commercial projects to a greater number of smaller residential projects.
- Issued a number of dangerous building orders to remediate and unsafe condition

Engineering Program

- Completed the bulk of the work associated with the Church Street Lighting Project
- Completed the balance of the work for Pearl Street Phase I & II
- Completed the Fountain Demolition Project
- Completed 5 Major Recovery Projects(NorthShore Slope Failure. Lakeview Cemetery Slope Failure, 127 Slope Failure, North beach Boardwalk, South End Bike Path) along the Bike Path as a result of the May 2011 Spring Flood Event as a part of the federal disaster declaration
- Responded to May 2013 Flooding Event by responding and put into action a plan of recovery for Manhattan and Champlain Street slope damage
- With the loss of senior engineering staff the team we were able to recruit and train staff to continue to advance projects where previous team members had left off
- Reinvigorated effort to advance sidewalk grant projects(Cliff Street, Flynn Avenue, Colchester Avenue, Edmunds School Mid Block Crossing)
- Revise and Advance Waterfront North Design completing Phase I design drawings and getting underway with design of WFN Phase II. Put out to bid WFN Phase I (Skatepark Development)
- Develop the FY13 & FY14 CIP plan and advance projects within the plan like Library Entrance, Leddy Arena Bathroom renovation projects

RIGHT OF WAY

The **Right of Way** program is responsible for plowing & sweeping streets and sidewalks, fixing potholes, repaving streets, laying new sidewalks and maintaining the water distribution and waste water collection systems.

The Right of Way program met its budget goals for the year including completing approximately \$300k in additional force account work that was needed to balance the FY13 general fund budget for the city.

Selected highlights from this year's activities are as follows:

- Replaced 8200 linear feet of sidewalk

- Salt usage was 3000 tons
- Installed new traffic calming speed humps on Tracy Drive and North St.
- Swept 875 cubic yards of debris from the streets
- Completed Pearl St. phase 2 project installing sidewalk, cobblestone and trees.
- Installed a new Silva Cell storm water project on Cherry St.

RECYCLING

Recycling licenses haulers, handles curbside pick-up, and collects autumn yard waste, Christmas trees, and organizes Green Up Day. It is funded entirely with fees. The recycling program will meet its budget mandates for this year by using funds from its fund balance that accumulated from prior year surpluses. Selected highlights from this year's activities are as follows:

- Collected about 3200 tons of recyclables with our curbside collection program
- Implemented a toter cart purchase program that will make 65 gallon wheeled toters available to the public at a discounted price.
- Coordinated the city's Green Up Day efforts.

SPECIAL REVENUES

TRAFFIC

The **Traffic Program** is responsible for all public parking in the city and at the airport, as well as traffic lights, signs, crossing guards, and fire alarms. **Equipment Maintenance** is also part of this group. The Traffic Program is funded from parking fees at municipal garages and on-street meters and receives no tax support from the city. Equipment Maintenance is funded from fees for the services it provides to city departments to maintain their vehicles.

Traffic and Equipment Maintenance Parking met their budget requirements for FY13.

Selected highlights from this year's activities are as follows:

Parking Facilities

- College Street Garage deck patching and sealing.
- Elevator floor and ceiling panel replacement at College Street Garage.
- Pressure washing and painting stair towers at Marketplace Garage.
- Repacked Elevator cylinders at Marketplace Garage.
- Continued graffiti removal at all facilities.

- Constant Revenue Control repairs.
- Saved Airport parking facility \$33,000 in credit card processing fees by changing processing company.

Traffic Signals

- Complete new signal rebuild at Winooski and Archibald including new mast arms, and fully actuated LED vehicle and pedestrian signals.
- New cameras, countdown pedestrian signal heads at Main and Willard Streets.
- New post top vehicle and countdown pedestrian signals at Pearl and St. Paul Streets..
- New LED vehicle and countdown pedestrian signals at North Ave and Woodbury Road..
- Total of 44 countdown pedestrian signals installed this year leaving 156 remaining to be retrofitted.
- Installed new solar school flashers in front of Edmunds School on Main Street. First completely self contained non-grid connected signals in Burlington.

Meters & Right of Way

- Responded to 117 parking meter complaints and resolved any issues found.
- Repaired or replaced 850 regulatory and directional signage this year
- Painted 572 Continental Crosswalks and Stop bar locations, 382 Street print locations and 500 assorted stencils.
- Painted approximately 300,000 linear feet of long line, fog line, and bike lanes.
- Maintain 11 flower beds throughout City..
- Responsible for staffing 33 Crossing Guard posts citywide during the School year.

EQUIPMENT MAINTENANCE

Equipment Maintenance operates the City's central garage; services fleet vehicles (Public Works, Police, Fire, Parks & Electric departments); and operates the central fueling station for fleet vehicles including a compressed natural gas fast fill station.. It is funded by fees paid by each department for the services provided. Selected highlights from this year's activities are as follows

- Purchased new Traffic Signal bucket truck and purchase and upfit new Water meter shop truck in house..
- Provided over 370 preventive maintenance repairs
- Provided over 1763 vehicle and equipment repairs
- New Fleet Manager hired to oversee this division of DPW

- More CNG being sold to refuse truck manufacturer from Canada delivering new CNG refuse trucks throughout the USA. DPW station the only available fuel stop before Albany, New York the next CNG station.

ENTERPRISE FUNDS

WATER/WASTEWATER

The **Water and Wastewater Programs** deliver potable water to your tap and clean the wastewater and some stormwater prior to discharge into the Winooski River and Lake Champlain. The funds come from ratepayers and from services provided to others so there is no burden on the property tax.

For FY13 Water and Wastewater met their revenue budget targets and kept expenses below budgeted levels.

Selected highlights from this year's activities are as follows:

Water

- The Water Distribution crew saw a change in management with the retirement of two staff in this work group. They are now working under the Assistant Director Water Quality better meeting the needs of the entire water system from production to storage to distribution.
- From Central Avenue to Flynn Avenue DPW Water Distribution worked with a contractor to complete the Horizontal Directional Drilling of an 8" HDPE water main to reconnect an existing main on Central Avenue and an existing system behind building at 180 Flynn Avenue. The distance was approximately 340 feet. The previous water main had broken several years ago and was cut and capped off. This project reconnected the pipe system that will lead to improved water quality and better fire protection.
- In advance of the paving program the Water Distribution crew replaced 450 feet of old cast iron water main with 8 inch ductile iron water main.
- As part of our on-going investment into the infrastructure it is imperative that we can shut down water mains for servicing when breaks occur. This year we experimented with a valve that allowed for installation under pressure thereby not shutting off water to business or residents while being installed. A 16" valve was installed on Lake Street and a 10 "valve on Main Street at Battery.

Wastewater

- We continued to use the liner system to extend the life of sewer pipes in many areas of the City. The following areas had sections repaired from manhole to manhole: Henderson Terrace, Oakland Terrace, Foster Street, Main Street, Ledge Road. Spot repairs were also completed on Henry Street, Shelburne Road, Batchelder Street, Home Avenue, Hardy Avenue, Loaldo Drive, Janet Circle, Dale Road, College Street and N. Willard Street.
- Submitted an application to the Public Service Board for the Manhattan Landfill generator. Our goal is to restart the methane generator instead of operating the flare system to burn off the gas. Although there is not a large amount of gas which is why the previous contractor left the site we believe operating the generator will offset the cost to run the on-site vacuum system and provide some energy credit for other wastewater energy bills.
- Treated 79 million gallons in May and 92 million gallons in June of combined sewer and storm at the Main wastewater plant with no permit violations.

STORMWATER

The Stormwater program will meet its' budget goals for FY13.

Highlights of the program in FY 13 include:

Overall Programmatic Development

- Completed rate analysis and proposed necessary ISU (impervious surface unit) rate to generate sufficient funds for complete implementation of Stormwater Program (proposed and approved in FY 14 budget)
- Developed job description for additional stormwater staff person (as part of FY 14 budget proposal)
 - Focus on providing better review, technical assistance and compliance with Chapter 26 stormwater ordinance
 - Requiring GIS skill set to assist with on-going map QA/QC and use of GIS as an asset management system for tracking of maintenance and repairs

Regulatory

- Continued implementation of our Phase II stormwater management plan and compliance with the City's current Municipal Separate Storm Sewer System (MS4) permit.
 - See 2012 Annual Report for more information at:
<http://www.burlingtonvt.gov/DPW/Stormwater/Stormwater-Files/Annual-Report-2012/>
- Updated Burlington's Stormwater Management Plan as part of renewal application for new MS-4 permit (final permit issuance pending)
 - <http://www.burlingtonvt.gov/DPW/Stormwater/Stormwater-Files/DRAFT-Stormwater-Management-Plan-for-MS4-Permit-Renewal/>
- Burlington's Chapter 26 Stormwater Review (CY 2012 #s)
 - Review of erosion prevention and sediment control plan for 80 projects
 - Review of stormwater management plans for 30 projects

Significant Projects

- Blanchard Beach Water Quality Mitigation Project
 - Stabilized swale
 - Swirl separator to remove sediment
 - Constructed wetland for water quality treatment
- Silva Cell Tree/Stormwater System
 - Installation of Silva Cell Tree/Stormwater System
- Installation of improved truck washing station at DPW with enhanced treatment

Infrastructure

- Localized flooding/drainage improvements
 - Austin Drive groundwater swale
- Implementation of stabilized beach outfall for Little Eagle Bay outfall and 55 Crescent Beach outfall
- Maintenance
 - Inspection and cleaning of over 1000 catch basins (CY 2012)
 - Collection of 362 tons of material during catch basin cleanings and 1644 tons of material during street sweeping (CY 2012)

Final Note:

Sidewalks are the part of our infrastructure that DPW probably receives the most complaints about. It takes money to maintain and repair sidewalks and we have never invested enough in the system to meet its' needs. Our streets used to be in a similar state until we began to adequately fund them about five years ago. Since then there has been a dramatic improvement. Sidewalks need a similar effort.

I urge councilors to go to the following link and view the information we presented to the council in February of 2012. In it you will find information on our strategic plan for sidewalks and a presentation on funding options. We can do for sidewalks what we have done for streets. It will probably take several years to put the whole funding plan together, but now is the time to start.

<http://www.burlingtonvt.gov/DPW/Transportation/Bicycling-and-Walking/Walk---Bike-In-Burlington/>

Tiki Archambeau (Tiki Archambeau) 7/25/13
Bob Alberny (VD) 7-26-13 - OK to sign per Bob.
witnessed by Holly Lane
Holly Lane



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

845 Pine Street
Post Office Box 849
Burlington, VT 05402-0849
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802.863.0450 TTY

Steven Goodkind, P.E.
DIRECTOR OF PUBLIC WORKS
CITY ENGINEER

**MEMO: BURLINGTON CITY COUNCIL
FROM: STEVEN GOODKIND
7/12/13
RE: ANNUAL REPORT TO CITY COUNCIL - FY2013**

The Department of Public Works was established 18 years ago through the consolidation of five departments. With a combined budget of over \$32.6 million, we have continued to demonstrate the benefits of cooperation and resource sharing across diverse programs.

The following report is a summary of DPW's budget performance through the end of FY2013 and some operational highlights provided from each DPW workgroup during that same time period.

SUMMARY

FY 13 was an unusual year from the budget tracking standpoint. On July 1, the city switched to the New World financial management system. While this system in the long run will offer some benefits that our former system lacked, its implementation over the past year has been painful. The challenges ranged from establishing the appropriate accounts based on the budget document adopted by the city council to getting timely and accurate monthly reports. DPW made some very significant commitments in FY13 that enabled the city to balance the budget. Had I known the difficulty we would face in tracking our budgets so that those commitments could be met, I don't know that I would have made them. Nevertheless, we will continue to evaluate our expenditures against our budget expectation for FY13 and exceeded them.

Because of the problems that New World has caused in my budget discussions in this report, I am keeping my options as I lack the specifics that I

budget reporting, I am keeping my options as I lack the specifics that I

ASA HOPKINS
SIGNATURE

An Equal Opportunity Employer

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Church Street Marketplace Annual Report, FY 13

The completion of our \$2 million lighting and electrical improvement project and removal of the fountain on Church Street's top block were the big highlights for FY 13.

Church Street's state-of-the-art electrical system includes new underground conduit, 46 new LED street lights, improved access to electricity for cart vendors and special events, 25 new street trees and a new irrigation system.



Removal of the top block fountain at the head of Church Street, has both reinvigorated the upper block and opened the door for prospective tenants to vie for the One Church Street space, vacant since 2008 when the Ann Taylor retail store closed.

TEN YEARS OF CAPITAL IMPROVEMENTS. 2013 marked the final year of a 10-year-long capital improvement program on the Marketplace, thanks to the support of US Senator Patrick Leahy. Since 2003, Senator Leahy has secured almost \$9 million in federal transportation dollars for the downtown and Waterfront. A large share of those funds have been directed to Church Street to address its deteriorating infrastructure (originally built in 1981).

As Church Street's 10 year "face lift" draws to an end, our city's much-beloved Marketplace has been refreshed and renewed.



Senator & Mrs. Patrick Leahy with Mayor Miro Weinberger and Tim Halvorson (*Halvorson's Upstreet Café, EB Strong's Prime Steakhouse*) at May 31, 2013 celebration to mark the completion of Church Street's 10-year capital improvement program

Improvements include the closing of City Hall Block and complete re-bricking (2003-2004), enhancements to Church Street's mid-blocks (2003-2004), rebuilding City Hall Steps (2008), improvements to the Marketplace Alleyway (2008), raising the intersection grade at Church & Cherry Streets (2011), Pearl Street improvements (2012-2013), the new Church Street Lighting and Electrical System (2012-2013) and decommissioning of Church Street's Top Block Fountain (2013).

FAREWELL TO THE FOUNTAIN.

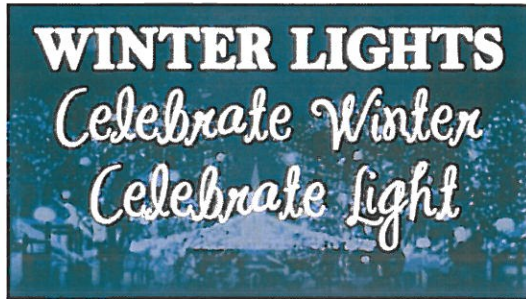
Special thanks are due to local developer, former Marketplace Commissioner and philanthropist Bobby Miller, who in 1994 spent \$250,000 of his own money to build a fountain at the top of Church Street. For 15 years, the fountain helped pull foot traffic to the top of Church Street, and provide the community with



a great feature. But over time, the top block evolved: foot traffic increased when we improved the crossing at Cherry Streets and new, stronger retail tenants filled once empty

Church Street Marketplace Annual Report, FY 13

spaces. Prospective tenants for the last and largest vacant space at One Church Street saw the fountain as a barrier. With the decommissioning complete, tenants are now vying for this space, and we anticipate a new tenant to be announced this year.



WINTER LIGHTS In FY 13, we launched a new winter event called **Winter Lights**. Running from February through early April and sponsored by Citizens Bank, Winter Lights featured light canopies at Church Street's intersections, as well as colorful spheres hanging in our trees, and colorful glass canopies on the Top Block. Winter Lights is now one of our permanent events!

MARKETPLACE ADDRESSES ITS NEGATIVE FUND BALANCE. The Marketplace Commission and Staff have been working diligently on the department's finances over the past year. We've instituted a plan to pay down our negative fund balance, and build up a capital reserve to cover costs of those future capital improvements that cannot be funded using federal funds, or through the City's capital budget, because of the Marketplace's charter.

Historically, the department has generated negative fund balances each year – due in large part to unexpected capital repairs not covered by the City's capital budget, repairs to our failing electrical system, and a very lean budget that leaves no room for unanticipated expenses. The Marketplace's negative fund balances have ranged from as high as \$69,000 in FY 02, down to \$11,000 in FY 09.

In FY 12, we experienced a perfect storm of additional expenses that caused our negative fund balance to balloon.

- When the Marketplace and downtown experienced a serious increase in vagrancy, public inebriation and disorderly conduct in 2011-2012, the Commission made a decision to fund a \$50,000 unbudgeted expense for private security from 3 AM – 7 AM to address negative behaviors occurring behind our properties (sleeping, defecation/urination, alcohol and drug use). The program was effective but expensive.
- Staff miscalculated, by \$10,000, employee health benefits paid in FY 12.
- There was an unanticipated, additional \$24,000 charge against our Administrative Fee paid to the City (some City departments saw an increase in their Administrative Fee to cover unanticipated expenses the City incurred)

At the end of FY 12, our negative fund balance for that one fiscal year totaled \$138,000, bringing our cumulative negative fund balance to \$204,081.

BUDGET GOALS FOR FY 14 are two-fold: 1) pay down the negative fund balance within two years; and 2) over the next five years, build up a capital reserve of at least \$200,000 to cover future capital expenses that cannot be funded through the City's capital budget, or by federal funds, such as accent lighting, and other amenities that are unique to the Marketplace and not provided elsewhere in the downtown by the City.

FY 14 BUDGET OVERVIEW

TOTAL REVENUES:	926,367.50
TOTAL EXPENSES:	<u>829,111.20</u>
DIFFERENCE	97,256.30

The difference of \$97,256.30 will be applied at the end of FY 14 to the department's negative fund balance. The \$97K surplus was achieved by reductions in staffing (due primarily to an anticipated March, 2014 retirement), reductions in overtime, and certain administrative and marketing expenses. A portion of those cost savings (\$11,000) will fund the cost of a temporary finance/accounting person to support staff with financial management and budgeting throughout FY 14.



Burlington Fire Department



136 South Winooski Avenue
Burlington, Vermont 05401-8378

(802) 864-4554 • (802) 658-2700 (TTY)

Business Fax (802) 864-5945 • Central Station Fax (802) 865-5387

2013 ANNUAL REPORT OF THE BURLINGTON FIRE COMMISSION TO THE BURLINGTON CITY COUNCIL

- During the past year the Burlington Fire Department responded to 7,162 emergency calls. Of those, approximately 4,399 were for Emergency Medical Service and the remaining 2,763 were for fires and other emergencies. The department saw a 2% increase in call volume this year over last and a 22% increase over the past 6 years.
- During the year 4 members retired each with over 20 years of service, including Fire Marshal Terry Francis with 33 years of service. Senior Firefighter Barry Simays was promoted and has assumed the role of the City's new Fire Marshal in addition 4 new members were hired. The Fire Department remains at an authorized strength of 79 members.
- This past year the Department developed and launched a comprehensive Emergency Medical quality assurance/quality improvement program. The goal of this new program is to enhance the level of service we provide by identifying areas of needed growth and to build upon areas of success.
- The Fire Department continues to be successful in obtaining grant funding. This year the department received \$77,119.70 in funding to enhance our communication capabilities by replacing all of our frontline portable radios and base stations.
- November 2012; the department met the Federal Narrow Banding mandate two months early with the completion of our radio equipment upgrades and programming.
- November 2012, in the aftermath of Hurricane Sandy, the Department deployed 4 members and equipment as part of Vermont Urban Search and Rescue Task Force 1 to Southern VT. 8 members of the department traveled to New York City to aid in the recovery efforts along with the Fire Department of New York in the Breezy Point section of Queens.
- In closing, we would like to restate our commitment to provide emergency response to fire within three minutes of receipt of alarm and to provide an ambulance within 3.2 minutes of receipt of a call for help. This Department would also like to thank the Mayor, City Council and in particular, the voters of the City for supporting our efforts to better serve them.

Respectfully Submitted,

Mark Saba

Burlington Fire Commission Chair

Commissioner K. McLaughlin

Commissioner J. Perkinson

REASON'S OFFICE
BURLINGTON CLERK

Commissioner L. Sheehy

Commissioner J. Vincent

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RECEIVED

BURLINGTON POLICE DEPARTMENT

1 North Avenue

Burlington, Vermont 05401

RECEIVED

Jerome F. O'Neill, Chair
Board of Police Commissioners

BURLINGTON CLERK
TREASURER'S OFFICE

Telephone: (802) 658-2704

Fax: (802) 865-7579

TDD/TTY: (802) 865-2700

**ANNUAL REPORT OF THE BURLINGTON POLICE COMMISSION
TO THE BURLINGTON CITY COUNCIL
June 2012 through May 2013**

Mission:

The mission statement of the Burlington Police Commission requires that the Commission ensure that the Burlington Police Department delivers high quality, community-oriented policing services in partnership with the citizens of Burlington.

On-Going Challenges:

The Burlington Police Department ("BPD") currently has 95 sworn personnel, up from 94 at this time last year. BPD's full-authorized strength is 100 sworn personnel.

Annually, the 100 officers and 36 civilian personnel of the BPD respond to and support approximately 40,000 calls for service, 33,000 incidents, and conduct 5,000 criminal investigations. In addition, the BPD handles all emergency communication for police, fire, and rescue operations throughout the City and provides additional services such as coordination of the Chittenden Unit for Special Investigations, the Vermont Internet Crimes Against Children Task Force, a variety of drug task force operations, City-wide parking enforcement, and security operations for the Burlington International Airport.

BPD's Training & Recruitment Division continues to work hard to obtain 100 sworn officers. However, recruiting the type of personnel BPD wants is an on-going challenge. The BPD Recruiting Office considers hundreds of applicants for the variety of sworn and civilian positions that are available annually. BPD's recruitment efforts are wide-spread and thorough, utilizing all forms of communication, including its website and such approaches as advertising on the Burlington Free Press website, to reach a broad audience.

Recruiting the best people possible remains a constant effort. The economy is helping at present, however, as the economy improves, recruiting likely will be more difficult. The competition from the federal government locally with its higher salaries for experienced law enforcement personnel continues to contribute to retirements and early departures from the Department.

The Commission supports all of these efforts and the highly selective hiring process and long training period before the Department is ready to put an officer on the streets.

In the past year, five sworn personnel have left the department. This represents an average turnover year.

The Department of Homeland Security requires that the Burlington International Airport have a stable number of Burlington Police Department employees. There are currently seven officers on rotation at the airport and a Lieutenant assigned half-time.

In the wake of a challenging year constructing the State budget, substantial operational changes have been made to the Agency of Human Services with special emphasis on the Department of Corrections and the Department of Mental Health, two systems that already were under extensive stress. The result has been a displacement of costs and operational burden to municipalities, especially local law enforcement and partner social service agencies. The Department saw increases in reports of trespasses, intoxicated persons, ordinance violations, assaults, and burglaries in calendar years 2010 and 2011 from prior years.

The City faces challenges every year as it relates to drug activity. During the past three years the Department increased the size of the Drug Unit by one investigator to bring the unit up to three officers. The Unit also is augmented by detectives from UVM and South Burlington Police who are housed part-time with the Department's drug investigators. In addition, the Department created the Street Crimes Unit, now in its third year of operation. One of this unit's critical tasks is street level drug enforcement.

Highlights of the Past Year:

Milestones, new initiatives and projects the Department undertook during the past year include:

- Work to implement suggestions and ideas identified during the Department's 2008-2009 City-wide re-assessment project. To date, the BPD has implemented the following initiatives as a result of that process:
 - Deployment of a Mental Health Outreach Interventionist, in partnership with the HowardCenter, to respond to an increasing number of calls in which persons suffering from cognitive disabilities are in crisis;
 - Dissemination of immediate public safety information, traffic alerts, and other pertinent communication to citizens of and visitors to Burlington via a messaging system available to the public called NIXLE;
 - Occasional updates via Front Porch Forum;
 - Renewed efforts to combat graffiti and vandalism in partnership with the Center for Community and Neighborhoods, the Queen City Police Foundation, and Burlington Business Association, including graffiti clean-up days and hiring a graffiti remediation coordinator utilizing Justice Assistance Grant funds;
 - Implementation of a pilot project utilizing Rapid Intervention (such as mental health, substance abuse, and employment services) for low-level offenders in partnership with the Chittenden County State's Attorney.
- Continued work in the area of reducing violence against women and children through such projects as Domestic Violence advocacy, the Chittenden Unit for Special Investigation, and the Vermont Internet Crimes Against Children Task Force;
- Continued and enhanced focus on street-level drug interventions in city neighborhoods and downtown, including creation of multi-agency Community Impact Teams and the deployment of a Street Crimes Unit.
- Continued partnerships with a host of service organizations, law enforcement agencies, and other City departments to provide robust services to the community in day-to-day operations;
- Re-deployment of officers to participate in foot patrols and quality of life operations in the downtown, City Hall Park, and neighborhoods;
- Partnered with the Safe Streets Collaborative to provide safety education and enforcement to make the city's streets and sidewalks safer for all;
- Continued services to victims of crime in partnership with Burlington's Community Justice Center via the Parallel Justice project;
- Completed a multi-year project to re-write the Department's 90+ policy documents and consolidate them to approximately 40 updates ones, including policies relating to crowd control based upon national best practices.

In FY2012 and FY2013 the Department deployed new technology that will enhance transparency and ease access to crime reporting City-wide including:

- Creation of an online reporting portal on the Department's website to allow low-level events that do not require investigation to be reported online. This system now handles several hundred calls for service annually.
- Custom design and implementation of a new Computer Aided Dispatch, Records Management, and Mobile Computing application for use by law enforcement throughout the region. To date, fourteen primary law enforcement agencies and over fifty secondary agencies are using the system.

In March 2013, the Burlington Rotary honored BPD employees and others for their outstanding and courageous work during 2012. This is an annual event that recognizes BPD employee efforts above and beyond the call of duty.

In April 2013 the Department received the Burlington Business Association's Business of the Year Award for its efforts to foster safety throughout the city, which contributes to positive business climate.

The Department continues to recognize the importance of its commitment to youth through the School Resource Officer program, a positive presence in the schools.

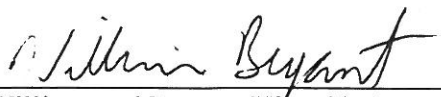
For FY2013, the Department has continued its five year-old effort to ensure sustainable budget growth through fiscal responsibility. The FY2013 budget was largely level-funded.

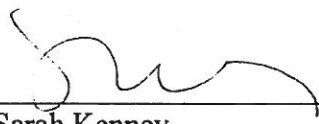
Commission Priorities and Goals:

The Commission's most important goal is to continue to exercise its oversight role of BPD and to work with BPD to bring Burlington the best community policing possible.

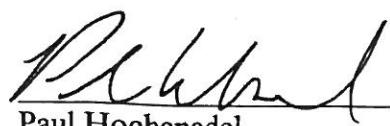
The Commission stresses the importance of achieving full staffing of BPD's authorized strength of 100 officers. BPD will continue its efforts to attract women and minorities to the law enforcement field.



Jerome O'Neill, Chair
Burlington Police Commission


William and Bryant, Vice Chair
Burlington Police Commission


Sarah Kenney
Commissioner

April 30, 2013


Paul Hochanadel
Commissioner


Phillip LaVigne
Commissioner

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BURLINGTON CLERK
TREASURER'S OFFICE

COMPREHENSIVE DEVELOPMENT ORDINANCE—
Adaptive Reuse and Residential Bonuses
ZA 13-11

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 4.4.5, Residential Districts, Table 4.4.5-6: Adaptive Reuse Bonus and Table 4.4.5-7: Residential Conversion Bonus, thereof to read as follows:

Sec. 4.4.5 Residential Districts

(a) – (c) As written.

(d) District Specific Regulations

The following regulations are district-specific exceptions, bonuses, and standards unique to the residential districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above.

1-6. As written.

7. Residential Development Bonuses.

The following exceptions to maximum allowable residential density and dimensional standards in Tables 4.4.5-2 and 4.4.5-3 may be approved in any combination subject to the maximum limits set forth in Table 4.4.5-8 at the discretion of the DRB. Any bonuses that are given pursuant to this ordinance now or in the future shall be regarded as an exception to the limits otherwise applicable.

A-B. As written.

C. Adaptive Reuse Bonus.

Development in excess of the limits set forth in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to conditional use review for the ~~retention, adaptive reuse and rehabilitation~~ conversion of an existing non-conforming nonresidential principal use nonresidential structure and its conversion within a historic building to a ~~permitted-conforming~~ residential use ~~provided the structure has not previously been converted~~

COMPREHENSIVE DEVELOPMENT ORDINANCE—
Adaptive Reuse and Residential Bonuses
ZA 13-11

from a residential use to a nonresidential use. Any such redevelopment shall be subject to all of the following conditions:

- (i) ~~The structure shall not have previously been converted from a residential use to a nonresidential use;~~
- (ii) The building shall be listed or eligible for listing in the United States Department of the Interior's National Register of Historic Places or the Vermont State Register of Historic Places;
- (iii) The gross floor area shall not exceed the pre-redevelopment gross floor area of the existing structure by more than twenty-five (25) percent;
- (iv) ~~The density limits of the underlying residential zoning district in Sec 4.4.5(b) above shall not apply. Residential density~~ The intensity and extent of development shall be limited by gross floor area maximum in (iii) above and Table 4.4.5-6 below;
- (v) ~~The building~~ adaptive reuse and rehabilitation conforms to the requirements of Art 5, Historic Buildings;
- (vi) Neighborhood commercial uses less than 2,000 sq. ft. gross floor area may be permitted by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(5)(A) above. Neighborhood commercial uses 2,000 sq. ft. or larger in gross floor area shall not be permitted. In combination, the sum of neighborhood commercial uses shall be limited to no more than 50% of the gross floor area of the existing structure; and,
- (vii) Lot coverage shall not exceed:

Table 4.4.5-6: Adaptive Reuse Bonus

District	Maximum Coverage
RL, RL-W	Greater of <u>540%</u> (4462% with inclusionary allowance), or expansion by more than 125% of pre-existing building coverage.
RM,	Greater of 40% (48% with inclusionary allowance), or expansion by more than 125% of pre-existing building coverage.
RM, RM-W	Greater of 60% (72% with inclusionary allowance), or expansion by more than 125% of pre-existing building coverage.
RH	Greater of 80% (92% with inclusionary allowance), or expansion by more than 125% of pre-existing building coverage.

COMPREHENSIVE DEVELOPMENT ORDINANCE—
Adaptive Reuse and Residential Bonuses
ZA 13-11

D. Residential Conversion Bonus.

Development in excess of the limits set forth in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to conditional use review for the conversion of an existing non-conforming nonresidential structure principal use not involving a historic building to a permitted-conforming residential use provided, or for the ~~elimination of a non-residential structure and its replacement by a residential structure~~, subject to all of the following conditions ~~the following~~:

- (i) ~~The structure shall not have previously been converted from a residential use to a nonresidential use;~~
- (ii) Any structure proposed for demolition shall not be listed or eligible for listing in the United States Department of the Interior's National Register of Historic Places or the Vermont State Register of Historic Places; and,
- (iii) Lot coverage and residential density shall not exceed:

Table 4.4.5-7: Residential Conversion Bonus

District	Maximum <u>Lot Coverage</u>	Maximum Density (<u>dwelling unit/acre</u>)
RL, RL-W	50% <u>(62% with inclusionary allowance)</u>	8 du/ac <u>(8.75 with inclusionary allowance)</u>
RM, RM-W	60% <u>(72% with inclusionary allowance)</u>	30 du/ac <u>(37.5 with inclusionary allowance)</u>
RH	80% <u>(92% with inclusionary allowance)</u>	60 du/ac <u>(69% with inclusionary allowance)</u>

E. As Written.

* Material stricken out deleted.

** Material underlined added.

lb/KJS /c: Ordinances 2013/Zoning Amendment #ZA 13-11 – Adaptive Reuse and Residential Bonuses, Sec. 4.4.5
8/7/13

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

www.burlingtonVT.gov/pz

David E. White, AICP, Director
Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, Senior IT/GIS Programmer
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Nic Anderson, Planning & Zoning Clerk
Elsie Tillotson, Administrative Assistant



MEMORANDUM

TO: Joan Shannon, City Council President
Burlington City Councilors
Mayor Miro Weinberger

FROM: David E. White, AICP, Director of Planning & Zoning

DATE: Wednesday, July 24, 2013

RE: Proposed Zoning Amendment

For your consideration you will please find attached a proposed amendment to the *Burlington Comprehensive Development Ordinance* for your consideration and adoption as recommended by the Burlington Planning Commission.

The proposed amendment is as follows:

- (a) **ZA-13-11 – Adaptive Reuse and Residential Bonuses** - This proposed amendment to the Comprehensive Development Ordinance is to improve consistency with allowances for Inclusionary Housing and improve the utility of current development bonuses in residential districts that encourage the conversion of non-conforming uses to permitted residential uses. (Modify Section 4.4.5, 7. C & D)

Upon receiving this proposed amendment, the Council may decide to:

- refer to a City Council Committee for further review; or,
- waive the Council's rules and direct the Clerk's Office to warn a Public Hearing for the next available meeting after a 15-day public notice.

Adoption of these amendment will require the Council to hold one or more public hearings in accordance with 24 VSA § 4442 and §4444 before it can be adopted and become effective.

For your information, once a zoning amendment is warned for a Public Hearing by the City Council, the Dept. of Planning and Zoning is required by statute to begin implementing the amendment as warned until it is adopted, amended, or withdrawn for a period not to exceed 150-days (24 VSA 4449(d)).

Planning staff is available to answer any questions you may have, as well as to make a public presentation regarding this proposed amendment at your public hearing(s).

Thank you for your consideration.

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

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Elsie Tillotson, Department Secretary



Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-13-11 – Adaptive Reuse and Residential Bonuses

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The proposed amendment to the City's zoning regulations is as follows:

ZA-13-11 – Adaptive Reuse and Residential Bonuses - This proposed amendment to the Comprehensive Development Ordinance is to facilitate and encourage the conversion of a non-conforming non-residential use to a conforming residential use in both historic ("Adaptive Reuse") and non-historic ("Residential Conversion") structures. This proposed amendment also makes consistent density and lot coverage allowances with those for Inclusionary Housing (Modify Section 4.4.5, 7. C & D)

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

This proposed amendment to the Comprehensive Development Ordinance improves the utility of current development bonuses in residential districts that encourage the conversion of non-conforming uses to permitted residential uses, and as a result create additional housing opportunities and adaptively reuse historic buildings – both important objectives found in the Municipal Development Plan.

Compatibility with the proposed future land uses and densities of the municipal development plan:

ZA-13-11 will support land use and development patterns and intensities well in-line with the policies and goals set in the MDP.

Implementation of specific proposals for planned community facilities:

Revisions to the bylaws are not specifically intended to make accommodations for planned community facilities.

Burlington Comprehensive Development Ordinance

PROPOSED ZA-13-11 – Adaptive Reuse & Residential Bonuses

As approved by the Planning Commission on May 14, 2013

Changes shown (underline to be added, ~~strike-out~~ to be deleted) are proposed changes to the Burlington Comprehensive Development Ordinance.

Purpose: This proposed amendment to the Comprehensive Development Ordinance is to improve consistency with allowances for Inclusionary Housing and improve the utility of current development bonuses in residential districts that encourage the conversion of non-conforming uses to permitted residential uses.

Sec. 4.4.5 Residential Districts

7. Residential Development Bonuses.

The following exceptions to maximum allowable residential density and dimensional standards in Tables 4.4.5-2 and 4.4.5-3 may be approved in any combination subject to the maximum limits set forth in Table 4.4.5-8 at the discretion of the DRB. Any bonuses that are given pursuant to this ordinance now or in the future shall be regarded as an exception to the limits otherwise applicable.

A-B. *unchanged*

C. Adaptive Reuse Bonus.

Development in excess of the limits set forth in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to conditional use review for the ~~retention, adaptive reuse and rehabilitation~~ conversion of an existing non-conforming nonresidential principal use nonresidential structure and its conversion within a historic building to a permitted-conforming residential use ~~provided the structure has not previously been converted from a residential use to a nonresidential use. Any such redevelopment shall be subject to all of the following conditions:~~

- (i) ~~The structure shall not have previously been converted from a residential use to a nonresidential use;~~*
- (ii) The building shall be listed or eligible for listing in the United States Department of the Interior's National Register of Historic Places or the Vermont State Register of Historic Places;*
- (iii) The gross floor area shall not exceed the pre-redevelopment gross floor area of the existing structure by more than twenty-five (25) percent;*
- (iv) The density limits of the underlying residential zoning district in Sec 4.4.5(b) above shall not apply. ~~Residential density~~ The intensity and extent of*

development shall be limited by gross floor area maximum in (iii) above and
Table 4.4.5-6 below;

- (v) ~~The building~~ adaptive reuse and rehabilitation conforms to the requirements of Art 5, Historic Buildings;
- (vi) Neighborhood commercial uses less than 2,000 sqft gross floor area may be permitted by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(5)(A) above. Neighborhood commercial uses 2,000 sqft or larger in gross floor area shall not be permitted. In combination, the sum of neighborhood commercial uses shall be limited to no more than 50% of the gross floor area of the existing structure; and,
- (vii) Lot coverage shall not exceed:

Table 4.4.5-6: Adaptive Reuse Bonus

District	Maximum Coverage
RL, RL-W	Greater of 540% (4462% with inclusionary allowance), or expansion by more than 125% of pre-existing building coverage.
RM,	Greater of 40% (48% with inclusionary allowance), or expansion by more than 125% of pre-existing building coverage.
RM, RM-W	Greater of 60% (72% with inclusionary allowance), or expansion by more than 125% of pre-existing building coverage.
RH	Greater of 80% (92% with inclusionary allowance), or expansion by more than 125% of pre-existing building coverage.

D. Residential Conversion Bonus.

Development in excess of the limits set forth in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to conditional use review for the conversion of an existing non-conforming nonresidential structure principal use not involving a historic building to a permitted conforming residential use provided, or for the elimination of a non-residential structure and its replacement by a residential structure, subject to all of the following conditions the following:

- (i) ~~The structure shall not have previously been converted from a residential use to a nonresidential use;~~
- (ii) Any structure proposed for demolition shall not be listed or eligible for listing in the United States Department of the Interior's National Register of Historic Places or the Vermont State Register of Historic Places; and,
- (iii) Lot coverage and residential density shall not exceed:

Table 4.4.5-7: Residential Conversion Bonus

District	Maximum <u>Lot</u> Coverage	Maximum Density (dwelling unit/acre)
RL, RL-W	50% <u>(62% with inclusionary allowance)</u>	8 du/ac <u>(8.75 with inclusionary allowance)</u>
RM, RM-W	60% <u>(72% with inclusionary allowance)</u>	30 du/ac <u>(37.5 with inclusionary allowance)</u>
RH	80% <u>(92% with inclusionary allowance)</u>	60 du/ac <u>(69% with inclusionary allowance)</u>

E. *unchanged*

COMPREHENSIVE DEVELOPMENT ORDINANCE—
Historic Building Materials
ZA 13-12

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 5.4.8, Historic Buildings and Sites and 13.1.2, Definitions, thereof to read as follows:

Sec. 5.4.8 Historic Buildings and Sites

As written.

(a) As written.

(b) Standards and Guidelines:

The following development standards, ~~following the Secretary of the Interior's Standards for the Treatment of Historic Properties~~, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review in Art 3, Part 4. The ~~Secretary of the Interior's Standards~~ are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These ~~Standards~~ are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property will be used as it was historically or be given a new use that requires minimal change to its ~~distinctive materials~~, features, spaces, and spatial relationships.

COMPREHENSIVE DEVELOPMENT ORDINANCE—
Historic Building Materials
ZA 13-12

2. The historic character of a property will be retained and preserved. The removal ~~of distinctive materials~~ or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. ~~Distinctive materials,~~ Features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. ~~Where D~~deteriorated historic features will be repaired rather than ~~are~~ replaced. ~~Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and size, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence. Where materials are to be replaced, the replacement material shall be visually compatible with the original material. Visual compatibility shall include, but is not limited to matching design, texture, and size, and having a similar reveal of the original material. The replacement material shall also be durable.~~
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will minimize impacts on ~~not destroy~~ historic materials, features, and while maintaining the size, scale and proportional spatial relationships that characterize the property. ~~The new work shall be differentiated from the old and~~

COMPREHENSIVE DEVELOPMENT ORDINANCE—
Historic Building Materials
ZA 13-12

~~will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.~~

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) and (d) As written.

Sec. 13.1.2 Definitions

Character defining element or feature: A prominent or distinctive aspect, quality, or characteristic of a cultural resource that contributes significantly to its physical character.

Economic feasibility: The viability of a project based upon expenses incurred to meet the standards of Sec. 5.4.8(b), weighing whether the costs are greater than the benefits. Economic feasibility is not the same as economic optimization, which assumes maximum net benefit among a range of choices, with minimal expenditure.

Technical feasibility: An assessment of the probability, possibility or potential that a product or design can be made.

- * Material stricken out deleted.
- ** Material underlined added.

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

(802) 865-7142 (TTY)

www.burlingtonVT.gov/pz

David E. White, AICP, Director
Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, Senior IT/GIS Programmer
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Nic Anderson, Planning & Zoning Clerk
Elsie Tillotson, Administrative Assistant



MEMORANDUM

TO: Joan Shannon, City Council President
Burlington City Councilors
Mayor Miro Weinberger

FROM: David E. White, AICP, Director of Planning & Zoning

DATE: Friday, July 19, 2013

RE: Proposed Zoning Amendment

For your consideration you will please find attached a proposed amendment to the *Burlington Comprehensive Development Ordinance* for your consideration and adoption as recommended by the Burlington Planning Commission.

The proposed amendment is as follows:

- (a) **ZA-13-12 – Historic Building Materials** - This proposed amendment to the Comprehensive Development Ordinance is to provide more flexibility for the replacement of materials on historic properties. (Modify Sec. 5.4.8 Historic Buildings and Sites, subsection (b) Standards and Guidelines and Sec. 13.1.2 Definitions)

Upon receiving this proposed amendment, the Council may decide to:

- refer to a City Council Committee for further review; or,
- waive the Council's rules and direct the Clerk's Office to warn a Public Hearing for the next available meeting after a 15-day public notice.

Adoption of these amendment will require the Council to hold one or more public hearings in accordance with 24 VSA § 4442 and §4444 before it can be adopted and become effective.

For your information, once a zoning amendment is warned for a Public Hearing by the City Council, the Dept. of Planning and Zoning is required by statute to begin implementing the amendment as warned until it is adopted, amended, or withdrawn for a period not to exceed 150-days (24 VSA 4449(d)).

Planning staff is available to answer any questions you may have, as well as to make a public presentation regarding these proposed amendment at your public hearing(s).

Thank you for your consideration.

Burlington Comprehensive Development Ordinance

PROPOSED ZA-13-12 – Historic Building Materials

As approved by the Planning Commission on June 11, 2013

Changes shown (underline to be added, strike-out to be deleted) are proposed changes to the *Burlington Comprehensive Development Ordinance*.

Purpose: This proposed amendment to the Comprehensive Development Ordinance is to provide more flexibility for the replacement of materials on historic properties.

Sec. 5.4.8 Historic Buildings and Sites

(a) Applicability (as written)

(b) Standards and Guidelines:

The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review in Art 3, Part 4. The ~~Secretary of the Interior's Standards~~ are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These ~~Standards~~ are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property will be used as it was historically or be given a new use that requires minimal change to its ~~distinctive materials, features, spaces, and spatial relationships~~.
2. The historic character of a property will be retained and preserved. The removal of ~~distinctive materials~~ or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. ~~Distinctive materials, f~~Features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Where D~~deteriorated historic features will be repaired rather than are replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and size, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use.~~ Replacement of missing features will be substantiated by documentary and physical evidence.

Where materials are to be replaced, the replacement material shall be visually compatible with the original material. Visual compatibility shall include, but is not limited to matching design, texture, and size, and having a similar reveal of the original material. The replacement material shall also be durable.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

8.7. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

9.8. New additions, exterior alterations, or related new construction will minimize impacts on ~~not destroy~~ historic materials, features, and while maintaining the size, scale and proportional spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) and (d) As written.

Sec. 13.1.2 Definitions

Character defining element or feature: A prominent or distinctive aspect, quality, or characteristic of a cultural resource that contributes significantly to its physical character.

Economic feasibility: The viability of a project based upon expenses incurred to meet the standards of Sec. 5.4.8(b), weighing whether the costs are greater than the benefits. Economic feasibility is not the same as *economic optimization*, which assumes maximum net benefit among a range of choices, with minimal expenditure.

Technical feasibility: An assessment of the probability, possibility or potential that a product or design can be made.

Department of Planning and Zoning

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Mary O'Neil, AICP, Senior Planner
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Elsie Tillotson, Department Secretary



Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-13-12 – Historic Building Materials

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

1. The proposed amendment to the City's zoning regulations is as intended to provide more flexibility for the replacement of materials on historic properties. (Modify Section 5.4.8 (b))

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

This revision of the ordinance will allow for vertical and horizontal expansions of existing nonconforming buildings, providing for more context sensitive development or rehabilitations of residential properties.

Compatibility with the proposed future land uses and densities of the municipal development plan:

This amendment does not impact density in the City of Burlington.

Implementation of specific proposals for planned community facilities:

Revisions to the bylaws are not specifically intended to make accommodations for planned community facilities.

REORGANIZATION BURLINGTON TELECOM – RECLASSIFICATION
AND TITLE CHANGE OF BURLINGTON TELECOM
NETWORK OPERATIONS SUPERVISOR TO DIVISION MANAGER
OF TECHNICAL OPERATIONS AND COMMERCIAL SALES;
AND TITLE CHANGE FOR DIVISION MANAGER OF REGULATORY
AFFAIRS, OUTSIDE PLANT, AND TECHNICAL ASSISTANCE TO
DIVISION MANAGER OF REGULATORY AFFAIRS, OUTSIDE PLANT,
AND FORWARD PLANNING

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the consulting firm of Dorman and Fawcett has recommended increasing the
responsibilities and changing the title of the Network Operations Supervisor position at Burlington
Telecom; and

WHEREAS, the consulting firm of Dorman and Fawcett has recommended changes to the job
description of the Division Manager of Regulatory Affairs, Outside Plant, and Technical Assistance; and

WHEREAS, Burlington Telecom requires these changes and services as part of its operations; and

WHEREAS, the Human Resources Director has prepared new job descriptions and recommends
the reclassification and title change of the Network Operations Supervisor; and the title change of the
Division Manager of Regulatory Affairs, Outside Plant and Technical Assistance; and

WHEREAS, the Human Resources Director has used a combination of the Winters Classification
Plan and the Willis Classification Plan to determine a recommended pay scale for these positions; and

WHEREAS, the Board of Finance recommended approval of these changes on August 5, 2013;

NOW, THEREFORE, BE IT RESOLVED that based on its new job description, the Network
Operations Supervisor position at Burlington Telecom shall have a new title of Division Manager of
Technical Operations and Commercial Sales and shall be placed at a grade NC-20 within the Burlington
Telecom Salary Table; and

BE IT FURTHER RESOLVED that based on its new job description, the Division Manager of
Regulatory Affairs, Outside Plant, and Technical Assistance position shall have a new title of Division

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REORGANIZATION BURLINGTON TELECOM –
RECLASSIFICATION AND TITLE CHANGE OF
BURLINGTON TELECOM NETWORK OPERATIONS
SUPERVISOR TO DIVISION MANAGER OF
TECHNICAL OPERATIONS AND COMMERCIAL
SALES; AND TITLE CHANGE FOR DIVISION
MANAGER OF REGULATORY AFFAIRS, OUTSIDE
PLANT, AND TECHNICAL ASSISTANCE TO DIVISION
MANAGER OF REGULATORY AFFAIRS, OUTSIDE
PLANT, AND FORWARD PLANNING

Manager of Regulatory Affairs, Outside Plant and Forward Planning and will remain at its existing grade,
NC-16 within the Burlington Telecom Salary Table.

lb/EBlackwood/c: Resolutions 2013/HR - BT Reorganization – Reclassification & Title Change to 2 Division Manager Positions
8/6/13

CONVENING OF A SUMMIT TO DISCUSS THE UNDERFUNDING
OF THE CITY'S PENSION PLAN AND TO EXPLORE OPTIONS
TO ADDRESS UNFUNDED LIABILITY

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the City of Burlington has a full-time, permanent work force of more than 600 dedicated and resourceful employees and approximately 900 retirees and former employees vested in the City's retirement system; and

WHEREAS, it is in the long-term best interest of the City that it continues to have qualified and competent employees to perform those functions that are essential to the effective and efficient operation of the City and the delivery of City services; and

WHEREAS, the City Council recognizes the importance of the retirement/pension system in recruiting and retaining competent and committed employees; and

WHEREAS, it is in the interests of the citizens and taxpayers of the City, as well as in the interests of former, present and future City employees, that the City's retirement/pension system be a sustainable, viable and affordable plan that can fulfill its promises to city employees; and

WHEREAS, over the last few years the City taxpayers' contribution to the retirement/pension fund has increased each year while at the same time the unfunded liability of the fund has also increased; and

WHEREAS, the unfunded liability in the City's pension/retirement plan as of June 30, 2012 was \$60,611,827, an amount that creates an unsustainable retirement system and places an unreasonable tax burden upon the taxpayers of the City of Burlington; and

WHEREAS, the City is fortunate to have at its disposal individuals who have the ability to comprehend the nature of the problems facing our retirement/pension system, to hear from persons who wish to address those problems, and to put forth options to address the City's unfunded liability; and

WHEREAS, the City Council believes that the financial problems of our retirement/pension system are significant and there is an urgency to solve these issues and therefore the public must be informed in such a way so that they understand the long-term impacts of our not solving the structural issues within our retirement/pension system;

NOW, THEREFORE, BE IT RESOLVED that there is a need for a Retirement Summit where the

CONVENING OF A SUMMIT TO DISCUSS THE
UNDERFUNDING OF THE CITY'S PENSION PLAN
AND TO EXPLORE OPTIONS TO ADDRESS
UNFUNDED LIABILITY

public is made aware of our concern that maintaining the current structure of our retirement/pension system is unsustainable; and

BE IT FURTHER RESOLVED that the City Council requests that the Mayor shall appoint a committee to plan a Retirement Summit for not later than October 15th, 2013. The committee shall create a program, to be approved by the City Council, designed so that attendees can understand, at a minimum, the:

- a) Long-term impact on renters and business-owners of maintaining the current pension structure.
- b) Comparison of our public-sector pension system to private sector plans.
- c) The complexity of our pension system and its administrative difficulty and cost.
- d) Services our employees provide to the taxpayers, the value of these employees and therefore the need to maintain a high-quality pension system to retain and recruit staff.
- e) The impact our current pension system may have on the City's credit rating.
- f) Long-term financial and other implication of maintaining the current pension structure.
- g) How new government accounting standards may positively or negatively change our pension valuation outlook, and whether it is likely that there will be future changes to government accounting standards that will further impact our pension valuation.
- h) How the City's costs to fund our pension system impacts the taxpayers, employees, current retirees, City infrastructure and possible growth of the City's Grand List.
- i) Appropriate balance of a variety of City revenues; and

BE IT FURTHER RESOLVED that prior to presenting its plan to the Council the committee shall offer to meet with the elected leadership of each of the four bargaining units representing City employees, the Board of the Burlington Employee Retirement System, at least two individuals owning commercial property in Burlington, at least two non-unionized City employees, and with the City's Board of Finance to review a draft program and solicit peoples' ideas on the draft; and

BE IT FURTHER RESOLVED that the once the Summit has occurred, and the City Council and Administration has been able to assess the outcomes of the Summit, the Administration will present to the City Council for its approval a draft process, the goal of which will be to identify solutions to the issues raised at the summit. This draft process will be presented to the City Council no later than two months after the Summit, and its creation shall follow the same guidelines used to create the Summit plan.

ADOPTION OF COUNCIL PRIORITIES FOR 2013 – 2014 COUNCIL YEAR

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, on July 15 the Council held a work session to identify Council Priorities.

WHEREAS, the discussion started with a brainstorming of possible topics to be considered as priorities.

WHEREAS, Councilors also discussed what it means to be a Council priority.

WHEREAS, most Councilors felt that in order to meet the threshold of Council priority the issue should be supported by a 2/3 super majority.

NOW, THEREFORE, BE IT RESOLVED that this Resolution requires a 2/3 super majority in order to be “passed” by the City Council; and

BE IT FURTHER RESOLVED that Council adopts the following 3 issues as Council priorities for this session: the fiscal health of the City, Quality of Neighborhoods, the Environment and Climate Change; and

BE IT FURTHER RESOLVED that the Council President will appoint a multi-partisan “Priorities Committee” charged with recommending legislative actions, referrals to committees and/or other actions the Council should take to move these issues forward; and

BE IT FURTHER RESOLVED that the “Priorities Committee” will be asked to report back either by Resolution for action or a report at our September 23 meeting.

Burlington City Council



802/865-7136
TTY 802/865-7142

OPENINGS BURLINGTON CITY COMMISSIONS/BOARDS

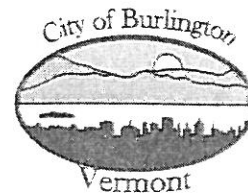
Design Advisory Board, Alternate	Term Expires 6/30/14	One Opening
Fence Viewer	Term Expires 6/30/14	One Opening
Board of Tax Appeals	Term Expires 6/30/14	One Opening
Board of Tax Appeals	Term Expires 6/30/15	Two Openings

Applications may be submitted to the Clerk/Treasurer's Office, 149 Church Street, 2nd Floor, Burlington, VT 05401, Attn: Lori with the deadline date for submission being **Wednesday, August 7, 2013**, no later than 4:30 p.m.

If you have any questions please contact Lori at (802)865-7136 or via email lolberg@burlingtonvt.gov.

The City of Burlington encourages persons from diverse backgrounds to apply to serve on boards, commissions and committees. The City is committed to providing equal opportunity to all persons without regard to political affiliation, race, color, religion, age, sex, sexual preference, national origin, disability or any other non-merit factor.

Burlington City Council



802/865-7136
TTY 802/865-7142

OPENINGS BURLINGTON CITY COMMISSIONS/BOARDS

On Monday, August 12, 2013, the Burlington City Council will fill vacancies on the following City Commissions/Boards:

Design Advisory Board, Alternate	Term expires 6/30/14	One Opening
Fence Viewer	Term expires 6/30/14	One Opening
Public Works Commission	Term expires 6/30/15	One Opening
Board of Tax Appeals	Term expires 6/30/14	One Opening
Board of Tax Appeals	Term expires 6/30/15	Two Openings

Applications may be submitted to the Clerk/Treasurer's Office, 149 Church Street, Burlington, VT 05401 Attn: Lori with the deadline date for submission being Wednesday, August 7, 2013, no later than 4:30 p.m.

If you have any questions please contact Lori at (802)865-7136 or via email lolberg@burlingtonvt.gov.



OFFICE OF THE CLERK/TREASURER

City of Burlington

City Hall, Room 20, 149 Church Street, Burlington, VT 05401

Voice (802) 865-7000

Fax (802) 865-7014

TTY (802) 865-7142

APPLICATION FOR: DESIGN ADVISORY BOARD Board/Commission
(Please fill out a separate application for each post)

Full Name: JEREMY M. GATES Ward: N/A

Residence: SOUTH BURLINGTON
(WORK IN BURLINGTON) Political Affiliation (mandatory): I

Are you a registered Burlington Voter? No (Registered in So. Burlington)

Phone (home): 802.881.8946 Phone (work): 802.863.2227 Phone (cell): 802.881.8946

E-Mail Address: jeremy.m.gates@gmail.com

Training or Experience Related to the Commission or Board Post for which you are Applying:

I HAVE A MASTER OF ARCHITECTURE FROM MIT, AND I AM
CURRENTLY PRACTICING AS AN ARCHITECTURAL DESIGNER
FOR SAS ARCHITECTS (ACROSS THE PARK FROM CITY HALL). I AM
EXTREMELY KNOWLEDGEABLE ABOUT THE BURLINGTON COMPREHENSIVE
DEVELOPMENT ORDINANCE, AS WELL AS STATE AND LOCAL BUILDING CODES,
AND PLAN BTV. I AM A LEED ACCREDITED PROFESSIONAL AND A VGBN MEMBER.

Current Occupation: ARCHITECTURAL DESIGNER, SMITH ALVAREZ SIENKIEWYCZ ARCHITECTS
(SAS)

Education (list most recent first):
117 ST. PAUL ST., 3RD FLOOR
BURLINGTON VT 05401

School	Location	Year/Degree
MASSACHUSETTS INSTITUTE OF TECHNOLOGY	CAMBRIDGE, MA	MASTER OF ARCHITECTURE 2005
ARIZONA STATE UNIVERSITY	TEMPE, AZ	BACHELOR OF SCIENCE, DESIGN (MAGNA CUM LAUDE)
SOUTH BURLINGTON HIGH SCHOOL	SO. BURLINGTON, VT	GRADUATED 1993

RECEIVED

2013 JUN 19 P 3:50

BURLINGTON CLERK
TREASURER'S OFFICE



What do you hope to accomplish as a Commissioner/Board Member?

MAKE A POSITIVE CONTRIBUTION TO BURLINGTON'S BUILT ENVIRONMENT
BY HELPING TO UPHOLD THE CITY'S DESIGN STANDARDS/REGULATIONS,
WHILE ALSO BEING A PART OF THE EVOLUTION OF THOSE
STANDARDS.

Have you served as a Burlington City Commissioner/Board Member in the past? No.
If the answer is yes, please list any and all appointments and dates you served.

Do you foresee any potential conflicts of interest if you were appointed to the position for which you are applying? (MAYBE) If so, please explain:

ONLY FOR PROJECTS WHERE I OR MY FIRM IS INVOLVED IN
THE DESIGN. THIS WOULD BE A RARE OCCURRENCE FOR
WHICH I WOULD RECUSE MYSELF.

List Two References:

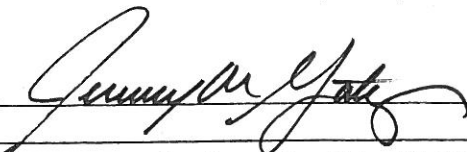
LISA STEELE, MAIN STREET LANDING COMPANY, (802) 238-7726 [cell]
BREN ALVAREZ, SAS ARCHITECTS, (802) 343-4746 [cell]

Please use this area to make any further comments regarding your candidacy, especially in regard to your qualification for this position. You may attach additional sheets if necessary.

[PLEASE SEE ATTACHED]

In order to be appointed to a Board or Commission post you must be nominated by a member of the City Council. A list of members is available upon request.

Signature: _____



Date: 6.19.2013

The City of Burlington encourages persons from diverse backgrounds to apply to serve on boards, commissions and committees. The City is committed to providing equal opportunity to all persons without regard to political affiliation, race, color, religion, age, sex, sexual preference, national origin, disability or any other non-merit factor.



OFFICE OF THE CLERK/TREASURER

City of Burlington

City Hall, Room 20, 149 Church Street, Burlington, VT 05401

Voice (802) 865-7000

Fax (802) 865-7014

TTY (802) 865-7142

APPLICATION FOR: Board of Tax Appeals Board/Commission
(Please fill out a separate application for each post)

Full Name: Brian E.J. Martin Ward: 6

Residence: 57 Harrington Terrace, Apt #2 Political Affiliation (mandatory): D

Are you a registered Burlington Voter? Yes

Phone (home): _____ Phone (work): (802)-828-2904 Phone (cell): (617)-462-6262

E-Mail Address: brian.e.j.martin@gmail.com

Training or Experience Related to the Commission or Board Post for Which you are Applying:

- Graduated Vermont Law School with a J.D., *cum laude*, in 2010 with coursework that emphasized land use and property law, as well as a curriculum that concerned broader issues of tax and municipal law. Wrote student note on property law and state-local planning (Finalist, 2010 Best Student Note Competition).
- Practice as an attorney with the Department of Financial Regulation. Practice includes comprehensive work in issues of state regulatory law. Significant professional experience in areas of finance and law, including tax implications of certain corporate planning.

Current Occupation: Assistant General Counsel, State Department of Financial Regulation

Education (list most recent first):

School	Location	Year/Degree
Vermont Law School	South Royalton, VT	J.D., 2010
Dartmouth College	Hanover, NH	A.B., Government/Art History, 2006
The Pingry School	Martinsville, NJ	Diploma, 2002

What do you hope to accomplish as a Commissioner/Board Member?

To provide the perspective of a person investing in their community now and in the long-term.
To provide the sound judgment of my training in law and finance. To serve and support the city
and its residents.

Have you served as a Burlington City Commissioner/Board Member in the past? No.

If the answer is yes, please list any and all appointments and dates you served.

N/A

Do you foresee any potential conflicts of interest if you were appointed to the position for which you are applying? Yes. If so, please explain:

As an employee with a state agency that regulates certain industries (specifically, insurance and securities). I would excuse myself from any conflicts that plainly arise in relation to my employment. It is my understanding that the possibility of such an actual conflict is very remote, but in full disclosure, I state that potential conflict at the outset.

List Two References:

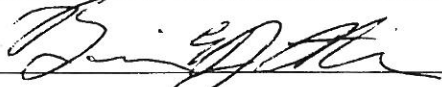
Mr. Erik Johnson, 84 Monroe Street, Burlington erik.keith.johnson@gmail.com

Mrs. Christine Salembier, 545 So. Prospect St. #35, Burlington csalembier@raponline.org

Please use this area to make any further comments regarding your candidacy, especially in regard to your qualification for this position. You may attach additional sheets if necessary.

I am eager to contribute to the civic life of the city I live in and I am happy to commit my skills and experience to the Board. I welcome and invite all questions or inquiries regarding my interest and candidacy.

In order to be appointed to a Board or Commission post you must be nominated by a member of the City Council. A list of members is available upon request.

Signature:  Date: August 7, 2013

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	8/8/2013		
Prepared by: Lori Olberg, Licensing, Voting & Records Coordinator			
Meeting Date	Type of Document	Action Requested	Return to Council
1/9/2012	Resolution: Creation of a Financial Literacy Web Page	progress report to the Council by the Interim CAO	2/13/2012
2/13/2012	Resolution: Ongoing and Future Relationship Between the City of Burlington and the University of Vermont	report due back to the Council by the Community Development and Neighborhood Revitalization Committee	3/26/2012
8/13/2012	Resolution: Strategic Plan Re Fiscal Health of the City	Board of Finance and the C/T Office will work to produce a strategic plan and present said plan to the Council in a worksession	1/7/13; 1/28/13
8/13/2012	Resolution: Landlord Accountability	report due back to CD & NR Committee from the Code Enforcement Office	not-specified
11/26/2012	Resolution: Moving Urban Agriculture Issues Forward	Board of Health to report back to the Council; Planning Commission to report back to the Council	6/24/2013
1/7/2013	Resolution: Charter Change to Prohibit Assault Weapons and High Capacity Clips	Public Safety Committee to convene a series of public hearings and work together with the BSD, BPD, Howard Services and the State Attorney's Office and other relevant organizations to make our schools and City as safe as can be	not-specified
3/11/2013	Resolution: Commission and Board Appointment Process	report due back from the Charter Change Committee to the Council	first meeting in November 2013
3/11/2013	Resolution: Survey to Determine if Commissions and Boards are Functioning Optimally	report due back from the Charter Change Committee to the Council	first meeting in November 2013
3/18/2013	Communication: Burlington Committee on Accessibility Strategy and Plan	future action to be taken	not-specified
4/15/2013	Resolution: Proposed Amendments to Appendix B Rules and Regulations of The City Council	postpone action for now	post City Council Retreat
6/10/2013	Resolution: City Attorney Constitutional Analysis of No Trespass Ordinance for Church Street Marketplace June 12, 2012	have the Ordinance Committee review Attorney John Franco's issues	not-specified
6/24/2013	Communication: John L. Franco, Jr., re: CSM Trespass Authority Ordinance Opinion	referred to the Ordinance Committee	not-specified
	Supplement		
6/24/2013	Communication: City Attorney Blackwood, re: Livable Wage Rates for FY 2014	referred to the Ordinance Committee	not-specified
7/15/2013	Ordinance: HOUSING - Sanitation	referred to the Ordinance Committee	not-specified
7/15/2013	Communication: UVM Housing Master Plan	referred to the Institution/Human Resources Committee	not-specified
7/15/2013	Communication: Richard Cate, UVM, re: COB and UVM MOU re: Zoning Amendments	referred to the Institution/Human Resources Committee	not-specified

AUTHORIZATION OF AN AGREEMENT WITH
SWITCHBACK BREWERY FOR THE ACCEPTANCE OF
WASTE AT THE MAIN WASTEWATER TREATMENT PLANT

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the Switchback Brewing Company (“Switchback”) has been operating a brewery in Burlington since 2002; and

WHEREAS, the Department of Public Work’s (DPW) Main Wastewater Treatment Plant (MWTP) has been receiving and treating Switchback’s wastewater discharge since it started; and

WHEREAS, due to the nature of its business, Switchback generates industrial wastes of unusual strength and character that are subject to the City’s wastewater regulations; and

WHEREAS, the City’s wastewater regulations allow the City to enter into a special agreement with Switchback in order for the City to accept its wastes for treatment and compensate the City for any additional costs of treatment; and

WHEREAS, DPW Director Goodkind has determined that the MWTP has the capacity and capability to continue treating Switchback’s waste within the requirements of the plant’s permits and the agreement negotiated with Switchback fairly compensates the City for the additional costs of treatment, does not violate any requirements of existing law, has safeguards to ensure continued compliance with all permit requirements, is compatible with the City’s user charges and industrial cost recovery system, and has been reviewed by the Vermont Department of Environmental Conservation; and

WHEREAS, the agreement was reviewed and unanimously recommended for City Council approval by the Board of Finance at its August 5, 2013 meeting;

NOW, THEREFORE, BE IT RESOLVED that the DPW Director or the director’s designee is authorized to execute an agreement with Switchback in substantially the same form and substance as the attached agreement, subject to the prior review and approval of the City Attorney.

AGREEMENT FOR DISCHARGE PRETREATMENT

This Agreement for Discharge Pretreatment ("Agreement"), by and between the Department of Public Works, Wastewater Division, a Department of the City of Burlington, Vermont, a Vermont municipal corporation organized under laws of the State of Vermont, ("DPW") and Switchback Brewing Company, a Vermont corporation organized under the laws of the State of Vermont, and located at 160 Flynn Avenue, Burlington, Vermont ("Switchback"), is entered into this day _____ of _____, 2013 for the purpose of establishing the conditions under which Switchback may discharge its wastewater to DPW's Main Wastewater Treatment Plant.

WITNESSETH

WHEREAS, Switchback has been operating a brewery at the above address since 2002; and

WHEREAS, DPW's Main Wastewater Treatment Plant has been receiving and treating Switchback's wastewater discharge since it started; and

WHEREAS § 26-71 of the Burlington Code of Ordinances ("BCO") prohibits, limits, restricts or otherwise regulates wastes or waters that may be discharged to the City's public sewers, including but not limited to limitations on pH, temperature, Biochemical Oxygen Demand (BOD) and total Suspended Solids (TSS); and

WHEREAS, due to the nature of its business, Switchback generates a waste with a BOD that can exceed the concentration limit of four hundred (400) milligrams per liter set by BCO § 26-71(f)(3); and

WHEREAS, pursuant to BCO § 26-71(g), when discharges exceed limits set by the ordinance and in the DPW Director's judgment the discharges may have a deleterious effect, the Director may in his or her discretion use any of the following remedies to address the harmful effects: 1) reject the wastes; 2) require pretreatment to an acceptable condition for discharge to the public sewers; and 3) require control over the quantities and rates of discharge; and

WHEREAS, pursuant to BCO § 26-71(g)(4), if the director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the DPW Director as well as be subject to the requirements of all applicable codes, ordinances, laws, the City's municipal discharge permit, and be consistent with the requirements of any state pretreatment permit issued to the owner; and

WHEREAS BCO § 26-71(m) allows for a special agreement between the City and any industrial concerns whereby an industrial waste of unusual strength or character may be accepted by the city for treatment under conditions with respect to payment or other conditions which are needed to compensate the City for any additional costs of treatment so long as such an agreement (1) does not violate any requirements of existing federal laws, (2) is compatible with any user charge and industrial cost recovery system in effect and (3) is approved by the State of Vermont Department of Environmental Conservation (DEC) and DEC has determined that Switchback does not require a National Pollutant Discharge Elimination System (NPDES) pretreatment permit (such NPDES permit is required for discharges that either exceed 5% of a wastewater plant's design flow or 5% of a wastewater plant's design organic loading as measured by BOD);

WHEREAS, DEC has reviewed the treatment capacity of the city's main waste water treatment facility and the current production from Switchback and determined that it is highly unlikely that Switchback will require a pretreatment permit from DEC;

Now therefore, in consideration of the mutual promises and good and valuable consideration contained in this Agreement, it is agreed as follows:

TERMS AND CONDITIONS

1. Switchback shall be permitted to discharge wastes to DPW's Main Wastewater Plant from this agreement date forward subject to the following conditions:
 - a. DPW agrees to treat Switchback's wastes over and above the Ordinance limit of 400 mg/l so long and provided that the concentration of these wastes do not in the judgment of the DPW Director adversely impact Main Plant's NPDES permit limits and Switchback agrees to pay for said treatment as described herein.
 - b. Switchback agrees to have its discharge periodically tested for BOD on the days that most accurately represent the range of discharges associated with its brewery operations. Switchback shall provide the information required by the DPW Director in order for the Director to determine the appropriate testing dates. Switchback shall also provide the DPW Director with the information required by the DPW Director to determine the appropriate testing location. DPW shall notify Switchback in writing of the date, time and location of the testing 5 days in advance of the date. The decision as to the time, date and location of the testing shall be in the discretion of the DPW Director and Switchback shall allow access to the location selected by the Director.
 - c. Testing samples for BOD from the periodic tests required by 1(b) above shall be taken during two (2) six (6) day periods annually in order to calculate waste strengths. DPW shall take the samples and perform the tests and the sampling/testing costs for these 2 periodic tests shall be funded through the pretreatment surcharge rate described in this Agreement without any additional charge to Switchback. If the testing results indicate that

equipment, lab or like error has occurred, DPW shall give Switchback notice and schedule a new test.

- d. Additional sampling/testing by either party shall be at their own expense. Switchback shall allow access to the City to perform added testing in the event that the City determines that additional testing is wanted. The parties shall share all testing data. In the event the City would like to use the additional testing to redetermine the surcharge, it shall give Switchback notice and an opportunity to respond in order to ensure that the testing reflects the most accurate range of discharges associated with its brewery operations.
- e. Given the expense and difficulty of accurately measuring wastewater discharges, average BOD concentrations above the Ordinance limit of 400 mg/l from twice annual periodic DPW testing samples described above along with monthly water meter readings and estimated water to waste ratios shall be used to calculate monthly pretreatment pounds of BOD using the following formulae:

Monthly water usage in cuft x 7.48 gals/cuft / 1,000,000 = million gals (MG) of water used.

Based upon historical data provided by Switchback, the Parties agree that it takes an average of 4.5 gals of water to make a gallon of beer, so every 4.5 gals of water generates approximately 3.5 gals of waste (neglecting immeasurable sidestream evaporation/condensation effects). Therefore, the estimated waste-to-water ratio is 3.5/4.5 or 0.78.

Test results of the ave brewery BOD in mg/l – 400 mg/l allowance =
Surcharge BOD in mg/l

Monthly pounds (lb) of Surcharge BOD = MG water used x 0.78 (waste ratio)
x Surcharge BOD in mg/l x 8.34 lbs/gal of water.

- f. Switchback agrees to pay DPW a current surcharge rate of \$0.11/lb of BOD as calculated above. This surcharge shall be included with the monthly water/sewer bill sent to Switchback. Both parties shall agree that this rate will change in the same proportion as any future changes to Burlington's sewer/waste water charges/rates. The parties also agree that the test results from the January 2013 test sampling will be used as the basis for determining the average brewery BOD for the initial billing of the surcharge under this Agreement. The parties further agree that the billing will be adjusted based on the latest periodic annual test sampling results or the additional testing results to redetermine the rate as set forth above.
- g. Should Switchback plan a substantive change to its operation, either in volume or characteristics of its discharge, pursuant to BCO § 26-71(k), Switchback shall provide DPW a 45 day notification of the proposed change in volume or character of pollutants that are being discharged to the treatment plant.
- h. Should DPW determine that Switchback's discharge is adversely impacting

the treatment plant's ability to meet its NPDES permit obligations, then it shall notify Switchback and both parties shall cooperatively develop a plan to rectify the situation. This plan shall be completed no later than 45 days from knowledge of said impact.

- i. Should DPW determine that Switchback's discharge exceeds the State of Vermont Pretreatment Program thresholds (265,000 gals/day flow (5% of the Main wastewater plant's design flow) or 553 lbs BOD/day (5% of the Main wastewater plant's design organic loading as measured by BOD)), then it shall provide notice to both Switchback and the State of Vermont Wastewater Management Division.
 - j. Switchback shall comply with all applicable federal, state, and local laws and permits, including the Clean Water Act and BCO Chapter 26, Article II.
2. This Agreement contains the entire agreement between DPW and Switchback and there is no agreement on the part of either party to do any act or thing other than as expressly stated in this Agreement. There shall be no modifications or amendments to this Agreement unless they are in writing, signed by all of the parties.
3. If any part of this Agreement is found to be invalid, the remainder shall still be binding, in effect, and enforceable.
4. This Agreement is made in Vermont between Vermont corporations and as such, will be interpreted in accordance with Vermont law. This Agreement shall be given its plain and ordinary meaning and shall not be construed against its drafter, the City.
5. This Agreement can be executed non-simultaneously by the parties. If a party executes this Agreement through an agent, the party acknowledges that its agent is a duly authorized representative and is duly authorized to execute this Agreement on behalf of the party.
6. This Agreement is valid for a period of three (3) years from the Agreement date provide in the first paragraph of this document. It shall be reviewed by both parties and modified as deemed necessary such that a new Agreement is in place by this document's expiration date.
7. The Parties agree that this agreement shall only become effective and valid upon the approval of the Vermont Department of Environmental Conservation.
8. This Agreement is entered into upon the date first written above.

By: _____

Duly Authorized Switchback Brewing

By: _____

Duly Authorized Burlington DPW

CHURCH STREET MARKETPLACE DISTRICT COMMISSION
AUTHORIZATION TO ENTER INTO LICENSE AGREEMENT
WITH B. HOSPITALITY GROUP, INC. FOR COLLEGE STREET KIOSK

In the year Two Thousand Thirteen.....
Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the Church Street Marketplace District Commission wishes to enter into a
license agreement with B. Hospitality Group, Inc. for use of the kiosk at the northeast corner of
College and Church Streets; and

WHEREAS, the proposed license agreement (attached to this resolution) has been
unanimously approved by the Board of Finance on August 5, 2013;

NOW, THEREFORE, BE IT RESOLVED that the Executive Director of the Church
Street Marketplace District Commission is hereby authorized to execute a three year License
Agreement, by and between the City and B. Hospitality Group, Inc. commencing as of the date
of this resolution with a one-time renewal provision, substantially in the form of the License
Agreement attached hereto.

LICENSE AGREEMENT
180 College Street, College Street Kiosk

THIS LISCENSE AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and existing under the laws of the State of Vermont (hereinafter referred to as CITY), and B. HOSPITALITY GROUP, INC., a Vermont corporation with principal place of business located at 317 Riverside Avenue, Burlington, VT 05401-1405 (hereinafter referred to as B. HOSPITALITY GROUP).

WHEREAS, the CITY owns property at the northeast corner of College and Church Street, Burlington, Vermont, known as the College Street Kiosk (herein referred to as KIOSK) managed by the City's Church Street Marketplace; and

WHEREAS, B. HOSPITALITY GROUP wishes to use the KIOSK for commercial purposes, and

WHEREAS, the CITY is willing to allow B. HOSPITALITY GROUP use of the KIOSK provided that fit-up and use of the commercial space is complementary to the appearance and operation of the Church Street Marketplace as defined by the CITY; and

WHEREAS, City Charter Sec. 324 authorizes the CITY, through the Marketplace Commission, to lease space in the Marketplace subject to the approval of the Burlington City Council;

NOW, THEREFORE, the parties have agreed to the following terms and conditions of this License Agreement:

1. Approval

(A) B. HOSPITALITY GROUP shall have the exclusive right to occupy and use in conjunction with its business operations the KIOSK located at 180 College Street (at the northeast corner of College and Church Street). The KIOSK consists of

126 sq. ft. of floor space.

- (B) The KIOSK shall be used by B. HOSPITALITY GROUP exclusively for the sale of retail or food items. Any alterations or improvements and any other use of the KIOSK shall require written approval from the City.
- (C) Any alterations or improvements made by B. HOSPITALITY GROUP to the KIOSK shall be at its own expense.
- (D) B. HOSPITALITY GROUP shall be responsible for all utilities provided to the space. The City shall, at its own expense, separate from the KIOSK the electric service to the adjacent bus shelter and to move the light switch for the bus shelter lights from the KIOSK.

2. License Fee

- (A) For the rights granted pursuant to this License Agreement, B. HOSPITALITY GROUP shall pay the CITY a license fee of \$13,800.00 (Thirteen Thousand, Eight Hundred and 00/100 Dollars) U. S. per twelve (12) month period to be paid in advance in equal consecutive monthly installments of \$1,150.00 (One Thousand, One Hundred Fifty and 00/100 Dollars) U.S. due and payable on the first day of each month beginning on August 1, 2013 or such earlier commencement date as mutually agreed by the parties. The rent shall increase by \$50/month each year beginning August 1, 2014 and annually thereafter.

3. Duration

- (A) The CITY grants B. HOSPITALITY GROUP the right to use the KIOSK for a term of three (3) years, commencing on August 1, 2013 and terminating July 31,

2016 or sooner, as provided herein.

(B) B. HOSPITALITY GROUP shall have the right, if in compliance with the terms and conditions set forth herein and not in default at the time of renewal, to renew this License Agreement for one additional term of three (3) years under the same terms.

(C) Provided B. HOSPITALITY GROUP is not in default on any terms and conditions, B. HOSPITALITY GROUP shall have the option to extend the License Agreement for up to one (1) additional three-year terms, subject to all the terms and conditions of the License Agreement.

(D) B. HOSPITALITY GROUP must notify the City of its intentions to exercise such option not less than 180 days or more than one year prior to the expiration of the license agreement.

4. Taxes and Fees

For the term of this License Agreement the appropriate fiscal year Property Taxes for the KIOSK, listed on the Property tax payment schedule set by the City Charter, shall be due and payable by B. HOSPITALITY GROUP to the CITY.

(A) Common Area Fees.

The computation for common area fees shall include all elements applied by the Church Street Marketplace Commission in the setting of Common Area fees for Marketplace properties on Church Street. For the term of this License Agreement the appropriate fiscal year common area fee for the KIOSK that is set forth on the common area fee payment schedule set by the City Charter shall be due and

payable by B. HOSPITALITY GROUP to the CITY.

(B) Common Area Fee Formula Negotiation.

In the event that the formula used to determine the common area fees for Church Street property owners for any fiscal year during the term of this License Agreement is changed such that a simple mathematical calculation of the amounts due CITY from B. HOSPITALITY GROUP for the rights granted hereby cannot be made, the parties agree to negotiate the amounts owed CITY for such year or years which amount(s) shall not be less than the amount(s) paid for the preceding fiscal year.

(C) Delivery of Payments

All payments to CITY pursuant to this License Agreement shall be by check made out to the City of Burlington and delivered to the Church Street Marketplace District Commission offices. **Rent, Property Taxes and Common Area Fees are to be paid directly to the Church Street Marketplace, 2 Church Street, Suite 2A, Burlington, Vermont 05401. The Church Street Marketplace shall keep a record of payments of rent, property taxes and common area fees and be responsible of fees to appropriate CITY accounts.**

(D) Nonpayment.

Nonpayment of any amounts due CITY pursuant to this License Agreement shall immediately subject all amounts owed to a five (5%) percent penalty, plus one (1%) percent additional for each month the amount(s) remain(s) unpaid. Any amounts owed with penalty thereon for a period in excess of one year shall be

increased by an additional eighteen (18%) percent penalty applied annually to the total amount so owed.

5. Maintenance of Premises.

(A) B. HOSPITALITY GROUP shall maintain the KIOSK in a manner which, in the sole discretion of the CITY, befits the appearance of the Church Street Marketplace. B. HOSPITALITY GROUP is responsible for the maintenance of the inside and exterior of the KIOSK; the CITY is responsible for maintenance at ground level around the KIOSK and the sculpture in the upper portion of the KIOSK.

(B) If failure to perform maintenance in the manner deemed appropriate by the CITY shall continue for thirty (30) days after written notice thereof, the CITY may contract with others for maintenance of the KIOSK. In such event, B. HOSPITALITY GROUP shall be responsible for all such costs.

(C) B. HOSPITALITY GROUP shall repair any damage to the KIOSK caused by or arising from operation of its business. If B. HOSPITALITY GROUP fails to make such repairs or replacements promptly, the CITY may, at its option make such repairs or replacements, and B. HOSPITALITY GROUP shall repay the cost(s) thereof. In case of damage by fire or other elements, or other causes beyond the control of B. HOSPITALITY GROUP, such as to make the KIOSK untenable or substantially unfit for use by B. HOSPITALITY GROUP, if the cost of repair or reconstruction exceeds the extent of insurance proceeds, then B. HOSPITALITY GROUP may terminate this License Agreement upon reasonable

notice to the CITY. The CITY shall not be liable to B. HOSPITALITY GROUP for losses due to theft, burglary or other casualty, or for damages done by persons on the KIOSK. The CITY will ensure that there is an even surface on the northern side of the KIOSK so that water does not run into the KIOSK from adjacent areas.

- (D) B. HOSPITALITY GROUP shall be responsible for cleaning the KIOSK including but not limited to window washing. Window washing shall occur bi-weekly.
- (E) B. HOSPITALITY GROUP shall be responsible for all graffiti removal on the exterior of the KIOSK.
- (F) B. HOSPITALITY GROUP shall be responsible for all trash removal and will not use Church Street Marketplace litter receptacles for disposal.
- (G) B. HOSPITALITY GROUP shall recycle all appropriate materials.
- (H) B. HOSPITALITY GROUP understands and agrees that CCTA bus patrons may use the eastern-most portion of the KIOSK being that portion presently covered by an awning, and as shown in Exhibit A. B. HOSPITALITY GROUP understands and agrees that it will not block or interfere in any way with such use. The CITY understands and agrees that if seating in or about the entire KIOSK area for use by bus patrons or other members of the public is provided, such furniture shall not be more than four (4) feet in length.
- (I) B. HOSPITALITY GROUP understands and agrees that the Neon Art Sculpture in the upper portion of the KIOSK will not be touched, used or interfered with in

any manner.

- (J) B. HOSPITALITY GROUP will, within its control, maintain a barrier-free walkway 9 ft. or more in width along the northernmost and eastern portion of the KIOSK at all times; (i.e., no inventory, stock, supplies or signs, etc. will be allowed in such walkway).
- (K) B. HOSPITALITY GROUP at all times shall operate the business in an orderly manner. B. HOSPITALITY GROUP shall not, with intent to cause public inconvenience or annoyance, engage in fighting or in violent, tumultuous behavior, make unreasonable noise, use abusive or obscene language, make an obscene gesture, obstruct vehicular or pedestrian traffic, or engage in any conduct which is proscribed by Chapter 19 of Title 13 of Vermont Statutes Annotated.
- (L) B. HOSPITALITY GROUP shall not, during the term hereof, in the KIOSK maintain, commit, or permit the maintenance of any nuisance or violation of any applicable city ordinance, state or federal statute, or controlling bylaw, regulation or condition imposed whether existing at the time of commencement of this License Agreement or enacted, amended, or otherwise put into effect during the term of this License Agreement.

6. Improvements to Premises.

- (A) B. HOSPITALITY GROUP shall submit detailed plans and specifications to the CITY for any alterations or improvements to the KIOSK, prior to commencing improvements. No change, other than routine maintenance, shall be made without the written consent of the CITY. B. HOSPITALITY GROUP shall cause all

improvements, and/or alterations to be constructed according to the plans and specifications submitted to and approved in writing by the CITY, and any other legally necessary and/or appropriate boards, CITY or entities of the City of Burlington. Any alterations or improvements made by B. HOSPITALITY GROUP to the KIOSK shall be at B. HOSPITALITY GROUP expense.

(B) Upon expiration or earlier termination of this License Agreement, all improvements to the KIOSK, unless otherwise agreed upon in writing, shall become the property of the CITY.

7. Operation of Premises.

(A) B. HOSPITALITY GROUP shall operate the KIOSK at least between the hours of 10:00 a.m. and 6:00 p.m. Monday through Saturday, and Noon to 4 p.m. on Sunday, weather permitting. Provided however, for the months of January through April, B. HOSPITALITY GROUP may determine hours of operation.

8. Insurance and Indemnification.

(A) B. HOSPITALITY GROUP shall maintain in effect throughout the term of this License Agreement comprehensive general public liability insurance with responsible insurance underwriters, qualified to transact business in the State of Vermont, naming the City of Burlington as an additional insured-loss payee and insuring against all legal liability for injuries to persons (including wrongful death) and damages to property suffered on or about the KIOSK, the affected public right-of-way or as a result of the exercise of rights granted pursuant to this License Agreement in an amount not less than \$1,000,000 combined single limit. B.

HOSPITALITY GROUP shall maintain in effect throughout the term of this License Agreement public liability insurance providing for a minimum of One Million (\$1,000,000) Dollars per person, Two Million (\$2,000,000) Dollars per accident, and One Million (\$1,000,000) Dollars for property damage, which insurance shall cover any accident, injuries or damages suffered on, about or within the KIOSK affected by this License Agreement.

(B) B. HOSPITALITY GROUP shall furnish the CITY with a certificate of such insurance upon execution of this License Agreement. Such proof of insurance shall be attached to this Agreement as Exhibit B and shall provide that the CITY is an additional insured-loss payee under said policy and that policy cannot be canceled or materially modified except upon thirty (30) days' advance written notice to the CITY.

(C) B. HOSPITALITY GROUP shall at all times prior to the termination of this License Agreement, indemnify and defend the CITY against all liens and charges of any and every nature that may at any time be established against the KIOSK or any improvements thereon or therein or any part thereof as a consequence, direct, or indirect, of any act or omission of B. HOSPITALITY GROUP.

(D) B. HOSPITALITY GROUP shall indemnify and defend the CITY and City of Burlington against all liability, loss, cost, damage or expense sustained by the CITY and/or the City, including attorney's fees and other expenses of litigation arising from the use and operation of the KIOSK.

9. Default, Termination and Liquidated Damages.

(A) This License Agreement is made on the express condition that if B.

HOSPITALITY GROUP shall default in the performance of any term or condition of this License Agreement and the default shall continue for fourteen (14 days) after written notice of any default in meeting its obligations hereunder is given by the CITY to B. HOSPITALITY GROUP, then the CITY shall have the option to declare this License Agreement terminated. In the event that the CITY gives written notice of its option to declare this License Agreement terminated, B.

HOSPITALITY GROUP shall cease commercial use of the KIOSK immediately upon receipt of such written notice.

(B) In the event that the CITY terminates the rights of B. HOSPITALITY GROUP pursuant to this License Agreement for default in the performance of any terms and conditions of this License Agreement, then B. HOSPITALITY GROUP shall be responsible to reimburse the CITY for all of the CITY'S costs including attorneys' fees, litigation fees, sheriff's fees, etc. arising from the CITY'S availing itself of its rights pursuant to this License Agreement.

(C) Failure of the CITY to declare any default immediately upon occurrence thereof, or delay in taking action in connection therewith, shall not waive such default, but the CITY shall have the right to declare any such default(s), at any time and take such action as might be lawful or authorized hereunder, either in law or in equity.

(D) In the event of holding over after expiration or sooner termination of this License Agreement without the written consent of the CITY, B. HOSPITALITY GROUP

hall pay as liquidated damages double rent (2,300.00) each month for the entire holdover period. No holding over by B. HOSPITALITY GROUP after the term of this License Agreement shall operate to extend this License Agreement. In the event of any unauthorized holding over, B. HOSPITALITY GROUP shall indemnify the CITY against all claims for damages by any other person with whom the CITY may have entered a License Agreement for all or any part of the KIOSK effective upon the termination of this Agreement.

10. Modification, Assignment and Limitation of Rights.

(A) B. HOSPITALITY GROUP shall not sell or assign its rights pursuant to this License Agreement, or permit the use of the KIOSK or any part thereof by any other entity without the express prior written consent of the CITY. Any unauthorized action in violation of this provision shall be void, and shall terminate, at the CITY'S option, B. HOSPITALITY GROUP rights pursuant to the License Agreement. This License Agreement may not be altered, changed, or amended, except by an instrument in writing, signed by all parties hereto.

(B) B. HOSPITALITY GROUP acknowledges that no property or other right to KIOSK is created other than as specifically defined and limited by this License Agreement.

AGREED to at Burlington, Vermont this _____ day of _____,

CITY OF BURLINGTON, VERMONT

By: _____
Ron Redmond, Executive Director
Church St. Marketplace District Commission
Duly Authorized

STATE OF VERMAONT)

CHITTENDEN COUNTY, SS)

At Burlington, this _____ day of _____, 2013 personally appeared Ron Redmond, Executive Director of the Church Street marketplace District Commission, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of the City of Burlington.

Before me,

Notary Public

B. HOSPITALITY GROUP

By: _____
Owner

STATE OF VERMAONT)

CHITTENDEN COUNTY, SS)

At Burlington, this _____ day of _____, 2013 personally appeared _____, duly authorized agent for B Hospitality Group, and s/he acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act and deed and the free act and deed of B. Hospitality Group.

Before me,

Notary Public

lb/GM 2013/Church St. Marketplace - College St. Kiosk Agreement with B Hospitality Group (180 College St.)

CHURCH STREET MARKETPLACE DISTRICT COMMISSION
AUTHORIZATION TO ENTER INTO LICENSE AGREEMENT
WITH B. HOSPITALITY GROUP, INC. FOR COLLEGE STREET KIOSK

In the year Two Thousand Thirteen.....
Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the Church Street Marketplace District Commission wishes to enter into a
license agreement with B. Hospitality Group, Inc. for use of the kiosk at the northeast corner of
College and Church Streets; and

WHEREAS, the proposed license agreement (attached to this resolution) has been
unanimously approved by the Board of Finance on August 5, 2013;

NOW, THEREFORE, BE IT RESOLVED that the Executive Director of the Church
Street Marketplace District Commission is hereby authorized to execute a three year License
Agreement, by and between the City and B. Hospitality Group, Inc. commencing as of the date
of this resolution with a one-time renewal provision, substantially in the form of the License
Agreement attached hereto.

LICENSE AGREEMENT
180 College Street, College Street Kiosk

THIS LISCENSE AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and existing under the laws of the State of Vermont (hereinafter referred to as CITY), and B. HOSPITALITY GROUP, INC., a Vermont corporation with principal place of business located at 317 Riverside Avenue, Burlington, VT 05401-1405 (hereinafter referred to as B. HOSPITALITY GROUP).

WHEREAS, the CITY owns property at the northeast corner of College and Church Street, Burlington, Vermont, known as the College Street Kiosk (herein referred to as KIOSK) managed by the City's Church Street Marketplace; and

WHEREAS, B. HOSPITALITY GROUP wishes to use the KIOSK for commercial purposes, and

WHEREAS, the CITY is willing to allow B. HOSPITALITY GROUP use of the KIOSK provided that fit-up and use of the commercial space is complementary to the appearance and operation of the Church Street Marketplace as defined by the CITY; and

WHEREAS, City Charter Sec. 324 authorizes the CITY, through the Marketplace Commission, to lease space in the Marketplace subject to the approval of the Burlington City Council;

NOW, THEREFORE, the parties have agreed to the following terms and conditions of this License Agreement:

1. Approval

(A) B. HOSPITALITY GROUP shall have the exclusive right to occupy and use in conjunction with its business operations the KIOSK located at 180 College Street (at the northeast corner of College and Church Street). The KIOSK consists of

126 sq. ft. of floor space.

- (B) The KIOSK shall be used by B. HOSPITALITY GROUP exclusively for the sale of retail or food items. Any alterations or improvements and any other use of the KIOSK shall require written approval from the City.
- (C) Any alterations or improvements made by B. HOSPITALITY GROUP to the KIOSK shall be at its own expense.
- (D) B. HOSPITALITY GROUP shall be responsible for all utilities provided to the space. The City shall, at its own expense, separate from the KIOSK the electric service to the adjacent bus shelter and to move the light switch for the bus shelter lights from the KIOSK.

2. License Fee

- (A) For the rights granted pursuant to this License Agreement, B. HOSPITALITY GROUP shall pay the CITY a license fee of \$13,800.00 (Thirteen Thousand, Eight Hundred and 00/100Dollars) U. S. per twelve (12) month period to be paid in advance in equal consecutive monthly installments of \$1,150.00 (One Thousand, One Hundred Fifty and 00/100 Dollars) U.S. due and payable on the first day of each month beginning on August 1, 2013 or such earlier commencement date as mutually agreed by the parties. The rent shall increase by \$50/month each year beginning August 1, 2014 and annually thereafter.

3. Duration

- (A) The CITY grants B. HOSPITALITY GROUP the right to use the KIOSK for a term of three (3) years, commencing on August 1, 2013 and terminating July 31,

2016 or sooner, as provided herein.

(B) B. HOSPITALITY GROUP shall have the right, if in compliance with the terms and conditions set forth herein and not in default at the time of renewal, to renew this License Agreement for one additional term of three (3) years under the same terms.

(C) Provided B. HOSPITALITY GROUP is not in default on any terms and conditions, B. HOSPITALITY GROUP shall have the option to extend the License Agreement for up to one (1) additional three-year terms, subject to all the terms and conditions of the License Agreement.

(D) B. HOSPITALITY GROUP must notify the City of its intentions to exercise such option not less than 180 days or more than one year prior to the expiration of the license agreement.

4. Taxes and Fees

For the term of this License Agreement the appropriate fiscal year Property Taxes for the KIOSK, listed on the Property tax payment schedule set by the City Charter, shall be due and payable by B. HOSPITALITY GROUP to the CITY.

(A) Common Area Fees.

The computation for common area fees shall include all elements applied by the Church Street Marketplace Commission in the setting of Common Area fees for Marketplace properties on Church Street. For the term of this License Agreement the appropriate fiscal year common area fee for the KIOSK that is set forth on the common area fee payment schedule set by the City Charter shall be due and

payable by B. HOSPITALITY GROUP to the CITY.

(B) Common Area Fee Formula Negotiation.

In the event that the formula used to determine the common area fees for Church Street property owners for any fiscal year during the term of this License Agreement is changed such that a simple mathematical calculation of the amounts due CITY from B. HOSPITALITY GROUP for the rights granted hereby cannot be made, the parties agree to negotiate the amounts owed CITY for such year or years which amount(s) shall not be less than the amount(s) paid for the preceding fiscal year.

(C) Delivery of Payments

All payments to CITY pursuant to this License Agreement shall be by check made out to the City of Burlington and delivered to the Church Street Marketplace District Commission offices. **Rent, Property Taxes and Common Area Fees are to be paid directly to the Church Street Marketplace, 2 Church Street, Suite 2A, Burlington, Vermont 05401. The Church Street Marketplace shall keep a record of payments of rent, property taxes and common area fees and be responsible of fees to appropriate CITY accounts.**

(D) Nonpayment.

Nonpayment of any amounts due CITY pursuant to this License Agreement shall immediately subject all amounts owed to a five (5%) percent penalty, plus one (1%) percent additional for each month the amount(s) remain(s) unpaid. Any amounts owed with penalty thereon for a period in excess of one year shall be

increased by an additional eighteen (18%) percent penalty applied annually to the total amount so owed.

5. Maintenance of Premises.

(A) B. HOSPITALITY GROUP shall maintain the KIOSK in a manner which, in the sole discretion of the CITY, befits the appearance of the Church Street Marketplace. B. HOSPITALITY GROUP is responsible for the maintenance of the inside and exterior of the KIOSK; the CITY is responsible for maintenance at ground level around the KIOSK and the sculpture in the upper portion of the KIOSK.

(B) If failure to perform maintenance in the manner deemed appropriate by the CITY shall continue for thirty (30) days after written notice thereof, the CITY may contract with others for maintenance of the KIOSK. In such event, B. HOSPITALITY GROUP shall be responsible for all such costs.

(C) B. HOSPITALITY GROUP shall repair any damage to the KIOSK caused by or arising from operation of its business. If B. HOSPITALITY GROUP fails to make such repairs or replacements promptly, the CITY may, at its option make such repairs or replacements, and B. HOSPITALITY GROUP shall repay the cost(s) thereof. In case of damage by fire or other elements, or other causes beyond the control of B. HOSPITALITY GROUP, such as to make the KIOSK untenable or substantially unfit for use by B. HOSPITALITY GROUP, if the cost of repair or reconstruction exceeds the extent of insurance proceeds, then B. HOSPITALITY GROUP may terminate this License Agreement upon reasonable

notice to the CITY. The CITY shall not be liable to B. HOSPITALITY GROUP for losses due to theft, burglary or other casualty, or for damages done by persons on the KIOSK. The CITY will ensure that there is an even surface on the northern side of the KIOSK so that water does not run into the KIOSK from adjacent areas.

- (D) B. HOSPITALITY GROUP shall be responsible for cleaning the KIOSK including but not limited to window washing. Window washing shall occur bi-weekly.
- (E) B. HOSPITALITY GROUP shall be responsible for all graffiti removal on the exterior of the KIOSK.
- (F) B. HOSPITALITY GROUP shall be responsible for all trash removal and will not use Church Street Marketplace litter receptacles for disposal.
- (G) B. HOSPITALITY GROUP shall recycle all appropriate materials.
- (H) B. HOSPITALITY GROUP understands and agrees that CCTA bus patrons may use the eastern-most portion of the KIOSK being that portion presently covered by an awning, and as shown in Exhibit A. B. HOSPITALITY GROUP understands and agrees that it will not block or interfere in any way with such use. The CITY understands and agrees that if seating in or about the entire KIOSK area for use by bus patrons or other members of the public is provided, such furniture shall not be more than four (4) feet in length.
- (I) B. HOSPITALITY GROUP understands and agrees that the Neon Art Sculpture in the upper portion of the KIOSK will not be touched, used or interfered with in

any manner.

- (J) B. HOSPITALITY GROUP will, within its control, maintain a barrier-free walkway 9 ft. or more in width along the northernmost and eastern portion of the KIOSK at all times; (i.e., no inventory, stock, supplies or signs, etc. will be allowed in such walkway).
- (K) B. HOSPITALITY GROUP at all times shall operate the business in an orderly manner. B. HOSPITALITY GROUP shall not, with intent to cause public inconvenience or annoyance, engage in fighting or in violent, tumultuous behavior, make unreasonable noise, use abusive or obscene language, make an obscene gesture, obstruct vehicular or pedestrian traffic, or engage in any conduct which is proscribed by Chapter 19 of Title 13 of Vermont Statutes Annotated.
- (L) B. HOSPITALITY GROUP shall not, during the term hereof, in the KIOSK maintain, commit, or permit the maintenance of any nuisance or violation of any applicable city ordinance, state or federal statute, or controlling bylaw, regulation or condition imposed whether existing at the time of commencement of this License Agreement or enacted, amended, or otherwise put into effect during the term of this License Agreement.

6. Improvements to Premises.

- (A) B. HOSPITALITY GROUP shall submit detailed plans and specifications to the CITY for any alterations or improvements to the KIOSK, prior to commencing improvements. No change, other than routine maintenance, shall be made without the written consent of the CITY. B. HOSPITALITY GROUP shall cause all

improvements, and/or alterations to be constructed according to the plans and specifications submitted to and approved in writing by the CITY, and any other legally necessary and/or appropriate boards, CITY or entities of the City of Burlington. Any alterations or improvements made by B. HOSPITALITY GROUP to the KIOSK shall be at B. HOSPITALITY GROUP expense.

(B) Upon expiration or earlier termination of this License Agreement, all improvements to the KIOSK, unless otherwise agreed upon in writing, shall become the property of the CITY.

7. Operation of Premises.

(A) B. HOSPITALITY GROUP shall operate the KIOSK at least between the hours of 10:00 a.m. and 6:00 p.m. Monday through Saturday, and Noon to 4 p.m. on Sunday, weather permitting. Provided however, for the months of January through April, B. HOSPITALITY GROUP may determine hours of operation.

8. Insurance and Indemnification.

(A) B. HOSPITALITY GROUP shall maintain in effect throughout the term of this License Agreement comprehensive general public liability insurance with responsible insurance underwriters, qualified to transact business in the State of Vermont, naming the City of Burlington as an additional insured-loss payee and insuring against all legal liability for injuries to persons (including wrongful death) and damages to property suffered on or about the KIOSK, the affected public right-of-way or as a result of the exercise of rights granted pursuant to this License Agreement in an amount not less than \$1,000,000 combined single limit. B.

HOSPITALITY GROUP shall maintain in effect throughout the term of this License Agreement public liability insurance providing for a minimum of One Million (\$1,000,000) Dollars per person, Two Million (\$2,000,000) Dollars per accident, and One Million (\$1,000,000) Dollars for property damage, which insurance shall cover any accident, injuries or damages suffered on, about or within the KIOSK affected by this License Agreement.

(B) B. HOSPITALITY GROUP shall furnish the CITY with a certificate of such insurance upon execution of this License Agreement. Such proof of insurance shall be attached to this Agreement as Exhibit B and shall provide that the CITY is an additional insured-loss payee under said policy and that policy cannot be canceled or materially modified except upon thirty (30) days' advance written notice to the CITY.

(C) B. HOSPITALITY GROUP shall at all times prior to the termination of this License Agreement, indemnify and defend the CITY against all liens and charges of any and every nature that may at any time be established against the KIOSK or any improvements thereon or therein or any part thereof as a consequence, direct, or indirect, of any act or omission of B. HOSPITALITY GROUP.

(D) B. HOSPITALITY GROUP shall indemnify and defend the CITY and City of Burlington against all liability, loss, cost, damage or expense sustained by the CITY and/or the City, including attorney's fees and other expenses of litigation arising from the use and operation of the KIOSK.

9. Default, Termination and Liquidated Damages.

(A) This License Agreement is made on the express condition that if B.

HOSPITALITY GROUP shall default in the performance of any term or condition of this License Agreement and the default shall continue for fourteen (14 days) after written notice of any default in meeting its obligations hereunder is given by the CITY to B. HOSPITALITY GROUP, then the CITY shall have the option to declare this License Agreement terminated. In the event that the CITY gives written notice of its option to declare this License Agreement terminated, B.

HOSPITALITY GROUP shall cease commercial use of the KIOSK immediately upon receipt of such written notice.

(B) In the event that the CITY terminates the rights of B. HOSPITALITY GROUP pursuant to this License Agreement for default in the performance of any terms and conditions of this License Agreement, then B. HOSPITALITY GROUP shall be responsible to reimburse the CITY for all of the CITY'S costs including attorneys' fees, litigation fees, sheriff's fees, etc. arising from the CITY'S availing itself of its rights pursuant to this License Agreement.

(C) Failure of the CITY to declare any default immediately upon occurrence thereof, or delay in taking action in connection therewith, shall not waive such default, but the CITY shall have the right to declare any such default(s), at any time and take such action as might be lawful or authorized hereunder, either in law or in equity.

(D) In the event of holding over after expiration or sooner termination of this License Agreement without the written consent of the CITY, B. HOSPITALITY GROUP

hall pay as liquidated damages double rent (2,300.00) each month for the entire holdover period. No holding over by B. HOSPITALITY GROUP after the term of this License Agreement shall operate to extend this License Agreement. In the event of any unauthorized holding over, B. HOSPITALITY GROUP shall indemnify the CITY against all claims for damages by any other person with whom the CITY may have entered a License Agreement for all or any part of the KIOSK effective upon the termination of this Agreement.

10. Modification, Assignment and Limitation of Rights.

(A) B. HOSPITALITY GROUP shall not sell or assign its rights pursuant to this License Agreement, or permit the use of the KIOSK or any part thereof by any other entity without the express prior written consent of the CITY. Any unauthorized action in violation of this provision shall be void, and shall terminate, at the CITY'S option, B. HOSPITALITY GROUP rights pursuant to the License Agreement. This License Agreement may not be altered, changed, or amended, except by an instrument in writing, signed by all parties hereto.

(B) B. HOSPITALITY GROUP acknowledges that no property or other right to KIOSK is created other than as specifically defined and limited by this License Agreement.

AGREED to at Burlington, Vermont this _____ day of _____,

CITY OF BURLINGTON, VERMONT

By: _____
Ron Redmond, Executive Director
Church St. Marketplace District Commission
Duly Authorized

STATE OF VERMAONT)

CHITTENDEN COUNTY, SS)

At Burlington, this _____ day of _____, 2013 personally appeared Ron Redmond, Executive Director of the Church Street marketplace District Commission, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of the City of Burlington.

Before me,

Notary Public

B. HOSPITALITY GROUP

By: _____
Owner

STATE OF VERMAONT)

CHITTENDEN COUNTY, SS)

At Burlington, this _____ day of _____, 2013 personally appeared _____, duly authorized agent for B Hospitality Group, and s/he acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act and deed and the free act and deed of B. Hospitality Group.

Before me,

Notary Public

lb/GM 2013/Church St. Marketplace - College St. Kiosk Agreement with B Hospitality Group (180 College St.)

AUTHORIZATION TO ENTER INTO LICENSE AGREEMENT
FOR STAIRS, SUNSHADES AND ROOF OVERHANG ON A
PORTION OF THE CITY'S RIGHT-OF-WAY WITH
BURLINGTON HOUSING AUTHORITY

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, BURLINGTON HOUSING AUTHORITY of Burlington, Vermont (hereinafter BHA) is an establishment doing business in a commercial building located at 30-42 King Street. in the City of Burlington, Vermont; and

WHEREAS, BHA desires to maintain existing stone stairs and a roof extension and erect wood and metal louvered sunshades resting in the public right-of-way adjacent to its establishment at 30-42 King Street; and

WHEREAS, BHA wishes to enter into a License Agreement with the City for such stairs, sunshades and roof extension; and

WHEREAS, the placement of the respective stairs, sunshades and roof extension have been reviewed and approved by the Department of Public Works with conditions to address public safety concerns; and

WHEREAS, the Charter of the City of Burlington, Sec. 48XLIX and the Code of Ordinances Sec. 27-32 require authorization by the City Council for such use of a public thoroughfare for periods in excess of thirty (30) days;

NOW, THEREFORE, BE IT RESOLVED that this City Council hereby authorizes BHA to maintain existing stone stairs covering an area of 36.92 sq. ft. and a roof extension covering an area of 10.30 sq. ft. and install wood and metal louvered sunshades covering an area of 30.28 sq. ft. on a portion of the public right-of-way adjacent to its establishment at 30-42 King Street. as indicated in and pursuant to its License Agreement upon entering into the License Agreement in substantially the form attached hereto; and

AUTHORIZATION TO ENTER INTO LICENSE
AGREEMENT FOR STAIRS, SUNSHADES AND ROOF
OVERHANG ON A PORTION OF THE CITY'S RIGHT-
OF-WAY WITH BURLINGTON HOUSING AUTHORITY

BE IT FURTHER RESOLVED that Mayor Miro Weinberger be and hereby is authorized to
execute a License Agreement, in substantially the form attached, on behalf of the City of Burlington for a
term commencing on the date of execution of the License Agreement and terminating on April 30, 2014.

lb/gm/c: Resolutions 2013/License Agree for Encumbrance – BHA, 30-42 King St. (Stairs, Sunshades, Roof Overhang) 2013
7/25/13

**LICENSE AGREEMENT FOR STAIRS, SUNSHADES AND
ROOF OVERHANG WITH BURLINGTON HOUSING AUTHORITY
2013 -2014 SEASON**

This LICENSE AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and validly existing under the laws of the State of Vermont (hereinafter CITY) and BURLINGTON HOUSING AUTHORITY, a Vermont municipal corporation located in Burlington, Vermont which owns property located at 30-42 King Street (hereinafter BHA or LICENSEE).

WHEREAS, the CITY owns property, including the street and sidewalk right-of-way adjacent to 30-42 King Street; and

WHEREAS, BHA stated on its application (attached hereto as Exhibit A) that it wishes to maintain existing stone stairs and erect wood and metal louvered sunshades and a roof extension on the front of the building which will overhang the public right-of-way directly in front of 30-42 King Street; and

WHEREAS, BHA has stated in its license application that the stairs will cover a 36.92 sq. ft. area; the sunshades will cover a 30.28 sq. ft. area; the roof overhang will cover a 10.30 sq. ft. area and the roof canopy will cover a 54.57 sq. ft. area for a total of 132.17 sq. ft.; and

WHEREAS, this application was reviewed and approved by the Department of Public Works attached hereto as Exhibit B; and

WHEREAS, such use of a public thoroughfare for periods in excess of 30 days requires approval of the City Council under Charter Sec. 48XLIX and Burlington Code of Ordinances Chap. 27, Sec. 27-32;

W I T N E S S E T H

The CITY and BHA enter into the following License Agreement:

1. **TERM**

The CITY grants to BHA (hereinafter LICENSEE) a license to maintain existing stone

stairs and to place sunshades and roof overhang above the right-of-way adjacent to 30-42 King Street covering an area of 132.17 sq. ft. commencing as of the date of execution of this Agreement and terminating on April 30, 2014 or sooner as provided herein.

2. LOCATION

LICENSEE may use and maintain the stairs, sunshades, and roof overhang over the public right-of-way (hereinafter referred to as the premises) for the standard purpose for which stairs, sunshades, and roof overhangs are erected. The stairs, sunshades, and roof overhang must be exactly as described and placed as approved by the Department of Public Works. A copy of the approved plan is attached hereto as Exhibit C.

3. MAINTENANCE

- a. LICENSEE shall maintain the stairs, sunshades, and roof overhang in proper condition.
- b. LICENSEE shall be responsible for the maintenance and upkeep of the stairs, sunshades, and roof overhang and any damage to the stairs, sunshades, and roof overhang is solely the responsibility of LICENSEE. Should LICENSEE fail to maintain the stairs, sunshades, and roof overhang, this License Agreement is revocable on notice by the CITY to LICENSEE of a violation of this section; however LICENSEE shall have 14 days to cure any problem if it notifies the CITY in writing within three (3) days of its intent to cure the violation.
- c. The stairs, sunshades, and roof overhang shall be placed in accordance with all conditions set by the Department of Public Works and shall not impede the CITY'S ability to maintain the road, sidewalk, parking meters or greenbelt.

d. The stairs, sunshades, and roof overhang shall not inconvenience members of the public using the sidewalk, parking meters or street and shall be at least 8 ft. above the sidewalk.

e. LICENSEE shall pick up and sweep debris created by its use of the public right-of-way

and remove any snow and ice from the stairs, sunshades and roof overhang within 12 hours after snow ceases to fall.

4. LICENSE FEE

There shall be a fee for this license equal to the encumbrance application fee and the square foot use fee. This fee shall be payable immediately to the Burlington City Clerk's Office. **A license may not be issued if the fees have not been paid.**

5. REVOCATION

This License Agreement is immediately revocable should LICENSEE discontinue use of the stairs, sunshades and roof overhang. In any event, this Agreement is revocable by the CITY within 30 days upon sending written notice to LICENSEE. Upon revocation, LICENSEE must remove at its own expense the stairs, sunshades and roof overhang and other materials or obstructions placed on the property. If LICENSEE refuses to promptly remove such obstructions, they may be removed by the CITY and LICENSEE shall be liable for all expenses of such removal.

6. INSURANCE

a. LICENSEE shall maintain in effect throughout the term of this Agreement comprehensive public liability insurance with an A rated insurance carrier, or better, qualified to transact business in the State of Vermont, insuring against all legal

liability for injuries or damages suffered as a result of the exercise of rights granted pursuant to this Agreement in an amount not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate. The CITY shall be named as an additional insured on such insurance policy.

b. Prior to execution of this Agreement, LICENSEE shall furnish the CITY with a certificate of insurance and endorsement which shall include the provision that the CITY is named as an additional insured and shall be given 15 days written notification prior to any cancellation of such insurance for nonpayment of premium and 45 days notice for any other reason.. The certificate shall be attached to this Agreement as Exhibit D and the endorsement as Exhibit E.

c. The certificate of insurance shall be provided annually on or before its stated expiration. It is the responsibility of LICENSEE to ensure that a current certificate of insurance and endorsement are on file with the CITY at all times. **Failure to furnish a current certificate of insurance and endorsement shall result in immediate revocation of this license.**

7. INDEMNIFICATION

LICENSEE agrees to indemnify, defend and hold the CITY harmless and free from liability arising out of LICENSEE'S use of the CITY'S right-of-way, and LICENSEE agrees to make no claim against the CITY or any of its officers, employees, agents or representatives for any loss or damage caused by the CITY'S use or maintenance of its right-of-way.

8. PERMITS

LICENSEE shall be responsible for obtaining all necessary CITY and/or State permits

including zoning permits, prior to placement of the stairs, sunshades, and roof overhang.

9. NUISANCES PROHIBITED

LICENSEE shall not, during the term hereof, on or in the premises maintain, commit, or permit the maintenance or commission of any nuisance or violation of any applicable City of Burlington ordinance, State or Federal statute, or controlling bylaw, regulation, or condition imposed whether existing at the time of commencement of this Agreement or enacted, amended, or otherwise put into effect during the term of this Agreement.

10. ASSIGNMENT OF RIGHTS

LICENSEE shall not sell or assign its rights pursuant to this Agreement or permit the use of the premises or any part thereof by any other entity without the express prior written consent of the CITY. Any unauthorized action in violation of this provision shall be void, and shall terminate LICENSEE'S rights pursuant to this Agreement.

11. LIMITATION OF RIGHTS

LICENSEE acknowledges that no property or other right is created other than that specifically defined and limited by this Agreement.

DATED at Burlington, Vermont this _____ day of _____, 2013.

CITY OF BURLINGTON

Witness

By: _____
Miro Weinberger, Mayor
Duly Authorized

BURLINGTON HOUSING AUTHORITY

Witness

By: _____
Duly Authorized

lb/c: GM 2013/License Agree for Encumbrance – BHA, 30-42 King St. (Stairs, Sunshades, Roof Overhang) 2013
7/8/13

AUTHORIZATION TO ENTER INTO LICENSE AGREEMENT
FOR AWNING, SIGN AND LAMPS EXTENDING OVER
A PORTION OF THE CITY’S RIGHT-OF-WAY WITH
ORANGE LEAF

In the year Two Thousand Thirteen.....
Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, OLVT, LLC d/b/a ORANGE LEAF of Burlington, Vermont (hereinafter
ORANGE LEAF) is an establishment doing business in a commercial building located at 192
College Street. in the City of Burlington, Vermont; and

WHEREAS, ORANGE LEAF desires to erect and maintain an awning , sign and 2 lamps
extending over the sidewalk area in front of the building at 192 College Street; and

WHEREAS, ORANGE LEAF wishes to enter into a License Agreement with the City for
such awning, sign and lamps; and

WHEREAS, the placement of the respective awning, sign and lamps have been reviewed
and approved by the Department of Public Works with conditions to address public safety
concerns; and

WHEREAS, the Charter of the City of Burlington, Sec. 48XLIX and the Code of
Ordinances Sec. 27-32 require authorization by the City Council for such use of a public
thoroughfare for periods in excess of thirty (30) days;

NOW, THEREFORE, BE IT RESOLVED that this City Council hereby authorizes
ORANGE LEAF to erect and maintain an awning, sign and lamps extending over the sidewalk
area in front of the building at 192 College Street covering an area of 219 sq. ft. as indicated in
and pursuant to its License Agreement upon entering into the License Agreement in substantially
the form attached hereto; and

BE IT FURTHER RESOLVED that Mayor Weinberger be and hereby is authorized to
execute a License Agreement, in substantially the form attached, on behalf of the City of
Burlington for a term commencing on the date of execution of the License Agreement and
terminating on April 30, 2014.

LICENSE AGREEMENT FOR AWNING, SIGN AND LAMPS
WITH ORANGE LEAF
2013-2014 SEASON

This LICENSE AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and validly existing under the laws of the State of Vermont (hereinafter CITY) and OLVT, LLC. d/b/a ORANGE LEAF, a commercial establishment located at 192 College Street, Burlington, Vermont (hereinafter ORANGE LEAF or LICENSEE).

WHEREAS, the CITY owns property, including the street and sidewalk right-of-way adjacent to 192 College Street; and

WHEREAS, ORANGE LEAF stated on its application (attached hereto as Exhibit A) that it wishes to change the existing awning to a different but similarly sized awning, erect a new projecting sign on the building and maintain lamps located on either side of the awning, all of which extend over the sidewalk area in front of the building at 192 College Street; and

WHEREAS, ORANGE LEAF has stated in its permit application that there are no physical barriers around the awning, sign and lamps and they will cover a 223.5 sq. ft. area; and

WHEREAS, this application was reviewed and approved by the Department of Public Works attached hereto as Exhibit B; and

WHEREAS, such use of a public thoroughfare for periods in excess of 30 days requires approval of the City Council under Charter Sec. 48XLIX and Burlington Code of Ordinances Chap. 27, Sec. 27-32;

W I T N E S S E T H :

The CITY and ORANGE LEAF enter into the following License Agreement:

1. TERM

The CITY grants to ORANGE LEAF (hereinafter LICENSEE) a license to erect and

maintain an awning, sign and lamps covering an area of 223.5 sq. ft. extending over the public right-of-way in front of the building at 192 College Street for a term commencing as of the date of execution of this Agreement and terminating on April 30, 2014 or sooner as provided herein.

2. LOCATIONS

LICENSEE may erect, use and maintain an awning, sign and lamps extending over the public right-of-way (hereinafter referred to as the premises) to provide a covered and lighted area around the entrance to its establishment and for advertising purposes. The awning, sign and lamps are to be attached to the building and must be exactly as described and placed as approved by the Department of Public Works. A copy of the approved plan is attached hereto as Exhibit C.

3. MAINTENANCE

- a. LICENSEE shall maintain the awning, sign and lamps in proper condition.
- b. LICENSEE shall be responsible for the maintenance and upkeep of the awning, sign and lamps and any damage to the awning, sign and lamps is solely the responsibility of LICENSEE. Should LICENSEE fail to maintain the awning, sign and lamps, this License Agreement is revocable on notice by the CITY to LICENSEE of a violation of this section; however LICENSEE shall have 14 days to cure any problem if it notifies the CITY in writing within three (3) days of its intent to cure the violation.
- c. The awning, sign and lamps shall be placed in accordance with all conditions set by the Department of Public Works and shall not impede the CITY'S ability to maintain the road, sidewalk, parking meters or greenbelt.

- d. The awning, sign and lamps shall not cause an obstruction or inconvenience to members of the public using the sidewalk, parking meters or street.
- e. LICENSEE shall pick up and sweep debris created by its use of the public right-of-way.

4. LICENSE FEE

There shall be a fee for this license equal to the encumbrance application fee and the square foot use fee. This fee shall be payable immediately to the Burlington City Clerk's Office. **Failure to pay the annual fee shall result in the immediate revocation of the license.**

5. REVOCATION

This License Agreement is immediately revocable should LICENSEE discontinue use of the awning, sign and lamps. In any event, this Agreement is revocable by the CITY within 30 days upon sending written notice to LICENSEE. Upon revocation, LICENSEE must remove at its own expense the awning, sign and lamps and other materials or obstructions placed on the property. If LICENSEE refuses to promptly remove such obstructions, they may be removed by the CITY and LICENSEE shall be liable for all expenses of such removal.

6. INSURANCE

- a. LICENSEE shall maintain in effect throughout the term of this Agreement comprehensive public liability insurance with an A rated insurance carrier, or better, qualified to transact business in the State of Vermont, insuring against all legal liability for injuries or damages suffered as a result of the exercise of rights granted

pursuant to this Agreement in an amount not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate. The CITY shall be named as an additional insured on such insurance policy.

b. Prior to execution of this Agreement, LICENSEE shall furnish the CITY with a certificate of insurance and endorsement which shall include the provision that the CITY is named as an additional insured and shall be given 15 days written notification prior to cancellation of such insurance for nonpayment of premium and 45 days notice for any other reason. The certificate shall be attached to this Agreement as Exhibit D and the endorsement as Exhibit E.

c. The certificate of insurance shall be provided annually on or before its stated expiration. It is the responsibility of LICENSEE to ensure that a current certificate of insurance is on file with the CITY at all times. **Failure to furnish a current certificate of insurance will result in immediate revocation of this license.**

7. INDEMNIFICATION

LICENSEE agrees to indemnify, defend and hold the CITY harmless and free from liability arising out of LICENSEE'S use of the CITY'S right-of-way, and LICENSEE agrees to make no claim against the CITY or any of its officers, employees, agents or representatives for any loss or damage caused by the CITY'S use or maintenance of its right-of-way.

8. PERMITS

LICENSEE shall be responsible for obtaining all necessary CITY and/or State permits including zoning permits, prior to placement of the awning, sign and lamps.

9. NUISANCES PROHIBITED

LICENSEE shall not, during the term hereof, on or in the premises maintain, commit, or permit the maintenance or commission of any nuisance or violation of any applicable City of Burlington ordinance, State or Federal statute, or controlling bylaw, regulation, or condition imposed whether existing at the time of commencement of this Agreement or enacted, amended, or otherwise put into effect during the term of this Agreement.

10. ASSIGNMENT OF RIGHTS

LICENSEE shall not sell or assign its rights pursuant to this Agreement or permit the use of the premises or any part thereof by any other entity without the express prior written consent of the CITY. Any unauthorized action in violation of this provision shall be void, and shall terminate LICENSEE'S rights pursuant to this Agreement.

11. LIMITATION OF RIGHTS

LICENSEE acknowledges that no property or other right is created other than that specifically defined and limited by this Agreement.

DATED at Burlington, Vermont this _____ day of _____,

2013.

CITY OF BURLINGTON

Witness

By: _____
Miro Weinberger, Mayor
Duly Authorized

OLVT, LLC d/b/a ORANGE LEAF

Witness

By: _____
Duly Authorized

lb/c: GM 2013/License Agree for Encumbrance – ORANGE LEAF, 192 College St.. (Awning, Sign & Lamps) 2013
7/23/13

AUTHORIZATION TO CONTRACT FOR
LEDDY PARK SOFTBALL FIELD RENOVATION

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the Leddy Park Softball Field Renovation Phase 2 is an approved project on the
FY14 PENNY FOR PARKS project list; and

WHEREAS, the Department of Parks and Recreation selected R.J. Piche Excavating, Inc., for the
construction project through a competitive bid and evaluation process; and

WHEREAS, this project builds on the FY13 Penny for Parks project to improve the field drainage;
and

WHEREAS, the construction scope of Phase 2 focuses primarily on renovating the field and will
incorporate soil amendments, turf re-establishment, the relocation of home plate 30' northeast of the
existing location, and removal and replacement of existing fencing; and

WHEREAS, the project funding strategy is comprised of One Hundred Seventy-Seven Thousand
One Hundred Two and 00/100 Dollars (\$177,102.00) from the FY14 Penny for Parks budget;

NOW, THEREFORE, BE IT RESOLVED that upon the August 5, 2013 recommendation of the
Board of Finance and the approval of this body, the Director of Parks and Recreation, Jesse Bridges be
and hereby is authorized to execute the contract and/or any documents necessary to facilitate the contract
with R.J. Piche Excavating, Inc., for the Leddy Park Softball Field Renovation Phase 2.



City of Burlington
Department of Parks & Recreation
645 Pine Street, Suite B, Burlington, Vermont
(802) 864-0123
www.enjoyburlington.com

MEMO

Date: August 6, 2013
To: City Council
From: Jesse Bridges, Director, Department of Parks & Recreation
Re: Leddy Park Softball Field Renovation Contract

I. BACKGROUND

This project, Phase 2 of a two-phase renovation project, approved within the FY13 & FY14 Penny for Parks project lists, will complete the renovation of the softball field at Leddy Park. Phase 1 was completed in the fall of 2013 with the installation of under drainage around the perimeter of the field.

II. PROCESS

Dubois & King, Inc. Consulting Engineers completed design services and bid documents for this project in spring of 2013; the cost of services was \$11,818. The Department then issued an open and advertised Request for Bids for construction which closed on Monday, July 15th at 9:00 AM. Five bids were received and opened by staff at 9:00 AM:

Contractor	TOTAL PRICE
Munson	\$199,326
ASE	\$236,674
RJ Piché	\$152,905
ECI	\$224,975
Wright/Morrissey	\$207,857

The low bid was in the amount of **\$152,905** and provided by **R.J. Piché Excavating, Inc.**, of 119 Bixby Hill Road, Essex Junction, Vermont, 05452. References for Piché have been checked and, pending Board of Finance and City Council approval, we are ready to issue a Notice of Award.

III. SCOPE

The construction scope of Phase 2 focuses primarily on renovating the field and will incorporate soil amendments, turf re-establishment, the relocation of home plate 30' northeast of the existing location, and removal and replacement of existing fencing.

Detail includes:

- Remove and relocate existing fence
- Install new fencing
- Realignment of field to NE within existing fenceline
- Grub existing turf
- Strip existing topsoil
- Remove existing infield material
- Complete phase 1 underdrain tie-in and modifications
- Add sand fill create crowned field surface
- Amend existing/add new topsoil to conform to athletic field specifications
- Finish grade
- Hydro seed
- Rebuild infield and finish w/ new conditioner
- Maintain until turf established

IV. COSTS

The anticipated project budget is as follows:

TASK	ESTIMATE
Construction services	\$152,905
Resident Engineering services	\$7,175
Contingency (10%)	\$17,022
PROJECT TOTAL	\$177,102

A resident engineer (RE) from Stantec will be retained for the duration of construction.

V. FUNDING STRATEGY

The approved FY14 Penny for Parks budget includes an allocation of \$98,000 towards the completion of this project. A balance of \$21,865 remained from Phase 1. The Department seeks approval to secure an additional \$57,237 from the Penny for Park FY14 reserve fund to ensure the completion of this project.

VI. SCHEDULE

Construction is anticipated to begin by mid-August and be completed in the fall.

DEPARTMENT RECOMMENDATION

The Departments of Parks & Recreation recommends City Council approval of the project, funding strategy, and expenditures as outlined in this Memo which was approved by Board of Finance at its August 5, 2013 meeting.

Rev. 7/23/13

FY14: JULY 2013 - JUNE 2014					
FY/NO	STAFF-SUPPORTED	ESTIMATE	EXPEND.	DIFFERENCE	STATUS
14/1	City-wide Standard Equipment Replacement (trash, picnic, bench)	\$8,000	\$0	TBD	(3) PREDSGN/PRECONST.
14/2	City-wide Playground Equipment & Wood Fiber Replacement	\$8,000	\$0	TBD	(3) PREDSGN/PRECONST.
14/3	Skatepark Maintenance (during WAN construction)	\$4,000	\$0	TBD	(4) DESIGN/CONSTRUCT.
14/4	Waterfront Flood Damage Recovery	\$10,000	\$0	TBD	(3) PREDSGN/PRECONST.
	Staff-Supported Totals	\$30,000	\$0	\$0	
FY/NO	STAFF/CONTRACTOR-SUPPORTED	ESTIMATE	EXPEND.	DIFFERENCE	STATUS
14/5	Baird Garden Improvements	\$3,000	\$0	TBD	(3) PREDSGN/PRECONST.
14/6	City-wide Athletic Field Maintenance	\$4,000	\$0	TBD	(3) PREDSGN/PRECONST.
14/7	Rock Point Community Garden Improvements	\$4,000	\$0	TBD	(3) PREDSGN/PRECONST.
14/8	Roosevelt Basketball Court Improvements (2 courts)	\$32,000	\$0	TBD	(3) PREDSGN/PRECONST.
14/9	Schmanksa Basketball Court Improvements (1 court)	\$15,000	\$0	TBD	(3) PREDSGN/PRECONST.
	Staff/Contractor-Supported Totals	\$58,000	\$0	\$0	
FY/NO	STAFF/CONSULTANT/CONTRACTOR-SUPPORTED	ESTIMATE	EXPEND.	DIFFERENCE	STATUS
14/10	Bike Path Intersection Scoping Study Local Match (lev. \$28k)	\$4,000	\$0	TBD	(3) PREDSGN/PRECONST.
14/11	Bike Path Rehabilitation Design & Engineering	\$45,000	\$0	TBD	(3) PREDSGN/PRECONST.
14/12	Leddy Park Softball Field Renovation (Phase 2)	\$175,000	\$0	TBD	(4) DESIGN/CONSTRUCT.
14/13	Waterfront Boating Infrastructure Grant Local Match (lev. \$100k)	\$33,000	\$0	TBD	(3) PREDSGN/PRECONST.
14/14	Waterfront Wave Attenuation Engineering Services	\$3,000	\$0	TBD	(3) PREDSGN/PRECONST.
	Staff/Consultant/Contractor-Supported Totals	\$260,000	\$0	\$0	
FY/NO	FY13 PROJECT COMPLETION	ESTIMATE	EXPEND.	DIFFERENCE	STATUS
13/1	Burlington Parks System Master Plan	\$118,897	\$0	TBD	(4) DESIGN/CONSTRUCT.
13/2	Calahan Athletic Field Renovation	\$103,681	\$0	TBD	(4) DESIGN/CONSTRUCT.
13/3	City Hall Park Imagine Implementation	\$20,000	\$0	TBD	(3) PREDSGN/PRECONST.
13/4	City Hall Park Turf Management	\$3,916	\$0	TBD	(4) DESIGN/CONSTRUCT.
13/5	Dewey Park Walkway Improvement	\$10,000	\$0	TBD	(3) PREDSGN/PRECONST.
13/6	Leddy Park Rain Garden Design	\$4,000	\$0	TBD	(4) DESIGN/CONSTRUCT.
13/7	Miller Center Drinking Fountain Replacement	\$3,000	\$0	TBD	(2) FEASIBLTY
13/8	Oakledge Entrance Drainage & Paving Improvements	\$30,000	\$0	TBD	(3) PREDSGN/PRECONST.
	FY13 Project Completion Totals	\$293,494	\$0	\$0	
FY/NO	EMERGENT PROJECTS/RESERVE	ESTIMATE	EXPEND.	DIFFERENCE	STATUS
14/-	Misc. Project Completion	NA	\$0	NA	TBD
	Emergent Project Totals	\$0	\$0	\$0	
FY/NO	ADDITIONAL PARKS P.M. & ADMIN. SUPPORT	ESTIMATE	EXPEND.	DIFFERENCE	STATUS
14/-	Associate Parks Project Coordinator (thru 6/14)	\$55,000	\$0	TBD	-
	Limited Service Position Totals	\$55,000	\$0	\$0	
FY13 SPENDING SUMMARY		ESTIMATE	SCHEDULE KEY		
FY13 Carryover		\$419,751	<div>No project work scheduled</div> <div>Project work in progress</div>		
FY14 Revenue		\$349,654	<div>Project work scheduled</div> <div>Project completed</div>		
FY14 Opening Budget		\$769,405	STATUS KEY		
FY14 Project Expenditures		\$641,494	(1) FACILITY ASSESSMENT: Life expectancy, efficiency, growth		
FY14 Personnel Expenditures		\$55,000	(2) FEASIBILITY: Scope, estimate & schedule		
FY14 Opening Reserve Fund		\$72,911	(3) PRE-DESIGN/CONSTRUCTION: Permitting, design/engineering		
FY14 Total Expenditures		\$0	(4) DESIGN/CONSTRUCTION: Bid selection, build-out, management		
FY14 Carryover		TBD	(5) CLOSE-OUT: Punch list, integration, permit close-out		

AUTHORIZATION TO EXECUTE AMENDMENTS TO
COOPERATIVE AGREEMENTS WITH THE STATE OF VERMONT
FOR CHURCH STREET MARKETPLACE
CAPITAL IMPROVEMENT PROJECTS

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the City has received significant federal and state grants to make improvements to the Church St. Marketplace and its sidestreets, the Downtown generally, and the Waterfront North area; and

WHEREAS, these grants have resulted in, among other things, infrastructure improvements, new trees, kiosks, landscaping, street furniture, lighting, and rehabilitation of pedestrian surfaces; and

WHEREAS, the major portions of these grants, managed by the Department of Public Works (DPW), are coming to completion, thereby leaving remaining smaller projects for which DPW can more accurately predict expenditures; and

WHEREAS, DPW has consulted with VTrans, the state agency responsible for administering these state and federal grants, and they both have agreed that it is responsible and advisable to amend the cooperative agreements for these projects in order to reallocate the unexpended and remaining funds and maximize the use thereof; and

WHEREAS, the reallocation of these funds has already been accounted for in the FY 14 budget; and

WHEREAS, on August 5, 2013, upon the Mayor's proposal, the Board of Finance unanimously approved recommending that the City Council authorize the DPW Director or his designee to execute the amendments to Burlington STP 5000(19)—Contract No. CA0303, Burlington STP 5000(16)—Contract No. CA0186, and Burlington STP 5000(17)—Contract No. CA0187 with the State of Vermont Agency of Transportation;

NOW, THEREFORE, BE IT RESOLVED that the Burlington City Council authorizes the DPW Director or his designee to execute the amendments to Burlington STP 5000(19)—Contract No. CA0303, Burlington STP 5000(16)—Contract No. CA0186, and Burlington STP 5000(17)—Contract No. CA0187 with the State of Vermont Agency of Transportation, in the form and substantially the same as agreed to and recommended by both DPW and VTrans, subject to the prior review and approval of the City Attorney.



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street, Suite A
Post Office Box 849
Burlington, VT 05402-0849
802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY
www.burlingtonvt.gov

Steven Goodkind, P.E.
DIRECTOR OF PUBLIC WORKS

MEMORANDUM

TO: Burlington City Council

FROM: Guillermo Gomez, Public Works Engineer

DATE: August 6, 2013

CC: Norman Baldwin, P.E. Assistant Director of Public Works

RE: STP 5000 (16) – CA#0186 - Amendment # 5
STP 5000 (17) – CA#0187 - Amendment # 5
STP 5000 (19) – CA#0303 - Amendment # 2

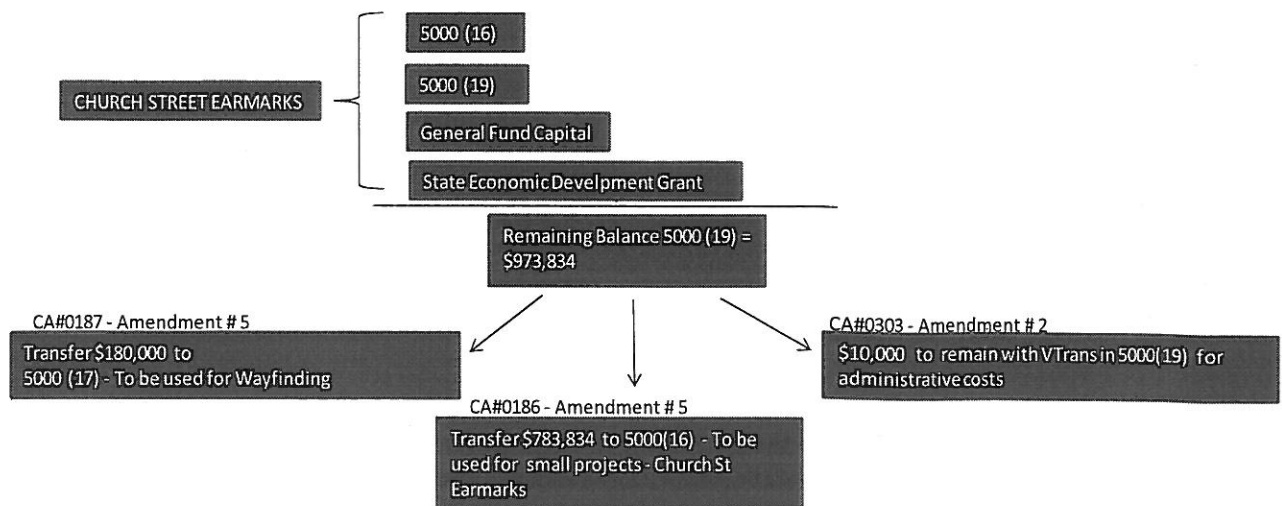
The City has been working for the past few years on multiple projects in the downtown area to improve the Church Street Marketplace (Church Street Earmarks). These projects have been funded through four different sources:

- *Federal Grant STP 5000 (19)*
- *Federal Grant 5000 (16)*
- *General Fund Capital*
- *State Economic Development Grant*

Large contract elements within the Church Street Earmarks are coming to completion. The remaining projects are of a smaller scale, which allows us to more accurately predict the remaining funds available and the needs of the remaining projects. After discussions with VTrans, the City and the State have agreed to reallocate the remaining funds to maximize the use of federal transportation funds in other eligible projects as follows:

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).



STP 5000 (19) – CA#0303 - Amendment # 2

This grant indicated a federal amount of \$973,834, with no local match necessary to pay for improvements to the Church Street Marketplace and side streets. Improvements included new trees, kiosks, landscaping, street furniture, new lighting, rehabilitation of pedestrian surfaces, etc. These improvements have already been completed and expenses will be reimbursed through the amended 5000(16) grant. **Amendment # 2 to CA#0303** is setting aside \$10,000 for State Management and Review (VTrans). The balance of \$963,834 is to be transferred into STP 5000(16) and STP 5000(17) by means of the two following grant amendments.

STP 5000 (16) – CA#0186 - Amendment # 5:

This grant with its original agreement and its subsequent amendments provided \$ 6,750,000, (including a \$1,350,000 local match) with funds to construct various improvements in our City's Downtown. **Amendment # 5 to CA#0186** provides for a total of \$783,834 to be transferred from STP 5000(19) into 5000(16). The amount transferred does not require a local match, increasing the total grant amount to \$7,533,834.

STP 5000 (17) – CA#0187 - Amendment # 5:

This grant with its original agreement and its subsequent amendments provided \$3,937,500, (including a \$787,500 local match) with funds to construct public infrastructure and improvements in the Waterfront North area. **Amendment # 5 to CA#0187** requests the transfer of \$180,000 from STP 5000(19) to 5000(17) to partially fund the City of Burlington's Wayfinding project through this grant, increasing the total grant amount to \$4,117,500.

An Equal Opportunity Employer

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Steven Goodkind, P.E.
DIRECTOR OF PUBLIC WORKS

The reallocation of funds resulting from these three grant amendments has already been accounted for in the FY14 budget. This reallocation will not result in additional local match requirements.

The Board of Finance has recommended the approval of these amendments in the August 5, 2013 BOF Meeting.

We are requesting City Council the approval of these amendments.

We appreciate your cooperation and assistance.

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).

Resolution re: Authorization to Execute Amendments to Cooperative Agreements with the State of Vermont for Church Street Marketplace Capital Improvement Projects

Sponsor: BOF (Shannon, Bushor, Knodell, Aubin)

Agenda: Consent

WHEREAS, the City has received significant federal and state grants to make improvements to the Church St. Marketplace and its sidestreets, the Downtown generally, and the Waterfront North area; and

WHEREAS, these grants have resulted in, among other things, infrastructure improvements, new trees, kiosks, landscaping, street furniture, lighting, and rehabilitation of pedestrian surfaces; and

WHEREAS, the major portions of these grants, managed by the Department of Public Works (DPW), are coming to completion, thereby leaving remaining smaller projects for which DPW can more accurately predict expenditures; and

WHEREAS, DPW has consulted with VTrans, the state agency responsible for administering these state and federal grants, and they both have agreed that it is responsible and advisable to amend the cooperative agreements for these project in order to reallocate the unexpended and remaining funds and maximize the use thereof ; and

WHEREAS, the reallocation of these funds has already been accounted for in the FY 14 budget; and

WHEREAS, on August 5, 2013, upon the Mayor's proposal, the Board of Finance unanimously approved recommending that the City Council authorize the DPW Director or his designee to execute the amendments to Burlington STP 5000(19)—Contract No. CA0303, Burlington STP 5000(16)—Contract No. CA0186, and Burlington STP 5000(17)—Contract No. CA0187 with the State of Vermont Agency of Transportation;

NOW THEREFORE BE IT RESOLVED THAT the Burlington City Council authorizes the DPW Director or his designee to execute the amendments to Burlington STP 5000(19)—Contract No. CA0303, Burlington STP 5000(16)—Contract No. CA0186, and Burlington STP 5000(17)—Contract No. CA0187 with the State of Vermont Agency of Transportation, in the form and substantial substantially the same is agreed to and recommended by both DPW and VTrans, subject to the prior review and approval of the City Attorney.



State of Vermont
Finance & Administration
Contract Administration
One National Life Drive
Drawer 33
Montpelier, VT 05633-5001
www.aot.state.vt.us

Agency of Transportation

[phone] 802-828-2641
[fax] 802-828-5545

July 9, 2013

Norm Baldwin
City of Burlington
Department of Public Works
645 Pine Street
Burlington, VT 05401

RE: BURLINGTON STP 5000(19) - Contract No. CA0303

Dear Mr. Baldwin:

Enclosed, please find the original of Amendment #2 to the Cooperative Agreement for the above referenced project.

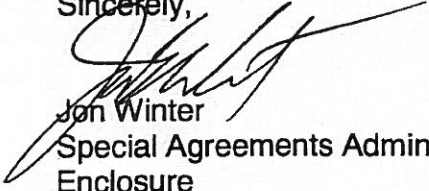
We respectfully request that you have the Amendment signed and dated by the proper authority where required.

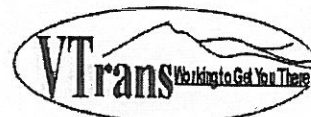
Please do not date page one of the Amendment. This will be accomplished by our office after the Amendment has been signed by the Secretary of Transportation.

Your cooperation in expediting the signing and return of the original will be greatly appreciated.

Should you have any questions or concerns, please contact me at 802-828-2641.

Sincerely,


Jon Winter
Special Agreements Administrator
Enclosure



**COOPERATIVE AGREEMENT
AMENDMENT #2
FOR
ADVANCEMENT OF MUNICIPAL PROJECT
BURLINGTON STP 5000(19)
CFDA #20.205: Highway Planning and Construction
EA-SUBJOB: 5000019-100, 101 Contract No. CA0303**

THIS AMENDMENT #2, made this _____ day of _____, 20____, by and between the **STATE OF VERMONT**, represented by its Agency of Transportation, with its principal office at 1 National Drive, Montpelier, Vermont 05633-5001 (the **STATE**), and the **CITY OF BURLINGTON**, with its principal office at City Hall, Burlington, Vermont 05401 (the **MUNICIPALITY**) is supplemental to the Agreement executed on October 7, 2011 and Amendment #1 executed on March 13, 2013.

WITNESSETH:

WHEREAS, the **STATE** and **MUNICIPALITY** mutually agree that the October 7, 2011 Agreement and the March 13, 2013 Amendment #1 should be modified;

NOW, THEREFORE, the October 7, 2011 Agreement and the March 13, 2013 Amendment #1 are modified as follows:

1. Item #5 on page 7 will be deleted in its entirety and replaced with the following:

5. Project Costs and Phases. The parties agree that the Subrecipient will perform all tasks and duties incidental to accomplishing the following Project development phases, where an amount of funding is indicated, in conformance with the schedule or amended schedule agreed upon by the parties: and that the State will pay the state and federal share of all properly documented invoices from the Subrecipient for work incidental to the development of the Project up to the maximum limiting amount (MLA) State/federal amount indicated in total:

Phase	MLA			
	Federal \$	State \$	Local \$	Total \$
Total Available Funds to Subrecipient	0*	0	0	0
State Management/Review Cost	10,000	0	0	10,000
Total Project Cost	10,000	0	0	10,000

*Amendment #1 indicated a federal amount of \$275,348; this amount should have been shown as \$285,348.

2. Item #7 on page 8 will be deleted in its entirety and replaced with the following:

7. **Allocation of Funds by STATE.** On the basis of the MUNICIPALITY's request for authorization to develop the Project, and subject to the availability of state and federal funds, the STATE agrees to make available to the MUNICIPALITY a sum not to exceed \$0.00 in state funds and \$0 in federal-aid funds for engineering, right-of-way, utility and railroad relocation where applicable, construction, and construction engineering costs (as described in Section 3 above.

IN WITNESS WHEREOF the parties hereto caused this Amendment to be duly executed on the day and year first written above.

STATE OF VERMONT
AGENCY OF TRANSPORTATION
(STATE)

CITY OF BURLINGTON
(MUNICIPALITY)

By: _____
Its [Deputy] Secretary of Transportation

By: _____
Its Duly Authorized Agent

dated

dated

APPROVED AS TO FORM

DATED: 6/27/2013


ASSISTANT ATTORNEY GENERAL



State of Vermont
Finance & Administration
Contract Administration
One National Life Drive
Drawer 33
Montpelier, VT 05633-5001
www.aot.state.vt.us

Agency of Transportation

[phone] 802-828-2641
[fax] 802-828-5545

July 9, 2013

Norm Baldwin
City of Burlington
Department of Public Works
645 Pine Street
Burlington, VT 05401

RE: BURLINGTON STP 5000(16) - Contract No. CA0186

Dear Mr. Baldwin:

Enclosed, please find the original of Amendment #5 to the Cooperative Agreement for the above referenced project.

We respectfully request that you have the Amendment signed and dated by the proper authority where required.

Please do not date page one of the Amendment. This will be accomplished by our office after the Amendment has been signed by the Secretary of Transportation.

Your cooperation in expediting the signing and return of the original will be greatly appreciated.

Should you have any questions or concerns, please contact me at 802-828-2641.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Winter".

Jon Winter
Special Agreements Administrator
Enclosure



**COOPERATIVE AGREEMENT
AMENDMENT #5
FOR
ADVANCEMENT OF MUNICIPAL PROJECT
BURLINGTON STP 5000(16)
CFDA #20.205: Highway Planning and Construction
EA: 5000016 Contract No. CA0186**

THIS AMENDMENT #5, made this _____ day of _____, 20____, by and between the **STATE OF VERMONT**, represented by its Agency of Transportation, with its principal office at 1 National Drive, Montpelier, Vermont 05633-5001 (the **STATE**), and the **CITY OF BURLINGTON**, with its principal office at City Hall, Burlington, Vermont 05401 (the **MUNICIPALITY**) is supplemental to the Agreement executed on August 4, 2006, Amendment #1 executed on July 11, 2008, Amendment #2 executed on March 25, 2009, Amendment #3 executed on March 3, 2011, and Amendment #4 executed on March 13, 2013.

WITNESSETH:

WHEREAS, the **STATE** and **MUNICIPALITY** mutually agree that the August 4, 2006 Agreement, the July 11, 2008 Amendment #1, the March 25, 2009 Amendment #2, the March 3, 2011 Amendment #3, and the March 13, 2013 Amendment #4 should be modified;

NOW, THEREFORE, the August 4, 2006 Agreement, the July 11, 2008 Amendment #1, the March 25, 2009, the March 25, 2009 Amendment #2, the March 3, 2011 Amendment #3, and the March 13, 2013 Amendment #4 are modified as follows:

1. Item #3 on page 9 will be deleted in its entirety and replaced with the following:

3. Project Costs and Phases. The parties agree that the **MUNICIPALITY** will perform all tasks and duties incidental to accomplishing the following Project development phases, where an amount of funding is indicated, in conformance with the schedule or amended schedule agreed upon by the parties: and that the **STATE** will pay the state and federal share of all properly documented invoices from the **MUNICIPALITY** for work incidental to the development of the Project up to the maximum limiting amount (MLA) **STATE/federal** amount indicated for that phase:

Phase	MLA			
	Federal \$	State \$	Local \$	\$ Totals
Previous Funds Available to Municipality	5,400,000	0	1,350,000	6,750,000
Funding Transferred from New Earmark	783,834	0	0	783,834
Total Funds Available to Municipality*	6,183,834	0	1,350,000	7,533,834

* The amounts noted may not reflect expenditures that were covered under prior agreements or contracts.

2. Item #4 on page 10 will be deleted in its entirety and replaced with the following:

4. Allocation of Funds by STATE. On the basis of the MUNICIPALITY's request for authorization to develop the Project, and subject to the availability of state and federal funds, the STATE agrees to make available to the MUNICIPALITY a sum not to exceed \$0.00 in state funds and \$6,183,834 in federal-aid funds for engineering, right-of-way, utility and railroad relocation where applicable, construction, and construction engineering costs (as described in Section 3 above.

IN WITNESS WHEREOF the parties hereto caused this Amendment to be duly executed on the day and year first written above.

**STATE OF VERMONT
AGENCY OF TRANSPORTATION
(STATE)**

**CITY OF BURLINGTON
(MUNICIPALITY)**

By: _____
Its [Deputy] Secretary of Transportation

By: _____
Its Duly Authorized Agent

dated

dated

APPROVED AS TO FORM

DATED: 6/27/2013



ASSISTANT ATTORNEY GENERAL



State of Vermont
Finance & Administration
Contract Administration
One National Life Drive
Drawer 33
Montpelier, VT 05633-5001
www.aot.state.vt.us

Agency of Transportation

[phone] 802-828-2641
[fax] 802-828-5545

July 9, 2013

Norm Baldwin
City of Burlington
Department of Public Works
645 Pine Street
Burlington, VT 05401

RE: BURLINGTON STP 5000(17) - Contract No. CA0187

Dear Mr. Baldwin:

Enclosed, please find the original of Amendment #5 to the Cooperative Agreement for the above referenced project.

We respectfully request that you have the Amendment signed and dated by the proper authority where required.

Please do not date page one of the Amendment. This will be accomplished by our office after the Amendment has been signed by the Secretary of Transportation.

Your cooperation in expediting the signing and return of the original will be greatly appreciated.

Should you have any questions or concerns, please contact me at 802-828-2641.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Winter", written over a horizontal line.

Jon Winter
Special Agreements Administrator
Enclosure



**COOPERATIVE AGREEMENT
AMENDMENT #5
FOR
ADVANCEMENT OF MUNICIPAL PROJECT
BURLINGTON STP 5000(17) Contract No. CA0187
EA: 5000017
CFDA #20.205**

THIS AMENDMENT #5, made this _____ day of _____, 20____, by and between the **STATE OF VERMONT**, represented by its Agency of Transportation, with its principal office at 1 National Life Drive, Montpelier, Vermont 05633-5001 (the **STATE**), and the **CITY OF BURLINGTON**, with its principal office at City Hall, 149 Church Street, Burlington Vt 05401-8400, (the **MUNICIPALITY**) is supplemental to the agreement executed on August 4, 2006, Amendment #1 executed on February 8, 2007, Amendment #2 executed on December 4, 2007, Amendment #3 executed on March 5, 2009 and Amendment #4 executed on June 27, 2011.

WITNESSETH:

WHEREAS, the **STATE** and **MUNICIPALITY** mutually agree that the August 4, 2006 Agreement, the February 8, 2007 Amendment #1, the December 4, 2007 Amendment #2, the March 5, 2009 Amendment #3, and the June 27, 2011 Amendment #4 should be modified;

NOW, THEREFORE, the August 4, 2006 Agreement, the February 8, 2007 Amendment #1, the December 4, 2007 Amendment #2, the March 5, 2009 Amendment #3, and the June 27, 2011 Amendment #4 are modified as follows:

1. On page 9, Paragraph #3, **Project Costs & Phases**, shall be deleted in its entirety and replaced with the following:

3. **Project Costs and Phases.** The parties agree that the **MUNICIPALITY** will perform all tasks and duties incidental to accomplishing the following Project development phases, where an amount of funding is indicated, in conformance with the schedule or amended schedule agreed upon by the parties: and that the **STATE** will pay the state and federal share of all properly documented invoices from the **MUNICIPALITY** for work incidental to the development of the Project up to the maximum limiting amount (MLA) **STATE/federal** amount indicated for that phase:

Phase	MLA			
	Federal \$	State \$	Local \$	\$ Totals
Previous Funds Available to Municipality	3,150,000		787,500	3,937,500
Funding Transferred from New Earmark	180,000	0	0	180,000
Total Funds Available to Municipality*	3,330,000	0	787,500	4,117,500

* The amounts noted may not reflect expenditures that were covered under prior agreements or contracts.

2. On page 10, Paragraph #4, **Allocation of Funds by STATE**, shall be deleted in its entirety and replaced with the following:

4. **Allocation of Funds by STATE.** On the basis of the MUNICIPALITY's request for authorization to develop the Project, and subject to the availability of state and federal funds, the STATE agrees to make available to the MUNICIPALITY a sum not to exceed **\$0.00** in state funds and **\$3,330,000** in federal-aid funds for engineering, right-of-way, utility and railroad relocation where applicable, construction, and construction engineering costs (as described in Section 3 above.

IN WITNESS WHEREOF the parties hereto caused this Amendment to be duly executed on the day and year first written above.

**STATE OF VERMONT
AGENCY OF TRANSPORTATION
(STATE)**

**CITY OF BURLINGTON
(MUNICIPALITY)**

By: _____
Its [Deputy] Secretary of Transportation

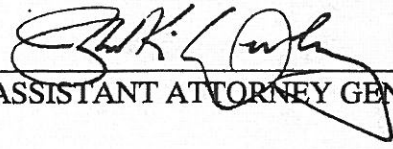
By: _____
Its Duly Authorized Agent

dated

dated

APPROVED AS TO FORM

DATED: 6/27/2013



ASSISTANT ATTORNEY GENERAL

CREATION OF REGULAR FULL TIME CUSTODIAN I –
BURLINGTON PARKS AND RECREATION DEPARTMENT

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the Director of the Burlington Parks and Recreation Department has recommended creation of an additional Custodian I Position to eliminate the need for these services to be performed by a contractor; and

WHEREAS, these services are needed at the Miller Recreation Center; and

WHEREAS, the Human Resources Director used the Willis Classification System to determine a recommended pay scale for this position; and

WHEREAS, this request has been approved by the Human Resources Director and by the Board of Finance on August 5, 2013; and

WHEREAS, this position will be funded through the general fund revenues and represents a budget change request that is expenditure-neutral;

NOW, THEREFORE, BE IT RESOLVED that the creation of a classified, regular, full-time position of Custodian I for the Burlington Parks and Recreation Department is approved and the position shall be placed at a Union Salary Grade 8 within the Fiscal Year 2014 AFSCME Salary Table. The position shall be created upon date of City Council approval and signature of the Mayor.

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6 **AUTHORIZATION FOR LAND PURCHASES**
7 **AND RELOCATION SERVICES (AIP-94)**
8 **IN ANTICIPATION OF AIP GRANT FUNDS**
9 **FOR BURLINGTON INTERNATIONAL AIRPORT**
10
11
12
13

14 In the year Two Thousand Thirteen.....

15 Resolved by the City Council of the City of Burlington, as follows that:

16
17 WHEREAS, the City of Burlington (“City”) owns and operates the Burlington
18 International Airport in South Burlington, Vermont (“Airport”); and

19 WHEREAS, on September 24, 2012, this body approved the acceptance of a Grant under
20 the Federal Aviation Administration (“FAA”) Airport Improvement Program (“AIP”), further
21 identified as AIP-94, for the anticipated purchase by the City of twelve (12) residential properties
22 (“Properties”) located in the vicinity of the Airport in South Burlington, Vermont, for land use
23 planning, anticipated growth, environmental compatibility (noise), all in the interest of the City,
24 Airport and public airport purposes, and the contracting for relocation services associated with
25 said purchases; and

26 WHEREAS, these properties represent those included in the last property grant, AIP-94,
27 received from the FAA in September, 2012, and are 11 of the 12 final purchases related to the 5
28 year program started in 2008 which was for the accelerated acquisition of noise impacted
29 properties adjacent to the Airport which 5 year program will be substantially completed; and

30 WHEREAS, the Airport’s Director of Aviation now deems prudent the purchase of
31 eleven (11) of the Properties, for the purposes set forth above, with funds from a Grant
32 Anticipation Note (“GAN”), in anticipation of said expenditures being reimbursed in part by
33 State and Federal grant and discretionary funds under FAA AIP-94, the eleven (11) Properties
34 being:

**AUTHORIZATION FOR LAND PURCHASES
AND RELOCATION SERVICES (AIP-94)
IN ANTICIPATION OF AIP GRANT FUNDS
FOR BURLINGTON INTERNATIONAL AIRPORT**

1. 1089 Airport Drive (Doering)	\$200,000
2. 1233 Airport Drive. (Kruger)	\$215,000
3. 1383 Airport Drive. (Dalton)	\$230,000
4. 5 Ledoux Terrace (Thompson)	\$240,000
5. 8 Ledoux Terrace (Roy)	\$260,000
6. 11 Ledoux Terrace (Brooks)	\$205,000
7. 12 Ledoux Terrace (Holmes)	\$260,000
8. 15/17 Ledoux Terrace (Lynaugh)	\$250,000
9. 13 Maryland St. (Goss)	\$255,000
10. 17 Maryland St. (Yeadon)	\$235,000
11. 69 Dumont Avenue (Corron)	\$200,000

Total: \$2,550,000; and

WHEREAS, all purchase prices will be at the stated Fair Market Value (FMV) as the result of completed appraisals that are subject to negotiation, but in no event shall any purchase price exceed 10% of FMV, with the total of the purchase prices not to exceed the grant limit funding approved in FAA AIP-94; and

WHEREAS, the Board of Airport Commissioners at their meeting on April 15, 2013 approved purchase of the Properties and the contracting for relocation services associated with the Purchases, and

**AUTHORIZATION FOR LAND PURCHASES
AND RELOCATION SERVICES (AIP-94)
IN ANTICIPATION OF AIP GRANT FUNDS
FOR BURLINGTON INTERNATIONAL AIRPORT**

WHEREAS, the Board of Finance, on August 5, 2013, approved the above referenced purchases and the contracting for relocation services associated with the Purchases with funds from a GAN, in anticipation of reimbursement under FAA AIP-94,

NOW THEREFORE BE IT RESOLVED THAT the Director of Aviation, Gene Richards, is hereby authorized and directed to purchase, on behalf of the City, the Properties specifically referenced above in accordance with FAA AIP-94, subject to review by the Chief Administrative Officer and the City Attorney, as necessary.

BE IT FURTHER RESOLVED that the Director of Aviation, Gene Richards, hereby is authorized to expend on behalf of the City, funds required for any relocation services and costs which may be associated with the purchase of the above Properties, said funds to be reimbursed by FAA AIP-94, subject to any applicable City Purchasing Procedure, and subject to review by the Chief Administrative Officer and the City Attorney, as necessary.

NAME/PURPOSE OF CONTRACTS:	Acquisition of 11 properties
ADMINISTRATING DEPARTMENT:	Airport
CONTRACT TERM:	Pursuant to Purchase and Sales Agreements
ANTICIPATED TOTAL COST OF CONTRACTS	\$2,550,000; Fair Market Value subject to negotiations but not to exceed 10% variance
SOURCE OF FUNDS:	GAN funds in anticipation of reimbursement with FAA AIP grant funds under AIP-94. 90% Federal. 6% State, 4% Local funding Local funding to be reimbursed using PFC funds.
FISCAL YEAR:	Federal FY2013, City FY2014
ACCOUNT NAME:	AIP-94 Land-2012B Noise Capital
ACCUNT NUMBER:	433-35-700.9500_110
200000-94	

RECLASSIFICATION AND TITLE CHANGE OF THE
BURLINGTON POLICE DEPARTMENT
ASSISTANT TO THE OFFICER IN CHARGE POSITION

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the Chief of Police of the Burlington Police Department has requested the
reclassification of the Assistant to the Officer in Charge position; and

WHEREAS, the Human Resources Director used a modified Willis Classification System to
determine a recommended pay scale for this position; and

WHEREAS, Chief of the Burlington Police Department has requested the position of Assistant to
the Officer in Charge be re-titled to Executive Assistant to the Officer in Charge; and

WHEREAS, the request has been approved by the Human Resources Director and by the Board of
Finance on August 5, 2013;

NOW, THEREFORE, BE IT RESOLVED that the Burlington Police Department Assistant to the
Officer in Charge position is now reclassified from Limited Service Full-Time Non-Union Salary Range
11 to a Limited Service Full-Time Non-Union Salary Range 15 within the Willis Classification System
Non-Union Salary Table, effective as of the date of City Council approval and signature of the Mayor;
and

BE IT FURTHER RESOLVED that the Burlington Police Department Assistant to the Officer in
Charge position is now re-titled to Executive Assistant to the Officer in Charge, effective as of the date of
City Council approval and signature of the Mayor.

**Sponsors: Councilors Shannon,
Bushor, Aubin, Knodell
Bd. of Finance**

**AUTHORIZATION TO EXECUTE AMENDED
LEASE WITH HANGAR CONDO ASSOCIATION
AT BURLINGTON INTERNATIONAL AIRPORT**

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the City of Burlington (“City”) owns and operates the Burlington
International Airport in South Burlington, Vermont (“Airport”); and

WHEREAS, on June 24, 2013, this body authorized a lease to Hangar Condominium
Association, Inc., of 46,200 square feet of ground space at the total rental rate of approximately
\$18,018 per year to be adjusted by the CPI annually as described in a proposed lease, which was
intended to have a term of five years, with one renewal term of five years (“Lease”); and

WHEREAS, subsequent to the June 24, 2013 authorization of the Lease, and prior to its
execution, Hangar Condominium Association, Inc. and the Director of Aviation have tentatively
agreed to amend the effective term of the Lease, from a five year term with one five year renewal
(total ten years), to a five year term with two five year renewals (total fifteen years) (“Amended
Lease”); and

WHEREAS, the Director of Aviation deems the Amended Lease to be in the best interest
of the City, Airport and public airport purposes; and

WHEREAS, the Board of Airport Commissioners approved the effective fifteen year
term of the Amended Lease on July 15, 2013; and

WHEREAS, the Board of Finance, on August 5, 2013, voted to recommend City Council
approval of the Amended Lease, to be in substantial conformance with the draft document
approved by this body on June 24, 2013,

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41 **AUTHORIZATION TO EXECUTE AMENDED**
42 **LEASE WITH HANGAR CONDO ASSOCIATION**
43 **AT BURLINGTON INTERNATIONAL AIRPORT**

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48 NOW THEREFORE BE IT RESOLVED THAT the City Council hereby authorizes

49 execution of the Amended Lease Amendment described above and authorizes the Director of

50 Aviation, Gene Richards, to execute on behalf of the City, the Amended Lease and all other

51 documents necessary for the culmination of the Amended Lease, subject to prior review by the

52 Chief Administrative Officer and the City's legal counsel, as necessary.

53

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55 NAME/PURPOSE OF CONTRACTS: Hangar Condo Association Renewal

56 ADMINISTRATING DEPARTMENT: Airport

57 CONTRACT AMOUNTS: Per Agreement

58 CONTRACT TERM: Five years effective June 1, 2013

59 RENEWAL TERM: Five years effective July 1, 2018

60 Five years effective July 1, 2023

61 DESIGNATION OF FUNDS:

62 FISCAL YEAR: 2014

63 ACCOUNT NAME: Industrial Park

64 ACCOUNT NUMBER: 4465

65

66 200020-135 ; Resolution – "Hangar Condo Association" Lease Renewal

**Sponsors: Councilors Shannon,
Bushor, Aubin, Knodell
Bd. of Finance**

**AUTHORIZATION TO SETTLE
CIVIL ACTIONS REGARDING
PROPERTY TAXATION AT
BURLINGTON INTERNATIONAL
AIRPORT**

In the year Two Thousand Thirteen.....
Resolved by the City Council of the City of Burlington, as follows that:

WHEREAS, the City of Burlington (“City”) owns and operates the Burlington
International Airport in South Burlington, Vermont (“Airport”); and

WHEREAS, Heritage Aviation, Inc. (“Heritage”) and BTVAvCenter, Inc. (“AvCenter”)
lease and/or occupy certain lands and improvements at the Airport pursuant to agreements
between Heritage and the City and the Burlington Community Development Corporation
(“BCDC”) (“Agreements”); and

WHEREAS, the Agreements require that Heritage, as Lessee, pay any and all property
taxes, with the right to appeal or otherwise contest, in the name of the City and/or BCDC, real
property tax assessments which Heritage believes to be illegal, excessive or unjust; and

WHEREAS, on or about December 5, 2011, Heritage initiated a civil action against the
City and BCDC alleging that they had failed to timely inform Heritage of changes in property
assessment and taxation by the City of South Burlington, relating to certain lands leased and
occupied by Heritage and that the failure to so inform Heritage deprived it of an adequate
opportunity to contest the changes pursuant to the Agreements, allegedly resulting in Heritage’s
overpayment of property taxes (“Docket No. 1384-11 CnC”); and

WHEREAS, on or about September 5, 2012, Heritage, the City and BCDC, pursuant to
Heritage’s rights under the Agreements, filed a second amended complaint in a different action
against the City of South Burlington, seeking a declaratory judgment premised on Heritage’s

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41 **AUTHORIZATION TO SETTLE**
42 **CIVIL ACTIONS REGARDING**
43 **PROPERTY TAXATION AT**
44 **BURLINGTON INTERNATIONAL**
45 **AIRPORT**
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48 position that certain Vermont statutory provisions call for the lands which Heritage and/or
49 AvCenter leases/occupies being taxed at rates lower than the rates historically imposed by the
50 City of South Burlington, and the refunding of certain property taxes paid by Heritage (Docket
51 No. “1425-11 CnC”); and

52 WHEREAS, the Chittenden Superior Court eventually consolidated Docket Nos. 1384-11
53 CnC and 1425-11 CnC for trial purposes and set both cases for trial commencing July 22, 2013;
54 and

55 WHEREAS, prior to the trials of the consolidated proceedings, counsel and party
56 representatives in both actions met and negotiated tentative settlements in both actions; and

57 WHEREAS, the tentative settlement in Docket No. 1384-11 CnC calls for Heritage
58 dismissing its claims against the City and BCDC in exchange for the City and BCDC allowing
59 Heritage to terminate its agreements with the City and BCDC for the leasing and occupation of
60 two parcels of land with improvements at the Airport; and

61 WHEREAS, the tentative settlement in Docket No. 1425-11 CnC calls for Heritage,
62 AVCenter, the City and BCDC dismissing their claims against the City of South Burlington in
63 consideration for first, the City of South Burlington agreeing to tax certain of the lands and
64 improvements at issue pursuant to a provision of Vermont law agreeable to the parties, which
65 effectively lowers the taxes on these lands until occupancy and/or use of the lands changes, or
66 any change in pertinent Vermont law allows for a reassessment of the circumstances by the City
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74 **AUTHORIZATION TO SETTLE**
75 **CIVIL ACTIONS REGARDING**
76 **PROPERTY TAXATION AT**
77 **BURLINGTON INTERNATIONAL**
78 **AIRPORT**
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81 of South Burlington; and second, a refunding of certain taxes previously paid by Heritage, to be
82 accomplished by credit being applied for FY 2014 and if necessary, FY 2015 taxes; and

83 WHEREAS, the Director of Aviation deems the settlement of both proceedings
84 (“Settlements”) without further litigation, prudent and in the best interest of the City, the Airport,
85 and public airport purposes; and

86 WHEREAS, the Board of Airport Commissioners on August 5, 2013, approved the
87 tentative Settlements, subject to final approval of the Chief Administrative Officer and City
88 Attorney; and

89 WHEREAS, the Board of Finance on August 5, 2013, approved the tentative Settlements,
90 subject to final approval of the Chief Administrative Officer and City Attorney; and

91 WHEREAS, the BCDC Board of Directors, on August 5, 2013, approved the tentative
92 Settlements, subject to final approval of the Chief Administrative Officer and City Attorney,

93 NOW THEREFORE BE IT RESOLVED that the Honorable Mayor Miro Weinberger is
94 hereby authorized to execute on behalf of the City and BCDC, any and all documents required to
95 facilitate the Settlements, subject to the prior review and approval of the Chief Administrative
96 Officer and City Attorney.

Lori Olberg

From: Matt Conger <congerconsulting@gmail.com>
Sent: Wednesday, July 17, 2013 1:14 PM
To: Lori Olberg; Nate Lavery
Subject: Formal Resignation from PWC

Dear Lori,

This email indicates my formal intent to to resign from the Burlington Public Works Commission, effective immediately (July 16,2013). Please note that I am forwarding this to the PWC chair, Nathan Lavery.

--

Regards,

Matt Conger

Research Engineer, UVM Transportation Research Center
(802) 233-6282

RECEIVED
2013 JUL 17 P 2:39
BURLINGTON CLERK
TREASURERS OFFICE

Lori Olberg

From: Paul Gordon <flagoftheworld@hotmail.com>
Sent: Thursday, July 11, 2013 8:17 PM
To: Lori Olberg

Dear Lori ,

During the late 1990's or early 2000's I attended a meeting at the University of Hawaii. The meeting was arranged to enable several people who were residing on Okinawa , near a U.S. military base , to discuss their situation with people in Hawaii who might offer them helpful advice. Their problem was noise pollution from U.S. military planes. It was so bad that their children couldn't focus on their school work during classes. The Okinawan people had decided to allow the U.S. military to build several bases on their island because of the money they would receive. Unfortunately the Okinawan people didn't realize that having these military bases on their island would destroy their previously peaceful environment . Their greatest concern was their children, but the noise pollution hurt everyone. Replacing F- 16 planes with F-35 planes in Burlington,VT, according to one Internet article that I recently read, would multiply the noise pollution experienced in the Burlington area by four times. There were many articles that expressed similar concerns, while some articles were contradictory. If I resided in the Burlington area I would certainly choose to err on the side of helping the people in my neighborhood to live in a peaceful environment - and my main concern would be helping the children as they don't have much say in these matters. They must rely on caring adults to do what's best for them.

Sincerely, Jackie Gordon

RECEIVED
2013 JUL 12 A 8:47
BURLINGTON CLERK
TREASURER'S OFFICE

BURLINGTON COMMUNITY DEVELOPMENT CORPORATION

City Council
City of Burlington
City Hall
149 Church Street
Burlington, VT 05401

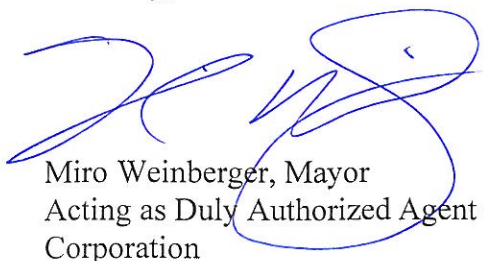
July 10, 2013

Dear City Councilors,

The City of Burlington's records indicate that the property owned by the City for construction of the Champlain Parkway includes access to a railroad spur and/or siding that is the subject of a Private Sidetrack Agreement, dated December 7, 1953, and originally entered into by Rutland Railway Corporation, Holger G. Petersen, and the Burlington Grocery Company. A copy of the Agreement is attached here. As an owner of one of the properties with access to the rail siding or spur, you may also be bound by the terms of the Agreement, to the extent the Agreement has any continuing legal effect.

The Burlington Community Development Corporation (BCDC) is a successor-in-interest to all or part of land formerly owned by Holger G. Petersen and served by the same rail siding or spur. To the extent that the Agreement has any continuing legal effect, BCDC hereby exercises the termination provision contained in Paragraph 7 of the Agreement. The Agreement will no longer be effective as of 30 days from the date of this letter.

Sincerely,



Miro Weinberger, Mayor
Acting as Duly Authorized Agent for the Burlington Community Development Corporation

PRIVATE SIDE TRACK AGREEMENT

THIS AGREEMENT, made and executed in ^{triplicate} ~~duplicate~~ this ^{7th} day of December, 1953, between RUTLAND RAILWAY CORPORATION, party of the first part, HOLGER C. PETERSON, party of the second part, and BURLINGTON GROCERY COMPANY, ~~INC.~~, party of the third part, being hereinafter called the "Industry,"

WITNESSETH:

WHEREAS said second party owns a sidetrack connecting with said Railroad's line of railroad in the City of Burlington, County of Chittenden, and State of Vermont, and

WHEREAS said second and third parties have requested the Railroad to construct a spur track connecting with the side track of said party.

NOW THEREFORE, it is mutually covenanted and agreed:

FIRST Said sidetrack is and said spur track shall be constructed as shown in red, yellow and green colors on the white print hereto attached dated August 25, 1953 and made a part of this agreement. The tracks shall be constructed and owned, and the cost of constructing and maintaining the same shall be borne by the parties hereto as follows:

- (a) The Industry shall, without cost to the Railroad, obtain all licenses, franchises or privileges necessary for the construction, maintenance and operation of the track, in, upon, or across any public road, street or other public property or reservation which may be traversed or intersected thereby, and the necessary right of way for the portion of the track extending beyond the Railroad right of way;
- (b) The Railroad shall, at its own expense, maintain that part of the sidetrack on the Railroad right of way from the switch point of connection with the track of the Railroad to the clearance point; such part being 110 feet and indicated in red on the said white print;
- (c) The party of the second part shall at its own expense maintain those parts of said sidetrack beyond the clearance point "B" to "C" about 740 feet and "D" to "E" about 360 feet and indicated in yellow color on said white print, and shall maintain jointly with said third party that part of said track from "C" to "D" 68 feet and indicated in green color on said white print.
- (d) The party of the second part has at its own expense done the grading necessary to construct the roadbed of that portion of said sidetrack from the point of switch at "A" to the point of clearance at "B", and has paid to the Railroad the entire cost of constructing that portion of said track from said point of switch to said point of clearance, such part being 120.61

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110 feet in length and indicated in red color on said white print, it being understood, however, that the Railroad will refund to said second party at the rate of Two Dollars per car of Railroad Freight yielding road-haul revenue, delivered on or shipped from said tracks, until the cost of the portion from the switch point of connection with the passing track of the Railroad to the clearance point, except the grading, is paid for, and thereafter the Railroad shall own the material in said part of said track, and franchises or privileges necessary

- (e) The party of the third part at its own expense shall bear the entire cost of constructing the spur track from the point of switch of connection with the side-track of said second party at "D" to the end thereof at 368 feet and track indicated in green and yellow colors on the said white print. Said party of the third part shall maintain jointly with said second party that part of said track from "D" to "E" 68 feet and indicated in green color on said white print, and shall at its own expense maintain that part of said track from "D" to "F" 300 feet and indicated in yellow color on the said white print.

- (f) The word "Industry" where it occurs hereafter in paragraphs second through and including ninth of this agreement shall not be construed to include the Burlington Grocery Company except in the instance where some obligation, duty or responsibility is placed on the industry with reference to the spur track which it is contemplated will be or has been constructed under the terms of this agreement.

Said tracks being described as follows:

Said sidetrack beginning at a point of switch of connection in the passing track of the Rutland Railway Corporation at Chaining Station 6368/20 and running thence northwardly and eastwardly on a curve to the right across lands of said Rutland Railway Corporation and lands of Champlain Realty Company, a distance of 1278 feet, as shown in red, green, and yellow colors upon the said attached white print.

Said spur track beginning at a point of switch of connection in the sidetrack of said second party 880 feet from the point of switch of connection of said sidetrack and running thence eastwardly across lands of lands of said Champlain Realty Company and said Burlington Grocery Company, a distance of 368 feet, as shown in green and yellow colors on said white print.

This Agreement supersedes Agreement No. 5194 dated April 16, 1949 with Champlain Realty Company.

SECOND: The Industry shall keep said track clear of obstructions and shall not place or maintain or allow to be placed or maintained any temporary or permanent structure of any kind within the space of 22 feet 6 inches above base of rail of the said track, or within 10 feet from the center line of main or passing track, or within 8 ft. 4 in. from the center line of any other track, excepting platforms which shall not be within 8 ft. 3 in. from the center line of any track, provided, however, that platforms not over 4 ft. 6 in. above the base of rail may be not less than 8 ft. 3 in. from the center line of industrial and yard tracks. No material shall be placed within 10 ft. from the center of any track.

In case present structures do not afford said clearance, the Industry agrees to indemnify and save harmless the Railroad from all loss, damage or expense on account of injury or damage by reason of said clearance being less, and no structure shall so remain without the approval of the Railroad.

THIRD: In the event that the Railroad shall furnish material or labor herein undertaken to be furnished by the Industry, the Industry shall and will pay to the Railroad, promptly upon rendition of bills, the entire cost thereof, inclusive of the expense of superintendence, supervision and use of tools, handling and storing of material, workmen's compensation and liability insurance, and accounting, and if such payment shall be in default beyond the period of thirty (30) days after bill rendered, the Railroad, in addition to all other remedies, may discontinue all operations over and remove said track. If the Industry fails to maintain in reasonably safe condition, in the judgment of the Railroad, the part of the track which it is required to maintain, the Railroad may discontinue the track or refuse to operate over it when not in such condition, or may without consent of Industry make repairs which it deems necessary and Industry will pay for same as above provided.

FOURTH: Except only as the parties hereto shall in writing stipulate otherwise, all provisions herein as to the aforementioned track shall apply to any and all additions thereto or extensions thereof; and maps or prints showing such additions or extensions may at the option of the Railroad be by it annexed hereto or to its original hereof and shall thereby become and be a part of this agreement.

FIFTH: The Railroad may use the said track for general railroad purposes and expressly reserves the right to connect such part of said track as may be on the premises with other tracks for its own use or that of third parties, provided that said use and connections shall not interfere with the reasonable use of the track which is the subject of this agreement for the business of the Industry. In the event of such use to serve other patrons of the Railroad, or as a connection with other tracks owned or used by the Railroad, there shall be a reduction in the Industry's expense of maintenance, and an adjustment of interest upon the Industry's original outlay for such track, to be determined by the character and extent of such use. The Industry agrees not to extend such part of said track as may be on the premises of Industry or to connect it with any other track, or permit the use thereof by anyone not a party hereto, without first obtaining the written consent of the Railroad.

SIXTH: It is understood that the movement of railroad locomotives involves some risk of fire, and the Industry assumes all responsibility for and agrees to indemnify the Railroad against loss or damage to property of the Industry or to property upon its premises, whether due to Railroad's negligence or not, arising from fire caused by locomotives operated by the Railroad on said track, or in its vicinity for the purpose of serving said Industry, except to the premises of the Railroad and to rolling stock belonging to the Railroad or to others and to shipments in the course of transportation.

The Industry also agrees to indemnify and hold harmless the Railroad for loss, damage or injury from any act or omission of the Industry, its employees, or agents, to the person or property of the parties hereto and their employees, and to the person or property of any other person or corporation, while on or about said track; and if any claim or liability other than from fire shall arise from the joint or concurring negligence of both parties hereto it shall be borne by them equally.

The Industry agrees not to handle petroleum products, or other inflammable or explosive materials upon said sidetrack, unless express written permission is given by the Superintendent of the Railroad.

...the said track shall be constructed as shown in red and yellow colors on the blue print hereto attached, dated ... and made a part of this agreement. The track shall be constructed and owned, and the cost of constructing and maintaining the same shall be borne by the parties hereto as follows:

- (a) The Industry shall, without cost to the Railroad, obtain all licenses, franchises or privileges necessary for the construction, maintenance and operation of the track, in, upon, or across any public road, street or other public property or reservation which may be traversed or intersected thereby, and the necessary right of way for the portion of the track extending beyond the Railroad right of way;
- (b) The Railroad shall, at its own expense, construct, own and maintain that part of the proposed track on the Railroad right of way from the switch point of connection with the track of the Railroad to the clearance point; such part being indicated in red on the said blue print;
- (c) The Industry shall, at its own expense, construct and maintain that part of the proposed track beyond the clearance point and shall own the track material therein; such part being indicated in yellow on the said blue print.

NOW THEREFORE, it is mutually covenanted and agreed:

First: Said track shall be constructed as shown in red and yellow colors on the blue print hereto attached, dated ... and made a part of this agreement. The track shall be constructed and owned, and the cost of constructing and maintaining the same shall be borne by the parties hereto as follows:

- (a) The Industry shall, without cost to the Railroad, obtain all licenses, franchises or privileges necessary for the construction, maintenance and operation of the track, in, upon, or across any public road, street or other public property or reservation which may be traversed or intersected thereby, and the necessary right of way for the portion of the track extending beyond the Railroad right of way;
- (b) The Railroad shall, at its own expense, construct, own and maintain that part of the proposed track on the Railroad right of way from the switch point of connection with the track of the Railroad to the clearance point; such part being indicated in red on the said blue print;
- (c) The Industry shall, at its own expense, construct and maintain that part of the proposed track beyond the clearance point and shall own the track material therein; such part being indicated in yellow on the said blue print.

(RECITE ANY FURTHER PARTICULARS OF THE AGREEMENT)

COLLECT
 General Attorney
 Chief Engineer

SIXTH: This agreement shall terminate thirty (30) days after written notice by either party to the other to that effect, such notice on the part of the Railroad may at its option, be given by posting it upon a conspicuous part of the premises, and this agreement in such case shall terminate thirty (30) days after such posting; after which period either party may remove all property belonging to it under this agreement, except as herein otherwise provided.

Until terminated as above provided, this agreement shall ensure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

EIGHTH: In the event of termination of this agreement, from any cause whatsoever, the Railroad, if it desires to use that portion of said track located upon its right of way or property beyond the clearance point, shall within thirty (30) days after such termination, pay the Industry the then fair value of the track material belonging to the Industry in such portion of the track. If the Railroad does not desire to use such portion of said track it shall so notify the Industry, in writing, within thirty (30) days after such termination and the Industry shall thereupon be entitled to remove and dispose of the track material belonging to it upon the railroad right of way, beyond the clearance point, within thirty (30) days thereafter.

NINTH: It is understood and agreed that this contract shall apply to all portions of the track shown on the blue prints attached as heretofore provided, which may have been constructed under this or any other agreement or otherwise prior to the making of this contract, which portions shall be and become subject to all of its terms applicable subsequent to construction, as fully as though originally constructed, maintained and operated hereunder.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate this 7th day of December, 1953.

In presence of

[Handwritten signatures and names of witnesses]

BY *[Signature]*
EXECUTIVE ASSISTANT
[L.S.]

BY *[Signature]*
HOLGER C. PETERSON
[L.S.]

BY *[Signature]*
EURLINGTON GROCERY COMPANY, INC.
[L.S.]

PINE STREET

PINE STREET

CITY OF BURLINGTON
COUNTY OF CHITTENDEN
STATE OF VERMONT

Burlington Grocery Co., Inc.

360' ±

300'

740'

F H Weissen

HEEL OF ROAD

S

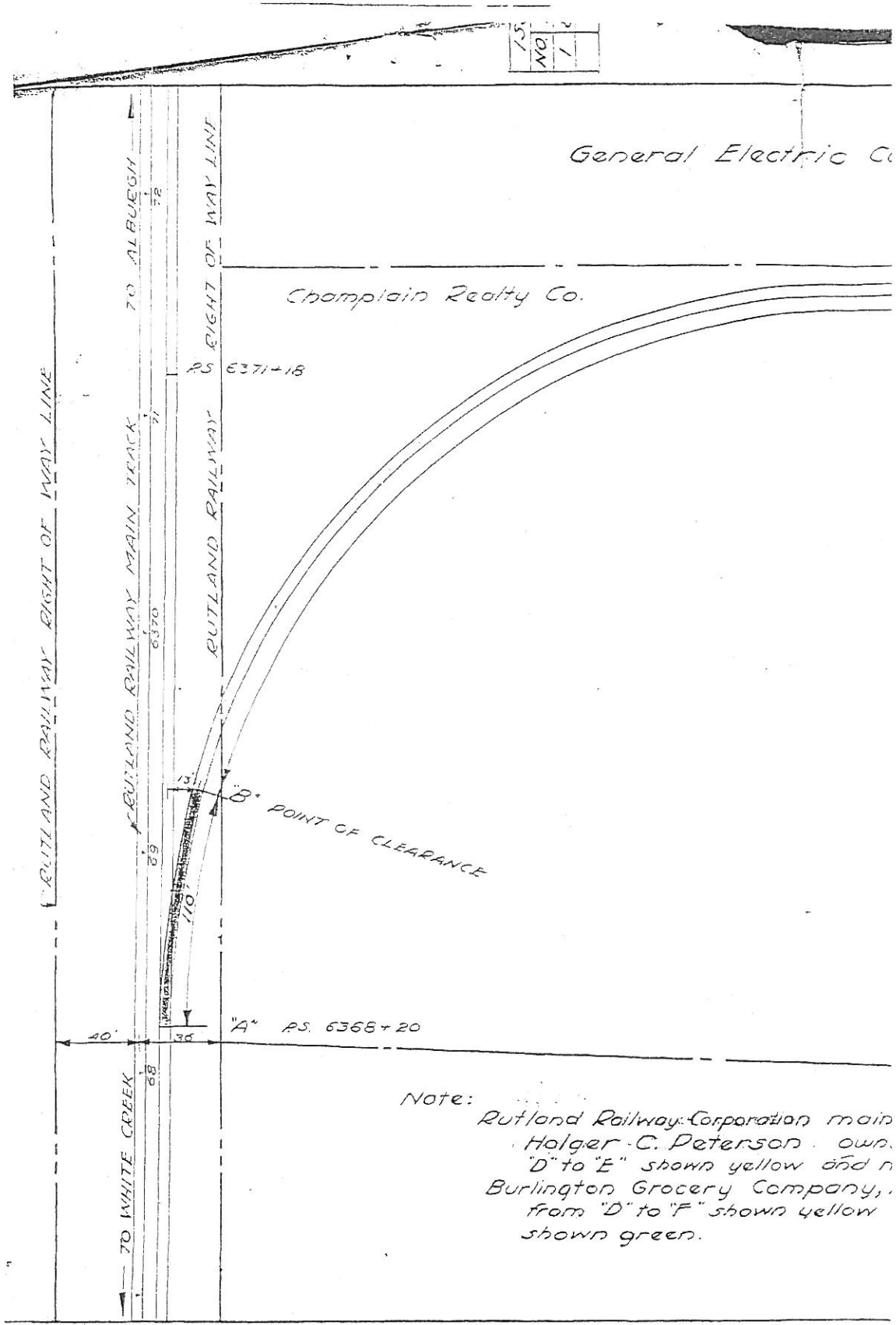
C

D

"F"

"F"

15	1
NO	1



Note:
 Rutland Railway Corporation main
 Halger C. Peterson own.
 "D" to "E" shown yellow and n
 Burlington Grocery Company,
 from "D" to "F" shown yellow
 shown green.



89 Main Street, Suite 4
Montpelier, VT 05602

Tel.....802-229-9111
Fax..... 802-229-2211
Email ... info@vlct.org
Web..... www.vlct.org

MEMORANDUM

To: VLCT Members

From: Karen B. Horn, Director
Public Policy and Advocacy

Date: July 16, 2013

Re: 2013 VLCT Municipal and Legislative Service Awards

RECEIVED
2013 JUL 22 A 9:15
BURLINGTON CLERK
TREASURER'S OFFICE

Please consider nominating an exceptional municipal official or legislator for the Municipal Service or the Legislative Service Award. We will recognize VLCT's 2013 Award winners at Town Fair, which will take place Thursday, October 3, 2013, at the Killington Grand Hotel in Killington, Vermont.

We look forward to hearing from you!

MUNICIPAL SERVICE AWARD: given to an elected or appointed municipal official who has shown an active commitment to strong local government beyond the borders of his or her community – such as service to the Vermont League of Cities and Towns – and has also demonstrated a commitment to his or her municipality by serving on a board or commission.

LEGISLATIVE SERVICE AWARD: recognizes a member of the Vermont General Assembly who, through his or her service, has best shown an awareness of the problems facing local government and its capacity for self-governance, and has sought to solve those problems and provide local authority on a statewide basis through legislative action.

Nomination forms for these awards are attached and are **due at the VLCT offices by Thursday, August 15, 2013**. Thank you!

attachments

Sponsor of:

VLCT Health Trust, Inc.

VLCT Municipal Assistance
Center

VLCT Property and Casualty
Intermunicipal Fund, Inc.

VLCT Unemployment
Insurance Trust, Inc.

VLCT TOWN FAIR AWARDS NOMINATION FORM

MUNICIPAL SERVICE AWARD

This award will be presented at Town Fair, October 3, 2013, at the Killington Grand Hotel in Killington, Vermont.

This award is given to an elected or appointed municipal official who has shown an active commitment to strong local government beyond the borders of his or her community – such as service to the Vermont League of Cities and Towns – and has also demonstrated a commitment to his or her municipality by serving on a board or commission.

Name of person nominated: _____
Nominator: _____ Municipality: _____
Position(s) held by nominee: _____

The nomination must be accompanied by a letter of recommendation from the local legislative body in which the nominee serves.

Street address of nominee: _____
City/Town: _____ Zip Code: _____
Phone: _____ Years of Service to Municipal Government: _____
Reasons for nomination: _____

Please cite a specific example of the nominee's efforts to solve a problem that affects Vermont municipalities:

Please indicate an instance of the nominee advocating for local governments (in the legislature, at a regional commission, solid waste district, or similar regional forum, or as a member of an advocacy group) or working with other groups to achieve a goal beneficial to municipalities as well as other community groups:

Attach additional sheets if needed.

Please return to Vermont League of Cities and Towns, 89 Main Street, Suite 4, Montpelier, VT 05602-2948, fax to 802-229-2211, or email to Karen Horn at khorn@vlct.org by **Thursday, August 15, 2013.**

VLCT TOWN FAIR AWARDS NOMINATION FORM

LEGISLATIVE SERVICE AWARD

This award will be presented at Town Fair, Thursday, October 3, 2013, at the Killington Grand Hotel in Killington, Vermont.

This award recognizes a member of the Vermont General Assembly who, through his or her service, has best shown an awareness of the problems facing local government and its capacity for self-governance, and has sought to solve those problems and provide local authority on a statewide basis through legislative action.

Name of legislator nominated: _____

Nominator: _____ Municipality: _____

Position(s) held by nominee: _____

The nomination must be accompanied by a letter of recommendation from at least one local legislative body that the nominee represents.

Street address of nominee: _____

City/Town: _____ Zip Code: _____

Phone: _____ Years of Service to Municipal Government: _____

Reasons for nomination: _____

Please cite a specific example of the nominee's efforts to solve a problem that affects Vermont municipalities:

Please indicate an instance of the nominee advocating for local governments (in the legislature, at a regional commission, solid waste district, or similar regional forum, or as a member of an advocacy group) or working with other groups to achieve a goal beneficial to municipalities as well as other community groups:

Attach additional sheets if needed.

Please return to Vermont League of Cities and Towns, 89 Main Street, Suite 4, Montpelier, VT 05602-2948, fax to 802-229-2211, or email to Karen Horn at khorn@vlct.org by Thursday, August 15, 2013.

2014 VLCT BOARD VACANCY



*Serving and
Strengthening
Vermont Local
Governments*

There will be vacancies on the Board of Directors of the Vermont League of Cities and Towns this year due to terms of members expiring. The Nominating Committee of the Board of Directors appreciates your assistance in obtaining names of persons who qualify to be a Director. The term is for two years.

The VLCT Bylaws state that a member of the Board of Directors shall be "a qualified official of a member city or town" and that "a qualified official is a person currently holding the position of selectperson, mayor, municipal manager, clerk, treasurer, or position established in a municipal charter with responsibilities comparable to one of the aforementioned."

A person elected to the Board of Directors must be able to attend the monthly Board meeting, which is held at the office of the Vermont League of Cities and Towns in Montpelier, usually commencing at noon and lasting three to four hours.

AS A BOARD MEMBER, YOU WILL BE ASKED TO:

- Provide overall governance of the organization;
- Help formulate League legislative policy for approval by the membership;
- Provide direction for VLCT's long-range goals and objectives; and
- Assist staff on specific legislative positions, including possibly testifying before legislative committees.

The position also demands approximately two days in September or October of each year to help with VLCT's Town Fair and Annual Meeting. It may also involve membership on VLCT policy committees or legislatively established study committees. Lastly, many of the members of the Board are asked to act on occasion as "ambassador" for the League by visiting neighboring towns and cities to explain our programs and policies, and to seek input from other local officials. VLCT provides reimbursement for travel expenses plus a small per diem for attendance at Board meetings.

If you or a qualified individual you know is interested in municipal issues of statewide significance and would like to be involved in VLCT's work on these issues as a member of the VLCT Board of Directors, please fill out and return the form on the reverse side.

Thank you for your consideration.

Sincerely,

Steve Jeffrey, Executive Director
Vermont League of Cities and Towns

Please submit your application (on reverse side) by Thursday, August 15, 2013.

VLCT BOARD OF DIRECTORS NOMINATION FORM

APPLICANT

Name _____ Date _____

Mailing address _____

Telephone _____ Email _____

Municipality _____

Position _____ Years in Position _____

Other Municipal Involvement (include dates) _____

Other Information (occupation, interests, etc.) _____

Why do you want to serve on the VLCT Board? What contribution do you feel you can make to VLCT?

IF YOU ARE MAKING A RECOMMENDATION FOR THE BOARD OF DIRECTORS, PLEASE COMPLETE THE FOLLOWING:

Name _____ Date _____

Mailing address _____

Telephone _____ Email _____

Municipality _____ Position _____

What positions in local government has the nominee held, and for how long? _____

Why are you recommending this person for this VLCT Board? _____

How do you know the person you are recommending? _____

Please return to Vermont League of Cities and Towns, 89 Main Street, Suite 4, Montpelier, VT 05602-2948, fax to 802-229-2211, or email to Karen Horn at khorn@vlct.org by Thursday, August 15, 2013.

PF 7/15/13 (cc)

Martha R. Lang, Ph.D.
138 Colchester Avenue
Burlington, VT 05401
(802) 862-1094

REPORT TO CITY COUNCIL

To: President Shannon and Members of the City Council
From: Martha Lang, City Resident and Abutter
Re: PROPOSAL TO LEASE/SELL IRA ALLEN, LEASE TAFT SCHOOL & PURCHASE/RENOVATE ST. JOSEPH'S
Date: July 15, 2013

1. **SERIOUS ZONING CONCERNS:** The proponents say St. Joseph's can accommodate all existing uses. But they overlook a very serious problem. St. Joseph's is zoned medium residential. **Office use is not permitted there.** (Indeed, office workers at St. Joseph's were recently required to relocate to another site.) So, where does the school district plan on housing its offices? At what cost? This alone should give the city council reason to reject this deal as unsound.
2. **SERIOUSLY UNDERSTATED RENOVATION COSTS:** The proponents say the St. Joseph's renovations will cost **\$27.53** per square foot (\$1,478,500 / 53,700 square feet). Where do they get this number? A respected annual national report on school construction costs shows that, in the Northeast, the median cost per square foot for *new* elementary school construction (new construction routinely being less per square foot than the cost of renovations) was **\$306.34** in 2012, yielding here a **renovation cost of \$16,450,458, or 11 times more than the proponents say.** This city has a *long* history of approving projects based on predictions that are way out of line with reality. If this project were to proceed, the city can be confident it will happen again. This problem alone should give the city council reason to reject this deal as unsound. (*Excerpts of the report we sent in packet. Link to full report: <http://www.peterli.com/spm/pdfs/SchoolConstructionReport2013.pdf>*)
 - **HVAC & FIRE CODE CONCERNS:** Right now, Ira Allen (built in 1974) is air conditioned and has fire rated walls and fire sprinklers. The Taft School (1938) has fire rated walls. How about St. Joseph's (1929)? It lacks air conditioning, fire rated walls and fire sprinklers. Just for installation of fire sprinklers, that can run \$10 per square foot in historical structures like St. Joseph's. That would be \$537,000 for fire sprinklers alone. *Link to estimate: <http://www.kauffmanco.net/blog/fire-sprinkler-costs/>*
 - **117 LOST PARKING SPACES:** There are a total of 148 parking spaces at Ira Allen (68 spaces in front alone) and the Taft School (80 spaces). St. Joseph's has only 31 spaces. *That's a net loss of 117 spaces!* How can that incredible loss of parking spaces be made up? Where? At what annual cost? Why don't the proponents mention this? How does this affect the bottom line? (*ANR-produced satellite photos showing, among other things, parking available at each of the three sites are in your packet.*)

- **MISSING TRANSITION COSTS:** If the plan is to use the proceeds from the sale/lease of Ira Allen and Taft School to fund the purchase and renovations of St. Joseph's, then where will the school district house its offices and programs pending completion? How much will that space cost per year? For how many years? Why don't the proponents mention this? How does it affect the bottom line? Also, this will mean that school district will need to move these programs *twice*. How much will two moves cost?
3. **SERIOUS CASH FLOW CONCERNS.** The proponents' accounting shows that the proceeds from the sale of Ira Allen and the lease of the Taft School will just cover the purchase and renovation of St. Joseph's. The obvious pitch is that this deal can be done without financing or tax increases. Really?
- **IRA ALLEN RENT FREE:** UVM is to occupy Ira Allen rent free for one year. So, the purchase will not close for a year. So where is the money for the St. Joseph's purchase?
 - **IMPORTANT IRA ALLEN PURCHASE TERMS NOT DISCLOSED.** UVM gets Ira Allen rent-free for a year, but otherwise we don't know what the purchase contract says. What contingencies exist? Could UVM back out? Could it extend its lease? Might it compel a price reduction for some failure of some physical condition or title defect? So, the rent-free term isn't the only concern. If UVM might back out, extend its lease term or demand price reductions, then the overall deal surely isn't revenue neutral.
 - **TAFT SCHOOL LEASE CONCERNS.** The Taft School lease is for 80 years and paid up front. But what are the other lease terms. Can UVM back out? Might the city have to refund some of the lease proceeds? If mitigation is required but the school district has already spent the lease proceeds on renovations at St. Joseph's, from where will the refund come? The city will have to book this as a conditional liability. If that's the case, then, by the charter, financing approval of the voters is needed.
 - **TAFT SCHOOL REVERSION CONCERNS.** What if UVM uses the premises for non-school purposes and the building reverts to the Taft Estate? In any event, if there's any question about a reversion or UVM's liability, it'll involve expensive litigation, and you can be sure that, as landlord, the city will be *party number one*.
4. **SERIOUS QUESTIONS ABOUT APPRAISED VALUES.** The proponents own literature reflects that the Ira Allen has been appraised at *only two-thirds* of its assessed value and that the Taft School has been appraised at *only one-third* of its assessed value. What is going on here? Where are these appraisals? How can it be they're so much less than the city's own assessments?
5. **SQUARE FOOTAGE GAINS ARE ILLUSORY.** If you exclude the gym and cafeteria (neither of which should be needed for housing administrative offices and other school programs), then the net square footage of St. Joseph's is just a little under what exists at the other sites. Practically speaking, the city does not stand to gain any square footage.
6. **UTILITY COST COMPARISON UNRELIABLE.** The proponents claim that annual utility payments for the *significantly larger, significantly older and less insulated* St. Joseph's are only *one-third* of those of the other two sites. How is that possible?



Ira Allen's Lot Lines

Vermont Agency of Natural Resources

vermont.gov



LEGEND

- Parcels (where available)
- Town Boundary

NOTES

Map created using ANR's Natural Resources Atlas



1: 2,369
July 10, 2013

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.

0 60.00 120.00 Meters
1" = 197 Ft 1cm = 24 Meters
THIS MAP IS NOT TO BE USED FOR NAVIGATION

1984 Web_Mercator_Auxiliary_Sphere
Vermont Agency of Natural Resources

Martha R. Lang, Ph.D.
138 Colchester Avenue
Burlington, VT 05401
(802) 862-1094

August 12, 2013

Dear City Councilors:

RECEIVED
2013 AUG -5 A 9:09
BURLINGTON CLERK
TREASURER'S OFFICE

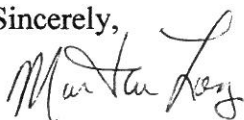
Documents Not Properly Researched for School Building on Colchester Avenue

1. There are two parcels of land in the real estate transaction for the school building on Colchester Avenue: 148 Colchester Avenue (exhibit 1), a small lot adjacent to 146 Colchester Avenue, and 150 Colchester Avenue (exhibit 2), a 1.75 acre lot. On July 16th the school board wasn't aware there were two parcels. Alan Matson asked me to leave the maps and documents I had with them so their lawyers could look at them. Why didn't their lawyers have these documents? Why hasn't the necessary legal work been done?
2. The school board has mislabeled the building they are attempting to sell. The Ira Allen Building is located at 34-38 Fletcher Place (exhibit 3) and belongs to UVM. The building at 150 Colchester Avenue is The Early Essential Education Building (exhibit 4). Why didn't the lawyers representing the school board properly identify this building before they let their client enter into negotiations?

Limits of Authority for Burlington School Board and Burlington City Council

1. **The city council cannot legally sell city property below fair market value.** How can 148 and 150 Colchester Avenue, a 1.84 acre lot (two parcels) with a 16,000 sq foot building (\$60 a sq ft low estimate), only be worth 2 million dollars when two acres of land made up of several contiguous parcels, about 100 yards from 150 Colchester Avenue, was just purchased for 2 million dollars? Has the city council been given copies of the appraisal? Have they asked to look at it?
2. **The city council cannot legally sell Taft School.** Is leasing the Taft School for 80 years with a onetime, upfront payment of 1.6 million dollars really a clever, but poor, attempt to disguise a sale as a long term lease?

Sincerely,



Martha R. Lang.

Vol 33
P. 434

KNOW ALL MEN BY THESE PRESENTS, THAT
John H. Byrnes of the City of Burlington

Exhibit 1

TO
The City of Burlington

City of Burlington in the County of Chittenden in the State of Vermont
in consideration of Twenty Two Hundred dollars paid to my satisfaction by
The City of Burlington a municipal corporation situated
in the County of Chittenden in the State of Vermont
do freely give, grant, bargain, sell, alien and convey unto the said City of Burlington, and its successors,
and assigns forever, the following described piece or parcel of land situated in said City of Burlington in said county, viz

1/4 Vermont, viz The land and premises with house thereon numbered 2148 situated on the North side of Colchester Avenue in said Burlington.

Said land is bounded as follows: Beginning in the North line of said Avenue at the Southeast corner of the land conveyed to Elizabeth P. Foley by Henry C. Smith by Deed dated July 5, 1883, and recorded in Vol. 20, page 42 of the Land Records of said Burlington and of which she died seized. Thence running Northerly in the East line of said Foley lot ten rods. Thence Easterly in a line parallel with said North line of said Avenue a distance of fifty (50) feet. Thence Southerly in a line parallel with the Easterly line of said Foley lot ten (10) rods to said North line of said Avenue. Thence Westerly in said North line of said Avenue fifty (50) feet to the point or place of beginning.

Being the same land and premises conveyed to said Byrnes by Edward Simpson by Deed dated March 24, 1893, and of record in Vol. 33, page 70, of the Land Records of said Burlington, reference being had to said Deeds and the references therein cited and their respective records in aid of this description.

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2013 AUG -5 A 9:09
BURLINGTON CLERK
(TREASURER'S OFFICE)

To Have and to Hold, the above granted and bargained premises, with all the privileges and appurtenances thereof, and thereto belonging unto the said
The City of Burlington, its successors, heirs, executors and administrators, covenant to and with the said John H. Byrnes
do for myself and my heirs, executors and administrators, covenant to and with the said the City of Burlington
its successors, heirs, executors and administrators, and assigns, that at and until the ensueing of these presents I am well seized of the premises in fee simple that I have good right and lawful authority to bargain and sell the same in manner and form as is above written; that they are free and clear of all incumbrance,

and that I will warrant and defend the same against all lawful claims and demands of any person or persons whomsoever.

In Witness Whereof, hereunto set my hand and seal this 9th day of May A. D. 1894

IN PRESENCE OF
A. Barre
Charles E. Allen
State of Vermont,

John H. Byrnes
Personally appeared at Burlington
John H. Byrnes

Chittenden County, ss. I, his free agent and deed, this 9th day of May A. D. 1894
Before me, Charles E. Allen, Notary Public
Received for record May 9th 1894, at 9 o'clock P. M., and recorded.
Attest, Charles E. Allen City Clerk

David Walker
and wife
The City of Burlington

KNOW ALL MEN BY THESE PRESENTS, THAT

We, David Walker of Burlington in the County of Chittenden in the State of Vermont and Anna Walker wife of said David Walker

in her right
in consideration of
the City of Burlington

thirty three Hundred dollars paid to our satisfaction by

in the County of Chittenden in the State of Vermont

do freely give, grant, bargain, sell, alien and convey unto the said City of Burlington its successors heirs and assigns forever, the following described piece or parcel of land situated in Burlington in said county, viz:

Bound on the North and East by land of Louis de Goebriand, on the West by land of C. B. Read and land of J. H. Byrnes, on the South by land of said Byrnes and Lecheater Avenue, being all and the same land conveyed by H. C. Smith to David Walker and Carroll E. Macomber, by Deed of Warranty dated May 5, 1883, and recorded in Vol. 20, page 54 of the Land Records of said City, except a piece off from the Southwest corner thereof, 50 feet wide and 165 feet deep, conveyed by said David Walker and said Carroll E. Macomber to Edward Simonds, by their Deed of Warranty dated Oct. 7th 1884, and recorded in said Vol. 20, page 327; and being the same land conveyed by David Walker to C. E. Macomber and D. F. Hatch by Quitclaim Deed, dated Oct. 26th 1886 and recorded in Vol. 24, page 35 of said Records, and being the same land conveyed to said Anna Walker by C. E. Macomber and D. F. Hatch, by their Quitclaim Deed dated Oct. 26th 1886 and recorded in Vol. 24, page 36 of said Records.

RECEIVED
2013 JUN - 5 A 9:09
BURLINGTON CLERK
TREASURER'S OFFICE

To Have and to Hold, the above granted and bargained premises, with all the privileges and appurtenances thereof, and thereto belonging unto the said City of Burlington its successors heirs, executors and administrators, covenant to and with the said Anna Walker its successors heirs, executors and administrators, that at and until the ensueing of these presents said City of Burlington will warrant and defend the same against all lawful claims and demands of any person or persons whomsoever.

In Witness Whereof, we hereunto set our hand and seals this 15th day of March A. D. 1894

IN PRESENCE OF
Charles E. Allen } as to signature of David Walker
Arthur Walker } as to A. W. Anna Walker

State of Vermont,

Personally appeared at Burlington David Walker and Anna Walker his wife

in said county

Chittenden County, ss. their free act and deed, this 15th day of March A. D. 1894

Before me, Charles E. Allen, Notary Public Received for record March 20 1894 at 9 o'clock A. M., and recorded.

Attest,

Handwritten signature and initials.

Know all Men by these Presents

Exhibit 3483

That

The City of Burlington, a municipal corporation existing under the laws of the State of Vermont

of _____ in the County of Chittenden
and State of Vermont Grantor, in the consideration of
-----TEN AND MORE----- Dollars
paid to its full satisfaction by

Trinity College, Inc., a non-profit corporation organized under the laws of the State of Vermont

of Burlington in the County of Chittenden
and State of Vermont Grantee, by these presents, do
freely Give, Grant, Sell, Convey and Confirm unto the said Grantee

Trinity College, Inc.

and its heirs and assigns forever, a
certain piece of land in The City of Burlington in the
County of Chittenden and State of Vermont, described as
follows, viz:

A parcel of land with the Ira Allen school building located thereon, situated on the east side of Fletcher Place and more particularly described as follows:

Commencing at a point on the east side of Fletcher Place, thence proceeding N 73° 44' 07" E a distance of 103.81 feet to an existing marble monument; thence proceeding S 15° 54' 56" E a distance of 109.85 feet to an existing marble monument; thence proceeding N 74° 03' 27" E a distance of 105.47 feet to a point; thence proceeding N 15° 57' 06" W a distance of 126.13 feet to a point; thence proceeding N 74° 02' 54" E a distance of 16.97 feet to a point which line divides a currently existing walkway between the Ira Allen school building and the Early Essential Education Center; thence proceeding N 15° 57' 06" W a distance of 159.16 feet to a point; thence proceeding N 74° 02' 54" E a distance of 180.22 feet to a point; thence proceeding N 15° 56' 57" W a distance of 108.63 feet to an existing concrete monument; thence proceeding S 75° 37' 00" W a distance of 137.71 feet to an existing concrete monument; thence proceeding N 36° 30' 47" W a distance of 44.31 feet to an existing marble monument; thence proceeding S 38° 30' 33" W a distance of 312.14 feet to an existing marble monument on the east side of Fletcher Place; thence proceeding S 16° 15' 53" E a distance of 148.45 feet to the point and place of beginning.

The property herein conveyed is made more specific and certain by that certain property survey caused to be recorded by the City of Burlington entitled: "Ira Allen School, Colchester Ave. Burlington Vermont" dated June 16, 1980 and of record in Plat Volume II at

BURLINGTON CLERK
TREASURER'S OFFICE

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Page 17 of the Land Records of the City of Burlington.

Reference is made to three Warranty Deeds to the City of Burlington: From Violet G. Reeves, Thomas M. Reeves and M. Elizabeth Lang, dated May 12, 1954 and recorded in Volume 144, Page 652 of the City of Burlington Land Records; from John H. Byrnes, dated May 9, 1894 and recorded in Volume 33, Page 434 of said Land Records; from David Walker and Anna Walker, dated March 15, 1894 and recorded in Volume 33, Page 376 of said Land Records and other deeds, surveys or maps referring to the within parcel and the Ira Allen School.

Reference is made to the above-mentioned instruments, the records thereof, the references therein made, and their respective records and references in further aid of this description.

The City of Burlington reserves to itself the right to repurchase the property herein conveyed under the following terms and conditions:

1. Upon a declaration of the Board of School Commissioners of the City of Burlington, that the land and premises of Ira Allen School are needed for educational instructional purposes for school-aged children.

2. One year's written notice to Trinity College of exercise of right to repurchase.

3. The right of repurchase shall expire five (5) years after ownership by Trinity College and the notice of exercise must be issued upon four (4) years ownership by Trinity College.

4. The purchase price to be paid by the City shall be Trinity College's purchase price plus the depreciated value of all capital improvements plus appreciated value computed at the rate of ten (10%) percent compounded per year from the date of purchase by Trinity College.

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BURLINGTON
CLERK
OFFICE
MAY 16 9:09 AM '54

RECEIVED

To have and to hold *said granted premises, with all the privileges and appurtenances thereof, to the said Grantee*

Trinity College, Inc.

and its *heirs and assigns, to their own use and behoof forever;*

And *the said Grantor*

City of Burlington

for itself and its heirs, executors and administrators, does covenant with the said Grantee

Trinity College, Inc., and its

heirs and assigns, that until the ensealing of these presents it is the sole owner of the premises, and have good right and title to convey the same in manner aforesaid, that they are Free from every encumbrance;

Exhibit 4

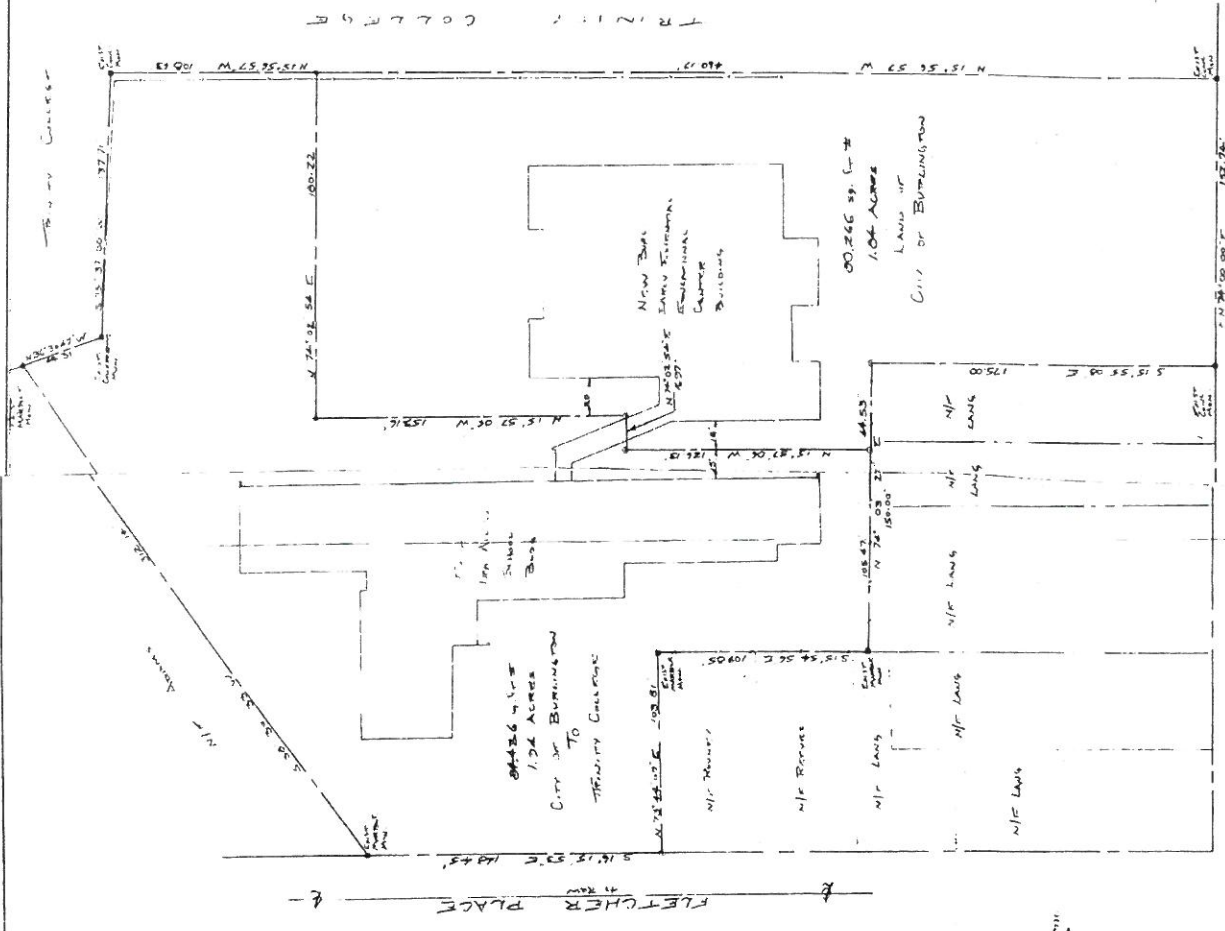


VICINITY MAP

THIS SURVEY WAS ESTABLISHED FIRST BY
 SURVEY MEASUREMENTS THAT WAS MADE IN
 1880 AS SHOWN ON THE 1880 B. 652
 OF BURLINGTON LAND RECORDS.
 THE TRAIL ON FLETCHER PL. WAS ESTABLISHED
 IN 1880 AND WAS 70 FT. WIDE AND
 WITH THE EXISTING WOODS ADJACENT THERE.
 THE TRAIL 175' OF COLCHESTER AVE.
 ESTABLISHED IN 1880 WAS 70 FT. WIDE
 THE TRAIL 175' WAS 70 FT. WIDE
 A REPRESENTATIVE OF THE BURLINGTON SCHOOL
 TRAILING LINE BETWEEN THE TRAIL TRAILERS
 THE TRAIL TRAILERS ADJACENT IN 1880-81
 OF THE NEW BUILDING. IT WAS ALSO LAIN TO
 110 FT. NORTH OF THE TRAIL LINE OF THE TRAIL
 THESE LINES WERE ALSO LAIN NOT PARALLEL
 REPRESENTED TO THE NEW BUILDING.

THIS IS A CORRECT SURVEY
 BASED UPON CITY LAND RECORDS
 AND BOUND EVIDENCE.

DATE: 1980	PROPERTY: 175' ALLE
CHECKED: [initials]	COLCHESTER
TRACED: [initials]	BURLINGTON
DATE: 11-10-80	SCALE: 1"=30'
PROJ NO: 4476	SHEET OF



COLCHESTER AVE.

RECEIVED
 2013 AUG -5 A 9:09
 BURLINGTON
 TREASURER'S OFFICE

* ALL MEASUREMENTS ARE MADE
 BASED UPON THIS OBSERVATION
 REVISION 01/00
 • SURVEY 7011

Received for record July 11, 1980, at 10:50 A.M. and recorded.
 Attest: *G. H. Wagner*
 City Clerk

DELIBERATIVE AGENDA

SPECIAL CITY COUNCIL WORKSESSION
CONFERENCE ROOM 12, CITY HALL
MONDAY, DECEMBER 3, 2012
6:00 P.M. TO 7:00 P.M.

1. AGENDA
2. DISCUSSION: Redistricting Committee, re: Redistricting (oral)
3. ADJOURNMENT

Unfortunately no recording was taken of the work session.

Attest:

Lori Olberg, Licensing, Voting & Records Coordinator and Amy Bovee, Executive Secretary

REGULAR MEETING, CITY COUNCIL
CONTOIS AUDITORIUM, CITY HALL
MONDAY, DECEMBER 3, 2012
7:17 P.M.

PRESENT: City Council President Shannon; Councilors Worden, Bushor, Kranichfeld, Tracy, Brennan, Siegel, Aubin, Hartnett, Mason, Blais, Decelles and Dober and Councilor Paul (arrived at 8:15 p.m.)

CITY ATTORNEY'S OFFICE: Eileen Blackwood and Gene Bergman

CLERK/TREASURER'S OFFICE: Paul Sisson, Scott Schrader and Rich Goodwin

CITY COUNCIL PRESIDENT SHANNON PRESIDING:

1. AGENDA

On a motion by Councilors Kranichfeld and Bushor the agenda was unanimously adopted as amended as follows: note **revised** version of consent agenda item 3.04. RESOLUTION: Approve Mayor Weinberger's Appointments to the City's Advisory Committee on Accessibility (Councilor Shannon); add Councilor Bushor as a co-sponsor; add to the consent agenda item 3.08. RESOLUTION: Authorization to Amend Burlington's Downtown Tax Increment Financing District Boundary (Board of Finance: pending BOF approval) with the consent action to "waive the reading and adopt the resolution;" add to the consent agenda item 3.09. COMMUNICATION: Brian Pine, CEDO, re: Boundary Change for Burlington's Downtown District with the consent action to "waive the reading, accept the communication and place it on file;" add to the consent agenda item 3.10. COMMUNICATION: Brian Pine, CEDO, re: City of Burlington Downtown TIF Boundary with the consent action to "waive the reading, accept the communication and place it on file; add to the consent agenda item 3.11. COMMUNICATION: Burlington Residents, re: City's recent hire with the consent action to "waive the reading, accept the communication and place it on file;" add to the consent agenda item 3.12. COMMUNICATION: Hunter Rieseberg, Vermont League of Cities and Towns President, re: VLCT Board Sets DY14 Dues with the consent action to "waive the reading, accept the communication, place it on file and send a copy to the Board of Finance for consideration;" add to the consent agenda item 3.13. COMMUNICATION: Chittenden County Assistant Judges, re: Pre-Budget Meeting with the consent

action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 3.14. COMMUNICATION: Charlie Baker, Executive Director, Chittenden County RPC to Peter Kiebel, Natural Resources Board, re: City of Burlington, Dept. of Parks & Recreation, Waterfront Park, Application #4C0863-4 with the consent action to “waive the reading, accept the communication and place it on file;” note **revised** version of agenda item 5. RESOLUTION: Independent Investigation Re July 29, 2012 New England Governor’s & Eastern Canadian Premier’s Conference (Councilor Brennan); add Councilor Siegel as a co-sponsor.

Councilor Siegel requested that item 3.07 COMMUNICATION: Mayor Miro Weinberger, re: Livable Wage Ordinance be moved to the deliberative agenda. City Council President Shannon stated this would be addressed as agenda item 5.01.

Councilor Bushor stated the title of agenda item 5 had been changed; the word investigation would be changed to review.

2. PUBLIC FORUM (Time Certain: 7:30 p.m. – 8:00 p.m. unless extended by the Council President per Council Rules)

City Council President Shannon opened the public forum at 7:30 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Laura Ziegler		July 29 Incident
Barry Kade	Vermont Resident	July 29 Incident
Robert Appel	Vermont Resident	July 29 Incident
Lisa Ann		July 29 Incident
Margaret Joyal	Burlington Resident	Kesha Ram Hire
Faried Munarsyah		Livable Wage/Open Govt.
Dylan Kelley		July 29 Incident
Sandra Schlosser/ Matt McGarth/ Brittany Nevins	Vermont Workers’ Center	July 29 Incident/Livable Wage
Linda Ayer	Burlington Resident	July 29 Incident
Wendy Coe	Ward 2 Resident	July 29 Incident
Emma Mulvaney-Stanak	Winooski Resident	Livable Wage
Jim Podrasky	Cab Driver	Cab Drivers at Airport
Jonathan Leavitt	Ward 2 Resident	Livable Wage/July 29 Incident
Kyle Sillman-Smith		July 29 Incident/Livable Wage
Jay Vos	Ward 5 Resident	July 29 Incident

Betsy Bahrenburg

July 29 Incident

There being no one further coming forward and no objection from the remaining Council, City Council President Shannon closed the public forum at 8:15 p.m.

3. CONSENT AGENDA

On a motion by Councilors Kranichfeld and Bushor the consent agenda was unanimously adopted, as amended, thus taking the following actions as indicated:

3.01. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re:
Accountability List

*waive the reading, accept the communication and place it on file

3.02. RESOLUTION: FY 2012 Budget Amendment for Cost of Living Adjustment for Union
and Non-union Employees (Board of Finance)

*waive the reading and adopt the resolution

3.03. RESOLUTION: Authorization to Apply for Vermont Construction Loan and Vermont
Bond Bank Financing to Replace Public Works Water Division Water
Pump (Board of Finance)

*waive the reading and adopt the resolution

3.04. RESOLUTION: Approve Mayor Weinberger's Appointments to the City's Advisory
Committee on Accessibility (Councilors Shannon & Bushor)

*waive the reading and adopt the resolution

3.05. COMMUNICATION: Mayor Miro Weinberger, re: Appointments to Advisory Committee on
Accessibility

*waive the reading, accept the communication and place it on file

3.06. COMMUNICATION: Diane Ballou, 1201 North Avenue, Burlington, VT 05408, re: U.N.'s
Agenda 21

*waive the reading, accept the communication and place it on file

3.08. RESOLUTION: Authorization to Amend Burlington's Downtown Tax Increment
Financing District Boundary (Board of Finance: pending BOF approval)

*waive the reading and adopt the resolution

3.09. COMMUNICATION: Brian Pine, CEDO, re: Boundary Change for Burlington's Downtown TIF
District

*waive the reading, accept the communication and place it on file

3.10. COMMUNICATION: Brian Pine, CEDO, re: City of Burlington Downtown TIF Boundary

*waive the reading, accept the communication and place it on file

3.11. COMMUNICATION: Burlington Residents, re: City's recent hire

*waive the reading, accept the communication and place it on file

3.12. COMMUNICATION: Hunter Rieseberg, Vermont League of Cities and Towns President, re:
VLCT Board Sets DY14 Dues

*waive the reading, accept the communication, place it on file and send a copy to the Board of Finance for consideration

3.13. COMMUNICATION: Chittenden County Assistant Judges, re: Pre-Budget Meeting

*waive the reading, accept the communication and place it on file

3.14. COMMUNICATION: Charlie Baker, Executive Director, Chittenden County RPC to Peter Kiebel, Natural Resources Board, re: City of Burlington, Dept. of Parks & Recreation, Waterfront Park, Application #4C0863-4

*waive the reading, accept the communication and place it on file

4. PRESENTATION: William Ward, Code Enforcement Director, re: SeeClickFix (10 mins.)

Code Enforcement Director Bill Ward stated that his office was using an independent vendor called SeeClickFix on a trial basis. It is a web based tool that people can access from their cell phones and their home computers to report and track complaints. The three principles it uses are empowerment that it gives anyone who uses the internet to track a complaint from wherever they are. It is efficient so that people can see what has already been reported and avoids duplicate complaints. It allows people to work together to make neighborhoods better. It also engages people and gives them an instant response. He displayed a slide showing the numbers of complaints collected by patrolling the streets. There was a significant increase from 2010 to 2011. They made an effort to double that effort and that had been done this year. 296 of the 477 office driven complaints were green belt related issues; SeeClickFix would help with those efforts. Different communities are using this and Burlington is operating at #15. He displayed the app and explained how it works. It can be used on a smart phone or a desktop computer. Citizens can report and vote on things that are happening in their neighborhood. Some communities affected by Hurricane Sandy used this and it prevented 911 calls. He displayed a map showing different complaints and their status. Closed issues stay visible for a week before getting archived. Archived items are helpful in locating trouble spots. The person who made the complaint will receive an email showing their complaint has been acknowledged and then resolved. It is also possible to watch your neighborhood or ward. Property owners who live outside of Burlington will be encouraged to watch from their computers. He played a video giving more detail about how to use the program. The system is set up to send complaints to the Code Enforcement Department. The graffiti removal team is also partnering on this. The plan is to use this on a trial basis until July 2013. The investment for that period is \$400. He has been pleased with the results so far. There have been small issues with the map when the GPS has been off.

Councilor Dober inquired how those without access to computer or a cell phone could report complaints and whether they would include those in the app. Mr. Ward stated they would probably not load it into the app, but their complaint would be acknowledged as it always has been. Complaints can be emailed, called, faxed, or submitted in person to his office. There are times when people prefer to keep complaints private, particularly landlord tenant issues. Councilor Dober inquired what the repository for complaints will be. Mr. Ward stated a member of their office attended the AMANDA Conference where they are able to run a number of programs. It is likely that the two systems will be able to be melded so that a complaint in SeeClickFix will generate an AMANDA work order. They will then be tracked simultaneously; currently that is happening manually.

Councilor Tracy inquired if there were patterns of where in the City they see the most complaints and if there has been anything surprising. Mr. Ward stated he has not been surprised. It is too early to know about patterns, but most of the complaints have been centered in the hub of the downtown area. The public nature of this will lend itself to faster fixes. Most homeowners want things cleaned up quickly. To prevent this, the mentality of people living in those places will need to change. There are some places that they have issued tickets to and that information is public. In some cases when they have not been able to

reach the landlord, they have put a notice on a wooden stake indicating there is a violation so the tenants and property owner can see it. Usually there are pretty quick results from that.

Councilor Aubin inquired if a report appears instantly on the app or if there is a vetting process. Mr. Ward stated it automatically goes into the system and they automatically get a report. It is an outside program, so there is a flag to indicate if something is inappropriate. The designers of the software have added filters to prevent certain words from the system. Anyone can flag inappropriate posts. They could block a certain IP address if a user was not behaving appropriately.

Councilor Worden stated he has downloaded and been using the app. He had a neighbor parking on the lawn. He got a response and has not seen a car parking there since. It does seem to work. It is a good option on a weekend or evening when you cannot pick up the phone to call Code Enforcement.

Councilor Decelles stated that they recently discussed an ordinance about four unrelated adults which felt like it had no teeth. He felt there was a better way to address these problems, and he feels this is it. The public humiliation of property owners will hopefully be enough to encourage them to solve these problems.

Councilor Paul stated she has had constituents send her emails with specific questions. One question was whether or not the app has been vetted for legal requirements. City Attorney Blackwood stated she does not know. Mr. Ward stated he presented it to Senior Assistant City Attorney Bergman. He inquired if the concern was related to anonymous complaints. Councilor Paul stated the inquiry was about anonymous complaints, as the City must be able to provide the name and address of the person making the complaint. Mr. Ward stated they have to deal with anonymous complaints with or without SeeClickFix. If someone took an anonymous photograph, the Code Enforcement Officer assigned to the case would become the original complainant. Councilor Paul stated another constituent had inquired about parking issues. Mr. Ward stated it is not designed for that, but there have been complaints about cars on sidewalks. The Parking Enforcement team issued a ticket within a few minutes. When Code Enforcement is not open for business, it is faster to call Parking Enforcement. When the issue is on someone's property, complaints should go to Code Enforcement. If it is on the City streets it belonged to the Police Department.

City Council President Shannon inquired if Parking Enforcement receives complaints reported through SeeClickFix. Mr. Ward stated that is not the appropriate way to report parking violations unless it is in someone's yard. They have limited the complaint types to things that fall within their purview. City Council President Shannon inquired if a person could look up a neighbor's history of complaints by typing in their address. Mr. Ward stated that is not part of the information available. It is possible to look at archived information by street. Currently there is only a month of data archived.

Mayor Weinberger stated this technology was discussed during the Mayoral campaign. He thought it would be difficult to get off the ground, but he appreciated that Director Ward had jumped in and experimented with this application. It was worth noting that this was an experiment. If it turned out not to work, they will make necessary changes. He hoped it can be expanded to other areas once Code Enforcement perfects it.

Councilor Kranichfeld stated this was discussed as a practical solution to a real problem in the City. He is happy that this has been put together and appreciates the efforts. He hopes this is a successful experiment and leads to a more productive way of dealing with problems.

Mr. Ward stated it is an opportunity to see what is happening and shows people the hard work that has been going on all along. There have been about 500 self-directed Code complaints alone in the last 11 months. The office also has generated about 244 complaints. He is proud of the work of his office and this gives people a glimpse of what they do each day.

4.01. COMMUNICATION: Code Enforcement, re: SeeClickFix

Councilors Aubin and Dober made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

4.02. COMMUNICATION: Director William Ward, re: New tool for citizens and Code Enforcement

Councilors Aubin and Dober made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

5. RESOLUTION: Independent Review Re July 29, 2012 New England Governor's & Eastern Canadian Premier's Conference (Councilors Brennan & Siegel)

Councilor Kranichfeld stated he would recuse himself from the discussion because of a conflict of interest due to his position at the State's Attorney's Office as a Deputy State's Attorney. Because this involved behavior that could result in criminal charges his involvement in this resolution could appear biased.

Councilors Brennan and Siegel made a motion to waive the reading and adopt the resolution.

Councilor Brennan stated that part of this discussion was to alleviate the appearance of a problem. Many of the "whereas clauses" talk about the day that protesters protested Tar Sands Oil. There were individuals who were protesting something near and dear to their hearts. This seems to have been lost in the process and it is important to acknowledge that. There are concerns about moving that oil through Vermont and there will always be concerns, especially as the country is moving towards seeking fossil fuels from the Middle East. He thanked Councilors who organized and attended the Town Hall Meeting on this subject. There was productive discussion and debate about what happened. The community needs to come together and come to an agreement to heal and move forward. There is value in people being able to come to officials to express discontent. There are a series of questions and amendments to the resolution that came as a result of the Town Hall Meeting. Respectful dialogue was maintained throughout the evening and the goal is to find truths and remove the chilling effect of protesting. There has been a heightened fear that has come as a result of this incident.

Councilor Dober stated he has talked to Councilor Brennan about this resolution at length. He will not be supporting it. There is a process in place and it was followed. The after action report was done by an independent group and it indicated the process was followed and was warranted. He watched the video online and saw that the situation got bad fast. Burlington does a fantastic job of allowing people to have protests. This particular one had protesters who allowed it to be steered by outsiders. He could not recall another time where this was not a coordinated effort. He would not have wanted to be sitting on that bus being held against his will. That flirted with a hostage situation where people were held against their will in a confined area. Freedom of speech is alive and well and has always been allowed to happen. He has been satisfied with each of the reports that have been issued.

Councilor Bushor stated she will support the resolution. Since the event occurred, she attended meetings that were publically held. She believed that this was important because the review was incomplete at the current moment. The Police did an internal after action report. These reports are done to determine what happened, see what was done right and wrong, and reflect on the situation. The review was then done by the Police Commission. She respected the Police Commission, but felt that they were too close to the Department to provide an impartial and detached review. That part of the process should be evaluated. The Police Department and Commission did a good job with their internal reviews. They allowed

members of the public to make comments. However, comments were limited and were not dialogues. It would be important to get information regarding the event from witnesses and protesters. There has not been an opportunity for Protesters and Police have a dialogue. Two people witnessing an event do not take away the same thing, but there is value in having a conversation. This does not blame anyone, but resolves the situation that exists now. People are not satisfied right now. It is important to get beyond this by having a complete review.

Councilor Blais stated he appreciates the good intentions of this resolution, but does not feel this is within the City Council's function. This body acts in a legislative manner to guide future behavior through resolutions and ordinances. Past behavior is left to the judiciary in this form of government. This resolution cloaks the Council with the robes of the judiciary. The resolution queries whether citizens' constitutional rights were upheld. Making that determination is not the Council's job. Those who claim that their rights were violated can go to court. In those forums, their complaints will be impartially and fairly reviewed. He will vote against the resolution.

Councilor Tracy stated that he would support the resolution. There had been discussions about human rights and accountability. He hoped that this review would show the multiple perspectives. People were trying to act as humans on that day by speaking out to protect the right to exist on this planet. He hoped the Council can work to mitigate the harms of tar sands and environmental threats. On that day people exercised their fundamental rights of expressions. People are born with the right to free speech. It is possible for humans to make mistakes, and he is unsure who made mistakes. Everyone at the Town Hall Forum was able to speak and it was very moving. It was a productive conversation. The comments were passionate and respectful. People have a desire to be heard and this will allow for reconciliation.

Councilor Paul stated that she was glad she attended the Town Hall Forum on this issue. There did need to be a way to move forward and get past this and wants to do that by coming together. She is struggling with this because the longer it is discussed it feels it is about Police versus Protesters. The situation is only getting worse and she wants everyone to feel valued and respected. Everyone feels Burlington has a top notch Police force. She inquired if the Police Chief felt there were things that could be done in a better way. Police Chief Michael Schirling stated he did and they learn from each event. They respond to a number of events each year and they are always looking for better ways to handle them. They have made recommendations and the Commission has requested more work be done to minimize the opportunity for this level of conflict to arise again. They will continue to embrace protest as something that the City is welcoming of. Councilor Paul stated people are looking for genuine and honest dialogue in a forum that is smaller than the town meeting. This will give everyone an opportunity to talk honestly and openly about what happened. This would help the healing process. She inquired if the Department and Officers who were involved would be open to this kind of discussion. Chief Schirling stated that under the right circumstances they would be. He has offered to do this a few times. If a similar situation were to arise in the future, they would like to do everything possible to minimize the impact. The majority of the conversation has been about what officers did, and he takes issue with that. The video shows what happened. They entertain all suggestions about better ways to do business. He often hears that people are surprised he will always answer his phone and that he will always sit and talk with people. There is a complex legal landscape around this issue. He must be careful not to put the investigation in jeopardy with the judiciary system.

Councilor Worden stated he was dismayed to see the photograph and information in the *Free Press*. He has been reading and watching videos regarding the subject. It is imperative that they protect the ability to protest. The Police force does a great job as well. People have said they would like to see more Police presence in their neighborhoods. He has a challenge in balancing those roles. The resolution feels as if it is judicial. He would support something that would put together a review or panel of what could be done better in the future. He likes the approach where they can discuss and prepare events with protesters to come to a better outcome but cannot support this as written.

Councilor Aubin stated he has concerns with some aspects of the resolution. He has a hard time seeing what happens at the end of the review and feels it is too open ended. He is confused how this investigative body would be formed. He wishes there was something they could do to move forward. This looks backwards and has a sense of blame, yet there are people who feel they need to be heard. There is room for the Council to find that avenue. He is hopeful something can be moved but did not feel this was the right resolution and he will vote against it.

Councilor Mason thanked Councilors for their work on resolving this issue. He will not support this resolution as it looks backwards and not forwards. It is not within the Council's authority to be analyzing constitutional claims. That should be properly analyzed by a lawyer and the State's Attorney Office. He also has a problem using City money to fund a report that could then be used against the City. He is frustrated that this has been the only option presented. The Police Commission has identified at least five areas that will be looked into and hopes to see follow through from that.

Councilor Siegel stated she questions the validity of the process. When the Chief said that the videos provided a clear and thorough image of what happen she takes issue with that. It is one angle. There is an image of a protester being jabbed in the stomach with a baton and she grabs on to the baton for balance. The Police considered that assault of an officer and she then got shot. That is assault of a protester in her mind. Seeing the video does not answer that question. She agrees they are not a judicial body which is why the resolution requests someone else conduct that review. Looking backwards is not a bad thing. The Diversity and Equity Committee that was recently formed was charged with looking backwards at past efforts. She does not agree that they cannot spend money on this.

Councilor Brennan stated the City has a \$40 million budget and can be creative and find many avenues to look at this opportunity. There were things brought forward during the public forum. The Chief has made it clear that there is an investigation. This has created a chilling effect on those who were present as to this threat of possible prosecution. There has also been discussion about the possible threat of lawsuit. He believes that no one on either side wants this. He hopes they can find leadership to come to a resolution. The Mayor has been quiet on this and he would like to know his opinions.

Councilor Bushor requested the Mayor be given the opportunity to speak on this issue.

Mayor Weinberger stated that the events were unfortunate and everyone hopes they do not happen again. This has been discussed for months and a number of public forums have been held. All community members have been invited to give input. There is a detailed record of what happened. The result has been revision to policies to avoid a repeat of these events in the future. The administration is focused on making sure this review is pursued to completion. He accepts the Police Commission's recommendation that no further investigation is needed. He respects that some members of the community still feel unsatisfied. He urges everyone to move forward and learn from the events that day.

Councilor Siegel requested a roll call.

The motion failed by a vote of 4-9-1.

AYES: Councilors Brennan, Bushor, Siegel and Tracy

NAYS: City Council President Shannon, Councilors Aubin, Blais, Decelles, Dober, Hartnett, Mason, Paul and Worden

Councilor Kranichfeld recused himself from the vote.

5.01 . (was 3.07.) COMMUNICATION: Mayor Miro Weinberger, re: Livable Wage Ordinance

Councilor Siegel stated she requested this be put on the deliberative agenda to discuss the process of reviewing the ordinance. She was confused why this had been referred to the City Attorney and not the Ordinance Committee. It should be dealt with by the Council, not internally by the Administration.

Mayor Weinberger stated the Mayor's Office is responsible for administering the ordinance. Through the discussion, the Administration has been concerned about the ways it has been administered in the past and if it should be handled differently in the future. Policy questions may come to light that require the Council's involvement. This was not intended to preclude involvement from the Council. It is important to signal that they will be reviewing the administration of the policy.

Councilor Bushor stated she understood the Mayor's position and it was appropriate for the Administration to review the ordinance and the exemption. She hoped that the 90 day window could be shortened. She noted that several experts on the subject attended the meeting and it was important to hear what they thought. If there were changes to be made, it would be best to engage the community in that discussion. She would like the community, Councilors, and the business community to be involved. She saw the Administration as internal and hoped that this would be more transparent and external. She would like everyone to hear the review and understand it fully by engaging the public.

City Council President Shannon stated that she felt this needed to be addressed and the Mayor was using the tools that he has to do so. The Council has different tools. At the time this ordinance was created they needed the Administration's attention but it was unavailable. They knew there would be problems with the livable wage as it applied to the Airport. They decided to deal with these problems through the exemption clause. There was dissatisfaction with that process. The Council needs to pick this up and refer it to the Ordinance Committee for review. That will get the public eye on the process. Councilors should consider putting forward a proposal at the next meeting.

Councilor Bushor stated she supported doing that but wanted to ensure that there were not two parallel things happening at the same time. She wanted to be respectful of what needed to be done both on the legal side and the policy side. She hoped it was a cohesive process.

Councilor Decelles stated he believed that his vote was the right vote at the Board of Finance. However, he believes in a level playing field. He appreciates what the Administration is going to do but he would prefer to make a motion to refer this to the Ordinance Committee. They will work with the City Attorney's staff to ensure that the process is cohesive.

Councilors Decelles and Paul made a motion to refer the letter to the Ordinance Committee to work with the Administration to make recommendations to the Council. The motion passed unanimously.

6. COMMITTEE REPORTS (5 mins.)

No one spoke on this issue.

7. COMMUNICATION: City Councilors, re: General City Affairs (oral)(10 mins.)

No one spoke on this issue.

8. COMMUNICATION: Mayor Weinberger, re: General City Affairs (oral)(5 mins.)

Mayor Weinberger stated that there was an item in the packet following up on the revitalization of the Advisory Committee on Accessibility. The Committee assignments were set by action on the consent agenda. He thanked Councilor Bushor for her work on revitalizing this committee.

9. COMMUNICATION: Joseph McNeil, Esq., re: IBEW Negotiations (oral)

On a motion by Councilors Mason and Bushor the Council went into executive session at 9:48 p.m. premature disclosure would place the City at a substantial disadvantage.

*** * * * EXPECTED EXECUTIVE SESSION * * * ***

On a motion by Councilors Brennan and Bushor the Council went out of executive session at 10:21 p.m.

10. ADJOURNMENT

On a motion by Councilors Dober and Bushor the Regular City Council Meeting unanimously adjourned at 10:22 p.m.

Attest:

Lori Olberg, Licensing, Voting & Records Coordinator and Amy Bovee, Executive Secretary

DELIBERATIVE AGENDA

LOCAL CONTROL COMMISSION
CONTOIS AUDITORIUM, CITY HALL
MONDAY, DECEMBER 17, 2012
7:10 P.M.

PRESENT: City Council President Shannon, Councilors Dober, Decelles, Bushor, Tracy, Siegel, Brennan, Kranichfeld, Worden, Mason, Aubin, Paul, Blais and Hartnett

CITY ATTORNEY'S OFFICE: Eileen Blackwood

CLERK/TREASURER'S OFFICE: Paul Sisson, Rich Goodwin and Scott Schrader

CITY COUNCIL PRESIDENT SHANNON PRESIDING:

1. AGENDA

On a motion by Commissioners Dober and Blais the Local Control Commission was unanimously adopted as amended as follows: note for agenda item 5. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2012-2013): Pouch Foods, LLC, d/b/a Esperanto (formerly Souza), 131 Main Street, Unit 23, Will Pouch, co-owner, completed the DLC seminar training on 11/21/12. (this information was in the packet, not written on the application)

2. CONSENT AGENDA

On a motion by Commissioners Dober and Blais the consent agenda was unanimously adopted thus taking the following actions as indicated:

2.01. OUTSIDE CONSUMPTION PERMIT APPLICATION (two days only):

Courtyard Burlington, 25 Cherry Street, February 1 through February 2, 2013
*waive the reading, accept the communication, place it on file and approve the outside consumption permit application for two days only at the Courtyard Burlington Harbor, Friday, February 1, 2013 and Saturday, February 2, 2013, 5 p.m. – 10 p.m., "The Ice Bar" Event

3. FIRST CLASS CABARET LIQUOR LICENSE APPLICATION (2012-2013):

Vinifera, Inc., d/b/a Uva, 126 College Street

and

4. SECOND CLASS STORE LIQUOR LICENSE APPLICATION (2012-2013):

Vinifera, Inc., d/b/a Uva, 126 College Street

Commissioners Dober and Tracy made a motion to approve the first class cabaret and second class store licenses Vinifera, Inc., d/b/a Uva.

Commissioner Dober stated that these were new applications. The applicant wished to sell wine. Because of the location of their building, they need to go through a permit process and rezoning. These licenses were being held until those processes were complete, but they did want to go through this process before investing the money.

The motion passed unanimously.

5. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2012-2013):

Pouch Foods, LLC, d/b/a Esperanto (formerly Souza), 131 Main Street, Unit 2E

Commissioners Dober and Tracy made a motion to approve the first class restaurant license for Pouch Foods, LLC, d/b/a Esperanto. The motion passed unanimously.

6. SECOND CLASS STORE LIQUOR LICENSE APPLICATION (2012-2013):

Guild Fine Meats, LLC, d/b/a Guild Fine Meats, 197 College Street

Commissioners Dober and Tracy made a motion to approve the second class store license for Guild Fine Meats, LLC, d/b/a Guild Fine Meats.

Commissioner Dober stated that this was a new concept that the Committee has been seeing applications for. They would be selling meats as a butcher shop and would also sell bottles of beer and wine.

The motion passed unanimously.

7. ADJOURNMENT

Without objection, the Local Control Commission Meeting adjourned at 7:17 p.m.

Attest:

Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary

ADJOURNED MEETING, CITY COUNCIL
CONTOIS AUDITORIUM, CITY HALL
MONDAY, DECEMBER 17, 2012
7:17 P.M.

PRESENT: see above

CITY COUNCIL PRESIDENT SHANNON PRESIDING:

City Council President Shannon held a moment of silence to recognize the incident in Newton, CT.

1. AGENDA

On a motion by Councilors Kranichfeld and Dober the agenda was unanimously adopted as amended as follows: amend the action for consent agenda item 3.15. COMMUNICATION: Report on the Fifty-Ninth Actuarial Valuation of the Burlington Employees' Retirement System Prepared as of June 30, 2012 with the consent action to "waive the reading, accept the communication, place it on file **and refer to the Board of Finance;**" note for consent agenda item 3.19. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (one day only): Skinny Pancake, 60 Lake Street, Suite 1A, New Year's Eve **Two** Hour Extension and Dancing with the consent action to "waive the reading, accept the communication, place it on file and approve the one day only Special Event Indoor Entertainment Permit Application for Skinny Pancake, New Year's Eve, **Two** Hour Extension of the Indoor Entertainment Permit Application and Dancing;" add to the consent agenda item 3.20.

COMMUNICATION: William E. Johnson, Director, Property Valuation and Review, State of Vermont, Department of Taxes, re: Division of Property Valuation and Review Certified Equalized Education Property Value (Effective 1/1/2013) with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 3.21. COMMUNICATION: Mathew Viens, President, Preservation Burlington to Yves Bradley, Chair, Burlington Planning Commission, re: Historic Building Materials Replacement Policy with the consent action to “waive the reading, accept the communication and place it on file;” remove from the agenda item 5. PRESENTATION: Richard H. Cate, Vice President for Finance and Administration and University Treasurer, UVM, re: Zoning MOA With UVM (oral)(20 mins.) and refer it to the Community Development and Neighborhood Revitalization Committee; note title change and revised version of agenda item 7. RESOLUTION: Encouraging Conservation and Use of Cleaner Energy Sources and Divestment From Tar Sands Oil Affiliates (Councilors Brennan, Shannon, Siegel, Tracy, Worden, Aubin); note revised version of agenda item 8. RESOLUTION: March 5, 2013 Annual City Meeting – Advisory Referendum Regarding Opposition to Tar Sands Oil Based on Environmental Impacts.

City Council President Shannon stated that consent agenda item 3.21. COMMUNICATION: Mathew Viens, President, Preservation Burlington to Yves Bradley, Chair, Burlington Planning Commission, re: Historic Building Materials Replacement Policy had the action to waive the reading, accept the communication and place it on file, but she was not sure that was the correct action. She stated it would appear on the next agenda.

Councilors Kranichfeld and Worden made an amendment to the motion to remove consent agenda item 3.21.

Councilor Paul amended the motion for consent agenda item 3.15. COMMUNICATION: Report on the Fifty-Ninth Actuarial Valuation of the Burlington Employees’ Retirement System Prepared as of June 30, 2012 to waive the reading, accept the communication, place it on file, refer to the Board of Finance and that it would reappear on the January 7 meeting of City Council.

Councilor Bushor raised a point of information and inquired why agenda item 5 was removed from the full Council and referred to a subcommittee. City Council President Shannon stated there is an item in the CD Committee to address issues with UVM. It was put on hold because there was a new Administration at UVM. Mr. Cate will discuss this first with the CD Committee and will return to the Council in February when they will deliver the housing report. Mr. Cate is not present to give the presentation tonight. Councilor Bushor requested agenda item 5 be voted on separately. City Council President Shannon stated there is no possibility of a presentation tonight because Mr. Cate is not here and she did not receive any objections prior to the meeting. Councilor Bushor stated she did not receive that email in time to weigh in.

Councilors Kranichfeld and Worden made a motion to remove agenda item 5.

Councilor Bushor stated the reason she wanted to divide the question and will not support removing this item is because they have been waiting for this presentation since June. This is broader than a subcommittee issue. As a Ward 1 City Councilor, she has had questions for Mr. Cate regarding this communication. Because of the issues with institutions and the community, this would be better heard by the full Council. She would be inclined to request the President schedule him in January for the full Council. City Council President Shannon stated the expectation is that he will present to the full Council in February. If the subcommittee cannot report by February, Mr. Cate will still report to the full Council.

The motion passed by a vote of 12-2 with Councilors Bushor and Paul opposed.

2. PUBLIC FORUM

City Council President Shannon opened the public forum at 7:30 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Selene Colburn	Ward 1 Resident	Library Commission Applicant
Zoe Richards	Ward 5 Resident	Conservation Board Applicant
Richard Hillyard	Ward 1 Resident	Against Redistricting Process
Alexandra Zipparo	Ward 3 Resident	Development Review Board Applicant
Andrew Simon	Ward 5 Resident	In favor of Tar Sands Oil Resolution
Kurt Wright	Ward 4 Resident	Against Redistricting Proposals
Charles Delaney-Megeso	Ward 4 Resident	In favor of Tar Sands Oil Resolution
William Scott	Ward 7 Resident	In favor of Tar Sands Oil Resolution
Emily Tompkins	Ward 2 Resident	In favor of Tar Sands Oil Resolution
Adam Brooks	SEABA Director	SEABA Activities
Kate Perry	Ward 5 Resident	In favor of Tar Sands Oil Resolution
Shelley Kath	Natural Resources Defense Council/Montreal Resident	In favor of Tar Sands Oil Resolution
John Mahoney	Ward 4 Resident	Airport Parking Garage Issues, Apartments on UVM Campus
Keith Brunner	Ward 2 Resident	In favor of Tar Sands Oil Resolution
Jean O'Sullivan	State Representative/ Ward 7 Resident	In favor of Redistricting Proposal
Emma Mulvaney-Stanak	Winooski Resident	Diversity Issues in Redistricting
Jan Schultz	Ward 6 Resident/ Burlington District Energy Service	Heating System from McNeil Station
Marc Sherman	Ward 7 Resident	Public Works Commission Applicant
Jim Holway	Ward 4 Resident	Opposed to Redistricting Proposal
Barbara Nolfi	Ward 1 Resident	Opposed to Redistricting Proposal
Don Schramm	Ward 1 Resident	In favor of Tar Sands Oil Resolution
Robert Resnik	Ward 5 Resident/	In favor of Library Director

	Library Employee	Appointment
Anne Charron	Ward 6 Resident	Problems with Redistricting Process

There being no one else wanting to speak and there being no objection from the remaining Council, City Council President Shannon closed the public forum at 8: 16 p.m.

3. CONSENT AGENDA

On a motion by Councilors Bushor and Kranichfeld the consent agenda was unanimously adopted as amended thus taking the following actions as indicated:

Councilors Paul and Mason were not at the table for the vote.

Councilor Bushor offered an amendment to consent agenda item 3.11 to include language referring to the attachment.

3.01. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re:
Accountability List

*waive the reading, accept the communication and place it on file

3.02. RESOLUTION: Acceptance of Ford Credit Municipal Finance Lease for Purchase of
5 Police Cruisers in FY 13, and Amending the FY 2013 Budget
(Board of Finance)(pending BOF approval on 12/17)

*waive the reading and adopt the resolution

3.03. RESOLUTION: Authorization to Execute Ground Lease With Fairpoint Communications
(Telephone Operating Company of Vermont LLC) for Communications
Cabinet Placement on Wells Street (Councilors Dober, Tracy, Blais:
License Committee)

*waive the reading and adopt the resolution

3.04. RESOLUTION: Authorization to Execute Letter of Acknowledgment Re: U.S. Army
Corps of Engineers Oil Bollard Removal Project (Councilor Mason)

*waive the reading and adopt the resolution

3.05. RESOLUTION: Burlington Transit Facilities and Services Memorandum of
Understanding With Chittenden County Transportation Authority Re
Assignment of FTA Grant Number VT -03-047 (Board of Finance;
Transportation, Energy & Utilities Committee)(pending BOF approval
on 12/17/12)

*waive the reading and adopt the resolution

3.06. COMMUNICATION: Kirsten Merriman Shapiro, Special Projects Manager, CEDO, re: City
Transfer of FTA Grant #VT-03-0047 to CCTA

*waive the reading, accept the communication and place it on file

3.07. RESOLUTION: Approval of Purchase Power Agreement With Encore BTV Schools
Solar II, LLC (Board of Finance)

*waive the reading and adopt the resolution

3.08. COMMUNICATION: Ken Nolan, Manager of Power Resources, Burlington Electric

Department, re: Encore BTW Schools Solar II, LLC Solar PPA

*waive the reading, accept the communication and place it on file

- 3.09. RESOLUTION: License Agreement With KAS, Inc. to Install Six Ground Water Monitoring Wells on Portions of the Public Rights-of-way on Center Street, Bank Street, College Street and So. Winooski Ave. (Councilors Dober, Tracy, Blais: License Committee)

*waive the reading and adopt the resolution

- 3.10. RESOLUTION: Authorization for Utilization of City Cash Pool to Provide Funding, and to Contract for Reconstruction of Terminal Facility Roof at Burlington International Airport (Board of Finance)

*waive the reading and adopt the resolution

- 3.11. RESOLUTION: Approval of Schedule 21 Transmission Agreement Between BED and Green Mountain Power Corporation (Board of Finance)

*waive the reading and adopt the resolution

- 3.12. COMMUNICATION: Ken Nolan, Manager of Power Resources, Burlington Electric Department, re: GMP Schedule 21 – Attachment A – Form of Local Service Agreement Georgia Mountain Community Wind

*waive the reading, accept the communication and place it on file

- 3.13. COMMUNICATION: Chair Nancy Ellis, Democratic Committee, Ward 4 – Burlington, Vermont, re: Redistricting

*waive the reading, accept the communication and place it on file

- 3.14. COMMUNICATION: Ian Galbraith, Member, Board of Health, re: Resignation

*waive the reading, accept the communication, place it on file, advertise the vacancy and send a letter of appreciation thanking Ian Galbraith for his years of service on the Board of Health

- 3.15. COMMUNICATION: Report on the Fifty-Ninth Actuarial Valuation of the Burlington Employees' Retirement System Prepared as of June 30, 2012

*waive the reading, accept the communication, place it on file and refer to the Board of Finance

- 3.16. COMMUNICATION: Laura Ziegler, re: Support for an independent review (Public Forum 12/3/12 Handout)

*waive the reading, accept the communication and place it on file

- 3.17. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (one day only):

Manhattan Pizza and Pub, 167 Main Street, One Hour Extension of the Indoor Entertainment Permit Application for a New Year's Eve Party hosted by the local band Hopeless Radio

*waive the reading, accept the communication, place it on file and approve the one day only Special Event Permit Application for Manhattan Pizza and Pub, New Year's Eve, One Hour Extension of the Indoor Entertainment Permit Application

- 3.18. SPECIAL EVENT OUTDOOR ENTERTAINMENT PERMIT APPLICATION (one day only):

Nectar's, Dealer.com Holiday Party, General Dynamics Building, North parking lot, Outdoor Music, Friday, December 14, 2012, 6:00 p.m. – 11:00 p.m.

*waive the reading, accept the communication, place it on file and ratify the one day only

Special Event Permit Application for Nectar's

3.19. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (one day only):

Skinny Pancake, 60 Lake Street, Suite 1A, New Year's Eve, **Two** Hour Extension and Dancing
*waive the reading, accept the communication, place it on file and approve the one day only
Special Event Indoor Entertainment Permit Application for Skinny Pancake, New Year's Eve,
Two Hour Extension of the Indoor Entertainment Permit Application and Dancing

3.20. COMMUNICATION: William E. Johnson, Director, Property Valuation and Review, State of Vermont, Department of Taxes, re: Division of Property Valuation and Review Certified Equalized Education Property Value (Effective 1/1/2013)

*waive the reading, accept the communication and place it on file

4. COMMUNICATION: Miro Weinberger, Mayor, re: Appointment of Fletcher Free Library Director (10 mins.)

Mayor Weinberger stated that he was excited to bring Rubi Simon forward for appointment as Director of the Fletcher Free Library. The Library is one of the oldest institutions in Burlington dating to the late 1800s. As the result of the retirement of Amber Collins who served the library for 42 years, there is an opportunity to appoint a new director. The process involved the Library Board and Friends of the Library who decided to change the model that the Library previously operated under. There will now be a single director model. That decision was a consensus decision shared by the Administration. They then had to find the right leader to bring the Library forward. He is convinced that they have found the right candidate in Rubi Simon. She has a strong background in her education and previous experience. Burlington is becoming more diverse and the Library must embrace this. She has worked in a number of communities and she herself came to America from Mexico. He thanked those involved in the process.

Rubi Simon stated she is looking forward to this new position. Burlington is a dynamic community and there have been a lot of opportunities. She has met most of the staff and is excited to get to know them. She looks forward to meeting the Council and hearing what is important to them and their communities. There have been conversations about technology and e-books around the country which will expand opportunities for services they can provide to communities.

Councilor Tracy and Ms. Simon spoke to each other in Spanish. Councilor Tracy stated that he is excited to have a bilingual Library Director. Ms. Simon stated she looks forward to working with everyone. Councilor Tracy inquired how Libraries can remain relevant in the digital age, if a large building is needed, and how digital resources can be utilized by all populations in Burlington. Ms. Simon stated that a lot of libraries have services in two areas- the traditional public library service and a virtual library. There are different populations with different needs. Those with access to technologies want an interactive library where they can do most things through the web. There are other users who do not have access to electronics and need traditional library services. Technological services can be offered by having the website in various languages. There is also an electronic gap and libraries are a part of helping people move forward with the changes that are happening today. Once she understands the needs of this community, they can begin to look at different ideas and other models to fit Burlington.

Councilors Bushor and Paul made a motion to approve Rubi Simon as the Director of the Fletcher Free Library. The motion passed unanimously.

5. PRESENTATION: Richard H. Cate, Vice President for Finance and Administration and University Treasurer, UVM, re: Zoning MOA With UVM (oral)(20 mins.)

This item was removed from the agenda and referred to the Community Development and Neighborhood Revitalization Committee.

6. COMMUNICATION: Clerk/Treasurer's Office, re: Openings Burlington City Commissions/Boards (10 mins.)

6.01. APPOINTMENT: Conservation Board (Term expires 6/30/16)

Councilor Mason nominated Zoe Richards to the Conservation Board.

Zoe Richards was appointed to the Conservation Board.

6.02. APPOINTMENT: Development Review Board-Alternate- (Term expires 6/30/15)

Councilor Siegel nominated Alexandra Zipparo.

Councilor Mason noted he had spoken with the other person who applied, Jane Sanders but she had withdrawn her application.

Councilors Mason and Blais made a motion to re-advertise the position.

Councilor Siegel stated that Jane Sanders withdrew her application because she was excited someone else, especially a young person, had applied. She felt the other applicant should have the opportunity to serve.

Councilor Decelles stated this was not a good road to go down .There were two candidates and one decided to withdraw their application. They should not re-advertise. That would send a horrible message to the citizens of Burlington.

Councilor Dober stated there were two candidates who did everything by the book. Just because one person decided not to serve he does not feel they should discard the applications.

Councilor Hartnett inquired if her application was late or if she had actually withdrawn it. People should not be made to withdraw applications because they were late. City Council President Shannon stated the date and time are on the application.

Councilor Paul inquired what the deadline was. City Council President Shannon stated the deadline was December 12th at 4:30 p.m.

Councilor Hartnett stated he had no problem with the candidate withdrawing her name but he wanted to make sure it was for the right reason. He did not want to punish someone for being eight minutes late.

Councilor Mason stated the reason for the withdrawal was not related to the timeliness of the application.

Councilor Siegel stated the candidate probably did not even know it was late.

The motion to re-advertise failed by a vote of 4-10 with City Council President Shannon and Councilors Blais, Kranichfeld and Mason voting in favor.

Councilor Tracy stated he had met the candidate and was impressed with her love of Burlington and interest in development issues. He appreciated her willingness to serve Burlington.

City Council President Shannon stated that she would not support this candidate because this position required someone to be a resident of Burlington for some time to appreciate what this community was about. This candidate was well qualified in other aspects and she appreciated her willingness to serve, but she would prefer her to serve when she had a few more years in Burlington.

Councilor Siegel stated she had lived here officially for a year, but commuted back and forth for school for three years prior to that. She has been part of Burlington's community for four years.

Alexandra Zapara was appointed to the Development Review Board-Alternate-.

7. RESOLUTION: Encouraging Conservation Use of Cleaner Energy Sources and Divestment of Tar Sands Oil Affiliates (Councilors Brennan, Shannon, Siegel, Tracy, Worden, Aubin)(15 mins.)

City Council President Shannon stated that she has put time limits on each of these items because they have a very long meeting

Councilors Siegel and Tracy made a motion to waive the reading and adopt the revised version of this resolution.

Councilor Siegel noted the changes to the resolution. They were asking for nine action clauses and outlined them.

Councilor Tracy stated that he was excited that this had come to a vote at the Council. It has been the result of a lot of hard work. No other City in the Northeast has done anything like this. Burlington will be a leader in this effort. He recently marched around the Whitehouse to ask Obama to reconsider this. It was very exciting and he hopes they can continue this energy moving forward. There is no time to waste when it comes to climate change issues and people must work together to ensure there is meaningful progress.

Councilor Worden stated he will support this. He hopes to encourage conservation. Energy and climate change issues will affect the future. It will impact security and civil rights in the future.

Councilor Aubin stated he will support this. Some may feel that this resolution has too high of a cost in the short term, but the current energy policy will have a balloon payment at the end. People are not good at long term planning. This issue is one with difficult short term steps, such as divesting from profitable companies, but will have a long term payback.

Councilor Brennan stated he is happy to hear that people support this resolution. This has meaningful impacts on lives and the future. The State of Maine is being heavily lobbied by Canada for this pipeline to come forward. There will be pressure to exploit those resources from Canada and it will be important to stay strong and look for alternatives. The pipeline they should be talking about is the one from the McNeil plant. That is a key component for reducing the City's carbon footprint. They could shut off many chimneys in the City by doing that. The City should also work to move away from large oil corporations. There is pressure from those companies and he hopes they have a unanimous vote on the resolution.

Councilor Bushor thanked Councilor Brennan for educating her on this topic. He has talked about cogeneration and brought this forward. She also thanked protesters in July for bringing this issue to light.

City Council President Shannon thanked Mary Sullivan from BED for bringing this to her attention and connected her with helpful information.

Mayor Weinberger stated that he appreciated this work and was excited for it.

Councilor Brennan requested a roll call.

The motion passed by a vote of 10-4.

AYES: City Council President Shannon, Councilors Aubin, Brennan, Bushor, Kranichfeld, Mason, Paul, Tracy and Worden

NAYS: Councilors Blais, Decelles, Dober and Hartnett

8. RESOLUTION: March 5, 2013 Annual City Meeting – Advisory Referendum Regarding Opposition to Tar Sands Oil Based on Environmental Impacts (Councilors Aubin, Siegel, Brennan, Shannon, Tracy, Worden)(20 mins.)

Councilors Siegel and Worden made a motion to waive the reading and adopt the revised version of this resolution.

Councilor Siegel stated this will place an advisory question on the ballot. They had debated whether this should be an issue in front of the voters or in front of the Council. They decided that since it asks people in higher positions to do something, it would weigh more heavily if both City Council and the voters to weighed in. It will ask the voters if they would like to see the State phase out purchases from vendors whose oil comes from tar sands. It will also ask the Obama Administration to review tar sands related proposals.

Councilor Brennan stated there will be forty town meetings this March discussing this issue. This will be healthy debate and is an advisory question. It is worth discussing this with citizens and NPAs for upcoming elections. It is healthy to have debates on these important issues. A pipeline in the Northeast Kingdom can be hard to imagine in Burlington, but it is worth discussing. This will let the voters decide.

Councilor Dober made a motion to call to question. The motion passed unanimously.

The motion to adopt the resolution passed by a vote of 10-4 with Councilors Blais, Hartnett, Dober and Decelles voting against.

9. RESOLUTION: Burlington Ward Redistricting Plan (Councilor Shannon) (45 mins.)

City Council President Shannon stated she will accept a motion on the resolution and then will have the City Attorney explain why this is being done.

Councilors Mason and Blais made a motion to waive the reading and adopt the resolution.

City Attorney Blackwood stated redistricting is being done because the U.S. Constitution guarantees each person one vote. According to the 2010 census, Burlington's wards are not giving each person one vote. Redistricting ensures all citizens have a voice in government. Because the wards are set out in the City Charter, there are limitations on the ability to change the Charter because any change must go through the Legislature. The timelines are driven by the scheduled March election and the legislative session. Prior to the March election there must be two public hearings that need to be warned thirty days in advance. There are two public hearings that would result from a plan being passed. There can be process during that time.

Lengthening the time would miss the March Election and require a special election. This could then miss the legislative session. This would prevent the City from implementing the new wards. Courts have done a number of things when there is a constitutional violation. If someone were to bring a suit to court saying their voice is not being equally heard, the court could impose an injunction until the issue is resolved, or they could write a plan they believe to be fair. That is a big risk for the City, in that the Council and the public lose their voices to weigh in. Another problem is that this is based on the census that was done in 2010. It has been nearly three years since this was complete, and waiting more than one year can be problematic. The City is already behind schedule because it has not moved forward until now. The reasons for that may hold some weight if there were a challenge.

Councilor Mason stated that she had mentioned that meaningful progress is required. There is confusion about what would be considered demonstrated progress if this were to be deferred. He inquired if delaying action and continuing to work on this until March of 2014 would be considered meaningful progress. City Attorney Blackwood stated it would depend on how a judge sees it. However, she is concerned that voters would have unfair representation in every election in 2013 and in March of 2014. She is not sure a court would consider that meaningful progress since it would be four years after the census.

Councilor Decelles stated that she mentioned case law where a judge rendered a decision. He inquired if that happened in Vermont. City Attorney Blackwood stated she is not aware of any Vermont cases, and Vermont courts tend to take a little bit of a different view in cases with community involvement. In other States, courts have stepped in and implemented plans. Councilor Decelles inquired if there would be a financial downside to this. City Attorney Blackwood stated she is not aware of any cases where monetary damages have been paid, but it could be a possibility. Councilor Decelles inquired if the voters were to vote this plan down, would a judge step in and impose a plan. City Attorney Blackwood stated the question is whether that vote would appear to be tainted depending upon who the voters are. She is unsure how someone would paint their case and make their arguments. Councilor Decelles inquired if the voters voted a plan down, would the City have to reconvene and put forth a new proposal in a special election. City Attorney Blackwood stated that is what they would do, but she is unsure if a judge would step in.

Councilor Siegel stated she would like to speak to the resolution. There are many whereas clauses that are not consistent with her memory of what happened on the Special Committee. One line states the public will be engaged. There was one Redistricting Meeting that they discussed involving NPAs for feedback. She was advised to say there will be another meeting and information is available on the website. There was not a discussion or an update on the process. That was not public engagement. Another line says they will report back to the Council to propose a Charter Change. The initial resolution called for a report back date of November to allow the Council time to consider the information. That did not happen. Another line talks about the number of Councilors remaining between 12-14, but that was not her recollection. It was also inconsistent from meeting to meeting. People mostly said they wanted to keep the Council approximately the same size. Another line asks for public engagement, which she has found sorely lacking. People in the public were interested, but there was not enough effort to reach out to them. There was no time for a formal presentation at an NPA until just last week. Another line reads there was a vote with a 3-2 majority. There was never a vote, just a straw poll. This document is misleading.

Councilor Bushor inquired if the City were to miss the deadline for the March Election, but then held a special election and made it to the legislature this session, would it be in effect for the next year. She stated she is trying to understand if having a special election would be useful. City Attorney Blackwood stated they have not worked out the numbers. They would also need to speak with someone from the Legislature about how quickly it would move. Councilor Bushor stated she feels it would be difficult to adjust boundaries and have it ready for 2014. The process was lacking in public outreach. There was an intent to notify the public earlier, but that did not happen as soon as intended. Only a few citizens were engaged early on. All of the people on the Committee made an effort to make their NPAs aware of what

was happening. There is no mandate for public engagement, but that is not the point. When talking about one person one vote, saying that the people you are representing do not need to be involved is illogical. She was one of the three votes that moved this forward. They struggled with a number of proposals. One map that did not come forward that she supported was the eight ward model. She feels that would represent people better. That is a nightmare for the City, but she does want to be responsive to voters. Having heard the information, she would have moved forward with that proposal. She had wanted to send two proposals forward because she felt the process was not complete. She says it is misleading to believe that she strongly supports the four ward model. She spoke in support of diversity and minority representation. She will not support moving this forward to the ballot. There may be opportunities for other proposals to come forward. She has received a number of comments that people are being underrepresented rather than being represented fairly. The best thing to do would be to reconfigure the committee to try to come forward with a proposal quickly. The citizens want to slow the process altogether, but there are also deadlines to consider.

Councilors Blais and Mason made a motion to substitute the 7 ward 14 councilor model that was submitted to the Council.

Councilor Blais stated this motion is the mechanism by which they can consider both plans. He will be in favor of the seven ward model. The current situation is that a significant population of the City is having their constitutional rights violated. In view of that, they should be prepared to move forward with a proposal today so that by 2015 they can have their constitutional rights returned to them. He appreciates the work that has been done, but the situation is not that difficult to understand. There is underrepresentation in the center of the City and overrepresentation in the New North End. The solution is not that complicated. The overrepresented area can lose one Councilor. That would be a poor plan. The second way to eliminate disparity is by having a wider geographical area encompassing a larger population. The four ward plan achieves that. The simplest way is to take the current configuration and make some geographic adjustments. There is no way to get around the fact that the New North End is overrepresented. The seven ward model accomplishes that. It may not be an ideal plan, but it is a constitutionally appropriate mechanism for citizens. He stated that they need to act on this soon to restore a constitutional right to voters.

Councilor Kranichfeld stated they have an obligation to pass a plan tonight. Not doing this tonight will delay this for a year. They are already three years late. Even being one year late can be problematic and open the City to lawsuit. A successful lawsuit would take this process away from democracy and impose the will of a federal court. He does not want to see that happen. There is no plan that will be without problems. He does not love either of the plans, but he does feel they are the closest to what everyone can agree on. He reminded Councilors that it will probably not get better no matter how much more work is done and they risk losing a democratic process by not passing something. He feels both plans have pros and cons, but they will not come up with anything better.

Councilor Hartnett stated they are three years behind in this process. If anyone at the polls were asked if they felt their constitutional rights were being violated, they probably would have been confused. Most people did not even know. The people doing redistricting had good intentions and were not trying to exclude the public. This process is difficult and they worked hard. Maybe next time around they should set things up better and be more engaged. Nobody is at fault.

Councilor Decelles stated he will not support the seven ward fourteen councilor version. This was the map the Committee spent the least amount of time on. No one can guess what the voters will do, but there is consensus that North Avenue does not make two different communities. Many people on Lakeview Terrace are upset by being represented by the New North End. There was one woman who suggested that adding parts of the Old North End to make the ward bigger. Others suggested doing that would just make an existing problem worse. They are different communities. If they put this in front of the voters, it will

get voted down. There were conversations about how many seats there should be and the process was very difficult. If a vote does happen and it goes down, he doubts a judge would take this away from the City. They will need to continue to do due diligence and more residents should be included. They will be needed to buy into a plan and pass it. The information was not released until March of 2011 and it took time to form the Committee. He suggested waiting.

Councilor Tracy stated he did not hear a consensus coming from the Redistricting Committee and will not support either plan. He will not support the four ward model for five reasons. The first is that enlarging the Ward makes it difficult to knock on every door in the Ward. Candidates would probably pull lists of likely voters and go to the doors of only specific voters. It would also be more costly to run an election. City Council races tend to cost around \$2,000. That is especially difficult for candidates without a party structure behind them. Doubling the size of the Ward would also increase the cost. It also makes it more difficult for independents to run without a party structure. There are enormous challenges facing the City and it is difficult to fulfill all the obligations of a Councilor. Reducing the size of the Council would make more work for fewer people. Finally, he does not believe that this would pass in the New North End. He opposes the seven wards with fourteen Councilors because it blurs the lines between the New and Old North Ends which are very different places. These differences bear the need for different kinds of representatives. He feels they should address this when there is a plan that has more support.

Councilor Aubin stated he is in favor of the four ward plan. He feels that something does need to be done, and it would be wise for the Council to move forward. This is the one plan that spreads the pain evenly without politicization. The lines are drawn in a way that reflects communities, not interests on behalf of the Council. It is not great for the New North End, but it spreads that pain within every section of the City. He will support that plan.

Councilor Mason stated he wants to move this forward and will support the seven ward plan. He does have concerns about the four ward plan. Not moving forward would be burying their heads in the sand. It is too late and something needs to be passed to publically warn this on the March ballot. Without passing something, there is a risk that the City will not be making the map. This is now on voters' minds. Only one Burlington resident bringing this to court could take this right away from the City. No plan is perfect, but a change has to be made. He feels a need to vote and move forward with a plan.

Councilor Decelles raised a point of information and inquired if the City Attorney's Office could provide something on paper to share with the Council to help clarify the legal threat. City Council President Shannon stated that is not a point of information and he can ask the question when it is his turn.

Councilor Dober stated there are members of the Committee unconvinced that they made the right decision and they are now adding more plans. This is the reason that more work needs to be done. He has received a number of emails about how quickly this process is going. Some feel the public was not involved at all. He cannot support either model at this point. There was no clear direction and people do not know where this will end up.

Councilors Dober and Decelles made a motion to amend the motion and refer this back to the Redistricting Committee.

Councilor Mason raised a point of order and inquired if the motion is allowed. City Attorney Blackwood stated the City Council rules only allow for two motions at a time. The original motion was for the four ward plan, the second motion was for the seven ward plan, and this would be the third motion. City Council President Shannon stated the rules say they can only have two amendments, so this would be the second amendment. Councilor Decelles inquired if Councilor Blais' motion was a substitution not an amendment. Councilor Blais stated it is a motion to amend. City Council President Shannon stated that two amendments are allowed, but there cannot be any more amendments after this. Councilor Mason

stated his understanding was that Councilor Blais' amendment was to substitute one plan for another. This amendment would strike the entire Redistricting Plan and propose that it be tabled. He inquired how this would be permissible. City Attorney Blackwood stated that because this is on point, it is appropriate to make a motion to amend. City Council President Shannon stated she will allow it.

Councilor Worden stated there had been a lot of work and many plans. He is concerned that none of these plans are ideal, but does not feel any plan would be. There is a prevailing sense that eight wards would be an improvement. That would resolve a lot of mathematical issues. They have been increasing the number of wards and this has left people wondering where and how they are represented. The four ward model would be much more stable for changing populations. With the eight ward model, there would already be changes needed to the size of districts because of development. He does not support four wards because it consolidates issues that would better be spread between wards. He does support the seven ward model because it causes the least change. It does impact one neighborhood significantly, but there are currently neighborhoods that are not fairly represented. Both are significant issues.

Councilor Brennan stated he is in favor of sending this back to Committee. The two plans on the table raise concerns. There is a better solution out there. Having more representation is not a bad thing. He sees that females in the Council bring rich discussion to the debates that they have. He does not always feel that the male members of Council do not always have such rich discussion. Looking at how resolutions have come forward, he feels many of them have been put forth by women. With the two proposals, he feels they would lose that opportunity for richness.

The Council took a 5 minute recess.

The motion to amend the motion to refer the resolution back to the Redistricting Committee passed by a vote of 8-6 with City Council President Shannon, Councilors Blais, Aubin, Mason, Worden and Kranichfeld voting against.

Councilor Siegel stated that if this motion passes, the Committee would convene a new Committee with a different configuration. She hopes that it will be more of an NPA based decision to allow the public to weigh in. She is not sure they will have a perfect proposal, but does feel it will be transparent and give everyone a voice at the table. There are people who feel they are being wronged, and this will involve them better and benefit the City.

Councilor Aubin stated he voted against the amendment because he feels that it is important to make a statement about the proposals before it goes back to Committee. He feels it would be helpful information.

Councilor Kranichfeld raised a point of information and inquired if the motion were to fail, nothing would happen. They would not be able to move forward on this because there will be no motion to approve either plan. City Council President Shannon stated that nothing would happen. They could take subsequent action at a later date, but nothing would happen at this meeting. Councilor Kranichfeld stated he will support this because sending it back to Committee is better than taking no action.

Councilors Dober and Hartnett made a motion to call to question. The motion passed by a vote of 12-2 with City Council President Shannon and Councilor Aubin voting against.

The motion to refer to the resolution to the Redistricting Committee passed by a vote of 9-5 with City Council President Shannon and Councilors Worden, Mason, Aubin and Blais voting against.

10. COMMITTEE REPORTS (5 mins.)

Councilor Siegel stated she is reporting on behalf of the Diversity and Equity Ad Hoc Committee. The group has been meeting and working hard. There was a lag between when the resolution passed and when the group started meeting so they have not been able to adhere with the timeline. They are continuing to work on the Diversity and Equity plan and will work on creating a Commission further down the road. She read the mission statement they created and the group has identified ten benchmarks to work towards.

Councilor Paul stated there will be a Parks Arts and Culture Committee meeting. They have been meeting monthly and she thanked the other members of her Committee. She also stated the Airport Strategic Planning Committee will report back to the Council in January.

Councilor Mason stated there is an Ordinance Committee meeting scheduled. They will be discussing Church Street Offenses and the Livable Wage Ordinance.

City Council President Shannon stated there are two openings on the Board of Tax Appeals. She encouraged people with valuation skills to serve on that Board.

11. COMMUNICATION: City Councilors, re: General City Affairs (oral)(10 mins.)

Councilor Hartnett stated Tony Lafayette had passed away and sent his condolences to the Lafayette family.

Councilor Paul stated there was an amendment to the agenda concerning the pension valuation. This is the first year that the pension valuation has been done in early December. This is a huge improvement over the past. It used to come in June. The information is not valuable a year after the fact. The news is not particularly good. The unfunded liability grew by \$3 million and they are currently 70.1% underfunded. A former Councilor noted that this is even more important than Burlington Telecom and not much time has been spent on this. She hopes they will begin to focus on this in the coming year. She encouraged Councilors to begin to review this and start the debate.

City Council President Shannon stated she received calls and emails from some irate constituents complaining about a very loud party. Everyone seemed to feel this was happening in their backyard. It was very loud. Many people called the Police about the noise level from an entertainment permit issued by the Council. They were told that the Noise Ordinance did not apply to a permitted event. She requested some clarification about this. She felt it was very disruptive and did not believe the City Council License Committee had any idea about the volume. There needed to be better information about how the Noise Ordinance applied to permitted events to ensure there was some level of enforcement.

Councilor Dober stated that he was called on Friday night about a party in the South End. His Committee did approve that entertainment permit. Fire and Police were notified. This was an ongoing annual event and this was the first time that this establishment wanted to have it in their own backyard. This was normally held in one of the hotels. He did not expect to get a call at work. The subcommittee asked about the specifics; they did not expect that level of noise. The Committee did make sure it was sent to all parties in the City.

Councilor Worden stated that he hoped everyone who was affected by this party kept this in their memory as they discuss noise issues by the University.

12. COMMUNICATION: Mayor Weinberger, re: General City Affairs (oral)(5 mins.)

Mayor Weinberger stated he will report back to the Council by the next time they meet. He did not believe that special event permits are exempt from the noise ordinance. There was a problem but it was addressed by 11:00 p.m.

The Airport Bond deal closed in the last week. It was a significant event and the Airport leadership, the CAO's Office, and all others involved worked hard on a very tight timeline to put the Airport on a more stable financial future. There is no longer a major fiscal threat.

They have made progress in economic development. They have hired an Assistant Director for Economic Development. They met with the Secretary of Commerce and discussed upcoming initiatives.

There were people who had been seeking stricter interpretations of the Act 250 amendment and how it applied to Waterfront Park. They had attempted to enforce this by seeking jurisdictional opinion to block Waterfront Access North progress. They reached a settlement that allowed the project to move forward with the contingency that the City make an Act 250 amendment to clarify issues with that permit. There was no agreement about the content of that amendment. The amendment robustly defended the people's right to use the Waterfront. He agreed with that approach but wanted to ensure there was broad consensus. Each member of the Parks and Recreation Commission was consulted, as was the Parks Arts and Culture Committee, before the application was submitted. The first hearing for that amendment was tomorrow and there would likely be a news reports. He welcomed any more questions.

He visited Eglin Air Force Base last week. Based on what he heard, he did not believe that the arrival of the F-35s would dramatically affect Burlington in terms of noise issues. It was a different sound in that it was deeper. Standing at the end of the runway, he did not find it dramatically different other than the change in pitch. He did press them on whether or not the planes might come to Burlington, but found that they were unlikely to know before an official announcement was made in June. These planes were very experimental. Of the three planes, one started fine, another started after some delay and one did not start at all. They were not cleared to fly more than 150 miles from the base. This helped him understand some of citizens' concerns.

The Administration was aware that they need to make a Moran report at the next meeting. CEDO was working hard to move that forward.

The CAO's Office had reported the Audit would not be completed by the end of the year, but would be completed in time to have the audit in the annual report. That office has had a confluence of events in the recent months and everyone should be thankful for their productivity.

The FY14 budget process has begun. There have been some initial meetings about that and they are getting underway. They have also been working hard on the Burlington Telecom issue.

City Council President Shannon recessed the City Council Meeting at 10:26 p.m.

City Council President Shannon reconvened the City Council Meeting at 10:48 p.m.

13. COMMUNICATION: Eileen Blackwood, City Attorney, re: BT Litigation (oral)

On a motion by Councilors Brennan and Worden the Council went into executive session at 10:49 p.m. premature disclosure would place the City at a substantial disadvantage. Present were: see above

*** * * * EXPECTED EXECUTIVE SESSION * * * ***

On a motion by Councilors Kranichfeld and Worden the Council went out of executive session at 10:49 p.m.

14. ADJOURNMENT

Without objection, City Council President Shannon adjourned the Adjourned Meeting of the City Council at 11:55 p.m.

Attest:

Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary

BOARD OF ABATEMENT OF TAXES
MONDAY, DECEMBER 17, 2012
10:26 P.M.

PRESENT: see above

CITY COUNCIL PRESIDENT SHANNON:

1. AGENDA

On a motion by Board of Tax Abatement Members Brennan and Kranichfeld the agenda was unanimously adopted as amended as follows: remove from the agenda item 3. REQUEST FOR ABATEMENT OF TAXES: Hall Communications, Inc., 255 South Champlain Street (former location), PPP237140 and refer it back to the Tax Abatement Committee for further review with a recommendation being placed on a future Board of Abatement of Taxes Agenda.

2. CONSENT AGENDA

Councilor Siegel requested that agenda item 2.09 be moved to the deliberative agenda. City Council President Shannon stated that it would become agenda item 3.1.

On a motion by Board of Tax Abatement Members Blais and Bushor the consent agenda was unanimously adopted thus taking the following actions as indicated:

2.01. COMMUNICATION: Clerk/Treasurer's Office, Notice City of Burlington Board Of Abatement of Taxes

*waive the reading, accept the communication and place it on file

2.02. REQUEST FOR ABATEMENT OF TAXES: Opportunities Credit Union
260-262 North Winooski Avenue
039-4-001-000

*waive the reading and deny the request for abatement of taxes

2.03. REQUEST FOR ABATEMENT OF TAXES: Opportunities Credit Union
256-258 North Winooski Avenue
044-3-151-000

*waive the reading and deny the request for abatement of taxes

2.04. REQUEST FOR ABATEMENT OF TAXES: William and Rebecca Haslam
114 Birch Court
024-4-117-000

*waive the reading and deny the request for abatement of taxes

2.05. REQUEST FOR ABATEMENT OF TAXES: June A. Hines
78 Northshore Drive
021-2-211-078

*waive the reading and grant the request for abatement of taxes

2.06. REQUEST FOR ABATEMENT OF TAXES: Joshua and Natasha Sky
505 North Street
045-3-102-000

*waive the reading and grant the request for abatement of taxes for the time period of asbestos only

2.07. REQUEST FOR ABATEMENT OF TAXES: Dave Walsh
61 Muirfield Road
027-2-029-000

*waive the reading and grant the request for abatement of 4% interest not the 1% interest

2.08. REQUEST FOR ABATEMENT OF TAXES: Ormer Group LLC
136 (ALT 140) Church Street
049-3-136-000

*waive the reading and grant the request for abatement of 4% interest not the 1% interest

2.10. REQUEST FOR ABATEMENT OF TAXES: Chris and Gloria Finn
295 South Prospect Street
050-4-036-000

*waive the reading and deny the request for abatement of taxes

2.11. REQUEST FOR ABATEMENT OF TAXES: Nan(cy) Patrick and Kenneth L. Geduldig
40 Glen Road
058-2-015-000

*waive the reading and deny the request for abatement of taxes

2.12. REQUEST FOR ABATEMENT OF TAXES: Brenda Gail Bergman
33 North Cove Road
021-1-004-000

*waive the reading and grant the request for abatement of taxes, penalties and interest for the entire fiscal year

2.13. REQUEST FOR ABATEMENT OF TAXES: Andre C. Martell
43 Avenue B
029-2-052-038

*waive the reading and deny the request for abatement of taxes

2.14. REQUEST FOR ABATEMENT OF TAXES: BPJS MANAGEMENT LLC
57 Hyde Street
045-1-010-000

*waive the reading and deny the request for abatement of taxes

3 REQUEST FOR ABATEMENT OF TAXES: Hall Communications, Inc.
255 South Champlain Street (former location)
PPP 237140

This item was removed from the agenda and referred back to the Board of Abatement of Taxes.

3.1. (was 2.09.) REQUEST FOR ABATEMENT OF TAXES: Martine Larocque Gulick
39 Nottingham Lane
026-4-059-000

Councilor Siegel stated the reason for the recommendation stated that payment was not made due to insufficient funds in the owners' bank account. However, when reading that, the homeowner did not mention this. She cannot see where the City contacted the bank to determine that. She requested clarification about how they knew there were insufficient funds. She also inquired why the homeowner was told the payment had gone through when she called City Hall.

City Assessor Vickery stated the owner did not attend the meeting. There were insufficient funds and the payment did not go through. Therefore, she was charged late fees. Councilor Siegel inquired why she was told that the payment was made. Mr. Vickery indicated he did not know.

Councilor Brennan stated they offer individuals the opportunity to come and speak at meetings. There were unanswered questions, but the homeowner did not come to speak her piece. They decided to move forward with the denial. Mr. Vickery stated the individual was also invited to the City Council meeting.

The motion passed unanimously.

4. ADJOURNMENT

City Council President Shannon adjourned the Board of Abatement of Taxes meeting at 10:32 p.m.

Attest:

Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary

CITY COUNCIL WITH MAYOR PRESIDING
MONDAY, DECEMBER 17, 2012
10:32 P.M.

PRESENT: see above

MAYOR WEINBERGER PRESIDING:

1. AGENDA

City Council President Shannon made a motion to suspend the rules to continue the meeting. The motion passed by a vote of 13-1 with Councilor Hartnett voting against.

On a motion by Councilor Bushor and City Council President Shannon the agenda was adopted unanimously as presented.

2. APPOINTMENT: Library Commission (Term expires 6/30/15)

City Council President Shannon nominated Ed Adrian.

City Council President Shannon stated she nominated Ed Adrian not because he was a former Councilor. When he was first running for Council, he knocked on the door of a Democratic friend. They asked him what the most important issue in the City was. He said it was the Library. They did not support him in that election, but it showed the degree to which he was committed to the Library. He went through a lot of

efforts to make sure they were properly funded. He had long and deeply held convictions for the Library. He will work hard and be actively engaged.

Councilor Tracy nominated Selene Colburn.

Councilor Tracy stated Selene is a librarian and they have an obligation to pick the most qualified person, although he has no problem with former Councilor Adrian. He outlined Selene's resume and involvement in library related issues. It is a very impressive resume and Burlington would benefit from having someone so knowledgeable.

Councilor Decelles nominated Peter Ireland.

Councilor Decelles stated there is no representative from Ward 4 and there should be geographic balance. The Council needs to send a clear message that former City Councilors will not automatically be appointed to Boards and Commissions. Doing that sends a bad message to the residents.

Councilor Bushor stated there was an incredible array of applicants for the Library. The Library is one of the City's best assets and she hoped that those who were not appointed did not get discouraged. Many of the applicants were from Ward 1. She hoped that all applicants would stay involved.

Councilor Dober stated he will support Ed Adrian. They went through this process and delayed the appointment process. In the prior session, Ed was the only person who submitted an application. He had only heard from one other applicant until yesterday. Selene does have an impressive resume, but he had already committed to Ed. He remembered that during the budget process Ed was committed to finding money for the Library. He felt they should be able to find money somewhere. He is hopeful Selena will apply in the future because her background would be an asset to the Committee.

Councilor Hartnett stated there is a bigger issue than selecting a commissioner tonight. They have discussed Board and Commission appointments. Two of the three individuals who applied want to get involved in the community and have not been involved in the past. If the Council continues to shut the door on new people with these backgrounds, they are doing a disservice. It would be a good process for any City Councilor to wait a year before coming back to engaging the City. Even though they are supporting Ed for reasons other than that he was a former City Councilor, perceptions are different. The Council should commit to figuring out how to select commissioners.

Councilor Paul stated she voted for a former City Councilor on the Parks and Recreation Commission. She has done an excellent job. There are many City Councilors that leave and come back as Commissioners. She also voted for a former City Councilor to be on the Airport Commission. He has attended Airport Strategic Planning Commission meetings as well as Airport Commission meetings. The fact that they were City Councilors is immaterial. She will support Ed Adrian for reasons other than the fact that he is a former City Councilor. She knows he is a hard worker and is very committed to the Library.

Councilor Siegel stated she will support Selene Colburn. Her experience lines up with the Library Director's goals, including outreach to underserved populations. She is disheartened by the process once again. It is a disservice to pledge support to a candidate without reviewing the full slate. This body should be fair about how they appoint people. She looks forward to changing this process.

Councilor Brennan stated he appreciates the comments. It is unfortunate what he is hearing across the table and the way support is being placed. He appreciates former Councilor Adrian's efforts. Ms. Colburn should be put on this Board at this time. He urged everyone to look at her qualifications one more time.

Councilor Adrian received 9 votes: Mayor Weinberger, City Council President Shannon, and Councilors Kranichfeld, Dober, Aubin, Paul, Blais, Mason and Bushor.

Ed Adrian was appointed to the Library Commission.

3. APPOINTMENT: Public Works Commission (Term expires 6/30/15)

Councilor Decelles nominated Tiki Archambeau.

City Council President Shannon nominated Russ Elek.

City Council President Shannon stated she only knew Russ Elek through his work on BTAC. That Board was disbanded and he is interested in serving the City.

Councilor Blais stated it is important to consider geographic balance in appointments. The South End is underrepresented. Mr. Archambeau comes from an area where there are already three members on this Commission. Having balance is critical because everyone uses the functions of Public Works. He will support Mr. Elek.

Councilor Tracy stated balance comes in many forms and there are no Progressives on the Public Works Commission. There are few Progressives on Commissions City-wide.

Tiki Archambeau received 8 votes from Councilors Decelles, Dober, Brennan, Tracy, Siegel, Paul, Kranichfeld and Brennan.

Tiki Archambeau was appointed to the Public Works Commission.

4. ADJOURNMENT

Without objection, Mayor Weinberger adjourned the City Council With Mayor Presiding meeting at 10:48 p.m.

Attest:

Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary



August 6, 2013

RE: Real Estate Authorization

Dear Members of City Council:

RECEIVED
2013 AUG - 7 A 8:42
BURLINGTON CLERK
TREASURER'S OFFICE

Once again this month, the Burlington School District would prefer not to put the proposed real estate transactions on the Burlington City Council agenda. Given summer vacation schedules on both sides of the table, we have not been able to get resolution on the key issues that we outlined last month.

While the delays are disappointing, we remain optimistic that we will reach an agreement with UVM on the Taft lease that both meet the requirements of the covenants as well as make sense from a risk standpoint for the School District and the City.

We appreciate your interest and patience on this, and we are available for further discussion if you have any questions.

Alan Matson

Chair, Board of Commissioners, Burlington School Board

JEANNÉ COLLINS ~ SUPERINTENDENT
150 COLCHESTER AVE., ~ BURLINGTON VT 05401
PHONE: 802-865-5332 ~ FAX: 802-864-8501 ~ WEBSITE: WWW.BSDVT.ORG



REPORT: BURLINGTON OFF-LEASH OPPORTUNITIES

Date: June 7, 2013

To: City Council

From: The Off-Leash Work Group (OLWG)

Community Representatives: Ed Pais, Chair, Betsy Allen-Pennebaker, Lynne Lieb, Becky Poitras, and Louise Stoll; Staff: Deryk Roach, Dan Cahill and Jen Francis

Re: Off-Leash Work Group Findings

I. Introduction & Background

MEETING BURLINGTON'S OFF-LEASH NEEDS

- Burlington's population is growing; continued increase projected
 - The CCRPC's ECOS Project predicts a population growth spurt in Chittenden County: 50,000 people over the next 25 years
- Off-Leash pilot program initiated in 1998
 - Five locations identified by the pilot program
 - Starr Farm Park
 - Waterfront Dog Park at the Urban Reserve
 - Intervale
 - Schmanska Park
 - Oakledge Park
 - Two of these locations remain operational today as fenced dog runs
 - Starr Farm Park
 - Waterfront Dog Park at the Urban Reserve
 - Need to revise and formalize this pilot program
- Build on past successes and lessons learned

RECEIVED
2013 JUN -1 A 9 06
BURLINGTON CLERK
TREASURER'S OFFICE

TODAY'S OFF-LEASH ISSUES

- Expressed community desire for more off-leash opportunities within the City of Burlington
- Need for improved compliance in licensing
 - ***1255 dogs were licensed in the City of Burlington in 2012; the Humane Society of Chittenden County estimates Burlington's dog population to be closer to 7,000***
- Need for dog owners to assume greater responsibility in stewardship practices
- Need for improved access
- Need for improved enforcement
- Need for additional funding to support maintenance, enforcement & expansion opportunities

- Protection of natural resources

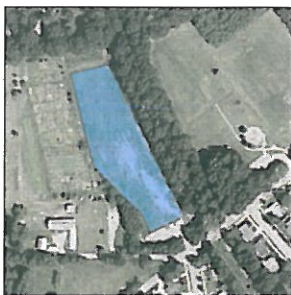
Off-Leash Areas Identified by the 1998 Pilot Program



Five pilot off-leash areas as proposed in 1998



Two off-leash areas currently in operation



Starr Farm Park



Waterfront/Urban Reserve



Intervale



Schmanska Park



Oakledge Park

REGISTERED DOGS IN BURLINGTON - 2012



Date: 1/22/2012

Author: dcahill

COMMON PERCEPTIONS

Many emails were received and conversations held with residents and dog-park users during this process. These are among the common themes that emerged:

- If people think the ***rules are unfair***, they are more likely to ignore them. This is the current state of dog areas in Burlington.
- Large open spaces that have ***mixed opportunities are appealing***. These places offer an opportunity to be alone with your dog in a more private setting, which contrasts the more typical dog run.
- Current park users feel as though they have to break the rules in order to access park resources with their dogs because there are ***not enough off-leash options available***. This is an uncomfortable position for dog owners.
- ***Accessibility is important***... equal distribution of off-leash areas throughout city and seasons, for all ages and abilities, particularly for elderly community members.
- People are ***more likely to follow fewer rules*** than many.
- ***Potential revenue opportunities*** exist to hold special events in off-leash areas.
- ***Inconsistent enforcement***... confusion with the "Parks Patrol" in yellow shirts; dogs must be vaccinated & registered, but there is a lack enforcement to ensure this is happening.

II. Development of the Off-Leash Work Group

FORMATION

- Formed per directive of the City Council in the fall of 2011
- Comprised of representation from each ward and park staff
- Ward representatives served as liaisons to neighbors and communities

TASKS

- Establish of off-leash goals & objectives
- Research successful off-leash programs
- Evaluate current off-leash areas & identify potential expansion opportunities
- Consider a strategic approach to improve and expand Burlington off-leash opportunities
 - Consider long-term funding sources, maintenance practices, partnerships
- Review and revise existing City dog/off-leash ordinance
- Review and revise Parks policy regarding off-leash areas
 - Consider hours of use, terms of etiquette, safety standards, stewardship
- Report findings to City Council & Ordinance Committee

CREATION OF GOALS & OBJECTIVES

- Goals
 - Foster healthy relationships between dog owners, non-dog owners, and all park users
 - Improve off-leash opportunities to support all users in a healthy, sustainable environment

- Objectives
 - Identify off-leash opportunities & policy considerations
 - Evaluate current off-leash areas & consider future expansion locations
 - Consider opportunities & recommendations (site specific)
 - Identify performance metrics & enforcement opportunities
 - Identify opportunities for communication, community involvement & partnerships

III. Off-Leash Work Group Findings

OBJECTIVE 1: IDENTIFY OFF-LEASH OPPORTUNITIES & POLICY CONSIDERATIONS

Several types of off-leash opportunities were identified by the work group:

Potential Types of Off-Leash Opportunity

TYPE	TERRAIN	EXAMPLES	CONSIDERATIONS
Fenced Dog Runs	Outdoor or indoor open area	Starr Farm	Typically fenced; could include: training areas, obstacle course equipment, small dog hours, puppy hours, senior hours, reservations & programmed training opportunities
Open Fields (non-fenced)	Varies		Typically unfenced
Mixed-use Areas	Combination of open fields, trails, woods and swim access	Niquette Bay State Park, Centennial Woods	Typically unfenced; some dogs and owners are intimidated by fenced in areas
Off-Leash Hours	Varies/specific locations	Central Park, NYC	Early morning, late evening, etc.
Seasonal Usage	Varies		Potential summer & winter hours
Recreation/Hiking Trails	Varies	Stowe, VT	Areas should be designated by clear signage
Designated Dog Beaches	Water	Chicago, San Diego	Fenced and unfenced areas can be successful
Unique Opportunities	Training areas, special hours for puppies/senior dogs, athletic court & field winter access, partnership with cemeteries, landfill reclamation, regional facilities, indoor dog runs	Albany, CA, Washington D.C. Congress. Cemetery	Seasonal dog parks, potential seasonal locations, potential conflict with historic preservation/significance, may requires coordination & participation between multiple entities

Considerations also included operations, program, and education policy:

Policy Type Considerations

OPERATIONS POLICY	
Time	<i>Clear identification of hours of operation for various venues</i>
	<i>Provide hourly and seasonal off-leash times in specific areas</i>
	<i>Set hours to meet multiple user's needs</i>
	<i>Recommended hours: early AM 5-9:00 a.m./early PM 6-9:00 p.m.</i>
Safety	<i>Minimize intimidation scenarios</i>
	<i>Lighting in specific off-leash areas to provide additional security</i>
	<i>Agreement that shelter is desirable, but not a necessity</i>
	<i>Agreement that access to emergency phones in parks is not a necessity</i>
	<i>Management of conflicting use</i>
PROGRAM POLICY	
Short List of Rules & Regs	Be a good neighbor
	Attend to dogs at all times
	License all dogs
	Limit of four (4) dogs per owner
	Bicycles, skateboards and skates are prohibited
	Food/treats prohibited unless otherwise indicated
	Control & limit barking
	Clean up after your dog
	Dogs must be under voice control
	Report all dog bites to animal control (provide phone number)
PUBLIC EDUCATION POLICY	
Off-Leash Vocabulary	Community development & education
Etiquette	For dog owners & non-dog owners everywhere (on- & off-leash areas)
	Build awareness within shared use areas: interaction with runner, bikers, etc.
	Improve activity identification signage
Environmental Protection	Owners responsible for picking up after their dogs at all times
	Shift from current City-supported plastic bags to community driven bag collection points

In addition, the work group felt that there was a need for clarity regarding the management and enforcement of off-leash areas:

- If users have a grounds or operations complaint, the Department of Parks & Recreation should be contacted
- If users need to report a bite or other incident, calls should be directed to the Police Department's Community Resource Officer
- Phone numbers for both Departments should be available and clear

Specific policy recommendations are included in the "Off-Leash Dog Policy" statement in the Appendix that detail Designation of Areas and Times of Operation, Rules for Commercial Use of Off-Leash Dog Areas, Signage, Operations, and Public Outreach & Enforcement.

OBJECTIVE 2: EVALUTATE CURRENT OFF-LEASH AREAS & CONSIDER FUTURE EXPANSION LOCATIONS

The Off-Leash Areas of Consideration Matrix & Map were developed as a tool to evaluate and rank existing & potential off-leash areas. While these documents are quantitative, staff recommendations as detailed in the Director's Memo are based on both the work group findings and Department qualitative data.

The Off-Leash Areas of Consideration Matrix includes:

- Consideration of forty potential sites
- Consideration of several other smaller-scale sites disqualified because of existing constraints
- All other park areas not addressed in this plan are recognized as on-leash areas only

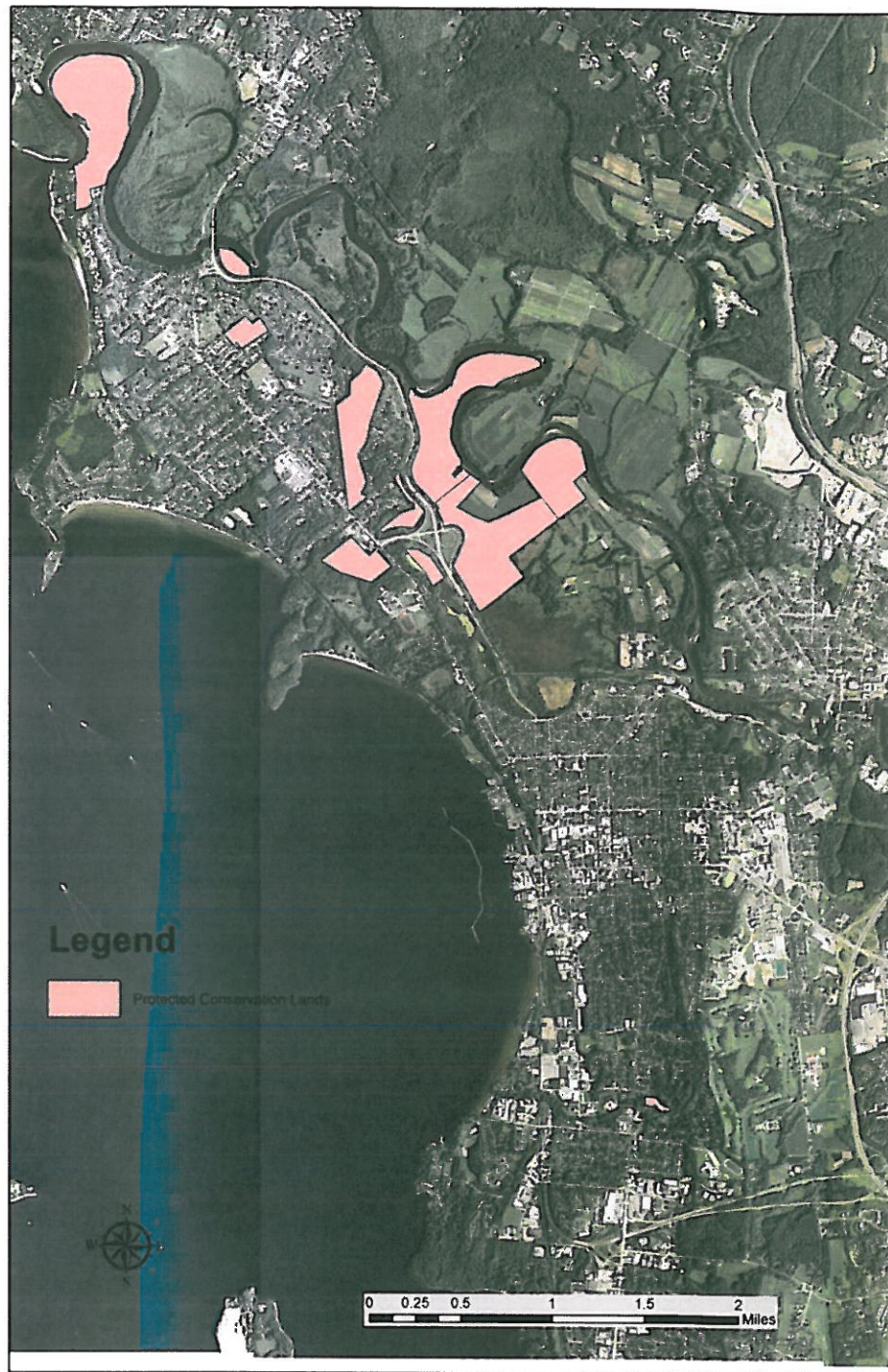
Refer to matrix and map.

Protected Conservation Lands

Note that conservation lands may not be considered as potential off-leash areas because of existing management plans and policies that protect the significant natural features present at each respective property.

- Conservation lands have significant natural features (sensitive plant & animal species) and high values of contribution towards ecological processes.
- All of Burlington's conservation areas adhere to best management principles - the most relevant being the consideration of human & dog impact on the function of the land
- Parks & Open Spaces that have been set aside specifically for conservation are not conducive to off-leash programming because of existing management plans geared towards the preservation and protection of the natural environment.
- In Burlington these lands include: The Winooski Valley Park District, Urban Wilds, Mt. Calvary Wetland, Ethan Allen Park, Arms Grant Park, McKenzie Park, Rock Point, and Crescent Woods.

PROTECTED CONSERVATION LANDS



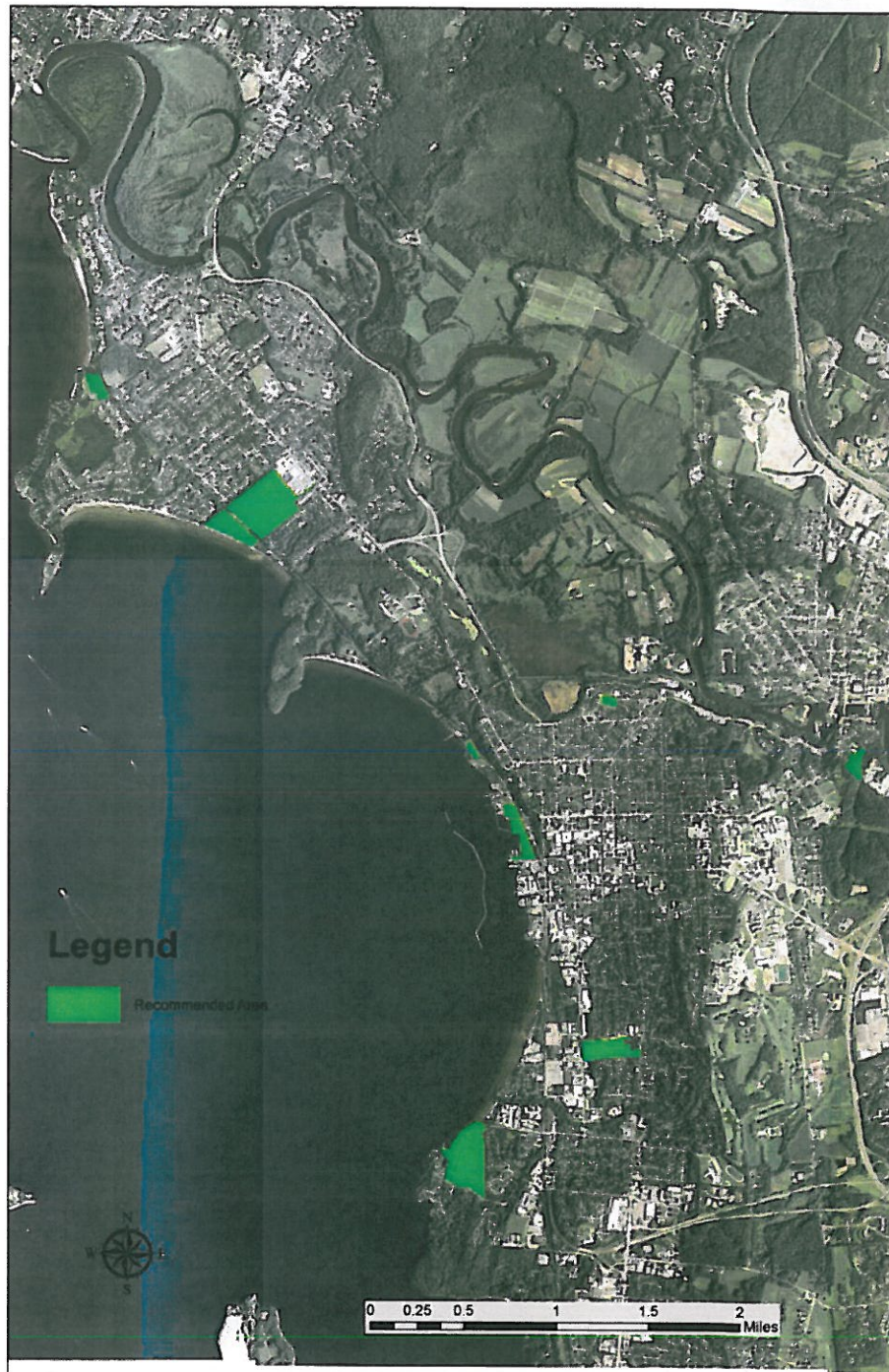
Date: 1/22/2012

Author: dcakil

OBJECTIVE 3: CONSIDER OPPORTUNITIES & RECOMMENDATIONS (SITE SPECIFIC)

Section A of Appendix B (Proposed Off-Leash Policy) details the proposed site-specific work group recommendations for off-leash opportunities within the City of Burlington. These areas are highlighted in green on the map below and include opportunities at Starr Farm Park, the Urban Reserve, Leddy Park, Oakledge Park, Calahan Park, Schmanska Park, Waterfront Park, and Roosevelt Park.

OFF-LEASH WORK GROUP PROPOSED OPPORTUNITIES



OBJECTIVE 4: IDENTIFY PERFORMANCE METRICS & ENFORCEMENT OPPORTUNITIES

Members of the work group conducted nation-wide research by interviewing staff from the following communities known to have successful off-leash programs: Central Park, New York, NY; Berkeley, CA; Albany, CA; Richmond, CA; Portland, ME; Chicago, IL; San Diego, CA; Missoula, MT; Eugene, OR; Santa Barbara, CA; and Shelburne, VT. Questions were proposed and the findings informed the development of the recommended performance metrics.

RESEARCH QUESTIONS

What are the MANAGEMENT RESOURCES needed to operate your model?

Do you have a DOG OFFICER, person or group to oversee the management of the program?

How do you enforce your RULES & REGULATIONS?

What is the annual cost of OFF-LEASH OPERATIONS?

What TYPES OF FACILITIES do you operate (dog runs, trails, seasonal use, fenced/unfenced)?

How many off-leash facilities does your park system offer?

Are dog FEES charged? How much of those fees are used to support dog amenities?

Are your off-leash areas open to NON-RESIDENTS?

Do off-leash opportunities promote tourism?

What is your city's human POPULATION? What is your city's dog population?

How many dog LICENSES are registered?

How do you GENERATE REVENUE for off-leash areas (programming, etc.?)

What are your PERFORMANCE METRICS?

Recommended Performance Metrics

- Preparation of a year-to -date budget review each fiscal quarter to determine and project fiscal stability and ability to meet the operational needs of off-leash opportunities
- Track weekly attendance record to build data for dog parks
 - Use sign-in sheets/on-site data collection including an annual survey through social media and NPA's to determine number of program participants
 - If possible, link this data collection to the registration process
 - Report on these numbers regularly
- Maintain volunteer capacity of greater than four (4) volunteers per fenced in dog run and two (2) for other off leash locations
 - Report on these numbers regularly and have detailed strategy to retain and recruit volunteers in the Off Leash Operational Plan
- Track number of complaints/requests for service
- Track number of complaints not serviceable
- Track number of days to complete service request

Recommended Enforcement Opportunities

- Detailed by Appendix B: Proposed Off-Leash Policy

OBJECTIVE 5: IDENTIFY OPPORTUNITIES FOR COMMUNICATION, INVOLVEMENT & PARTNERSHIP

- Neighborhood Planning Associations (NPA's)
- Social media
- Front Porch Forum
- Improved signage/kiosks
- Public education
- Websites (Parks & Recreation, City, Partners)

In addition, the work group identified local, dog-friendly hotels. These include: the Hilton Burlington, Sheraton Burlington, Made Inn Vermont, and North Beach Campground. Potential partnership opportunities may serve to support and improve Burlington tourism.

IV. Work Group Recommendations

ORDINANCE REVISION

- See Appendix A: Proposed Off-Leash Ordinance Revisions

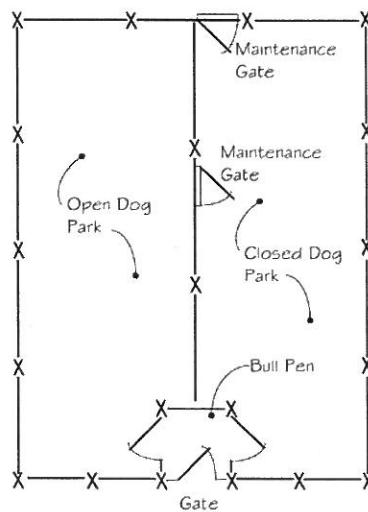
POLICY IMPLEMENTATION

- See Appendix B: Proposed Off-Leash Policy
 - Formalize proposed off-leash opportunities per Appendix B
 - Staff development of an operation plan to further define rules & regulations, hours of operation, location of amenities, seasonal enforcement, etc.

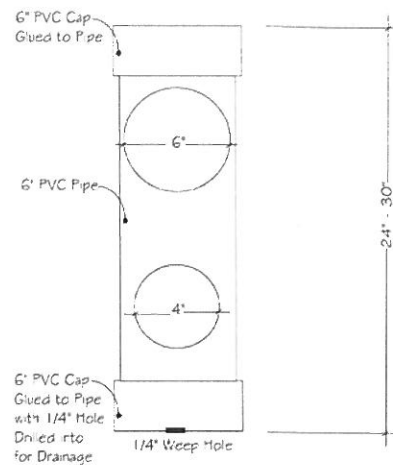
UPGRADES TO EXISTING FACILITIES

- Implementation of best management practices
 - Improved fencing, gates, and bull pens (entries)
 - Implementation of grounds "rest" areas within dog runs (benches, pavilions, shelters, picnic tables)
 - Improved signage/kiosks/public education materials
 - Implementation of community collection points for waste bags
- Amenities for consideration: improved access, shelter, seating, access to drinking water where possible, availability of waste bags/trash cans, notification/rules board, swim access, lighting, and emergency phones

Best Management Practices



Sample grounds "rest" plan

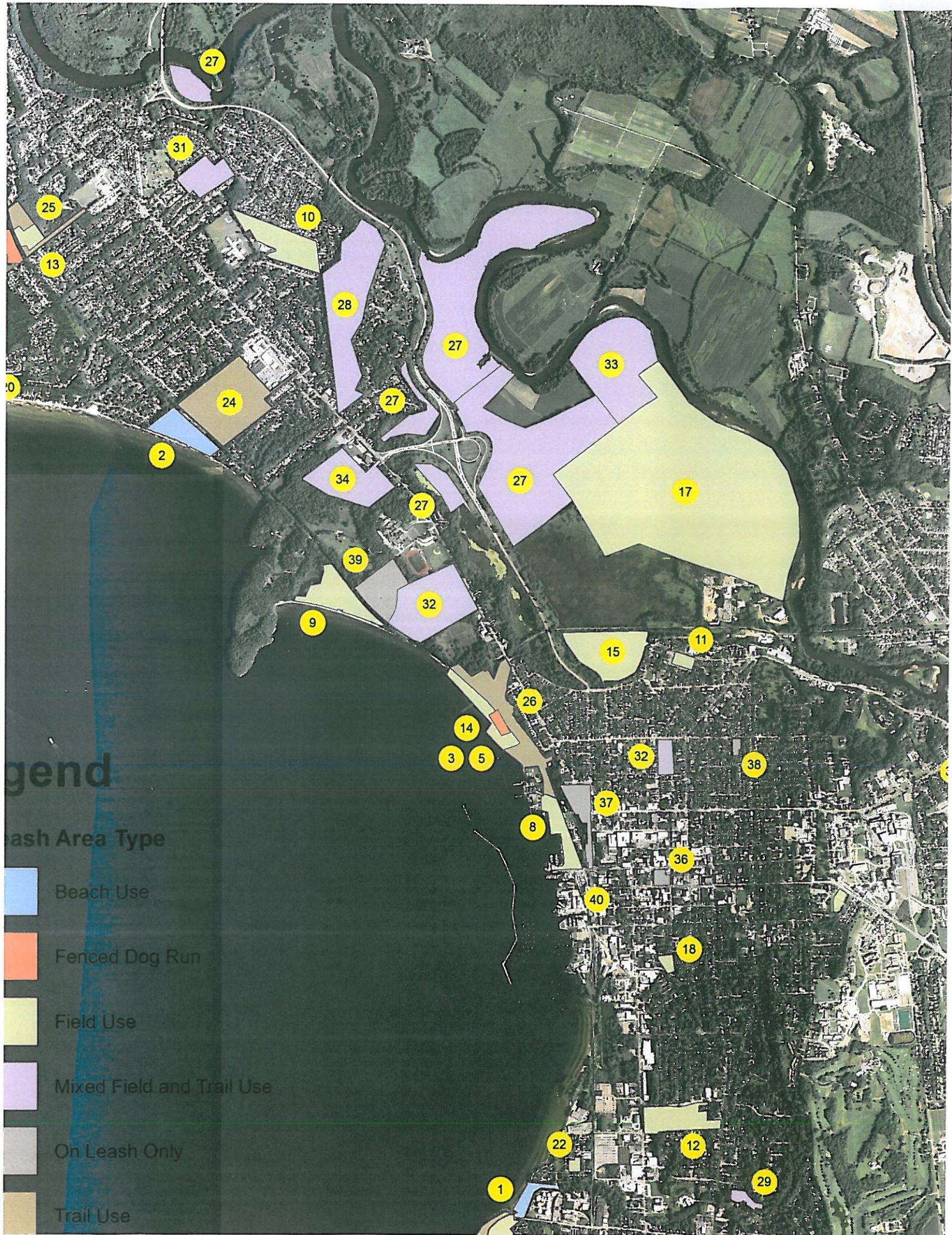


Community-supported waste bag collection system

ADDITIONAL RECOMMENDATIONS

- See Appendix C: Additional Off-Leash Recommendations
 - Creation of an Animal Welfare Board
 - Review the structure of dog license fees
 - Review dog licensing
 - Promote the dog-friendliness of Burlington to visitors
 - Develop programs to improve etiquette
 - Provide public vehicular access to the Urban Reserve dog run
 - Pursue public-private development partnership opportunities
 - Establish Friends of Burlington Dog Parks Group

--END--



Legend

Wash Area Type

- Beach Use
- Fenced Dog Run
- Field Use
- Mixed Field and Trail Use
- On Leash Only
- Trail Use

Open space	22.41 acres	Seasonal	Center	1	Low	-1	No	0	No	0	No	0	No	0	Yes	1	Yes	1
Regional park	46 acres	Year-round	South	1	Medium	0	Yes	1	Yes	1	Yes	1	Yes	2	Yes	1	Potential	0
Regional park	11.3 acres	Year-round	Center	1	Low	-1	Yes	1	Yes	1	Yes	1	No	0	Yes	1	Potential	0
Neighborhood park	21.2 acres	Year-round	North	0	Medium	0	Yes	1	No	0	No	0	Yes	1	Yes	1	Potential	0
Regional park	46 acres	Year-round, hourly & seas.	South	1	Medium	0	Yes	1	Yes	1	Yes	1	Yes	2	Yes	1	Potential	0
Event Grounds	3 acres	Seasonal	Center	1	High	1	Yes	1	Yes	1	No	0	Yes	2	Yes	1	No	-1
Regional park	38.7 acres	Seasonal	North	0	Low	-1	Yes	1	Yes	1	Yes	1	Yes	2	No	0	Potential	0
Playfield	9.1 acres	Seasonal & hourly	North	0	High	1	Yes	1	Yes	1	Yes	1	Yes	2	No	0	No	-1
Playfield	3.3 acres	Year-round, hourly	Center	1	High	1	Yes	1	Yes	1	Yes	1	Yes	0	No	0	No	-1
Playfield	17.2 acres	Year-round, hourly & seas.	South	1	High	1	Yes	1	No	0	Yes	1	Yes	1	No	0	No	-1
Neighborhood park	21.2 acres	Year-round, seas., & hr.	North	0	Medium	0	Yes	1	No	0	Yes	2	Yes	2	Yes	1	Potential	0
Open space	22.41 acres	Year-round & seasonal	Center	1	Low	-1	No	0	No	0	No	0	No	0	Yes	1	Yes	1
Open space	35 acres	Seasonal	Center	1	Medium	0	No	0	No	0	No	0	Yes	1	No	0	No	-1
Neighborhood park	1.78 acres	Hourly	South	1	High	1	No	0	No	0	No	0	Yes	1	No	0	No	-1
Agricultural area	338 acres	Undetermined	Center	1	Low	-1	No	0	Yes	1	No	0	Yes	1	No	0	Potential	0
Neighborhood park	2.14 acres	Year-round, hourly	South	1	High	1	No	0	No	0	No	0	No	0	No	0	No	-1
Neighborhood park	6.39 acres	Discretionary, hourly	Center	1	Low	-1	Yes	1	No	0	No	0	No	1	No	0	No	-1
Neighborhood park	3.5 acres	Year-round, hourly	North	0	Medium	0	No	0	No	0	No	0	Yes	1	No	0	No	-1
Open space	12.6 acres	Year-round	South	1	Low	-1	No	0	No	0	No	0	Yes	1	No	0	No	-1
Neighborhood park	1.65 acres	Year-round, hourly	South	1	Low	-1	No	0	No	0	No	0	Yes	1	Yes	1	No	-1
Regional park	46 acres	Year-round	South	1	Medium	0	Yes	1	Yes	1	Yes	2	Yes	2	Yes	1	Potential	0
Regional park	70.9 acres	Year-round	North	0	Medium	0	Yes	1	Yes	1	No	0	Yes	2	No	0	Potential	0
Neighborhood park	21.2 acres	Year-round, seasonal, hr.	North	0	Medium	0	Yes	1	No	0	No	0	Yes	1	Yes	1	Potential	0
Open space	22.41 acres	Year-round & seasonal	Center	1	Low	-1	No	0	No	0	No	0	No	0	Yes	1	Yes	1
Partnership	146 acres	Ineligible: dogs prohibited	Center	1	Low	-1	Yes	1	Yes	1	No	0	Yes	1	No	0	Potential	0
Urban Wild	80.3 acres	Ineligible: dogs prohibited	North	0	Medium	0	No	0	No	0	No	0	Yes	2	Yes	1	No	-1
Partnership	5 acres	Ineligible: dogs prohibited	South	1	Medium	0	No	0	No	0	No	0	Yes	1	No	0	Yes	1
Partnership	140 acres	Ineligible: dogs prohibited	North	0	Low	-1	Yes	1	Yes	1	No	0	Yes	2	No	0	Potential	0
Urban Wild	11.7 acres	Ineligible: dogs prohibited	North	0	High	1	No	0	No	0	No	0	Yes	1	No	0	No	-1
Partnership	11.3 acres	Undetermined	Variable	1	Low	-1	No	0	No	0	No	0	Yes	2	No	0	No	-1
Urban Wild	66 acres	Ineligible: dogs prohibited	North	0	Low	-1	No	0	No	0	No	0	No	0	No	0	Potential	0
Urban Wild	30.9 acres	Ineligible: dogs prohibited	North	0	Low	-1	No	0	No	0	No	0	Yes	1	No	0	No	-1
Pathway	20 acres	Year-round & seasonal	Variable	1	Variable	1	Yes	1	Variable	1	Variable	1	Yes	1	Yes	1	Potential	0
Urban Park	4 acres	Year-round	Center	1	High	1	Yes	1	No	0	Variable	1	Yes	1	Yes	1	No	-1
Neighborhood park	9 acres	Year-round	Center	1	Medium	0	Yes	1	Yes	1	Yes	1	Yes	1	Yes	1	No	-1
Neighborhood park	1.47 acres	Year-round	Center	1	High	1	Yes	1	No	0	No	0	Yes	1	Yes	1	No	-1
Regional park	38.7 acres	Seasonal/Ref. App. D (fallow)	North	0	Low	-1	Yes	1	Yes	1	Yes	1	Yes	2	No	0	Potential	0
Pocket park	.12 acres	Year-round	South	1	High	1	No	0	No	0	No	0	No	0	No	0	No	-1

e.

o available open space.



APPENDIX A: PROPOSED OFF-LEASH ORDINANCE REVISIONS

Date: June 6, 2013

To: City Council

From: The Off-Leash Work Group (OLWG)

Community Representatives: Ed Pais, Chair, Betsy Allen-Pennebaker, Lynne Lieb, Becky Poitras, and Louise Stoll; Staff: Deryk Roach, Dan Cahill and Jen Francis

Re: Off-Leash Work Group Findings

Proposed Revisions to the Municipal Ordinance...

Sec. 22-13. - Animals prohibited; exception

No domestic animals, except dogs, shall be permitted in any park. Dogs shall be held in leash by their owners unless in designated off-leash dog areas.

Sec. 7. - Off-leash dog opportunities

(A) *Off-Leash Dog Policy.* The Department of Parks and Recreation shall maintain an off-leash dog policy. The policy may be modified by the Director of Parks and Recreation with the approval of the Parks and Recreation Commission. The Off-Leash Dog Policy (OLDP) shall govern, the establishment, operations, and enforcement of off-leash dog opportunities as enumerated in this ordinance.

(B) *Designation of Areas.* Areas shall be designated for the purpose of allowing dogs to be under control of the owner or another individual by means other than physical restraint. The Parks and Recreation department shall maintain year-round off-leash opportunities in the South End, Center, and North End of the city, defined below. A variety of opportunities shall be provided including: fenced dog runs, water access, field use, and trail use on an hourly, seasonal, or year-round basis within reasonable walking distance of neighborhoods. Opportunities, where possible, shall be dispersed across the city. Permanent fenced dog runs shall be established in the ordinance, whereas the other area types shall be established in the OLDP.

(1) *Sections of the City.* Defined as:

- (a) *South End.* All portions of the city south of Maple Street and a line extending from Maple Street extending to the eastern and western limits of the city.
- (b) *Center.* All portions of the city north of Maple Street and a line extending from Maple Street extending to the eastern and western limits of the city and south of Washington Street and a line extending from Washington Street to the eastern and western limits of the city.
- (c) *North End.* All portions of the city north of Washington Street and a line extending from Washington Street to the eastern and western limits of the city.

- (2) *Permanent Off-Leash Fenced Dog Runs shall be located at:*
 - (a) *Starr Farm Park.* That portion of Starr Farm Park that is bounded on the east by the Burlington Bikeway and bounded on the west by that part of Starr Farm Park which is set aside for community gardens.
- (3) *Temporary Off-Leash Fenced Dog Runs shall be located at:*
 - (a) *Urban Reserve.* That portion of the area designated as the Waterfront Urban Reserve that is bounded on the east by the Burlington Bikeway, bounded on the south by the land known as the Texaco Jetty – including so much land to the south of the Jetty as to allow for access to the beach directly adjacent to the Jetty, and bounded on the north by the northern boundary of the Urban Reserve.
- (4) *Off-leash dog areas prohibited.* At the following parks dogs shall be permitted on-leash only:
 - (a) *Bike path*
 - (b) *Battery Park*
 - (c) *City Hall Park*
 - (d) *Champlain Street Park*
- (5) *Public Information.* Department of Parks and Recreation shall be responsible for maintaining clear reference to off-leash opportunities, maps, hours, and rules & regulations.

(C) *Times of Operation.* The times of operations shall be as determined in the OLDP.

(D) *General Rules for All Areas Designated as Off-Leash Dog Areas:*

- (1) A person taking a dog into an off-leash area shall have control of the dog by means of physical restraint (leash, cord, chain, etc.) when entering and leaving the off-leash area.
- (2) A person taking a dog into an off-leash area shall maintain voice, hand or other appropriate control over the dog at all times while the dog is in the off-leash area. Such person shall also have in their possession at all times a means of physical restraint.
- (3) A person taking a dog into an off-leash area may only do so during the times set forth by these rules.
- (4) All dogs present in an off-leash area shall be licensed and vaccinated and shall display valid license and vaccination tags attached to a dog collar.
- (5) A dog present in an off-leash area shall be the responsibility of a person who is present in the area with that dog. A person responsible for a dog in an off-leash area shall not leave the dog unattended in the off-leash area. A person responsible for a dog in an off-leash area shall be legally responsible for its actions.
- (6) A person shall not take a female dog in heat into an off-leash area.
- (7) A person taking a dog into an off-leash area is responsible for removing that dog's feces from the off-leash area. A person taking a dog into an off-leash area shall carry equipment for removing such feces and shall place feces deposited by such animal in an appropriate receptacle.
- (8) A person taking a dog into an off-leash area shall stop that dog from digging holes or destroying any parks property.

- (9) A person may not take more than three (3) dogs at a time into an off-leash dog area without a special permit given by the parks and recreation department. Professional dog trainers and organizations shall not use off-leash dog areas for their commercial activities except as allowed by this ordinance.
- (10) Vicious dogs as defined by Burlington Code of Ordinances section 5-13 are not allowed in an off-leash area.
- (11) There shall be no eating or smoking in the off-leash area.
- (12) Glass containers shall not be allowed in an off-leash area.
- (13) Any gate to an area shall be closed upon entry and exiting.
- (14) Person in control of a dog in an off-leash area shall not permit the dog to engage in excessive barking, howling, or other noise.
- (15) Persons under the age of twelve (12) years shall not be allowed in an off-leash area without the accompaniment of someone at least eighteen (18) years of age.

(E) *Enforcement:*

- (1) In addition to the penalties provided for by ordinance, a person or dog that violates off-leash rules and regulations is subject to ejection from the off-leash area.
- (2) In addition to the penalties provided for by ordinance, a duly authorized enforcement official may impound a dog for a violation of off-leash rules and regulations or for activities determined to be a nuisance.
- (3) In addition to the penalties provided for by ordinance, a person who violates the rules of this section on two (2) occasions within a twelve-month period may be barred from using the off-leash areas during the six (6) months after the second violation.

(F) *Administration:*

- (1) Signage. Signage depicting locations of off-leash dog areas, lists of essential rules, and other signage as necessary shall be installed in accordance with Parks and Recreation Department signage policy and the OLDLP.
- (2) Operations. Standard operating procedures and amenities provided in the off-leash dog areas shall be defined in the OLDLP.
- (3) Commercial Usage of Parks. The Department of Parks and Recreation may charge a fee to allow for commercial usage of the off-leash dog areas by professional trainers, and for-profit and not-for-profit animal organizations. Portions of the off-leash dog areas should allow for unencumbered usage by the public during these events. The fees charged for these events shall be used for the establishment, operations, or improvements of designated off-leash dog areas. Commercial use of off-leash dog areas without a permit shall result in a fine. Commercial Usage of off-leash dog areas may be further modified by the OLDLP.

--END--



APPENDIX B: PROPOSED OFF-LEASH POLICY

Date: June 6, 2013

To: City Council

From: The Off-Leash Work Group (OLWG)

Community Representatives: Ed Pais, Chair, Betsy Allen-Pennebaker, Lynne Lieb, Becky Poitras, and Louise Stoll; Staff: Deryk Roach, Dan Cahill and Jen Francis

Re: Off-Leash Work Group Findings

Off-Leash Work Group proposed policy regarding:

- A. *Designation of Areas and Times of Operations*
- B. *Rules for Commercial Use of Off-Leash Dog Areas*
- C. *Signage*
- D. *Operations*
- E. *Public Outreach & Enforcement*

(A) *Designation of Areas and Times of Operations.*

The following areas, including those identified in the ordinance, are opportunities for off-leash areas:

(1) Dog Runs

- (a) *Starr Farm Park (year-round).* That portion of Starr Farm Park that is bounded on the east by the Burlington Bikeway and bounded on the west by that part of Starr Farm Park which is set aside for community gardens.

- (i) *Times.* The designated area may be used year round during the operating hours of the park.

- (b) *Urban Reserve (year-round).* That portion of the area designated as the Waterfront Urban Reserve Dog Run - bounded on the east by the Burlington Bikeway, the north by the land known as the Texaco Jetty – including so much land to the south of the Jetty as to allow for access to the beach directly adjacent to the dog run, and 280 yards north of the southern boundary of the Urban Reserve.

- (i) *Times.* The designated area may be used for off-leash use during operating hours.

(2) Mixed Opportunities (water, open field, trails)

- (a) *Leddy Park (year-round).* Leddy Park in its entirety excluding programmed areas including parking lots, athletic fields, public beaches, buildings, roads and walks, courts, playgrounds, etc.

- (i) *Times.* The designated area may be used park operating hours.

- (b) *Oakledge Park 1 (seasonal).* Oakledge Park in its entirety excluding programmed areas including athletic fields, playgrounds, courts, parking lots, roads and walks, buildings, public beaches, parking lots, etc.

- (i) *Times.* The designated area may be used November 16 to May 14.

(3) *Water & Trail Opportunity*

- (a) *Oakledge Park 2 (year-round).* That portion of Oakledge Park that is bounded on the west by the lake, bounded on the east by the bike path, on the south by the path to the cove, and bounded on the north by the field to the north of the tennis courts. Access to Lake Champlain shall be available for dogs and people in this area.

- (i) *Times.* The designated area may be used during park operating hours.

(4) *Field*

- (a) *Calahan Park (seasonal).* That portion of Calahan Park that is bounded on the east by Shelburne Road, north by Locust Street, west by Pine Street, and south by the park/neighborhood boundary excluding programmed areas such as courts, buildings, baseball fields, roads/walks, playgrounds, etc.

- (i) *Times.* Summer: the designated area may be used at any time of the year from dawn to 10:00 a.m.

- (ii) *Times.* Winter: the designated area may be used at from October 1 to April 1 from dawn to 10 am and 3:00 p.m. to dusk.

- (b) *Schmanska Park (seasonal).* The multipurpose field portion of Schmanska Park extending from the basketball court to the tennis court.

- (i) *Times.* Summer: the designated area may be used from April 16 to October 14 from 8:00 p.m. to 8:00 a.m.

- (ii) *Times:* Fall: the designated area may be used from October 15 to April 15 from 4:00 p.m. to 9:00 a.m. for off-leash activities permitted by these rules.

- (c) *Waterfront Park (seasonal).* That portion of the park bounded on the north by Lake Street, bounded on the west by the bike path, bounded on the south by the path that crosses the railroad tracks and connects to Lake Street, and bounded on the east by the railroad tracks.

- (i) *Times.* Winter: the designated area may be used at any time of the day from November 15 to March 31 for off-leash activities permitted by these rules.

- (ii) Access to this area may be limited from November 15 to March 31, if any events permitted by the Parks and Recreation department need this designated area.

- (d) *Roosevelt Park (seasonal).* That portion of the park bounded on the north by Oak Street, bounded on the west by Walnut Street, bounded on the south by Willow Street, and on the east by the walking path bisecting the park. Dogs are not allowed on the baseball infield.

- (i) *Times.* The designated area may be used at any time of the year from 6:00 a.m. to 10:00 a.m. and from October 1 to April 1 from 3:00 p.m. to 8:00 p.m.

(B) *Rules for Commercial Use of Off-Leash Dog Areas.*

- (1) Commercial users will be responsible for creating any boundaries or temporary fencing that is required for their needs.
- (2) Commercial users may use the off-leash dog areas a maximum of twelve days per year.

- (3) No more than one commercial user may use a single dog park concurrently.
- (4) Off-leash dogs will be able to utilize any areas of the off-leash area that are not separated by temporary or permanent fencing.
- (5) With the exception of extraordinary circumstances, no more than 33% of an off-leash dog area shall be permitted to be bounded off for commercial usage.
- (6) Commercial usage shall not interfere with standard entrances and exits from the off-leash dog area.
- (7) If any parks and recreation staff time is required for the event, the commercial users of the park will be responsible for covering all costs related to the staff time. Further, staff will only be made available with approval of the Director of Parks and Recreation approval.
- (8) Commercial users will be responsible for all costs related to set-up, operations, security, and cleanup for all events.
- (9) Standard Parks and Recreation Department requirements for reserving parks will apply.

(C) Signage.

- (1) Signs may be placed at the perimeter of non-fenced off-leash dog areas to indicate the limits of off-leash dog activity.
- (2) Signage shall be placed at entrances to off-leash dog areas indicating the essential rules.
 - (a) Essential rules will be defined for each opportunity by Park Department staff.

(D) Operations.

- (1) Parks & Recreation shall develop and keep current an operations plan that defines services and responsibilities to be delivered to areas identified in the policy.

(E) Public Outreach & Enforcement.

- (1) The Parks Department and the Police Department shall collaborate to educate and enforce the rules and regulations as outlined by the policy in off-leash areas.

--END--



APPENDIX C: ADDITIONAL OFF-LEASH RECOMMENDATIONS

Date: June 7, 2013

To: City Council

From: The Off-Leash Work Group (OLWG)

Community Representatives: Ed Pais, Chair, Betsy Allen-Pennebaker, Lynne Lieb, Becky Poitras, and Louise Stoll

Re: Off-Leash Work Group Findings

In addition to the off-leash ordinance revision and the implementation of off-leash policies, the community representatives of the Off-Leash Work Group recommend consideration of the following issues that fall outside of the scope of the work group's charge.

- Create an Animal Welfare board, commission, or committee to help coordinate efforts and address issues relating to animals that also involve a variety of City Departments. We believe that there should be a minimum of 5 members with the following makeup:
 - One member from the Parks & Recreation Commission
 - One member from the Police Commission
 - One member who is a professional working with animals (for example, a veterinarian or employee at the Humane Society)
 - Two at-large members
- Review the structure of dog license fees.
 - In the past dog license fees have been raised multiple times with the promise that the additional revenue would go to support dog parks. This has not happened.
 - The allocation of collected license fees should be disclosed in the annual report.
 - We recommend that the dog license fees in excess of the state statutory fees be used generally for the development of off-leash infrastructure, training and enforcement and included in the City's annual report.
 - 75% to development and support of off-leash opportunities
 - 25% for animal control purposes
- Review dog licensing. We believe that there are many dogs in the city that are not being registered, and that there are ways to increase the compliance of licensing.
 - Consider allowing 1 to 3 year licenses. The rabies vaccinations are valid for three years so allowing the licenses to expire when the rabies vaccination expires could potentially increase compliance and reduce staff work in issuing licenses. It may be necessary to have the licenses renew automatically each year to comply with state statute.

- Consider allowing veterinarians to license animals. We are **not** sure if veterinarians will be interested in this as they care for dogs in multiple communities. However, if people can get their dogs licensed at the vet it will likely increase the numbers of people getting their dog licensed.
- Provide handouts on dog rules & regulations, as well as off-leash opportunities, to individuals getting their dog licenses. This could help with people knowing and following the regulations.
- Promote the dog-friendliness of Burlington to visitors. This can be used to increase tourism here as more people are travelling with their pets.
 - As part of our work, we gathered information on hotels that allow dogs. This was put on a Facebook group that we established. This was subsequently used by the information desk at the airport to give suggestions for hotels for travelers with dogs.
 - Develop & promote off-leash opportunities, and Burlington as a dog-friendly city, to partners in the tourism industry.
- Develop programs to improve etiquette between cyclists, pedestrians, and dog walkers.
- Provide public vehicular access to the Urban Reserve Dog Run.
- Pursue public-private development partnership opportunities.
- Establish a Friends of Burlington Dog Parks Group to:
 - Help raise funds for the dog parks
 - Help recruit volunteers for maintenance of dog parks
 - Assist in communications between dog owners, residents, businesses, and the Parks Department
 - Promote the dog-friendliness of Burlington
 - Consider development of a foundation in raising funds

--END--

RECEIVED

2013 AUG - 7 A 10: 34

BURLINGTON CLERK
TREASURER'S OFFICE

To: Members, Burlington City Counsel
From: Board for Registration of Voters
Date: July 8, 2013
Re: Annual Report for 2013.

The Board for Registration of Voters receives its authority from the Burlington City Charter, Section 42, and Vermont Title 17, #106 and #107 of the Vermont Statutes Annotated.

It is our primary responsibility to maintain the Burlington City Voter checklist. All additions, deletions and changes must be approved by a majority of Board members at a publicly warned, open meeting. The Board currently has nine positions authorized and is currently fully staffed. The usual meeting time is the first Tuesday of the month at 6:00 PM in City Hall.

In addition to checklist maintenance, the Board provides the City Clerk with a certified entrance checklist for all local elections. A copy of the checklist is also provided to Superior Court for use in jury duty selection.

On election days in March, August and November (and any special elections of the city), members of the Board are stationed at each of the seven Ward polling places. The purpose is to assist voters in matters concerning voter eligibility, checklist corrections and address changes. The Clerk of the Board and other city personnel provide support at City Hall on election days.

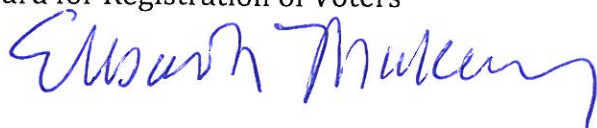
Other activities of the Board include voter registration and education at local high schools and new U.S. citizen ceremonies. We are currently revising our By-Laws. We added information about Voter Registration on the City web site. In addition we are developing a handbook of our forms and how to accurately complete them for orientation and training purposes.

In the year 2013 the Board registered 5074 new voters, deleted 2138 and changed address/name information on 2275 records. 17,383 voted in the general election. The new District, Street, and Ward lists have been corrected.

Using portable laptop computers, provided by the city, at each polling place continues to be helpful. Access to the statewide voter checklist enables us to expedite problem solving. Kathy Dunn continues to provide support to the Clerk of the Board and training on the computers for board members.

We continue to communicate with the Secretary of State's office in order to improve the voter registration process and clarify the issue of the availability of judges on Election Day.

Submitted by Elisabeth Mickenberg, Chair
Board for Registration of Voters



BRV Board Members

Matthew J. Gelle

Michelle [Signature]

Katherine Miles

Helen G. Poth

Janet Hicks

Ann KOBM Cattrey

Lenore Broughton

Kinda Chagnon

RECEIVED

2013 AUG -7 A 10:34

BURLINGTON CLERK
TREASURER'S OFFICE



Fee \$25.00

May 1, 2013 ---- April 30, 2014

**CITY OF BURLINGTON
SPECIAL EVENT
ENTERTAINMENT PERMIT APPLICATION**

☐ Indoor

☒ Outdoor

**PART I
ORGANIZATION**

All information in this section is required

1. Corporation/Sole Proprietor name _____ Church Holdings Inc _____
2. D/B/A (Business Name) _____ Church and Main _____ 3. Bus. Phone _____ (802) 540-3040 _____
4. Business Address _____ 156 Church St. _____
5. Mailing Address _____ 156 Church St. Unit B _____
6. Contact person _____ Daniel Caudle _____ 7. Contact Phone _____ (940) 366-9639 _____
8. Email contact address _____ dcaudle@churchandmainvt.com _____

**PART II
OPERATION**

1. Do you currently have a Liquor License? Yes
2. Do you currently have an Entertainment Permit/Special Event Permit? Yes
3. Proposed Date(s) for this Special Event _____ Sunday, August 11th _____
4. Proposed Hours for this Special Event _____ 6pm – 10pm _____
5. Proposed Location for this Special Event Specify if event will be on City street or right-of-way
_____ Our café area and right of way _____

For this Proposed location please answer the following questions:

- a) Occupancy Load _____ 100 _____ b) # of Restrooms _____ 2 _____ c) # of 1 _____
- d) Date of last Fire/Safety Check _____ 3-6-2013 _____ e) Dancing by Patrons? Yes
- f) Amplified Music? Yes g) Will additional staff and/or security be required? No


**PART III
DESCRIPTION OF ENTERTAINMENT**

Please give DETAILED description of the type of entertainment for which you are applying:

Description We are applying for the use of right of way for a Charity event sponsored by The Christopher and Dana Reeve Foundation. This event will be closed to the public and ticket sales will conclude when 100 tickets are sold. We are providing food and soft beverages with a cash bar. In addition to the donation of Church and Main, we are working together with several local distributors to provide our guest with an amazing event. We will also be providing entertainment through a guest band that will be located in our café area. We understand that this petition is past the customary due date but we would like to apologize. I am aware of the process within which these decisions are made and will do everything in my power to plan every event in the future accordingly. Thank you for your time.

STATEMENT OF APPLICANT: Under the pains and penalties of perjury, I affirm that the preceding answers are true to the best of my knowledge and belief. I have read, understand and agree to comply with all City and State conditions, laws, ordinances, regulations and statutes.

DATE SIGNED: 7-26-2013

X 

Daniel Caudle
General Manager

BURLINGTON CLERK
TREASURER'S OFFICE

2013 JUL 26 P 4:36

RECEIVED

SIGNATURE OF APPLICANT _____

PRINT NAME: Daniel Caudle

RELATIONSHIP TO BUSINESS General Manager

OFFICE USE ONLY

Fee Paid \$ 25.00 Date: 7/31/13 Fee Returned \$ _____ Date: _____

At their meeting of 7/30/13, the Burlington City Council License Committee recommended
Approval X Denial _____

At their meeting of _____, the Burlington City Council _____ this SPECIAL
entertainment permit application.



Fee \$25.00

May 1, 2013 ---- April 30, 2014

CITY OF BURLINGTON
SPECIAL EVENT
ENTERTAINMENT PERMIT APPLICATION

☐ Indoor

☒ Outdoor

PART I
ORGANIZATION

All information in this section is required

1. Corporation/Sole Proprietor name: Monkey Hospitality, LLC
2. D/B/A (Business Name): Monkey House 3. Bus. Phone: 802-655-4563
4. Business Address: 30 Main St Winooski
5. Mailing Address: Same
6. Contact person: Ryan Smith 7. Contact Phone: 233-5928
8. Email contact address: fluidbarservicevt@gmail.com

PART II
OPERATION

RECEIVED
2013 JUL 15 P 1:50
BURLINGTON CLERK
TREASURER'S OFFICE

1. Do you currently have a Liquor License? Yes
2. Do you currently have an Entertainment Permit/Special Event Permit? Yes
3. Proposed Date(s) for this Special Event: Friday's in August 8/2, 8/9, 8/16, 8/23, 8/30
4. Proposed Hours for this Special Event: 4pm to 9pm
5. Proposed Location for this Special Event Specify if event will be on City street or right-of-way
SEABA Parking Lot on Pine st. Burlington, VT

For this Proposed location please answer the following questions:

- a) Occupancy Load: 500- 1000 per Fire Dept) # of Restrooms 3-4 c) # of Egresses: 3 Alleys
d) Date of last Fire/Safety Check Prior to summer e) Dancing by Patrons? Yes maybe
f) Amplified Music? Yes g) Will additional staff and/or security be required? Yes

(Continued on back) **PART III**

DESCRIPTION OF ENTERTAINMENT

Please give DETAILED description of the type of entertainment for which you are applying:

Description CommunityFood Truck Stop in the south end friday evenings. Goal is to encourage folks to support local food movement, the Arts, and local beer responsibly. Most folks arrive and pass through with families living in the south end or folks getting off work at the many local business's.

STATEMENT OF APPLICANT: Under the pains and penalties of perjury, I affirm that the preceding answers are true to the best of my knowledge and belief. I have read, understand and agree to comply with all City and State conditions, laws, ordinances, regulations and statutes.

DATE SIGNED: 7/15/13

SIGNATURE OF APPLICANT [Signature]

PRINT NAME: Ryan Smith

RELATIONSHIP TO BUSINESS Owner

RECEIVED
2013 JUL 15 P 1:50
BURLINGTON CLERK
TREASURER'S OFFICE

OFFICE USE ONLY

Fee Paid \$ 25.00 Date: 8/2/13 Fee Returned \$ _____ Date: _____

At their meeting of 7/30/13 the Burlington City Council License Committee recommended
Approval X Denial _____

At their meeting of _____, the Burlington City Council _____ this SPECIAL
entertainment permit application.



May 1, 2013 ---- April 30, 2014

**CITY OF BURLINGTON
SPECIAL EVENT
ENTERTAINMENT PERMIT APPLICATION**



☒ Indoor

☐ Outdoor

**PART I
ORGANIZATION**

All information in this section is required

1. Corporation/Sole Proprietor name PACIFIC RIM LLC
2. D/B/A (Business Name) PACIFIC RIM 3. Bus. Phone _____
4. Business Address 161 church st. Burlington VT 05401
5. Mailing Address 49 central ave. Burlington VT 05401
6. Contact person Tommy wheeler 7. Contact Phone 802-825-6808
8. Email contact address tommywheels@gmail.com

**PART II
OPERATION**

1. Do you currently have a Liquor License? Yes or No
2. Do you currently have an Entertainment Permit/Special Event Permit? Yes or No
3. Proposed Date(s) for this Special Event _____
4. Proposed Hours for this Special Event 10 pm - 2 AM
5. Proposed Location for this Special Event Specify if event will be on City street or right-of-way
INSIDE

For this Proposed location please answer the following questions:

- a) Occupancy Load 108 b) # of Restrooms 2 c) # of Egresses 2
- d) Date of last Fire/Safety Check 5/27/13 e) Dancing by Patrons? Yes or No
- f) Amplified Music? Yes or No g) Will additional staff and/or security be required? Yes or No

(Continued on back)

Fee \$25.00

**PART III
DESCRIPTION OF ENTERTAINMENT**

Please give DETAILED description of the type of entertainment for which you are applying:

Description DJS ON *9/4 9/5 9/6 9/7 9/11 9/12 9/13 9/14 9/18 9/19
9/20 9/21 9/25 9/26 9/27 9/28 * 10/2 10/3 10/4 10/5
10/9 10/10 10/11 10/12 10/16 10/17 10/18 10/19 10/23 10/24 10/25 10/26
10/30 10/31 11/1 11/2

* recommended for approval September dates only
fees waived for month of September via LComail
do 8/7/13

STATEMENT OF APPLICANT: Under the pains and penalties of perjury, I affirm that the preceding answers are true to the best of my knowledge and belief. I have read, understood and agree to comply with all City and State conditions, laws, ordinances, regulations and statutes.

DATE SIGNED: 8/5/13

SIGNATURE OF APPLICANT Thomas Wheeler

PRINT NAME: Thomas Wheeler

RELATIONSHIP TO BUSINESS BAR MANAGER

RECEIVED
CLERK
OFFICE

8/5/13 - 6 P 3:36

OFFICE USE ONLY

Fee Paid \$ _____ Date: _____ Fee Returned \$ _____ Date: _____

At their meeting of _____, the Burlington City Council License Committee recommended
Approval _____ Denial _____

At their meeting of _____, the Burlington City Council _____ this SPECIAL
entertainment permit application.



May 1, 2013 ---- April 30, 2014

Fee \$25.00

**CITY OF BURLINGTON
SPECIAL EVENT
ENTERTAINMENT PERMIT APPLICATION**

☐ Indoor

☒ Outdoor

**PART I
ORGANIZATION**

All information in this section is required

BURLINGTON CLERK
TREASURER'S OFFICE

2013 JUL 23 P 1:32

RECEIVED

1. Corporation/Sole Proprietor name Da Capo Publishing Inc.
2. D/B/A (Business Name) Seven Days 3. Bus. Phone 802-865-1020 x 36
4. Business Address 255 South Champlain St. Suite 5 Burlington, VT 05401
5. Mailing Address P.O. Box 1164 Burlington, VT 05402-1164
6. Contact person Corey Grenier 7. Contact Phone 401-741-2279 (cell)
8. Email contact address Corey@sevendaysvt.com 802-865-1020 x 36 (work)

**PART II
OPERATION**

1. Do you currently have a Liquor License? Yes or No
2. Do you currently have an Entertainment Permit/Special Event Permit? Yes or No
3. Proposed Date(s) for this Special Event Friday, Sept 6.
4. Proposed Hours for this Special Event 5:00 p.m. - 10:00 p.m.
5. Proposed Location for this Special Event Specify if event will be on City street or right-of-way
Curtis Lumber parking lot, 315 Pine St, Burlington, VT 05401

For this Proposed location please answer the following questions:

- a) Occupancy Load N/A outside. b) # of Restrooms N/A outside c) # of Egresses outside event
- d) Date of last Fire/Safety Check December, 2012 e) Dancing by Patrons? Yes or No
- f) Amplified Music? Yes or No g) Will additional staff and/or security be required? Yes or No

*pdchv # 71954 to \$25.00
7/23/13 1*

PART III
DESCRIPTION OF ENTERTAINMENT

Please give DETAILED description of the type of entertainment for which you are applying:

Description Abby Monack, a local artist will install eight 18ft ^{air dancers, see a + car dealers}
• We will have New Duds making custom made
on the spot t-shirts. We will sell them for \$10.00.
• DJ Craig Mitchell will play from 5pm to 10:00 p.m.
• Vermont Spirits will be sampling their products
(they will fill out their own form) under the tent.
• We will put up a tent in the Curtis Lumber
Parking lot — all the activities will happen under
it. Citizen Cider will also sample (they will fill out permit).

STATEMENT OF APPLICANT: Under the pains and penalties of perjury, I affirm that the preceding answers are true to the best of my knowledge and belief. I have read, understand and agree to comply with all City and State conditions, laws, ordinances, regulations and statutes.

DATE SIGNED: 7-19-13

SIGNATURE OF APPLICANT Corey Grenier

PRINT NAME: Corey Grenier

RELATIONSHIP TO BUSINESS Marketing + Events Manager

OFFICE USE ONLY

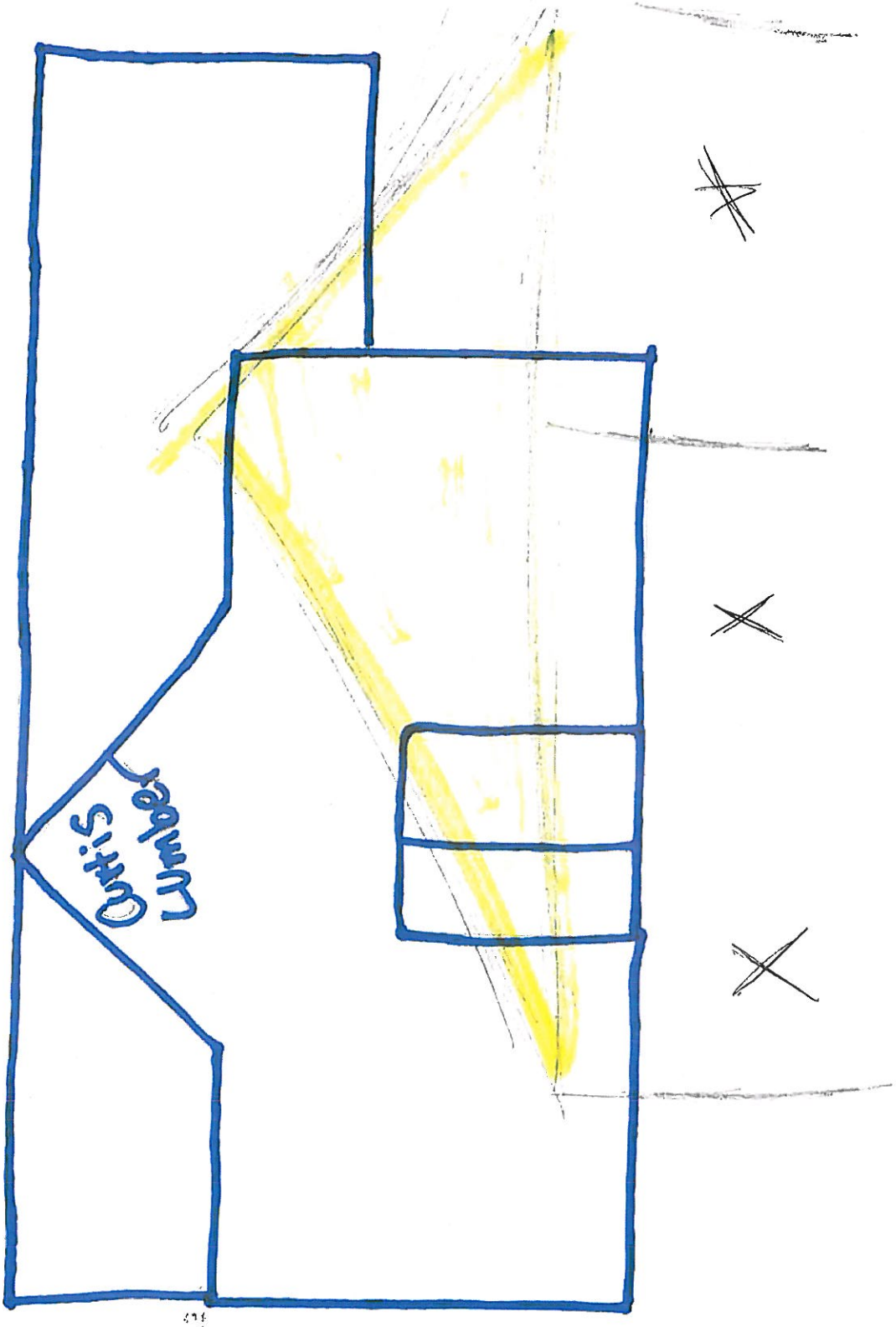
Fee Paid \$ _____ Date: _____ Fee Returned \$ _____ Date: _____

At their meeting of 7/30/13, the Burlington City Council License Committee recommended
Approval X Denial _____

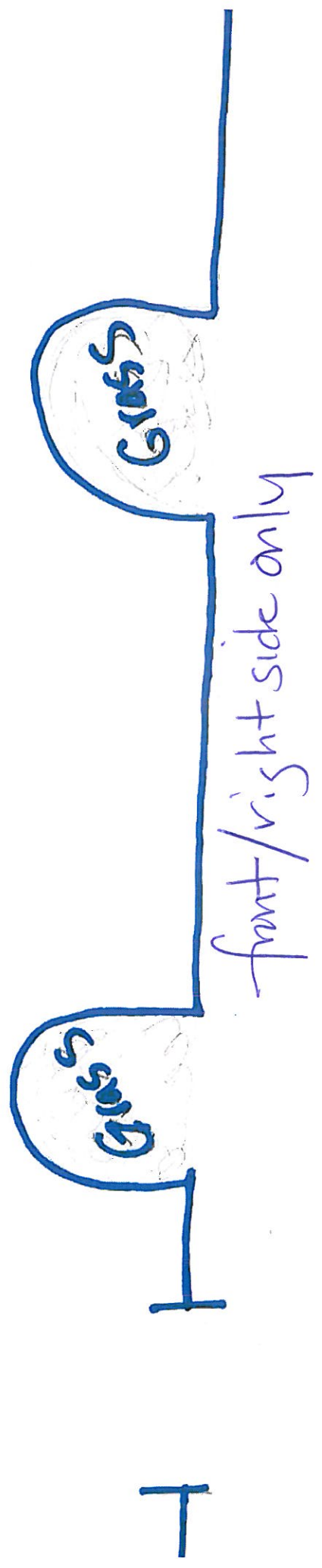
At their meeting of _____, the Burlington City Council _____ this SPECIAL
entertainment permit application.

RECEIVED
2013 JUL 23 P 1:32
BURLINGTON CLERK
TREASURER'S OFFICE

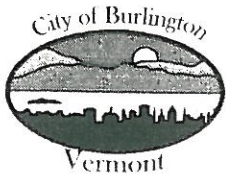
7 Days event
9/4/13



Grass



front/right side only



May 1, 2013 ---- April 30, 2014

Fee \$25.00

CITY OF BURLINGTON
SPECIAL EVENT
ENTERTAINMENT PERMIT APPLICATION

☐ Indoor

☒ Outdoor

PART I
ORGANIZATION

All information in this section is required

1. Corporation/Sole Proprietor name: South End Arts and Business District
2. D/B/A (Business Name)
3. Bus. Phone: 802.859.9222
4. Business Address: 404 Pine Street, Burlington
5. Mailing Address: Same
6. Contact person: Lisa Condon
7. Contact Phone: 802.338.1512
8. Email contact address: Lisa@RedSapphireConsulting.com

RECEIVED
2013 JUL 16 A 9:42
BURLINGTON CLERK
TREASURER'S OFFICE

PART II
OPERATION

1. Do you currently have a Liquor License? No
 - a. Higher Ground will be providing a Beer Garden on Friday and Saturday nights in the tent behind the Maltex building. They have a state liquor license and have submitted a request to the City for their permit.
2. Do you currently have an Entertainment Permit/Special Event Permit? No
3. Proposed Date(s) for this Special Event : September 6-8, 2013
4. Proposed Hours for this Special Event
 - a. Friday 5:00 pm – 10:00 pm
 - b. Saturday 10:00 am – 10:00 pm
 - c. Sunday 11:00 am – 4:00 pm.
5. Proposed Location for this Special Event Specify if event will be on City street or right-of-way

The South End of Burlington, defined as Main Street south to Home Ave and East to Shelburne Rd.

For this Proposed location please answer the following questions:

- a) Occupancy Load: Approx 30,000 people to the event.
- b) # of Restrooms 4 regular, 1 ADA

- Fee \$25.00
- c) # of Egresses: The tent that will be the non-perm structure **will** have egresses on all sides
 - d) Date of last Fire/Safety Check – There will be one after the tent is up on September 5th
 - e) Dancing by Patrons? Potentially to the band
 - f) Amplified Music? Yes
 - g) Will additional staff and/or security be required? Yes

(Continued on back)

PART III DESCRIPTION OF ENTERTAINMENT

Please give DETAILED description of the type of entertainment for which you are applying:

Description: The South End Art Hop is a three day event occurring on the weekend following the Labor Day holiday. It attracts over 30,000 visitors, the majority from outside Burlington. Visitors are attracted to the South End artist's studios, and local businesses that are refit as art galleries and exhibition sites for the more than 500 participating artists. The event celebrates the unique characteristics of the Pine Street corridor, in particular the development of concentrated creative and artistic activity that has been established in numerous re-purposed factories and warehouses within the District. This corridor has been designated, and recognized, as the South End Arts District.

Special Mini-Events:

- Friday
 - Hopqpalooza, a concert series that will take place on the stage behind the Maltex building
- Saturday
 - Kids Hop, a space from 10am-3pm that will feature children's activities, under the big tent behind the Maltex building
 - STRUT! Fasshion Show – Two fashion shows (6:30-8 and 8:30-10) that take place under the tent behind the Maltex building. This event is DJ'd and hosted, but will meet noise ordinance requirements.

Food Vendors – There will be a maximum of 15 food vendors or carts in various locations throughout the Art Hop, including behind the Maltex building.

STATEMENT OF APPLICANT. Under the pains and penalties of perjury, I affirm that the preceding answers are true to the best of my knowledge and belief. I have read, understand and agree to comply with all City and State conditions, laws, ordinances, regulations and statutes.

DATE SIGNED 7/16/13

SIGNATURE OF APPLICANT 

PRINT NAME: Adam C. Brader

RELATIONSHIP TO BUSINESS SEARA Executive Director

RECEIVED
 2013 JUL 16 A 9:42
 BURLINGTON CLERK
 TREASURER'S OFFICE

OFFICE USE ONLY

CHK# 1533

Fee Paid \$ 25.00 Date: 7/16/13 Fee Returned \$ _____ Date: _____ Fee \$25.00

At their meeting of 7/30/13, the Burlington City Council License Committee recommended
Approval ☒ Denial ☐

At their meeting of _____, the Burlington City Council _____ this SPECIAL
entertainment permit application.

RECEIVED
2013 JUL 16 A 9:42
BURLINGTON CLERK
TREASURER'S OFFICE

Karen Moran Lafayette

Legislative Liaison

109 Caroline Street
Burlington, VT 05401
802/862-9251 (h)
802/373-3366 (cell)
kmlafayette@aol.com

Erhard Mahnke

Legislative Liaison

60 Grove St.
Burlington, VT 05401
802/660-9484 (wk)
802/233-2902 (cell)
802/859-9540 (fx)
erhardm@burlingtontelecom.net

M E M O R A N D U M

To: Mayor Miro Weinberger
City Council President Joan Shannon
City Council Members

FROM: Karen Lafayette & Erhard Mahnke, Legislative Liaisons

DATE: July 26, 2013

RE: 2013 Burlington Legislative Report

It was our pleasure to represent the City of Burlington's interests in Montpelier again this year. Attached please find our report on the final status of bills and issues we followed for the City during the 2013 session. We hope that it provides a helpful retrospective.

As in other years, 2013 saw the Legislature consider a large number of bills affecting Burlington. We worked with Mayor Weinberger, department heads, other City officials, Burlington representatives and Chittenden County senators on the issues identified in the report. Our work included preparing and giving testimony before various committees, as well as arranging and co-ordinating the testimony of City officials. We also performed research, produced and disseminated informational pieces, and held meetings and informal conversations with legislators and State officials. We alerted the Mayor and appropriate City staff to bills and other State House developments affecting Burlington's interests, assessed their impact on the City, and kept close tabs on them as they moved through the Legislature.

Our work was made easier by the support we enjoyed from Mayor Weinberger and his staff, as well as from department heads and other City officials, many of whom joined us on a number of occasions at the State House to testify before numerous committees on a wide array of issues and bills and for meetings convened with the legislative delegation. Our job was further made easier by the hard work and considerable skill of all our Burlington representatives and Chittenden County senators. We appreciate their efforts on behalf of the City.

Many thanks also to Steven Jeffrey, Karen Horn and the rest of the dedicated staff at the Vermont League of Cities and Towns (VLCT, the League), with whom we worked closely throughout the session. The League's excellent "[2013 Legislative Wrap-Up](#)" is available online and provides further detail on many issues covered in our report, as well as a number of issues of general interest to municipalities that we were not directly involved in.

If you have questions or concerns, as always, please feel free to contact either of us via the email addresses or phone numbers listed above. As in past years, we will monitor off-season meetings of relevant legislative committees over the summer and fall. We welcome the opportunity to represent the City in Montpelier.

Thank you.

2013

BURLINGTON

LEGISLATIVE REVIEW



July 2013

Prepared by:

Karen Lafayette &
Erhard Mahnke
Legislative Liaisons

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Executive Summary

This was the third year of undivided government in Vermont, with the Shumlin administration fully established and substantial Democratic majorities in both the House and Senate. However, far from the smooth sailing one might have expected, some major administration initiatives were soundly rejected by the Legislature. The Governor unveiled several proposals during his State of the State and Budget Addresses that downright shocked many lawmakers: Redirecting \$17 million from the Earned Income Tax Credit, which helps many low-income working Vermonters keep their heads above water financially, to increase childcare subsidies; establishing tough new time limits on the State's welfare program; and a budget with more than \$30 million in new spending based on new revenue sources, some of which left lawmakers scratching their heads, like a fee on "break-open" tickets that was supposed to raise \$17 million for energy related measures. Other gubernatorial initiatives, for instance those related to education, were widely embraced, including expanded school lunch programs; increased funding for UVM, the State colleges and VSAC; and a Flexible Pathways Initiative that incorporated proposals for dual enrollment, early college, and personalized learning plans.

As in the past several sessions, legislators began the biennium faced with many major fiscal challenges in this, the State's sixth year of budget shortfalls since the beginning of the Great Recession:

- A \$70 million FY 14 General Fund budget gap;
- An annual shortfall of over \$240 million in transportation needs;
- The uncertainties of future federal budget cuts and their impact on the State budget, not just for the current fiscal year, but going forward for years to come;
- A 5-cent education tax increase, due to a combination of lower property values, declining school populations and increasing school budgets;
- The challenges of continuing to rebuild after Irene, including replacing the Waterbury State office complex, restructuring Vermont's mental health system, and helping rebuild municipal infrastructure, with the final amount of assistance from FEMA not yet determined;
- An \$18 million gap for people insured through Catamount and VHAP who face increased out-of-pocket health care costs under the new Health Care Exchange;
- A price tag that potentially totals almost \$1.6 billion over the next ten years to improve the water quality of Vermont's streams and lakes, including Lake Champlain; and
- \$267 million in potential new public investments in energy efficiency improvements to meet the State's goal of substantially improving the thermal efficiency of 80,000 Vermont homes by 2020.

Tax writing committees were consumed with devising modest revenue raising packages to meet budget shortfalls, knowing that they faced a potential veto from a Governor who steadfastly maintained his refusal to pass "broad-based" new taxes, even while it became necessary to increase the statewide education tax substantially and raise the gas tax to meet transportation needs. Tax writers also considered numerous measures intended to bend the upwards trajectory on school spending and increase "tax fairness." Committees with jurisdiction over health care worked to prepare Vermont for implementation of the Affordable Care Act and move us a step further on the path towards comprehensive health care reform by 2017. In the end, unexpected tax receipts filled a \$10 million budget hole and enabled the Governor and legislative leaders to agree to avoid raising broad-based new taxes (except, of course, the property and gas taxes).

In spite of the continued focus on budget, revenues and health care, 544 bills were introduced in the House and 169 in the Senate, which represented marked increases from the number introduced in the first year of the last biennium. Of these, 63 House and 35 Senate bills became law. Among them were bills that gave

terminally ill patients a legal way to take their lives with prescription drugs, decriminalized possession of small amounts of marijuana, allowed undocumented migrant workers to obtain driver's licenses, and supported long standing union priorities.

Because this was the first year of a legislative biennium, all bills that did not pass remain alive and can be considered next year. With various committees and "summer study" work groups meeting on a monthly basis, legislative activity over the summer and fall will again be high. The work of our citizen lawmakers continues throughout the year.

What follows is a summary of Burlington's legislative highlights. Additional legislation affecting municipal interests in general was summarized in the Vermont League of Cities and Towns' (VLCT's, the League's) excellent [2013 Legislative Wrap-Up](#). In order to avoid duplicating the League's report, this retrospective focuses more closely on those municipal issues that affect the City's specific interests. Where we thought they were especially well done, we have included summaries from the League, Legislative Council or other sources.

More detailed information on the issues summarized below can be found in the body of the report.

Education Tax Rate

The 2013 Education Property Tax Bill (H.265/Act 52) set the statewide homestead education tax rate at \$0.94 per \$100 of assessed value, five cents above the FY 13 rate (a 5.6% increase). The non-homestead rate was set at \$1.44, six cents above the FY 13 rate (a 4.4% increase). This was the third year of increases to the education tax rates, which had held relatively steady from 2007 on, after declining for most of the previous decade. Set annually by the Legislature, the statewide base education spending per equalized pupil was increased from \$8,723 to \$9,151. When adjusted for Burlington's Common Level of Appraisal (CLA), as well as for school district spending, the statewide homestead rate translates into a local rate of \$1.5257 for FY 14, up 9½ cents from \$1.4302. The non-homestead rate translates into a local rate of \$1.6055, up 3.7 cents from \$1.5684. The maximum percentage of income that an income-sensitized household pays for education taxes remained at 1.80%, the same as for the last several years. When adjusted for local school spending, this translates into a maximum education tax payment of 2.62% of annual income for income-sensitized Burlington taxpayers.

Other Education Financing Changes

In response to anticipated continued increases in school spending and corresponding tax increases, lawmakers considered numerous measures to curb school spending, some of which, had they passed, could have had negative effects on the Burlington School District. Measures that actually passed were relatively narrow and will have limited impact on Burlington. They include a reduction in the excess education spending threshold; a limitation on the amount of tuition over- or undercharge when a student transfers in from, or out to another district; and studies of the Renters' Rebate and student-to-staff ratios. Though the final bill that passed was quite modest compared to the array of changes originally considered by each of the tax writing committees, the amount of time and energy they spent on trying to bend the curve on education spending and provide tax relief is expected to carry over into the 2014 legislative session. Education financing, especially income sensitivity and school budgeting, is an area that will need to be closely watched next year.

Tax Incremental Financing (TIF)

The City's top legislative priority this year was passage of comprehensive Tax Increment Financing (TIF) reform legislation. There has hardly been a year when revisions to the statute governing this complex economic development tool have not consumed large amounts of legislative time and effort. Numerous incremental changes over the years have created a complicated legal structure that lends itself to different, sometimes conflicting interpretations. The City's goals this year were primarily three-fold:

1. Gain additional time for incurring debt in both the Waterfront and Downtown TIF Districts,
2. Resolve the State Auditor's outstanding findings that the City owed the State money for improper administration of its Waterfront TIF District, and
3. Resolve numerous ambiguities and uncertainties around the administration and implementation of TIF districts in Vermont.

All three goals were met in this legislative session. Achieving the first goal was absolutely essential to the future redevelopment of the Waterfront. Passage of S.37 gave authority for the City of Burlington to incur debt in the Waterfront TIF District for an additional five years, beginning January 1, 2015. Burlington's Downtown TIF District gained an additional five years in which to incur debt (for a total of ten years), beginning with the creation of the district, so long as debt is incurred within the first five years of the district's life. However, if no debt is incurred during the first five years, the district will terminate unless the municipality gets approval from VEPC for a five-year extension. These extensions give the City additional time to implement development plans for both TIF Districts.

The legislation also resolved a number of ongoing Tax Incremental Financing issues, including the important settlement of the former State Auditor's findings that suggested four TIF towns, including Burlington, owed money to the State Education Fund for improper use of the tax increment. Burlington was alleged to have underpaid the Ed Fund by \$1.2 million. Although the municipalities disputed the Auditor's findings, they agreed to settle the issue through a series of "reduced" payments; Burlington is required to pay \$200,000 in equal installments of \$40,000 a year over a five-year period beginning December 15, 2013. In addition to resolving the Auditor's findings around underpayment to the Ed Fund, S.37 clarified a number of ambiguities in the TIF Law.

State Budget

This was the sixth consecutive year of difficult budgets due to yet another year of deficits, made more difficult by the slow economic recovery, federal funding cutbacks, and challenges remaining from Tropical Storm Irene. The year started out with a \$70 million budget gap projected for FY 14. Though the Governor steadfastly refused to support raising "broad-based" taxes to make up the budget shortfall, nonetheless he proposed \$30 million in new spending. The House and Senate each rejected many of the Governor's new spending measures, setting their sights on raising \$20 million and \$10 million in new revenues, respectively, to close their projected budget gaps. In the end, \$10 million in unanticipated new revenues helped close the final gap, together with another \$10 million that was trimmed relatively painlessly. Lawmakers passed a \$1.356 billion General Fund budget, a 4% increase over FY 13. Total spending, including transportation, education, federal and special funds, amounted to \$5.232 billion, a 4.2% increase. Other than State education funding, the City does not have many budget line items from which it derives direct benefit, though there are several from which it does, summarized as follows.

Payments in Lieu of Taxes (PILOT)

The PILOT program is designed to reimburse cities and towns for a portion of the municipal property tax revenues they lose because they host State owned buildings and lands that are exempt from property taxes. PILOT payments help support the municipal police, fire, highway, and other public services from which State facilities benefit. For FY 2014, the overall PILOT budget for general State buildings is \$5.8 million, same as for the last several years. The Tax Department estimates that Burlington will receive \$674,943, a 15% cut from the FY 11 level of \$793,058. This is the third consecutive year of decreases. The City's reductions stems from a combination of changes in state owned property in the City and around the state. This year PILOT was once again funded exclusively from the 30% share of local option taxes that go to the State.

Community Justice Center & Offender Re-Entry Housing

Lawmakers have invested in a variety of measures intended to generate savings in the Department of Corrections' (DOC's) budget. These "justice reinvestments" have seen an increase of just under \$8 million since 2008. According to DOC figures, the measures have paid off: the total population under some form of DOC supervision was 10,743 in FY 12, down from a high of 13,778 in FY 07. DOC now invests approximately \$2.1 million annually in the operating budgets of the state's 17 Community Justice Centers (CJCs and Restorative Justice Programs). Burlington's CJC received \$275,000 from the State in FY 13 and anticipates receiving \$300,000 for FY 14. Transitional housing for ex-offenders re-entering the community is another important issue for the City in the Corrections budget. Several Burlington organizations together receive over \$1 million in annual funding from this budget line item, including the Burlington Housing Authority, Northern Lights, Dismas House, Phoenix House, and Pathways to Housing. Chittenden County's innovative Rapid Intervention Program was level funded at \$114,000.

Recovery Center Funding

The FY 14 Big Bill level funds the Vermont Recovery Network statewide at \$715,000, building what was originally intended to be a one-time increase of \$100,000 last year into the base budget going forward. The 11 Recovery Centers, including Burlington's Turning Point Center, split the annual appropriation for the Network evenly, so that each receives approximately \$65,000. Recovery Centers provide multi-faceted support for people seeking recovery and their families. Pending the findings and recommendations of a report mandated in the budget, The Agency for Human Services (AHS) may increase substance abuse funding by \$100,000, including for Recovery Centers, to build system capacity. The Burlington Turning Point Center currently receives a disproportionately small amount of the Network's total funding compared to the large number of visits it receives. As funding for the overall Network increases, Burlington's Turning Point should receive funding that is more proportional to its percentage of people served.

Cloud Computing

Whether or not so-called "pre-written" software accessed remotely ("cloud computing") should be taxed was again the subject of much discussion, and the final result was that it is taxable as of July 1. The Shumlin Administration asked for a permanent exemption to help spur the growth of the state's technology and software industry. The Senate agreed and incorporated a three-year extension of last year's moratorium into its version of H.295/Act 73, the Technical Tax Bill. The House opposed the extension. In the end, the conference committee on the bill decided that the State couldn't afford the \$900,000 needed annually to cover extending the tax break and declined to do so. As a result, the moratorium expired on June 30. Purchases made before July 1, are not taxable; liability for the tax is incurred starting July 1.

Criminal Investigation Records

Senate Bill 148, which passed as Act 70, allows greater public access to criminal investigation records. Previously, the Vermont Public Records Act categorically exempted from disclosure records dealing with the detection and investigation of crime. The existing law was considered confusing, and courts had issued contradictory decisions in the last several years. Act 70 establishes a balancing test derived from standards in the federal Freedom of Information Act (FOIA), which 21 other states have adopted. The act allows six general exemptions from public disclosure and incorporates FOIA case law by reference. It maintains the provision in existing Vermont law that subjects to public disclosure records that relate to the management of a law enforcement agency or that reflect the initial arrest or charge of a person. It does not change the statute that protects law enforcement employees' personnel records. Burlington Police Chief Mike Schirling expressed deep concern about the strict adoption of the FOIA standards, which he felt did not sufficiently protect witnesses and a host of private information contained in police investigative records, the public disclosure of which could bring harm to persons and property and reveal personal information that should be kept private. The final bill included language that addressed some of the Chief's concerns.

Shoreland Protection

In response to two key reports on water quality remediation and lake shoreland protection, the House Fish and Wildlife Committee introduced legislation that would establish a complex regulatory framework for the shorelands of all Vermont lakes and ponds of more than ten acres – in effect statewide shoreland zoning, designed without urban waterfronts in mind. The bill passed the House, but stalled in the Senate, and is expected to see further action next year. It would delegate permitting authority to towns with municipal shoreland protection zoning that met State minimums. Thanks to concerns raised by the City and the League, it would also exempt redevelopment of land that had been subject to historic industrial or urban development. Without this provision, the City's plans to continue redeveloping the urban waterfront could be jeopardized. In response to concerns from lakeshore property owners, the Senate decided to create a study committee to inform the public about current laws and regulations protecting the waters of the State and to take testimony regarding the regulation of lake shorelands. Though it appears unlikely that H.526 will be enacted as passed by the House, it will certainly help frame future discussions and progress needs to be watched closely over the legislative interim and next year.

Public Records

The Legislature passed H.54 (Act 23), which, though it did not effect substantive changes to the State's Public Records Law, signaled the Legislature's clear intent to take up substantive changes next year. Act 23 directs Legislative Council to prepare a draft bill listing all exemptions to the Public Records Act in one statutory provision. The draft bill is also required to amend existing exemptions scattered throughout Vermont law to cross-reference back to the draft list of exemptions and to incorporate amendments to existing exemptions that were previously recommended by the legislative Public Records Study Committee. Similar legislation deleting or amending various public records exemptions was introduced in 2012 as H.611 and never acted upon. Act 59, passed the year before, made substantial changes to the Public Records Law, but did not address issues that remained unresolved for the City. The Legislative Public Records Study Committee continues to meet on these issues during the legislative interim. The City will need to follow any future legislation changing the State's Public Records Act closely, as its repercussions for municipalities are potentially great.

Open Meetings

The Legislature for the past few years has worked on a number of bills regarding government "transparency" and "accountability." In addition to addressing access to public records and exemptions, two bills were introduced to update Vermont's Open Meetings Law, S.110 and H.497, though neither passed this year. H.497, as introduced, includes the essential features of S.67, which passed the Senate but not the House in 2011. The House and the Senate have agreed that the House Government Operations Committee will work from H.497 next year, essentially picking up where the Legislature left off during the last biennium. The bill would clarify when a public body may enter executive session; allow members of a public body to participate in a meeting remotely if certain requirements are met; amend provisions related to meeting agendas; and require the award of attorney's fees and litigation costs to a complainant who substantially prevails in a case alleging a violation of the Open Meeting Law, unless the public body cured the violation or had a reasonable basis in fact and law for its position and acted in good faith. The City has a number of concerns with any Open Meeting Law revisions, so it will need to follow this legislation closely next year.

Technical Tax Bill

This year's Technical Tax Bill has several sections that will affect Burlington and other municipalities. Before April 1 of each year, owners of certain tax-exempt properties will be required to report the insurance cost to town listers/assessors or provide a written explanation of why the property is not insured. Listers must use the insurance replacement cost as the value that is entered in the Grand List. It also requires that all tax expenditures listed in the biannual Vermont Tax Expenditures Report, including property tax exemptions, be accompanied in statute by a statement of purpose explaining the policy goal behind the tax

expenditures; otherwise they will not be implemented or enforced. The bill also establishes a committee to study the public, pious and charitable property tax exemption and make recommendations related to the definitions, listing, valuation, and tax treatment of properties within this exemption. The City will need to follow this process closely as well.

Transportation

The T-Bill includes \$1.25 million in additional preliminary engineering funds for the Champlain Parkway, to complete design on the entire project. This is expected to suffice for the project to move forward during the current fiscal year. The bill also provides \$710,000 for improvements to the Church Street Marketplace and side streets, as well as for the Shelburne Road round-about. It also includes \$1.3 million in transportation enhancements and bike and pedestrian facility grants for bike path relocation, sidewalk improvements, pedestrian signals, and Intervale revitalization. Rail funding will continue to improve the Western Corridor, with the ultimate goal of establishing passenger rail service to downtown Burlington.

Affordable Housing

Vermont Housing and Conservation Board (VHCB) funding was increased by \$300,000 to \$14.3 million. VHCB has been a mainstay funding source for all the City's affordable housing initiatives over the last 25 years, as well as for major conservation and recreational amenities. Funding for homeless shelters and homelessness prevention through the State's Emergency Solutions Grant Program was level funded. Base funding for the State's General Assistance (GA) Program, which funds a variety of emergency housing and housing related support services for the homeless and at-risk, was increased to \$8.2 million. In addition to funding Emergency Housing Assistance for motel stays, which became controversial during the session and saw eligibility restricted, GA funds rental assistance, Community Housing Grants and a new Family Supportive Housing demonstration. Rental assistance for people with mental health disabilities and transitional housing for offenders coming out of the prison system were also increased. A number of other housing related programs that Burlington non-profits rely on were also either increased or saw level funding. Legislation was passed that should stimulate greater use of the Vermont Neighborhoods Program, which provides incentives and regulatory relief to developers creating mixed income, affordable housing consistent with smart growth principles.

Energy

Legislative attention focused primarily on two bills. Act 38 was introduced as a moratorium on further wind power development, but got stripped down to a study in the Senate. Act 89 focused on increasing thermal efficiency in both residential and commercial buildings, though it received no additional funding and so does not make sweeping changes. The Governor's ambitious proposal to increase investments in clean energy and thermal efficiency, including a 10% surcharge on "break-open" tickets to raise a total of \$17 million, met with widespread skepticism and did not gain legs. Advocates' hopes to generate substantial new public funding for improving thermal efficiency were also frustrated. In the end, Act 89 only made numerous tweaks to existing services provided by the state's energy efficiency utilities and weatherization service providers. It also addressed commercial and residential buildings energy standards (RBES), clarifying their applicability to mixed-use buildings and including various amendments to enforce compliance through the use of existing State and local permit processes. Several bills affecting utilities and energy policy are still pending and will need to be monitored next year.

Health Care

This year, the legislature passed legislation that continues down the path of health system reform by focusing on moving the process forward and launching the health insurance exchange, Vermont Health Connect. This was primarily accomplished through the passage of H.107. Among other things, this bill adjusts state statute to comply with the federal rules being developed around the Patient Protection and Affordable Care Act, streamlines the health insurance regulation process, and places more restrictions on health insurers. Through charge-backs to insurers, hospitals, and state benefit programs, the bill also

creates a State-funded Office of the Health Care Advocate. Federal grants will fund the start-up and operation of Vermont Health Connect through 2014. In 2015, the state will have to take over the funding for the operational costs of the exchange, which are estimated to be \$18 million annually. Many funding methods were considered, but in the end S.152 modifies and continues the assessment on employers that do not provide employees with health insurance. The Legislature approved an Administration proposal to increase Medicaid provider reimbursements by three percent. While this additional funding will not reduce the Medicaid cost shift, it should keep it more level if the providers adjust their fees to other payers to reflect the additional revenue received from Medicaid. As the health care reform process moves along, there are a variety of impacts for municipalities to consider.¹

Pre-Kindergarten Education

As passed by the House, H.270 allows parents in all school districts to enroll their three- or four-year-old children (or five-year-old children not in kindergarten) in any prequalified private or public pre-K program statewide. This would replace the current system, in which districts may choose whether or not to offer pre-K and, if they do so, enter into individual agreements with individual providers and negotiate rates. The bill did not pass this year, but made it through a number of legislative hurdles and is likely to receive further consideration next year. Should it pass next year, Burlington will not be directly affected, as we were able to include all eligible children in our pre-K program under legislation that passed in 2010. It will, however, affect property tax payers throughout the state, since the financing for early educational programs through schools is currently paid for through the Education Fund. Burlington has long supported universal pre-K access and has run a highly successful program for many years.

¹ Adapted from [2013 VLCT Legislative Wrap-Up](#).

Burlington/Chittenden Delegation & Committee Assignments

The work of the City's legislative liaisons at the State House was made easier by the hard work and considerable skill of all our Burlington representatives and Chittenden County senators. We thank them for their efforts on behalf of the City. Burlington representatives and Chittenden senators are well represented on key committees to help support City priorities, including chairing Senate Finance and House Education. Here is a complete list of the delegation members and the committees on which they sit. We include Senator Mazza who, though he represents the "Grand Isle District," is from the Chittenden County town of Colchester and helps look out for Burlington and Chittenden County interests:

Chittenden County Senators & Committees

Sen. Tim Ashe

- Judiciary
- Finance (Chair)

Sen. Philip Baruth

- Economic Development, Housing & General Affairs (Vice-Chair)
- Education

Sen. Sally Fox

- Health & Welfare (Vice-Chair)
- Appropriations

Sen. Ginny Lyons

- Health & Welfare
- Finance

Sen. Dick Mazza

- Transportation (Chair)
- Institutions (Vice-Chair)

Sen. Diane Snelling

- Natural Resources (Vice-Chair)
- Appropriations (Clerk)

Sen. David Zuckerman

- Agriculture (Vice-Chair)
- Education (Clerk)

Burlington/Winooski Representatives & Committees

Chittenden-6-1

- Rep. Joanna Cole – Government Operations
- Rep. Kurt Wright – Transportation

Chittenden-6-2

- Rep. Jean O'Sullivan – General, Housing & Military Affairs

Chittenden-6-3

- Rep. Curt McCormack– Natural Resources & Energy
- Rep. Jill Krowinski – Human Services (Clerk)

Chittenden-6-4

- Rep. Kesha Ram - Ways & Means
- Rep. Chris Pearson – Health Care

Chittenden-6-5

- Rep. Joey Donovan – Education (Chair)
- Rep. Suzi Wizowaty – Judiciary

Chittenden-6-6

- Rep. Barbara Rachelson -- Education

Chittenden-6-7

- Rep. George Cross – Commerce & Economic Development
- Rep. Clem Bissonnette – Transportation

Education

Education Financing & Property Taxes

(H.265/Act 52)

Of all the impacts that annual legislative action has on municipalities, setting statewide property tax rates for education and providing funding for schools is probably the greatest. These rates are set annually based on a variety of factors, including (1) the expected value of the State's Education Grand List, (2) anticipated statewide school spending, and (3) contributions to the Education Fund from other sources, the largest being the State's General Fund. **The 2013 Education Property Tax Bill (H.265/Act 52) set the statewide homestead education tax rate at \$0.94 per \$100 of assessed value, five cents above the FY 13 rate (a 5.6% increase). The non-homestead rate was set at \$1.44, six cents above the FY 13 rate (a 4.4% increase).** This was the third year of increases to the education tax rates, which had held relatively steady from 2007 on, after declining for most of the previous decade. It was the first year of increases that were more than a penny or two, increases that are projected to continue as education spending continues to increase while the student population declines and property values remain flat.

Escalating property values throughout much of the previous decade enabled steady tax rate reductions until the Great Recession began. As property values leveled off and began to decline, so did revenues flowing into the Ed Fund, requiring tax rates to level off, then increase. Vermont did not, however, see the substantial decline in its real estate values that afflicted many other states: The state's Education Grand List grew by 6.9% in FY 10 and by 2.2% in FY 11. Its value dropped for the first time in FY 12, by 1.6%. It is on course to drop another 2% once FY 13 is closed out, and then a further 1.5% for FY 14.² Not until FY 15 is it expected to stabilize and then enjoy an extended period of low home price appreciation. As a result, the Grand List will not reach 2009 peak levels before 2016.³ This will continue to create upward pressure on tax rates to fund education for the foreseeable future.

Until last year, school boards held overall statewide school spending down for a few years, which helped keep education tax rate increases relatively low while property values declined. The statewide education spending growth rate was -0.1% in FY 11 and -0.5% in FY 12. However, for FY 13 it increased by 3% and is expected to increase another 5% in FY 14,⁴ adding to the upward pressure on education tax rates.

The third major factor in determining the statewide education tax rate is the amount the General Fund contributes to the Ed Fund, which is its second largest revenue source and has been set below the statutorily required level for a number of years. For FY 14, the Legislature appropriated \$288.9 million, about \$6.6 million higher than the year before, but \$27.5 million below where it should have been had the law not been changed. Originally required to increase with a regional price index, the Legislature reduced the General Fund contribution for FY 10 and 11, when federal stimulus (ARRA) funds were available. In 2011 it recalibrated the amount of aid, requiring higher statewide education tax rates than might have been necessary ever since.

To restore the General Fund contribution over time and hold down property tax increases, last year the Legislature pledged 50% of surplus revenue at the end of the fiscal year to a supplemental property tax relief fund. Based on revenue estimates available when the FY 14 budget was finalized, \$8.4 million would be dedicated to property tax relief and transferred to the Ed Fund in FY 15.

² ["Education Fund Outlook,"](#) Joint Fiscal Office, June 2013.

³ ["Economic and Revenue Review for the Vermont State Legislature,"](#) Kavet, Rockler & Associates, November 2012.

⁴ ["Education Fund Outlook,"](#) Joint Fiscal Office, June 2013.

Burlington Education Tax Rates:⁵

When adjusted for Burlington's Common Level of Appraisal (CLA), as well as for school district spending, **the statewide homestead rate translates into a local rate of \$1.5257 for FY 14, up 9½ cents from \$1.4302.**⁶ Some of the drivers of the increase in Burlington school spending include an increase in students, special education costs, capital spending, additional curriculum, and English language learning. **The non-homestead rate translates into an FY 14 local rate of \$1.6055, up 3.7 cents from \$1.5684.** For FY 14, the Tax Department set our CLA at 89.69%. **Set annually by the Legislature, the statewide base education spending per equalized pupil was increased from \$8,723 to \$9,151. At \$13,322, Burlington's is 146% above that.** The maximum percentage of income that an income-sensitized household pays for education taxes remained at 1.80%, the same as for the last several years. **When adjusted for local school spending, this translates into a maximum education tax payment of 2.62% of annual income for income-sensitized Burlington taxpayers.**⁷

The maximum annual household income to qualify for full income sensitivity remained at \$90,000. For people over that income limit and who therefore qualified only for partial income sensitivity, the homestead (or "housesite") value on which they receive income sensitivity remains capped at \$200,000. Renters and homeowners under \$47,000 a year continue to receive protection through the property tax and renter rebates -- on both their education and municipal property taxes.

The following table illustrates the various factors that determine Burlington rates over four years:

Tax Rate Multi-Year Comparison of Homestead Education Tax Rates⁸	Act 68 FY 2011	Act 68 FY 2012	Act 68 FY 2013	Act 68 FY 2014
Base equalized statewide homestead education tax	\$0.86	\$0.87	\$0.89	\$0.94
Budgeted Burlington education expenditures, total	\$51,932,746	\$53,391,029	\$59,615,950	\$62,766,794
Burlington education spending per equalized pupil	\$11,173	\$11,261	\$12,333	\$13,322
Statewide education spending per equalized pupil	\$8,544	\$8,544	\$8,723	\$9,151
Burlington tax rate adjustment for local spending above statewide base	130.77%	131.80%	141.39%	145.58%
Common Level of Appraisal (CLA)	87.72%	88.08%	87.99%	89.69%
Burlington local homestead rate (State rate x local spending adjustment ÷ CLA)	\$1.2820	\$1.3019	\$1.4302	\$1.5257
Statewide maximum percentage of household income paid for education tax	1.80%	1.80%	1.80%	1.80%
Burlington maximum percentage of income paid for education tax, adjusted for local spending	2.354%	2.372%	2.545%	2.620%
Maximum household income eligibility limit for full income sensitivity	\$90,000	\$90,000	\$90,000	\$90,000
Cap on housesite value for partial income sensitivity	\$200,000	\$200,000	\$200,000	\$200,000
Non-Homestead Education Tax Rates				
Statewide non-homestead education tax	\$1.35	\$1.36	\$1.38	\$1.44
Burlington local non-homestead rate (State rate ÷ CLA)	\$1.5334	\$1.5441	\$1.5684	\$1.6055

Additional background information on how Vermont finances education, how education tax rates are established, and on income sensitivity can be found on the [Vermont Transparency website](#).

⁵ See "[Burlington Homestead Education Tax Rate Calculation](#)," Tax Department, June 2013.

⁶ To compute the local homestead rate, multiply the statewide rate by the percentage of local spending above the statewide education spending per equalized pupil, then divide by the City's CLA. To compute the non-homestead, divide only by the CLA.

⁷ To determine the actual maximum percentage an income-sensitized household pays for education taxes, multiply the statewide percentage by the local district's spending adjustment.

⁸ Adapted from the above-cited Tax Department information and [FY 14 Burlington school budget information](#).

Other Education Tax Related Changes

(H.265/Act 52; H.538/Act 60)

In response to anticipated continued increases in school spending and corresponding tax increases, lawmakers considered numerous measures to curb school spending, some of which, had they passed, could have had negative effects on the Burlington School District.

The Education Property Tax Bill (H.265/Act 52) included language affirming the Legislature's intent to examine Vermont's current education funding system. The House Ways and Means Committee will continue their efforts to address concerns regarding education property taxes, including the financing, oversight, and educational outcomes of the current system, and will report back to the General Assembly by next March, with the goal of implementing any statutory changes for the 2015/2016 school year.

The House Ways and Means Committee labored long and hard to write its version of H.538, the Education Financing Bill, which contained numerous measures intended to help curb the rate of growth in school spending and require taxpayers in school districts that spend at higher levels to pay more in education tax. The bill passed the House, but was stripped of most of its provisions in Senate Finance. That committee's attempts to craft its own spending reduction proposals caused a major stir during the waning days of the session before they were withdrawn. A much reduced version of H.538 ended up passing both chambers on the last day of the session and became Act 60. It included these features, none of which negatively affects Burlington:

- Excess Spending Threshold reduced: The current "excess spending threshold" is reduced from 125% to 123% for FY 15 and FY 16, and to 121% for FY 17 and thereafter. Taxpayers in school districts that exceed the prior year's average statewide per-pupil spending by the threshold percentage pay a tax penalty proportional to the amount of per-pupil spending above the threshold.⁹ Burlington has consistently spent below the statewide average, which is \$13,565 for the current fiscal year, so these changes should not affect us for the foreseeable future.
- Tuition overcharge or undercharge limited: When a "receiving" district *overcharges* a "sending" district for tuition,¹⁰ its refund to the sending district will now be limited to the amount that exceeded 3%. When a receiving district *undercharges* for tuition, its reimbursement will be limited to between 3% and 10%. Under current law, when the under- or overcharge is greater than 3%, the entire amount is reconciled. Either way, if the variance is less than 3%, no funds change hands. Besides protecting sending districts from paying more than anticipated, the change is also intended to encourage receiving districts to set their announced tuition rates as accurately as possible.
- Renters' Rebate study: Requires the Joint Fiscal Office to review issues with the current Renter Rebate Program and examine other ways to provide assistance to renters with high rents and low incomes. The House Ways and Means Committee had included in its bill a reduction in the Renters' Rebate, from 21% to 19% of rent allocable to property taxes, but this did not make it into the final bill. The issue will surely come up for consideration again next year.
- Student-to-staff ratio study: The Secretary of Education is required to collect data related to student-to-staff ratios.

⁹ Districts that go over the threshold are "double-taxed" on the amount by which they go over—a district that is \$200 over the threshold has *an additional* \$200 added to their per equalized pupil spending, on which their tax rate is based.

¹⁰ Districts that do not operate one or more grades "send" their students to nearby districts that "receive" those students.

The original House-passed bill would have also instituted the following measures intended to reduce school spending, some of which would negatively affect Burlington schools and renters and could easily come back for consideration next year:

- Phase-out of small schools grants: Any school determined not to be “geographically isolated” in 2015 would see its Small Schools Grant phased out over four years; small schools deemed not to be geographically isolated in 2016 would have lost their grants entirely.
- Increase to the cap on “maximum annual equalized pupil loss”: The current limit on property tax rate spikes that result from rapid student population decline would be relaxed by increasing from 3.5% to 5% the cap on the maximum number of equalized pupils that a district can lose from one year to the next without increasing the local tax rate.
- Creation of minimum student-staff ratios: The Secretary of Education would develop a proposal for establishing minimum ratios of students to staff, administrators and teachers, with incentives for school districts to comply and tax penalties for non-compliance.
- Elimination of the “fast enrollment growth provision”: Currently, school districts like Burlington, which see their enrollment grow by 20 or more students a year, can utilize a larger equalized pupil count than would result from the two-year average that is normally used to calculate a district’s count (“Average Daily Membership,” or ADM). The original House bill would have eliminated this provision that benefits Burlington, which saw increases of 40 or more students a year in each of the last three years.
- Adjustments to income sensitivity: The cap on housesite value for partial income sensitivity for households earning over \$90,000 a year would be increased from \$200,000 to \$250,000 in housesite value, which would modestly increase income sensitivity for households earning over \$90,000; the tax “floor” for income sensitivity would be increased from 1.80 to 1.90% of household income, reducing income sensitivity for homeowners earning less than \$90,000.
- Renter’s Rebate reduction: The original House bill would have lowered the percentage of rent attributable to property taxes from 21% to 19%, decreasing the rebate amount low-income renters received.
- Maximum Property Tax Adjustment decreased: The maximum property tax adjustment an income-sensitized household could receive would be reduced from \$8,000 to \$6,000.

Though the final bill that passed was quite modest compared to the array of changes originally considered by each of the tax writing committees, the amount of time and energy they spent on trying to bend the curve on education spending and provide tax relief is expected to carry over into the 2014 legislative session. Most of what the House passed would not have affected Burlington either way, but some provisions would have had a negative impact. Some of the changes Senate Finance considered in the last days of the session, but that died in committee, were of significant concern to the City of Burlington and other municipalities, including requiring at least 25% of registered voters participating in an election to pass a school budget. Education financing, especially income sensitivity and school budgeting, is an area that will need to be closely watched next year.

Other Education Policy Related Changes

Pre-Kindergarten Access (H.270)

H.270 did not pass this year, but made it through a number of legislative hurdles and is likely to receive further consideration next year.

“The prekindergarten education bill was passed by the House by a roughly two-to-one vote, but ran out of time in the Senate. It has been approved by the Senate Education and Finance committees and is

currently in Senate Appropriations, where it will remain until next January, when that committee may begin its review.

“As passed by the House, H.270 allows parents in all school districts to enroll their three- or four-year-old children (or five-year-old children not in kindergarten) in any prequalified private or public pre-k program statewide. Funding would be provided for 10 hours per week, 35 weeks per year, and school districts, as most do now, would include participating children who reside in the district in their average daily membership, with a 0.46 weight. School districts, if they so choose, would be able to limit the geographic boundaries within which they would pay tuition. A statewide rate, with the possibility for regional adjustments, would be set for 10 hours per week of publicly-funded pre-k instruction through private providers. This would replace the current system, in which districts may choose whether or not to offer pre-k; and, if they do so, enter into individual agreements with individual providers and negotiate rates.

“With support already from the House, the Senate Education and Finance committees, and the governor, the pre-k bill will likely receive further attention next year.”¹¹

Should it pass next year, Burlington will not be directly affected by this change as we were able to include all eligible children in our pre-K program due to legislation that passed in 2010. It will, however, affect property tax payers throughout the state, since the financing for early educational programs through schools is currently paid for through the Education Fund. Burlington has long supported universal pre-K access and has run a highly successful program for many years. Early education was one of the Governor’s major initiatives this year, though it should be pointed out that the Vermont League of Cities and Towns is opposed as long as the funding comes from the property tax. A Joint Fiscal Office estimate puts the cost of universal pre-K access at \$24 to \$25 million a year.

Click here for link to the [full text of H.270 as passed by the House](#).

Agency Fees (S.14/Act 37)

S.14/Act 37, “An Act Relating to Payment of Agency Fees and Collective Bargaining Service Fees,” obligates employers to collect what unions refer to as a “fair-share” fee from non-union members, much like union dues, but with some key differences. Act 37 covers all State and municipal employees, teachers and school administrators. The fee can only cover expenses related to collective bargaining and is not to exceed 85% of union dues. Payment of agency fees is currently the subject of contract negotiations.

Burlington School Superintendent Jeanne Collins expressed several concerns over the initial bill, including that the School Department might be obligated to discipline employees who refused to pay it. The final bill that passed satisfies this concern by holding the employer harmless from claims stemming from the implementation or administration of the agency fee. It makes clear that an employer is not required to discharge an employee who does not pay it unless agreed to in a contract between the employer and union. It subjects how payment of the fee is enforced to contract negotiations.

The act requires the union to provide non-union employees with an audited financial statement identifying major expenses and whether or not they are chargeable to the fee. The union must provide non-union employees the opportunity to object to the amount of the fee and set up an arbitration process when a non-union employee objects to the amount, the costs for which are borne by the union.

¹¹ [Final Legislative Report](#), Vermont School Boards, Principals and Superintendents Associations, p.14, May 2013.

The act requires that the additional revenues to the union must be used “solely for the purpose of moderating its existing membership dues.” It further requires union members to vote annually whether to allow non-union members to vote on the ratification of any collective bargaining agreement. Finally, the Secretary of Education must file a report on whether there would be any benefit in allowing school employee contracts to contain merit pay provisions.

The bill does not affect the City itself since all non-managerial employees are members of one of the three bargaining units.

Economic Development

Tax Incremental Financing (S.37/Act 80)

The City’s top legislative priority this year was passage of comprehensive Tax Increment Financing (TIF) reform legislation. To review, TIF is a popular economic development tool used throughout the country to finance municipal infrastructure improvements needed to stimulate development or redevelopment within a TIF District -- development that would not happen “but for” investment in the supporting infrastructure. The incremental property tax revenues from new private development are captured and set aside to help retire the debt that funded the public infrastructure improvements. Once the debt is retired, all taxes revert to the respective taxing authorities: the State’s Education Fund and the municipality itself. Eight Vermont municipalities currently have one or more TIF Districts, including Burlington, Winooski, Milton, Barre, Newport, St. Albans, Hartford and Colchester. South Burlington this year sought and received statutory authority to become the ninth and final town with a TIF District.¹²

Burlington has two existing TIF Districts ([click here for map](#)). The Waterfront TIF District was created in 1996, expanded in 1997, and encompasses the downtown Waterfront and an adjacent block-wide strip of the Central Business District (CBD). The Downtown TIF District, approved by the Vermont Economic Progress Council (VEPC) in 2011, encompasses virtually all of the rest of the CBD and certain blocks in the Transitional Zone surrounding it on three sides. On Town Meeting Day in 2012, Burlington voters approved incurring up to \$10 million in debt to finance public improvements in the district, subject to future approval of each debt obligation by the voters or City Council.

In the Waterfront TIF District, the incremental new State education and local municipal property tax revenues are paying for infrastructure improvements that include extensive street and stormwater improvements, acquisition of railroad lands and the Urban Reserve, construction of three parking garages, the Waterfront Fishing Pier and other shoreland improvements. They have lead directly to tens of millions of dollars of new private investment, including an anchor department store, 40 units of affordable housing, market rate condos, office and commercial development, redevelopment of the downtown mall, and construction of two new hotels.

The Downtown TIF can fund stormwater, utility, streetscape, public parking, transportation, and pedestrian improvements. Located within our Designated Downtown District, growth within both TIFs is consistent with the smart growth principles that have long been enshrined in State law and land use policy. [Click here for more background on Burlington’s TIF Program](#).

There has hardly been a year when revisions to the statute governing this complex economic development tool have not consumed large amounts of legislative time and effort. Numerous incremental changes over the years have created a complicated legal structure that lends itself to different, sometimes conflicting interpretations. Though commonly used all over the United States, its

¹² Act 80 suspends the Vermont Economic Progress Council’s (VEPC) authority to approve any additional tax increment financing districts beyond those districts named in the act.

use in Vermont is complicated by our unique method of funding education through the statewide property tax, which opens TIF up to the criticism from some parties that it diverts revenues from the Education Fund. As a result, some key lawmakers are less than enthusiastic about TIF. In addition, it is not readily accessible to most of Vermont's small towns, which lack the development potential or expertise to harness this complex financing tool.

TIF bills have never been easy to pass, with the House and Senate consistently differing in their positions on this sometimes controversial subject. The final bills have usually been among the last, if not the last, to pass before adjournment and are almost always subject to delicate negotiations between legislative leadership, the executive branch and numerous interested municipal stakeholders. This session was no exception.

Unlike other years, the House Ways and Means and Senate Finance Committees both spent considerable time on TIF, taking testimony from the Tax Department, the State Auditor's Office, the Attorney General's Office, VEPC, the League, Burlington, and the other stakeholder communities. In addition to background information for new and returning committee members, early testimony focused on the findings in the former State Auditor Tom Salmon's reports on past TIF implementation in Burlington, Winooski, Milton and Newport, as well as the Auditor's [Capstone Report](#), which focused on recommendations going forward. The City's efforts soon concentrated on helping to develop a consensus legislative vehicle that met our goals while also garnering support from the other TIF towns, the League and the Shumlin Administration. The Senate Finance Committee initiated the legislation, combining the bill put forth by the Administration and the requests from TIF towns. Securing passage for what became S.37 required continuous, applied effort throughout the rest of the session.

The City's goals this year were primarily three-fold:

1. Gain additional time for incurring debt in both the Waterfront and Downtown TIF Districts,
2. Resolve the State Auditor's outstanding findings that the City owed the State money for improper administration of its Waterfront TIF District, and
3. Resolve numerous ambiguities and uncertainties around the administration and implementation of TIF districts in Vermont.

All three goals were met in this legislative session. Achieving the first goal was absolutely essential to the future redevelopment of the Waterfront. The Waterfront TIF District was scheduled to run out of time for incurring additional debt in 2014. After rebooting the Waterfront redevelopment process last summer, additional time was needed to implement proposals coming out of the Waterfront and Downtown Public Investment Action Plan (PIAP). Without additional time for incurring TIF debt, there would be no way to fund the related public infrastructure investments and further Waterfront redevelopment could come to a grinding halt.

Passage of S.37 gave authority for the City of Burlington to incur debt in the Waterfront TIF District for an additional five years, beginning January 1, 2015. However, the City's ability to retain an education tax increment is not extended beyond the current 2025 date.

Burlington's Downtown TIF District, along with the new TIF districts in other towns, gained an additional five years in which to incur debt (for a total of ten years), beginning with the creation of the districts,¹³ so long as debt is incurred within the first five years of the district's life. The City may retain 75% of the incremental education tax revenues in the district for twenty years, beginning with the date when the first debt was incurred. However, if no debt is incurred during the first five years, the district will

¹³ Burlington's Downtown TIF District was created in 2011.

terminate, unless the municipality submits an updated executive summary of the TIF district plan and an updated TIF financing plan to VEPC to obtain approval for a five-year extension. These extensions give the City additional time to implement development plans for both TIF Districts.

The legislation also resolved a number of ongoing Tax Incremental Financing issues, including the important settlement of the former State Auditor's findings that suggested TIF towns, including Burlington, owed the State Education Fund a combined total of \$6 million for improper use of the tax increment. Burlington was alleged to have underpaid the Ed Fund by \$1.2 million. City officials disputed those findings, consistently maintaining that they administered the TIF correctly and had worked with the State for 13 years in doing so, in an open and public fashion.¹⁴ Two of the other three audited towns, Milton and Winooski, were also found to have administered their TIF districts improperly and were each charged with owing the State money as well, which they, too, disputed strenuously.

All three municipalities agreed to settle the issue through a series of "reduced" payments to the State Education fund. The City of Burlington is required to pay \$200,000 to the Education Fund in equal installments of \$40,000 a year over a five-year period, beginning December 15, 2013. Payments can be made from incremental tax revenues not otherwise dedicated to the repayment of the district's debt obligations. These amounts must be agreed to by the legislative bodies of the municipalities or the Legislature can reconsider the settlement and consider any amount identified in the Capstone report. Burlington, Winooski and Milton's cause received significant support from Governor Shumlin, who was willing to forgive the entire \$6 million that the Auditor considered owed to the State.

While the Senate agreed with the Governor, the House Ways and Means Committee and House leadership wanted to see some payments to the Education Fund. The new Auditor, Doug Hoffer, also suggested that the towns make some form of payment and settle any other ongoing issues. The City and the other towns entered into negotiations through the Auditor's office to come up with amounts that were satisfactory in final settlement of any "outstanding" sums identified as owed to the Education Fund during the period covered by the 2012 Auditor's Reports.

In addition to resolving the Auditor's findings around underpayment to the Ed Fund, S.37 clarified a number of ambiguities in the TIF Law. This should avoid future disputes between the State and TIF towns, but it also gives the Secretary of the Agency of Commerce and Community Development, upon recommendation from VEPC, authority to resolve disputes should they occur anyway. The act also provides for VEPC to promulgate rules to settle other currently unresolved issues. The Tax Department and VEPC will have increased oversight over TIF Districts, and the State will now be able to collect any funds if violations do occur. Act 80 sharpens several important definitions, including one that clarifies the City's ability to use TIF funds to administer the districts. It also provides for enforcement in cases of municipal noncompliance, and directs the Auditor to conduct performance audits of all TIF Districts.

The Mayor and Assistant City Attorney Richard Haesler spent numerous days at the State House throughout the session, talking with leadership in both chambers, working with Burlington legislators, House Ways & Means, Senate Finance and the Administration. The City negotiated with the Auditor's office, alongside other towns, to achieve passage of this legislation. In addition to the work of Legislative Liaison Karen Lafayette, the City was aided considerably in its efforts through close collaboration with the League of Cities and Towns, the Vermont Mayors' Coalition, the other towns with an interest in TIF, and the Shumlin Administration, which understands the importance of TIFs as a key economic development tool.

¹⁴ Click here for a link to the [State Auditor's Report](#), which includes the City's response to the draft audit in Appendix IV.

See the League's summary in the attachments for further information, as well as the following additional resources: click here for [link to Legislative Council's Act 80 summary](#), [link to legislation](#), and [link to VTDigger article](#).

Cloud Computing Tax

Whether or not so-called "pre-written" software accessed remotely should be taxed was again the subject of much discussion, and the upshot was that it is taxable as of July 1. Also known as "cloud computing," or "cloud-based services," a general term given to a variety of services that are accessed via the Internet or a proprietary network, these services allow users to store data, access software, and access services and platforms from almost any device that can access the cloud via a broadband connection. Readers will recall that last year's Miscellaneous Tax Bill instituted a temporary one-year moratorium on the enforcement of the State's six percent sales tax on cloud-based services until July 1, 2013 and refunded the taxes that were collected since December of 2006.

The Shumlin Administration asked for a permanent exemption to help spur the growth of the state's technology and software industry. A summer study committee had also recommended that cloud computing be kept tax free. The Senate agreed and incorporated a three-year extension of the moratorium into its version of H.295/Act 73, the Technical Tax Bill. The House opposed the extension. In the end, the conference committee on the bill decided that the state couldn't afford the \$900,000 needed annually to cover extending the tax break and declined to extend the moratorium, which expired on June 30. Purchases made before July 1, are not taxable; liability for the tax is incurred starting July 1. The Tax Department intends to publish regulations to guide taxation on cloud based services, which will help resolve possible gray areas in the application of the tax. In the meantime, they have published a [fact sheet](#) to help businesses and consumers decide if the sales tax applies to the software they are purchasing.

Downtown Bill (H.377/Act 59)

Since the 1970s the state has promoted development policies and programs that maintain and enhance Vermont's historic development pattern of compact settlements separated by a working rural landscape. Policy makers of differing political parties and philosophies have long agreed that our landscape is linked to our economy, community spirit and unique Vermont brand and have set a goal of maintaining and enhancing it. The core implementation strategy is the State's "designation" programs: Downtown, Village Center, New Town Center, Growth Center and Vermont Neighborhoods. These programs all help maintain Vermont's historic development pattern by targeting state resources to promote the efficient use of land, infrastructure and resources. Burlington has made significant use of the array of tax credits and other incentives that its Downtown designation provides to stimulate healthy economic development.

H.377/Act 59, "An Act Relating to Neighborhood Planning and Development for Municipalities with Designated Centers," grew out of an effort by the Department of Housing and Community Development (DHCD)¹⁵ to take a comprehensive look at the various designation programs for the first time in many years. DHCD consulted with a broad range of stakeholders over last summer and fall and conducted a comprehensive survey. This process resulted in a number of recommendations, including new incentives and enhancements to existing incentives. Because of the State's continuing fiscal challenges, the incentives were dropped and H.377 focused on a number of no-cost amendments to the laws governing the Designated Downtown, Village Center and Vermont Neighborhoods Programs.

¹⁵ Formerly Department of Economic, Housing and Community Development (DEHCD), renamed this year as a result of once again separating out its economic development function into the Department of Economic Development. The remaining housing, community development, downtown revitalization and planning functions remained within DHCD. Both departments are part of the Agency of Commerce and Community Development.

The Designated Downtowns and Village Center sections of Act 59 make changes to improve consistency, collaboration and program effectiveness, including:

- Changes to the goals, definitions and other sections to improve programmatic consistency,
- Improved linkage to the State's planning statutes (Chapter 117), and
- Administrative improvements to promote local training and collaboration and success such as early community consultations, assessments, and enhanced training and support.

More significant changes were made to the Vermont Neighborhoods Program, which are summarized in the Affordable Housing section below. The act requires an agency examination of the programs for designating Growth Centers and New Town Centers and a report to the General Assembly on these programs. DHCD is to consider the process for designation, how to include municipalities of all sizes and growth pressures, additional incentives, potential integration of industrial parks and rural development, and protection of natural resources. The Department intends to conduct another comprehensive outreach process with stakeholders this summer and fall to solicit ideas for revisions to these programs. DHCD also hopes to be able to move forward with some of the incentives considered last year before they were abandoned in the face of the State's fiscal realities.

Mayor Weinberger and the Mayors' Coalition met with DHCD Commissioner Noelle MacKay, pledged their support for the bill, and had the City Lobbyist testify in support. Here is a [link to the legislation](#).

Appropriations & Capital Bills (H.530/Act 50; H.533/Act 51)¹⁶

This was the sixth consecutive year of difficult budgets due to yet another year of deficits, made more difficult by the slow economic recovery, federal funding cutbacks, and challenges remaining from Tropical Storm Irene. The year started out with a \$70 million budget gap projected for FY 14, \$9 million more than the shortfall appropriators faced at the beginning of the last session for FY 13. The challenge was doubly daunting because all possible economies had already been squeezed out of the budget, because the Governor steadfastly refused to support raising "broad-based" taxes to make up budget shortfalls, and because after many years of cutting or level-funding, there was intense pent-up pressure to increase program budgets to meet true needs, not to mention the \$30 million in new spending proposed by the Administration.

The House and Senate each rejected many of the Governor's new spending measures, setting their sights on raising \$20 million and \$10 million in new revenues, respectively, to close their projected budget gaps. In the end, \$10 million in unanticipated new revenues helped close the final gap, together with another \$10 million that was trimmed relatively painlessly by the Appropriations Conference Committee. On the last day of the session, lawmakers passed a \$1.356 billion General Fund budget, a 4% increase over FY 13. Total spending, including transportation, education, federal and special funds, amounted to \$5.232 billion, a 4.2% increase. Click here for a summary of the [FY 14 budget highlights](#).

Other than State education funding, the City does not have many budget line items from which it derives direct benefit. Nevertheless, the City continued to be concerned about the potential for State budget cuts and cost shifts onto the Ed Fund to result in service reductions that have a direct impact on

¹⁶ The League's table showing FY 2013 appropriations of general interest to municipalities, including transportation funding, is included in the attachments. Also included is the League's table summarizing the FY 12–13 Capital Bill and adjustments made to it this year.

the City and place additional burden on Burlington property taxpayers. Fortunately this year's budget deficit did not result in significant additional cuts to social service spending. The following items do have direct impact on the City's budget.

Payments in Lieu of Taxes (PILOT)

The PILOT program is designed to reimburse cities and towns for a portion of the municipal property tax revenues they lose because they host State owned buildings and lands that are exempt from property taxes.¹⁷ PILOT payments help support the municipal police, fire, highway, and other public services from which State facilities benefit. For FY 2014, the overall PILOT budget for general State buildings is \$5.8 million, same as for the last several years. **The Tax Department estimates that Burlington will receive \$674,943, a 15% cut from the FY 11 level of \$793,058.¹⁸ This is the third consecutive year of decreases.** The City's reductions stem from a combination of changes in state owned property in the City and around the state.

Until a few years ago, PILOT was funded through a combination of the State's 30% share of local option tax revenues and General Fund moneys. As more towns adopted local sales and rooms and meals taxes, the State's revenue from local option taxes increased, allowing it to completely eliminate General Fund contributions to PILOT. In spite of increases to the PILOT fund over the years, the State's reimbursement to municipalities has dropped. For FY 14 it was prorated by a factor of 70% (it was 73% in FY 13). **To fully fund PILOT, the State would have had to appropriate over \$8.3 million, which would have yielded an estimated \$963,977 for the City.** The City's PILOT allocation is based on the April 2012 Grand List of State properties in the City. The State uses insurance replacement value, which is considerably less than the full market value that owners of taxable properties are required to pay.

Community Justice Center & Offender Re-Entry Housing

For a number of years now, policy makers in all branches of State government have placed great emphasis on lowering spending on Corrections (DOC). Alternatives to the traditional criminal justice system have been expanded, with the goal of decreasing the number of people entering the system at the front end, and enhancing community services designed to assist community reintegration and reduce recidivism at the back end. Through a variety of initiatives, DOC's base budget for "justice reinvestments" has increased by just under \$8 million since 2008. Lawmakers have invested in a variety of measures intended to generate savings, including transitional housing for ex-offenders re-entering the community, Community Justice Centers (CJCs), increased Corrections field services staff, substance abuse treatment, electronic monitoring equipment, sentencing reform, graduated sanctions, and more. According to DOC figures, the measures have paid off: the total population under some form of DOC supervision (incarcerated, re-entry, intermediate sanctions, parole and probation) was 10,743 in FY 12, down from a high of 13,778 in FY 07.¹⁹

Community involvement has been key. Vermont has 79 reparative boards and community panels in 32 host towns, served over the last year by 680 community volunteers. DOC now invests approximately \$2.1 million annually in the operating budgets of the state's 17 Community Justice Centers (CJCs and Restorative Justice Programs). This year saw a \$160,000 increase, which will fund new programs in Lamoille County and Bennington and provide grants to CJCs to assume control of the Reparative Boards in Colchester, Milton and Chester. Burlington's CJC received \$275,000 from the State in FY 13 and

¹⁷ The State has four separate PILOT funds to pay cities and towns for different types of properties: (1) general State buildings, (2) corrections facilities, (3) Agency of Natural Resources lands, and (4) State-owned properties in Montpelier. Burlington receives payments from the first of these funds.

¹⁸ See FY14 "[Estimated Payment-in-Lieu-of-Taxes \(PILOT\) on State Owned Property](#)," Vermont Tax Department, June 2013.

¹⁹ [FY 14 DOC Budget Presentation](#), p. 3

anticipates receiving \$300,000 for FY 14. Designed to reduce the number of people entering the criminal justice system and to help with offender re-entry, during FY 12 these programs handled 1,780 cases, including 1,000 individuals who were diverted from prosecution and DOC involvement; completed restorative accountability processes for 650 offenders under DOC supervision; and provided direct services to 1,295 victims.²⁰

Transitional housing for ex-offenders re-entering the community is another important issue for the City in the Corrections budget. It is critical to the success of these former offenders and helps reduce recidivism rates and overall corrections spending. In FY 13, there were 33 transitional housing programs across the state, with a total of 239 beds. There were also four programs that employ Housing Specialists, including two at the Burlington Housing Authority, to aid ex-offenders in securing independent housing and assisting them in retaining that housing for up to a year. Additionally, there are 8 programs (101 total beds) in various stages of development. In FY 12, 858 offenders were housed in 188 transitional housing beds for over 60,000 bed nights, saving 166 costly beds in prison, at an average in-state cost of \$58,100 (out of state beds average \$26,823). All told 942 offenders re-entering the community were assisted with housing, housing searches, and/or release money.²¹

Several Burlington organizations together receive over \$1 million in annual funding from this budget line item, including the Burlington Housing Authority, Northern Lights, Dismas House, Phoenix House, and Pathways to Housing. The transitional housing budget grew from \$1.2 million in 2008 to \$5.2 million last year. Through the FY 13 Budget Adjustment Act and the FY 14 Appropriations Act, budget writers invested another \$1.4 million, bringing the base budget to \$6.6 million. With significant numbers of inmates still in prison who could otherwise be released, but for the availability of housing on the outside, these are important investments for the State.

Chittenden Rapid Intervention Community Court Program

For FY 14, the Corrections budget level funded the Rapid Intervention Community Court Program (RICC) at \$114,000, through the State's Attorneys budget. Developed jointly by the Burlington Police Department and the Chittenden County State's Attorney's Office, the program uses rapid intervention – a pre-charge system through which non-violent offenders are directed to community-based mental health or substance abuse counseling – to keep people out of the corrections system and use rehabilitation to reform the problem behavior. Hallmarks of this innovative program include:

- Fast Track process from event until scheduled court appearance to achieve greatest benefit of intervention;
- Rapid assessment of the needs of the accused that contribute to criminal actions and the offer of optional treatment;
- Continuous monitoring of compliance with treatment and program;
- Prompt prosecutor response to lack of compliance; and
- Keeps accused out of criminal court: no criminal charge filed.

According to the State's Attorneys Department, the recidivism rate for program participants is extremely low. Only 7.4% of successful program graduates were convicted of a crime after leaving the RICC. Even participants who did not successfully complete the program had a lower recidivism rate: only 23.9% were convicted of a crime after leaving RICC. Thus, even reduced participation in RICC appears to provide benefit in curbing future criminal behavior. RICC reduces costs to the State criminal justice

²⁰ [FY 14 DOC Budget Presentation](#), pp. 27-28.

²¹ [FY 14 DOC Budget Presentation](#), pp. 29, 30 & 59.

system at all levels and ultimately reduces crime in the community by dealing with behavior and addictions.²²

Recovery Center/Turning Point Funding

The FY 14 Big Bill level funds the Vermont Recovery Network statewide at \$715,000. This represents an advance for the Network in that it builds what was originally intended to be just a one-time increase of \$100,000 last year into the base budget for FY 14 and going forward. The 11 Recovery Centers, including Burlington's Turning Point Center, split the annual appropriation for the Network evenly, so that each receives approximately \$65,000. Recovery Centers provide multi-faceted support for people seeking recovery and their families. Their services are provided almost exclusively through the dedicated time of hundreds of volunteers. By supporting Vermonters in recovery, the centers can help the State realize cost savings in medical, justice and social services, while helping addicted Vermonters enter and maintain recovery. Over the past year, the Network conducted a study showing that recovery coaching holds the potential for such cost savings while helping addicted Vermonters enter and maintain recovery.

The FY 14 Appropriations Act calls on the Agency of Human Services to conduct a review of the capacity of its continuum of substance abuse programs and services. Pending the report's findings and recommendations, AHS may increase substance abuse funding by \$100,000, including for Recovery Centers, to build system capacity. The proposed use of these funds shall be included with the FY 14 Budget Adjustment proposal made by the Agency. The Network estimates that an additional \$55,000 in State funding per Recovery Center (\$605,000 total) would be needed to fund sustainable budgets that allow the centers to realize their potential to reduce the societal costs stemming from drug and alcohol abuse and associated addictive diseases. The Burlington Turning Point Center receives a disproportionately small amount of the Network's total funding (9% of the state total) compared to the large number of visits it receives. As funding for the overall Network increases, Burlington's Turning Point should receive funding that is more proportional to its percentage of people served.

Alcohol and Drug Abuse Program

The Health Department's Alcohol and Drug Abuse Program (ADAP) budget includes a number of increases designed to help combat substance abuse, which has hit Burlington with particular force:

- \$1,188,500 in new federal spending for Partnership for Success, a program to reduce underage drinking and prescription drug abuse among young people;
- \$112,967 in funding for rate increases for residential treatment;
- \$351,500 in funding for a planned 7-bed expansion of residential treatment capacity at Maple Leaf Farm (subject to approval through the Certificate of Need process);
- \$406,905 for a 3% increase in Medicaid payments to treatment providers; and
- The above-referenced \$100,000 to build system capacity.

ADAP and various other departments in the Agency of Human Services are collaborating in an Agency-wide initiative with community providers to create a coordinated, systemic response to the complex issues of opiate and other addictions in Vermont. This initiative creates a framework for integrating treatment services for substance abuse issues and co-occurring mental health disorders -- an "Integrated Treatment Continuum for Substance Abuse Dependence," also known as the "Hub and Spoke" initiative. While this system focuses primarily on individuals requiring buprenorphine (suboxone) and methadone treatment for opiate dependency, it also creates a framework to support

²² [Department of State's Attorneys FY14 Budget](#).

and improve the capacity of patient-centered medical homes statewide to provide a more holistic approach to health care for individuals with addiction and mental health conditions.

“A **Hub** is a specialty treatment center responsible for coordinating the care of individuals with complex addictions and co-occurring substance abuse and mental health conditions across the health and substance abuse treatment systems of care. A Hub is designed to do the following:

- “Provide comprehensive assessments and treatment protocols.
- “Provide methadone treatment and supports.
- “For clinically complex clients, initiate buprenorphine treatment and provide care for initial stabilization period.
- “Coordinate referral to ongoing care.
- “Provide specialty addictions consultation and support to ongoing care.
- “Provide ongoing coordination of care for clinically complex clients.

“A **Spoke** is the ongoing care system comprised of a prescribing physician and collaborating health and addictions professionals, who monitor adherence to treatment, coordinate access to recovery supports, and provide counseling, contingency management, and case management services. Spokes can be:

- “Blueprint Advanced Practice Medical Homes
- “Outpatient substance abuse treatment providers
- “Primary care providers
- “Federally Qualified Health Centers
- “Independent psychiatrists”²³

Church Street Marketplace Outreach Program

Spearheaded by the Church Street Marketplace District and Howard Center for Human Services, this award-winning program is a partnership between a broad variety of public, non-profit and private organizations. The program provides outreach and referral to people with psychiatric disabilities, substance abuse issues and homelessness in and around downtown. The program is funded through a variety of private donations and public funds, including State funds from the Department of Mental Health budget. State funding for the program was level funded for a number years at \$110,000 and received a \$39,244 increase for FY 14.

Municipal & Regional Planning

The FY 14 budget provides a \$291,678 increase to the Municipal and Regional Planning Fund, from \$3.3 to \$3.6 million. \$2.8 million is going to the regional planning commissions to provide their core operating funding, and \$449,570 to municipal planning grants. The balance goes to the Vermont Center for Geographic Information. Funding for municipal and regional planning continues to be considerably lower than it was before the Great Recession ushered in six years of budget deficits. The original FY 09 budget was for \$4.3 million overall, with \$3 million for regional planning and \$860,000 for municipalities. FY 14 funding levels represent reductions of 16%, 7% and 48%, respectively, from the funding levels of five years ago.

²³ [Integrated Treatment Continuum for Substance Use Dependence, “Hub/Spoke” Initiative—Phase 1: Opiate Dependence](#), p.2, January 2012.

By statute, the Municipal and Regional Planning Fund is supposed to be funded by a dedicated 17% share of the State's Property Transfer Tax (PTT). For years the Legislature has diverted transfer tax revenues away from their intended use and deposited them into the State's General Fund to make up for budget shortfalls and other State priorities. Based on last January's official State revenue forecast, which forms the basis for the FY 14 budget, the statutory funding level for planning in FY 14 should have been about \$5.3 million.

Burlington has made extensive use of municipal planning grant funds over the years, including for the Comprehensive Development Ordinance, Municipal Development Plan, and Open Space Plan. In FY 12, the Planning Department received a \$15,000 grant to develop a new form-based code for Burlington's Downtown and Waterfront area. It is the only reliable external funding source the Planning Department has for regular planning projects.

Capital Bill (H.533/Act 51)

This year the Capital Bill was once again crafted as a two-year bill for the entire biennium. The total in capital funds appropriated for FY 14 and FY 15 was \$173,231,370. Of that amount, \$90,373,066 was appropriated for the first year, the remainder for the second. Next year's Capital Bill will represent a mid-course adjustment to the two-year bill. Act 51 included funding for a number of programs of general interest to municipalities -- Building Communities Grants, Clean Water State/EPA Revolving Loan Fund Match, Water Supply Revolving Loan, State Aid for School Construction, to name a few -- but included no new funding for Burlington projects. In the past, the Capital Bill has helped to fund projects like the Aviation Technical Training Center at Burlington International Airport and the Northern Lights Project for women coming out of prison. The League's table summarizing the FY 14-15 Capital Bill is included in the attachments.

Public Safety & Corrections

Criminal Investigation Records (S.148/Act 70)

Early in the session Senate Judiciary initiated S.148, "An Act Relating to Criminal Investigation Records and the Vermont Public Records Act." The bill ultimately passed as Act 70 and allows greater public access to criminal investigation records. Prior to passage of Act 70, the Vermont Public Records Act categorically exempted from disclosure records dealing with the detection and investigation of crime, including those compiled in the course of police disciplinary investigations. Records relating to the management of a law enforcement agency or reflecting the initial arrest or charge of a person, however, were not exempt. The existing law was considered confusing, and courts had issued contradictory decisions in the last several years.

Supported by the Shumlin Administration, the American Civil Liberties Union (ACLU) and media advocates for greater government transparency, the Senate bill proposed replacing the existing categorical exemption with a balancing test derived from standards in the federal Freedom of Information Act (FOIA), which 21 other states have adopted. The Attorney General opposed opening criminal investigation records to greater public disclosure, except when an investigation focuses on the on-duty conduct of a law enforcement officer and a decision has been made not to file criminal charges.

FOIA exempts records dealing with the detection and investigation of crime from public inspection and copying, but only to the extent that the production of such records:

1. Could reasonably be expected to interfere with enforcement proceedings;
2. Would deprive a person of a right to a fair trial or an impartial adjudication;

3. Could reasonably be expected to constitute an unwarranted invasion of personal privacy;
4. Could reasonably be expected to disclose the identity of a confidential source or information furnished by a confidential source;
5. Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecution if such disclosure could reasonably be expected to risk circumvention of the law; or
6. Could reasonably be expected to endanger the life or physical safety of any individual.

The bill incorporates FOIA case law by reference so that Vermont courts are guided by decisions in other jurisdictions as this major statutory change is tested. It also maintains the existing provision, described above, which subjects to public disclosure records that relate to the management of a law enforcement agency or that reflect the initial arrest or charge of a person. It does not change the statute that protects law enforcement employees' personnel records.

From the outset, Burlington Police Chief Mike Schirling expressed deep concern about the strict adoption of the FOIA standards. His concerns were echoed by the Vermont Association of Chiefs of Police and other police representatives. Chief Schirling felt that the FOIA standards did not sufficiently protect witnesses and a host of private information contained in police investigative records, the public disclosure of which could bring harm to persons and property and reveal personal information that should be kept private. Here are a few examples from the Chief's letter to the Senate and House Judiciary Committees:

- Names, addresses, and phone number of concerned citizens calling in reports or witnesses to a wide range of things... Many of these investigations do not result in prosecution.
- Information about where prescription drugs, money, and other valuables are located within Vermonter's homes, cars, or businesses.
- Vulnerabilities in security in homes, businesses, and other buildings.
- Details of personal schedules such as when they are home and away, when they go to appointments, doctor's visits, etc.
- Personal biographical information or other personal information such as sexual orientation or religious affiliation.
- Personal information about finances, health and well-being, and personal relationships.
- Information about suicides and suicide attempts.
- Contents of personal diaries or journals.
- Photographs and diagrams of homes and businesses.
- Details of unfounded accusations made by one person against another.

In response to the concerns of Chief Schirling and other law enforcement representatives, the League proposed language clarifying legislative intent that *"a public agency shall not reveal information that could be used to facilitate the commission of a crime or the identity of a private individual who is a witness to or victim of a crime, unless withholding the identity or information would conceal government wrongdoing."* There was much debate around the League's language (and several refinements), with a number of stakeholders insisting the intended protections were already covered under FOIA and would cause confusion. Legislators, however, saw the value in including a "plain English" clarification in the bill, especially for public officials charged with disclosing records who might not have a law degree or be otherwise conversant with all the requirements of FOIA and the case law surrounding it. Some stakeholders were concerned that the League's language could exempt entire files from public disclosure and were successful in getting lawmakers to add language clarifying that *"A record shall not*

be withheld in its entirety because it contains identities or information that have been redacted pursuant to this subdivision..."

Chief Schirling testified in both the Senate and House Judiciary Committees. His memo outlining concerns with the original bill, as introduced, is included in the attachments. His major concerns were addressed by the intent language lawmakers included. Act 70 represents a substantial change to the requirements around public disclosure of criminal investigation records. Its full impact will only be realized over time as law enforcement officials receive and comply with, or reject, information requests and the new law is tested in court. Click here for the [full text of Act 70](#).

Opioid Addiction & Methamphetamine Abuse (H.522/Act 75)

H.522/Act 75 provides a comprehensive approach to combating opioid addiction and methamphetamine abuse in Vermont. To prevent abuse of prescription drugs, it sets minimum standards for when doctors must consult the Vermont Prescription Monitoring System (VPMS) in order to ensure patients are not doctor-shopping for opiates. It requires prescriptions for regulated drugs to include the patient's date of birth and to show the quantity of the drug in both numeric and word forms. It prohibits anyone other than a patient or the patient's representative from picking up a prescription for a controlled substance and requires the pharmacist to ask for a signature and photo identification. The act gives certain individuals direct access to the VPMS and allows others to receive reports of data available to the Health Department through the VPMS. It tasks the Department of Public Safety (DPS) with adopting standard operating guidelines for accessing pharmacy records, which those who have authorized access, such as health care providers, regulators, patients, and the DPS Commissioner, but not other law enforcement officers, are required to follow.

Act 75 sets up a monitoring system for meth precursor drugs that can be purchased at pharmacies. It also establishes a pilot program for wider distribution of naloxone, a drug that reverses opioid overdoses, and grants immunity from prosecution to those who seek help for someone who has overdosed. The act tasks the Health Commissioner with developing a statewide program to dispose of unused prescription medicine. In an attempt to allow patients to bypass lengthy waits for the state's treatment clinics, Act 75 also directs the Health Department to first study, and then write rules to establish a program that would increase access to treatment by allowing doctors who are affiliated with a licensed opioid maintenance treatment program to prescribe methadone or suboxone to opioid-dependent people.

Of particular interest to Burlington and other municipalities, the act makes it easier to crack down on drug activity that takes place on abandoned property. It defines abandoned property as:

"(A) Real property on which there is a vacant structure that for the previous 60 days has been continuously unoccupied by a person with the legal right to occupy it and with respect to which the municipality has by first class mail to the owner's last known address provided the owner with notice and an opportunity to be heard; and

"(i) property taxes have been delinquent for six months or more; or

"(ii) one or more utility services have been disconnected.

"(B) A railroad car that for the previous 60 days has been unmoved and unoccupied by a person with the legal right to occupy it."

Finally, in an effort to curb the easy sale of stolen jewelry, Act 75 increases the regulation of precious metal dealers, requiring them to register with the State, keep records of precious metals purchased, hold onto goods for ten days, and pay for goods by check or money order, not cash.

Click here for a [comprehensive summary of Act 75](#). Click here to read the [full text of Act 75](#).

Environmental Protection & Permitting

Act 138 Reports

Early on in the session various committees of jurisdiction heard from the Agency of Natural Resources (ANR), Department of Environmental Conservation (DEC) on two key reports required under Act 138 of the 2012 session: “[Water Quality Remediation, Implementation, and Funding](#),” and “[Lake Shoreland Protection and Restoration Management Options](#).” These reports generated several important bills later in the session and will continue to shape environmental and land use policy discussions during the legislative interim and throughout next year.

The first report identifies the four major categories of pollution in Vermont's lakes, streams and rivers:

- Nonpoint source pollution in municipal areas,
- Nonpoint sources from agricultural and forestry operations,
- Erosion and flooding of Vermont's rivers and streams, and
- Municipal infrastructure and stormwater programs.

The report provides an estimate for cleaning up Vermont's lakes and waterways and a review of possible revenue sources. It describes municipal and statewide clean water challenges in 19 categories of need and recommended actions. The total annual need in Vermont is estimated to be \$156 million, or almost \$1.6 billion over ten years. Some examples:

- \$70.8 million annually to manage currently unregulated stormwater
- \$10.5 million to treat runoff from the roads around the state
- \$18 million for maintenance and repair of the state's aging wastewater infrastructure
- \$11.3 million for nutrient pollution controls at municipal wastewater facilities
- \$21.5 million for municipal water systems
- \$10 million to remediate stormwater impaired waterways
- \$8.7 million to address non-point source pollution from agriculture and timber operations

The report also identifies 17 possible sources of funding, ranging from excise taxes on such products as motor fuels, pesticides and fertilizers, and flushable products, to statewide stormwater fees, to a surtax on the personal income tax or a 1-cent increase in the property tax.

Act 138 also directed attention to how the State should establish a shoreland protection program to restore and protect lake health. The second report focuses on options for restoring and protecting lake shores and whether the state should enact statewide shoreland regulations. The report explores options for the State to:

1. Adopt standards via rule making and administer a statewide permit program;
2. Set minimum standards that municipalities can choose to administer themselves; and
3. Set minimum standards that municipalities would be required to incorporate into their zoning ordinances. The report also explores a variety of non-regulatory options, including education, outreach, technical assistance and incentives.

As anticipated, the City had to monitor discussions and legislation spurred by these reports closely, as they had the potential for major impact on the City's wastewater treatment facilities, Stormwater Management Program, and future development on the Lake Champlain Waterfront, Winooski riverfront, the Intervale, and the Englesby and Centennial Brook corridors

Shoreland Protection (H.526; H.223)

As a result of Act 138 and the reports it generated, the House Fish and Wildlife Committee labored long and hard this year to produce legislation that would protect Vermont's lakeshores. The Committee Chair first introduced H.223, which later evolved into H.526, "An Act Relating to the Establishment of Lake Shoreland Protection Standards." The bill would establish a complex regulatory framework for the shorelands of all Vermont lakes and ponds of more than ten acres – in effect statewide shoreland zoning. The bill's stated purpose is to:

1. Provide clear and adaptable standards for the creation of impervious surface or cleared area in lands adjacent to lakes;
2. Prevent degradation of water quality in lakes and preserve natural stability of shoreline;
3. Protect aquatic biota and protect habitat for wildlife and aquatic life;
4. Mitigate, minimize, and manage any impact of new impervious surface and new cleared area on the lakes of the State;
5. Mitigate the damage that floods and erosion cause to development, structures, and other resources in the lands adjacent to lakes;
6. Protect shoreland owners' access to, views of, and use of the State's lakes; and
7. Preserve and further the economic benefits and values of lakes and their adjacent shorelands.

As passed by the House, H.526 establishes "protected shoreland areas," buffer zones 250 feet from the mean water level of lakes with over 10 acres of surface area. For these areas, the bill would require property owners to get a permit from the Secretary of the Agency of Natural Resources (ANR) for construction with over 500 square feet and less than one acre of new impervious surface; creation of over 500 square feet of new cleared area; or expansion of existing impervious surface or cleared area to more than 500 square feet. No permit would be needed for expansions up to 500 square feet, as long as the aggregate expansion was not over 20% of the protected shoreland area of the lot. The ANR Secretary could only issue a permit if the proposed impervious surface or cleared area did not negatively impact water quality and complied with the lake shoreland protection standards. The bill directs the Secretary to adopt a general permit for activities that present low risk of harm to water quality, under which property owners who need a permit may seek coverage.

The ANR Secretary would also be directed to adopt requirements for individual permits for the construction of impervious surface or creation of cleared area by January 1, 2015. These would get into a high level of detail and include ANR establishing best management practices for the construction of impervious surfaces or the creation of cleared area within the 250 buffer zones, including standards for everything from managing vegetative cover to minimizing the creation of impervious surface or cleared area – even standards for designing and maintaining driveways, patios, and similar surfaces so that stormwater runoff is minimized. The standards would allow a limited set of activities within the buffer zone, including paths and recreational space; gardens; and accessory structures, subject to size requirements established by the Secretary. The bill also created limited exemptions for certain types of practices and activities related to transportation infrastructure, wastewater systems and potable water supplies, stormwater treatment systems, and certain agricultural and silvicultural practices. Under the current wording – and important to Burlington Electric -- those activities not requiring a permit include

the routine repair and replacement of electric utility lines that are subject to 30 VSA Section 248 (any major utility project).

Clearly these standards were designed for rural areas and not with urban lakefronts like Burlington's or Newport's in mind, or lakefronts in village/town centers like North Hero or Malletts Bay. Not all shorelines are created equal and a one size fits all approach doesn't work for anyone. In fact, as originally drafted, the legislation could have brought development on our urban waterfront to a grinding halt at a time when we have rebooted the entire waterfront redevelopment process and are looking forward to exciting new possibilities. At best it could have caused the type of regulatory uncertainty that chills potential financial investment.

While the City strongly supported the goals the proposed bills were trying to achieve – after all Lake Champlain is our most precious asset – we had deep concerns as well, which were shared by the League and a number of other municipalities. In response to those concerns, provisions were incorporated into the bill that authorized municipal delegation of permitting, allowing cities and towns with existing shoreland protection ordinances to issue their own permits, so long as those ordinances:

- Require vegetative cover or other best management practices designed to prevent degradation of water quality in lakes, to minimize or mitigate impervious surface and cleared areas in protected shoreland areas, and to minimize or mitigate damage from floods and erosion;
- Set forth conditions on the construction and expansion of existing impervious surface or cleared area; and
- Provide for administration and enforcement of the bylaw or ordinance.

While Burlington has well developed shoreland protection zoning that would meet the proposed State standards, additional provisions were needed in the bill to allow for future development on the urban waterfront. Thanks to the City's engagement and that of the League, Fish and Wildlife also included an exemption for areas with historic and urban development. This would eliminate the need for the special State permit for construction, creation, or expansion of impervious surface or cleared area within protected shoreland buffer zones so long as:

“(1) the area in which the impervious surface or cleared area will be constructed, created, or expanded has been designated by municipal bylaw for:

“(A) development according to historic development patterns; or

“(B) redevelopment of land that has been subject to construction of impervious surface or to disturbance prior to the July 1, 2013 by industrial or urban development; and

“(2) the municipality has adopted a shoreland bylaw or ordinance or has implemented best management practices intended to prevent degradation of water quality in lakes; to minimize or mitigate disturbances in lands adjacent to lakes; or to minimize or mitigate damage from floods and erosion.”

With this exemption, the City's concerns were satisfied. However, the concerns of other constituencies were not so easily addressed. In spite of the bill's assertion that *“The shorelands of the state owned by private persons remain private property, and this act does not extend the common-law public trust doctrine to private shoreland that is not currently public trust land,”* it generated a firestorm among lakeshore property owners from one end of the state to the other. Even though it achieved passage in the House, the bill stalled in Senate Natural Resources, which decided to put the bill on hold until next year.

Senators proposed creating a Lake Shoreland Protection Commission to provide information regarding current laws and regulations protecting the waters of the state, and take testimony regarding the regulation of disturbance, clearing, and creation of impervious surfaces on lake shorelands. Created by language in the FY 14 Appropriations Act,²⁴ the Commission consists of the five members of Senate Natural Resources and five of the eight members of House Fish and Wildlife. The Commission is authorized to hold up to five public hearings around the state to provide information and gather public input.

Burlington officials came to the State House a number of times to testify, as well as meet privately with key lawmakers, including Mayor Weinberger, Planning Director David White, Stormwater Program Manager Megan Moir, and Senior Planner Scott Gustin. The City's efforts definitely bore fruit through the inclusion of the municipal delegation and historic and urban development provisions in the House bill. In his testimony at Senate Natural Resources, Mayor Weinberger extended an invitation for committee members to visit Burlington to learn more about our urban waterfront, the City's Stormwater Management Program, and how we plan to protect Lake Champlain from the effects of stormwater runoff as additional areas are developed and more impervious surface is created. The Lake Shoreland Protection Commission plans to take the Mayor up on his offer.

While it is uncertain what path H.526 may take next year, after the Commission completes its series of public hearings, its visit to Burlington will help ensure that lawmakers remain mindful of the City's concerns and needs as discussion around improving the water quality of Vermont's lakes and ponds continues into the next session. Though it appears unlikely that H.526 will be enacted as passed by the House, it will certainly help frame future discussions and progress needs to be watched closely over the legislative interim and next year. Click here for the [full text of H.526](#).

Flood Hazard Areas (H.401/Act 16)²⁵

At least 21 other bills were introduced that address various water related issues. Among them was H.401, a bill that addresses flood hazard areas and fluvial erosion protection in local and regional plans. H.401 amends Title 24 Chapter 117, the regional and municipal planning statutes by adding a 14th goal "to encourage flood resilient communities." New development in identified flood hazard, fluvial erosion, and river corridor protection areas should be avoided and any new development should not exacerbate flooding and fluvial erosion.

Both regional and municipal plans must include the new flood resilience element to identify flood hazard and fluvial erosion hazard areas based on river corridor maps provided by the Secretary of ANR. The element must designate areas to be protected, including floodplains, river corridors, land adjacent to streams, wetlands, and upland forests to reduce flood damage to infrastructure and improved property. As well, the flood resilience element will need to recommend policies and strategies to protect identified areas and mitigate risk to public safety, critical infrastructure, historic structures, and public investments, such as roads, bridges, culverts, and wastewater treatment or water supply facilities. Burlington is already doing more resilience/adaptation planning so will not be negatively impacted by the bill.

H.401 also enables a municipality to prohibit the construction of accessory units (mother-in-law apartments) in flood hazard and fluvial erosion areas. Burlington typically doesn't allow single family homes in our Special Flood Hazard Area so restricting accessory units does not negatively impact us either.

²⁴ See [H.530/Act 50, FY 14 Appropriations Act](#), pp. 117–120 for legislative language creating Commission.

²⁵ Summary of Act 16 adapted from VLCT [2013 Legislative Wrap-Up](#).

Local Government

Public Records (H.54/Act 23)

H.54 started out as a 22-page bill that would have deleted or amended multiple exemptions to the inspection or copying of various public records, mostly in the area of Human Services. The bill that passed and became Act 23 was just over a page and did not effect substantive changes to the State's Public Records Law, but it did signal the Legislature's clear intent to take up substantive changes next year.

Act 23 directs Legislative Council to prepare a draft bill listing all exemptions to the Public Records Act in one statutory provision. The draft bill will also amend existing exemptions scattered throughout the Vermont law in order to cross-reference back to the draft list of exemptions, and incorporate amendments to existing exemptions that were previously recommended by the legislative Public Records Study Committee. Legislative Council is to submit the draft bill to the Committee on or before November 1, 2013.

Similar legislation deleting or amending various public records exemptions was introduced in 2012 as H.611 and never acted upon. Act 59, passed the year before, made substantial changes to the Public Records Law, but did not address certain issues that remained unresolved for municipalities, including ambiguities in current statute and case law as to whether personal/personnel records are private or public, and whether or not towns can require reimbursement for staff time necessary to allow individuals to inspect public records. Act 59 did mandate that public agencies shall pay legal fees if a court orders disclosure. Municipal officials acting in good faith and using their best judgment may decide to protect documents that a court might later decide should have been made public. The Legislative Public Records Study Committee continues to meet on these issues.²⁶ The City will need to follow any future legislation changing the State's Public Records Act closely, as its repercussions for municipalities are potentially great.

See the attachments for a detailed review of Act 59 from our "2011 Burlington Legislative Review." Click here for the [full text of Act 59 \(2011 session\)](#). Click here for [the League's summary of Act 59 \(2011 session\)](#).

Open Meetings (H.497; S.110)

The Legislature for the past few years has worked on a number of bills regarding government transparency and accountability. In addition to addressing access to public records and exemptions, a number of bills have been introduced to update Vermont's Open Meetings Law. Two pieces of legislation introduced during this session would update the law, bringing it into the 21st century: [Senate Bill 110](#) and [House Bill 497](#).

S.110 proposes to:

- (1) Clarify the application of the Open Meeting Law to communications, regardless of format, during which a quorum of members of a public body discusses the business of the body or takes action;
- (2) Amend the Open Meeting Law's declaration of public policy;
- (3) Enlarge from 24 hours to 72 hours the period prior to a special meeting when notice of the meeting must be publicly announced;
- (4) Amend the requirements for publicly announcing a meeting; and

²⁶ Click here for a link to [Reports of the Public Records Legislative Study Committee](#).

- (5) Require that notice of a meeting include information about the time, place, and agenda of a meeting.

The City has a number of concerns with this bill, including:

- The potential cost to the City of sending out individual notices of public meeting in hard copy,
- Having to describe every agenda item sufficiently to inform the public,
- Requiring dissemination to “every media outlet,” given the number of media outlets these days, and
- Increasing the time to notice the meetings to 72 hours.

The VLCT had concerns as well and urged the Legislature to revive S.67 as passed by the Senate in 2011. S.67 was discussed in both the Senate and House Government Operations Committees numerous times in 2011. It passed in the Senate, was passed out of the House Government Operations Committee, and was up for action in the House on the second to last day of the 2011 session, but ended up being recommitted back to the House Government Operations Committee. The bill was not reconsidered in 2012, probably because reapportionment took up so much of those committees’ time.

The essential features of S.67 have been incorporated into this year’s H.497, introduced by the Chair of the House Government Operations Committee. The House and the Senate have agreed that the House Government Operations Committee will work from H.497 next year, essentially picking up where the Legislature left off during the last biennium. H.497 (the former S.67) proposes to:

- (1) Amend the Open Meeting Law to clarify when a public body may enter executive session;
- (2) Allow members of a public body to participate in a meeting remotely if certain requirements are met;
- (3) Amend provisions related to meeting agendas; and
- (4) Require the award of attorney’s fees and litigation costs to a complainant who substantially prevails in a case alleging a violation of the Open Meeting Law, unless the public body cured the violation or had a reasonable basis in fact and law for its position and acted in good faith.

More specifically, the bill:

- Clarifies that discussions by written or electronic means to schedule a meeting, organize an agenda, or distribute materials to discuss at a meeting are not meetings subject to the law;
- Requires persons with disabilities to be provided with reasonable accommodations so he or she can attend and participate in meetings;
- Permits meetings to be conducted with one or more members of the public body participating by electronic or other means, provided that:
 - At least 24 hours prior to the meeting, the public body must publicly announce and notice the meeting;
 - Each member participating by electronic means is audible to the public at the physical location or to those participating by electronic means;
 - All other requirements of the Open Meeting Law are complied with; and
 - Any votes be taken by roll call.
- Permits electronic communications to be distributed among members of the public body;
- Requires that the agenda for a meeting be posted to the public body’s website if one exists;

- Prohibits the use of executive sessions to consider the appointment of a person to a public board, council, or commission;
- Makes discussions of municipal or school security or emergency response measures eligible for executive session; and
- Allows a public body to remedy a violation of the Open Meeting Law when the body is provided written notice alleging a violation occurred by acknowledging the violation and stating an intent to cure it within 21 days.

Click here to link to a [VLCT Legislative Report summarizing S.110 and S.67](#).

Technical Tax Bill (H.295/Act 73)

This year's Technical Tax Bill, H.295, which passed as Act 73, became the legislative vehicle for certain non-revenue tax proposals when the larger and more ambitious tax and revenue bill (H.528) failed in the final days of the session. The bill has several sections that will affect Burlington and other municipalities:

Property tax exempt properties: Before April 1 of each year, owners of certain exempt properties²⁷ are required to report the insurance cost to town listers/assessors or provide a written explanation of why the property is not insured. Listers must use the insurance replacement cost as the value that is entered in the Grand List. Properties include those used for public, pious or charitable uses; church property; libraries; lands leased by towns or school districts for educational purposes; colleges, academies or other public schools; property owned and used by towns for the support of the poor; college fraternities and sororities; YMCA and YWCA properties; water pollution abatement facilities; agricultural societies; Humane Society property; ski lifts and equipment; utility cables, lines, poles and fixtures, including those owned by municipal utilities; gas distribution lines; and wind-powered electric generating facilities.

Given the large number of exempt properties in Burlington, as well as the inclusion of municipally owned utility property, this change has the potential to have a significant administrative impact on affected property owners, Burlington Electric Department, and the City Assessor's Office.

Tax expenditures: Act 73 requires that every tax expenditure listed in the biannual [Vermont Tax Expenditures Report](#) be accompanied in statute by a statement of purpose explaining the policy goal behind the exemption, exclusion, deduction, or credit applicable to the tax. It charges the Joint Fiscal Committee with providing these statements of purpose to the tax writing committees by January 15 of next year in preparation for introduction of a bill incorporating the statutory purposes during the 2014 session. *"...a tax expenditure listed in the tax expenditure report that lacks a statutory purpose in statute shall not be implemented or enforced until a statutory purpose is provided."* (Emphasis added.) Property tax exemptions are included in the report and will therefore need to have their purpose statutorily spelled out or they will lose their special treatment.

Study committee on property tax exemptions: Act 73 establishes a committee to study the public, pious and charitable property tax exemption and make recommendations related to the definitions, listing, valuation, and tax treatment of properties within this exemption, including:

"(A) ways to clarify the definitions of properties that fall within this exemption, including recreational facilities, educational facilities, and publically owned land and facilities;

"(B) guidelines to ensure a uniform listing practice of public, pious, and charitable properties in different municipalities;

²⁷ Properties exempt under 32 V.S.A. §3802(4)-(6), and (12)-(15) and §5401(10)(D), (F), (G), and (J).

“(C) methods of providing a valuation for properties within this exemption; and
“(D) whether the policy justification for these exemptions continues to be warranted and whether a different system of taxation or exemption of these properties may be more appropriate.”

Members of the committee are to include two senators, two representatives, the Director of the Division of Property Valuation and Review, and a representative from both the VLCT and the Vermont Assessors and Listers Association. The Committee shall report to the Senate Finance and House Ways and Means Committees by January 15, 2014. This work group will need to be followed during the legislative interim.

Tax liens: Act 73 allows the Tax Commissioner to file tax liens electronically with the towns.

Clearly, lawmakers will not only have changes to education tax policy on their agenda next year, but possibly also changes to the tax treatment of currently exempt property and other preferential tax treatment.

Transportation (H.510/Act 12)

State Funding for Highways and Bridges

The FY 14 Transportation Bill (T-Bill) includes \$632 million in total spending, about \$7 million less than the previous year, which saw a large increase for reconstruction after Tropical Storm Irene. A total of \$91 million went to assist local highway, road and bridge construction, a \$41 million decrease from FY 13, mostly because of lower costs associated with Irene recovery. Town Highway Aid was funded at just under \$26 million, about the same as last year. On average, Burlington receives about \$260,000 from this fund annually for its street repaving program. Funds are allocated based on the total mileage of a city or town’s local streets and roads. Class 2 Paving was again level funded at \$7.25 million. Burlington receives assistance from this source on a per-project basis when we repave streets that serve as State highways, like Willard, Shelburne and Main Streets, Riverside Avenue and the Beltline.

In addition to funding for the Champlain Parkway, this year’s T-Bill includes funding for these other Burlington projects:

- \$497,902 for electrical and lighting improvements on Church Street,
- \$152,000 for improvements to the Church Street Marketplace and side streets, and
- \$60,000 for Preliminary Engineering (PE) and Right of Way (ROW) funding for the Shelburne Road round-about.

See VLCT’s FY 14 Appropriations Act summary chart in the attachments for a detailed break-down of the various line items in the Transportation Budget.

Champlain Parkway

Perhaps most importantly, the T-Bill includes \$1.25 million in additional preliminary engineering funds for the Champlain Parkway, to complete design on the entire project. This is expected to suffice for the project to move forward during the current fiscal year. Because the project’s Act 250 approval was appealed, it is uncertain when construction will begin. The related Railyard Enterprise Project has been added to the list of Roadway Projects Candidates for potential future funding.

Transportation Alternatives / Bike & Pedestrian Facilities Programs

The FY 14 budget allocated just over \$10.1 million for the Bike and Pedestrian Facilities Program, a \$1.3 million increase. The T-Bill provides \$5.8 million for the Transportation Alternatives Program (formerly Enhancement Program), a \$1.8 million increase. The following Burlington projects are funded:

- \$64,810 for construction of new sidewalks, and replacement of existing sidewalks, along Flynn Avenue;
- \$22,000 for installation of 540 feet of new concrete sidewalk along the south side of Colchester Avenue;
- \$66,862 for construction of a sidewalk along Cliff Street;
- \$50,000 for construction of improved pedestrian signals across North Ave., adding countdown indications at Shore Rd., Woodbury Rd. and the Ethan Allen Shopping Center; construction of signalized pedestrian crossing at the North Ave./Plattsburgh Ave. intersection;
- \$24,800 for mid-block pedestrian crossings;
- \$100,000 for bike path relocation; and
- \$952 for Intervale revitalization.

Rail Funding

The T-Bill includes just under \$10 million for improvements to the Vermont Railway tracks between Rutland and Burlington. The intent of these annual improvements to the Western Corridor is to eventually establish passenger rail service to downtown Burlington by extending the Ethan Allen Express beyond Rutland. As in the last several years, it also provides \$75,000 for maintenance of the quiet zones at railroad crossings between Burlington and Shelburne.

Gas and Diesel Tax and Assessment

From the outset Transportation Committees grappled with the need to raise revenues to fund the State's transportation infrastructure needs. A [VTrans report](#) estimated the cost of the State's annual transportation capital needs for the five-year period from 2014 to 2018 at \$700 million. It estimated the shortfall in available revenues needed to meet those needs as more than \$240 million per year, almost 40% of this year's entire budget. In addition, additional State matching dollars would have to be raised in order not to leave \$60 million in federal funding on the table this year. The VTrans report identified potential increases to numerous existing taxes and fees, as well as some entirely new ones.

After much discussion and eventual compromise, the House and Senate Transportation Committees settled on a complicated set of revenue increases and offsets, including a transition to a percentage based assessment on gas (vs. the current cost per gallon approach) to make up for reduced fuel use. The upshot is a 6.5 cent per gallon (cpg) increase in taxes and assessments on gasoline over two years, and a 3 cpg increase in the tax on diesel, also over two years.

Affordable Housing

Housing did well in the budget for the third year in a row, thanks in large part to both the Governor's and Legislature's strong support for affordable housing and alleviating homelessness. As a result, several key programs saw increases while all other programs were at least level funded. However, strict new requirements for State Emergency Housing Assistance could leave some vulnerable families and individual without homes out in the cold next winter. In terms of legislation, the only major housing

related bills that passed dealt with the Vermont Neighborhoods Program and thermal efficiency (see “Energy” section). Here is a brief summary of housing appropriations and legislation:

Vermont Housing & Conservation Board (H.530/Act 50)

This year Governor Shumlin recommended, and the Legislature approved, \$14.3 million, a modest \$300,000 increase over last year. By law, VHCB is supposed to receive just under 50% of the state’s property transfer tax (PTT) revenues. During the last decade, successive administrations and Legislatures diverted funding from VHCB for other purposes. After two straight years of supporting full statutory funding, the Governor and Legislature unfortunately missed the mark this year because new PTT revenue projections, delivered just before the Governor unveiled his budget, increased significantly over the ones that the budget had been based on. Under the statutory formula, VHCB would have received an additional \$1.5 million; instead, that once again went to help fill the State’s budget shortfall.

VHCB is Vermont’s premier funding source for assisting affordable housing with state taxpayer dollars and has helped fund virtually every single affordable home developed over the last twenty-five years. Burlington has benefited generously from VHCB investments, including the recently preserved Wharf Lane and Bobbin Mill Apartments, Thayer Commons on North Avenue, Northgate Apartments and hundreds of other homes all over town. It also helps preserve the health of the state’s rural and tourism economies by funding farmland preservation and the conservation of sensitive natural areas and recreational lands. Conservation funding, too, has been very important for Burlington over the years, helping to pay for Waterfront Park, Delta Park and other significant conserved lands.

Homeless Shelters and Homelessness Prevention (H.530/Act 50)

Vermont has two primary funding sources for homeless shelters and homelessness prevention.

Emergency Solutions Grant Program: Administered by the Vermont Office of Economic Opportunity, the ESG Program provides a blend of State (General Fund) and federal (HUD) funding. ESG pays for basic shelter operating costs like rent, utilities and staff salaries. It also funds supportive and prevention services, emergency assistance, and transitional housing. Several Burlington programs serving the homeless and victims of domestic violence receive funding from this source, including the Committee on Temporary Shelter (COTS), Champlain Valley Office of Economic Opportunity/Chittenden Community Action (CVOEO/CCA), Spectrum, and Women Helping Battered Women. ESG was level funded at the base funding amount of \$792,000.

General Assistance: GA is the State’s essential safety net program for the most vulnerable, lowest income Vermonters. It helps individuals and families with their emergency basic needs such as housing, utilities, food, personal needs items, and burial costs. GA housing programs are essential tools in providing emergency housing assistance and alleviating and preventing homelessness. GA funds a variety of housing and housing related support services, much of it through community based providers, including rental arrearages, rental assistance, motel vouchers, transitional housing, emergency shelters, security deposits, utility deposits and payments, moving expenses, and case management services. Because of the economic downturn of the last several years and the resulting rise in housing instability and homelessness, especially in Burlington and the metro area, GA has seen a huge increase in demand and experienced almost yearly cost overruns. The FY 13 GA budget was no exception, mostly as a result of increased motel usage for Emergency Housing Assistance, and was increased by \$2.2 million through the Budget Adjustment Act, for total FY 13 funding of \$8.8 million. For FY 14, the Governor proposed, and the Legislature approved, \$8.3 million, which breaks down as follows:

- \$500,000 for the Vermont Rental Subsidy Program, which provides rental assistance for very low-income people who are homeless and would otherwise not be able to afford housing. The

program's intent is to transition people from shelters to permanent housing, reduce reliance on motels and shelters, and reduce the impact of transiency on children.

- \$400,000 for Family Supported Housing Grants, a new three-county demonstration program designed to couple housing with support services and reduce reliance on motels in the areas with the highest incidence of child homelessness and motel expenditures (Burlington, Rutland and Brattleboro).
- \$2.9 million for Community Housing Grants, which fund one lead agency in each AHS district to work collaboratively with other community partners on developing and implementing coordinated community responses to prevent homelessness and rapidly re-house homeless families and individuals (this is a \$1.2 million increase).
- Up to \$1.5 million for Emergency Housing Assistance, for motel vouchers when no appropriate shelter beds are available (this is a \$2.5 million cut, the Administration had proposed \$2 million).

In addition, GA provides a variety of non-housing related financial assistance and services to extremely low-income Vermonters, such as personal needs allowances, groceries, medical, dental and burials. These forms of assistance amount to approximately another \$2.3 million in the FY 14 GA budget.

Since the greater Burlington area has far and away the highest numbers of homeless families and individuals in the state, as well as the highest motel use, Burlington based agencies will receive a large share of funding to prevent and alleviate homelessness in our area.

As a result of the substantial cost overruns on motel vouchers (\$1.3 million budgeted, \$4 million spent), the Legislature severely tightened restrictions on their use and spending. Going forward, Emergency Housing Assistance in motels will only be granted in catastrophic situations, under the cold weather exemption, and to vulnerable populations, based on risk to health and safety. Individuals and families who have caused their own loss of housing can no longer receive assistance. Pursuant to its legislative mandate, the Department for Children and Families (DCF) initially promulgated very restrictive new rules that advocates feared would leave many vulnerable people without emergency housing when shelters are full. These rules have since been revised to include families with children six or under, seniors 65 or older, people on SSI or SSDI, and women in their third trimester of pregnancy. A point system has been created for other vulnerable populations. Even with these revisions, some vulnerable people will be left out in the cold this winter, which will have an impact on Burlington and its social service agencies.

Other Housing Related Funding (H.530/Act 50)

The Shumlin administration requested, and the Legislature approved, level-funding or increases (in some cases substantial) for numerous other housing and housing related programs that Burlington-based agencies rely on to help meet the housing and supportive service needs of our many low-income residents, including:

- Support and Services at Home / Housing and Supportive Services: Developed into a pioneering statewide program by Burlington-based Cathedral Square Corporation, SASH/HASS provides essential services to elders and individuals with disabilities living in subsidized housing, improving residents' ability to age in place and enhance their quality of life. The program saw a modest \$25,000 increase this year, with the likelihood of another \$50,000 through Budget Adjustment this winter.
- Home Access Program: Administered by the Vermont Center for Independent Living, HAP helps people with disabilities make accessibility modifications to their homes, allowing them to live

independently and avoid expensive nursing home care. HAP expects to receive level funding this year.

- Assisted Community Care Services: ACCS helps elders and people with psychiatric and physical disabilities live in more independent settings in assisted living and residential care homes. ACCS saw its reimbursement rate increase by \$1 per person per day, though it still falls far short of covering the cost to providers like Cathedral Square.
- HomeShare Vermont: Based in South Burlington and serving Chittenden and the three other northwest counties, this program arranges and assists home sharing matches for vulnerable populations. It saw a major increase this year, from \$80,000 to \$180,000.
- CVOEO's Mobile Home Project: Based in Burlington, this program provides technical assistance and support for mobile home park residents statewide. The program was level funded at \$70,000.
- Recovery Housing and Housing Contingency Funds: These two related funds cover apartment set-up costs and provide rental subsidies for people with severe and persistent mental illnesses. Together, they were level funded at \$850,000.
- Mental Health Housing Voucher Program: Created last year as part of the restructuring of the state's mental health system, this program provides Section 8 style rental assistance so low-income Vermonters with mental illness can afford stable housing. Program funding was increased from \$600,000 to \$1.4 million.

As mentioned earlier, the Corrections Department continued to increase investments designed to move non-violent offenders out of prison by increasing Transitional Housing and support services for ex-offenders by \$1.4 million, bringing total funding up to \$6.6 million for FY 14. The state has sought steady annual increases over the last several years to help reduce costly recidivism.

Vermont Neighborhoods Reform (H.377/Act 59)

As noted in the Downtown Bill section earlier, Act 59's more significant changes were to the Vermont Neighborhoods Program. Originally created in 2008, this State Designation Program was meant to stimulate "workforce" housing, i.e., mixed income housing affordable for low- and moderate income people. However, with only three Vermont Neighborhoods ever having been created, the program never truly achieved its goal to stimulate new housing production. Stakeholders identified the lack of support to help municipalities with the designation process and the limited amount of land eligible for benefits as the primary reasons for the program's lack of success. H.377 broadened the potential benefit area and created a framework to help communities identify opportunities to build new housing in a way that respects Vermont's compact land settlement patterns.

Primarily, the act replaces the Vermont Neighborhood designation with a “Neighborhood Development Area” designation. A municipality with a Designated Downtown (like Burlington), Village Center, or New Town Center would have an automatically delineated study area that includes and encircles the center, to be known as a “Neighborhood Planning Area.” For a Designated Growth Center, the study area would have the same boundary as the Designated Growth Center. The municipality would then identify those locations within the study area that are suitable for new and infill residential development and apply to the Vermont Downtown Development Board for designation as a “Neighborhood Development Area” and associated benefits. The act sets out the criteria, requirements, and process for this designation. Specifically, Act 59:



- Creates an automatic process to delineate Neighborhood Planning Areas as $\frac{1}{4}$ and $\frac{1}{2}$ mile “walksheds” or rings around Designated Downtowns ($\frac{1}{2}$ mile ring), Village Centers ($\frac{1}{4}$ mile ring), New Town Centers ($\frac{1}{4}$ mile ring), and Designated Growth Centers (identical size);
- Allows a Neighborhood Development Area to include one or more areas of land extending beyond the delineated Neighborhood Planning Area, with approval of at least 80% but no fewer than seven of the members of the State Board present;
- Helps interested municipalities articulate local housing goals and objectives and identifying local constraints and opportunities to create more housing ;
- Provides the framework for community involvement to work through competing goals of different stakeholders and achieve consensus on appropriate areas for new or infill housing before developers submit permit applications;
- Helps state agencies align environmental, housing, and transportation policies, programs and regulations that address locally identified barriers to creating more options for housing in and around downtowns and village centers;
- Allows existing and future grants and incentives to plug into the Neighborhood framework to build housing in areas identified as development-ready by communities; and
- Allows an owner of land within a Neighborhood Planning Area to apply to the State Board for Neighborhood Development Area designation status.

The benefits of designation include:

- Qualified “mixed income” housing projects are exempt from Act 250 regulations and subject only to local development review, thus avoiding duplicative review;
- Act 250 projects not qualifying for the exemption receive a 50% discount on application fees;
- Agency of Natural Resources fees for wastewater review are capped at \$50;
- Exemption from the land gains tax; and
- A conditional use permit by the local government which determines that a project meets the “character of the area” criteria may not be appealed to the Environmental Court.

Receipt of Neighborhood Development Area designation could aid the City significantly in meeting some of the housing goals of PlanBTV. Here is a [link to the legislation](#).

Act 59 also creates a blighted property improvement program, which allows voters to authorize the legislative body of a municipality to exempt from municipal taxes for a period not to exceed five years the value of improvements made to dwelling units certified as blighted. The legislative body of the municipality shall appoint an independent review committee that is authorized to certify dwelling units in the municipality as blighted and exempt the value of improvements made to these dwelling units. A dwelling unit may be certified as blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

As mentioned earlier, Mayor Weinberger and the Mayors' Coalition met with DHCD Commissioner Noelle MacKay, pledged their support for the bill, and had the City Lobbyist testify in support.

Energy

A number of legislative issues related to energy absorbed BED's attention in this new biennium.

Siting of Electric Generation Plants (S.30/Act 38)

This bill was introduced as a moratorium on further wind power development. It got stripped to a study in the Senate, which gave the two committees of jurisdiction, House and Senate Natural Resources and Energy, the option to meet up to six times over the summer to review the Energy Generation Siting Commission recommendations. The Siting Commission proposed a protocol for giving municipal planning determinations limited standing in the Public Service Board (PSB) Certificate of Public Good Process. There is also language in the budget for the Department of Public Service (DPS) to summarize and analyze the Governor's Siting Commission's recommendations in advance of these meetings.

Thermal Efficiency (H.520/Act 89; H.216)²⁸

Thermal efficiency legislation passed, though it received no additional funding and so does not make sweeping changes. The Governor had started the session with an ambitious proposal to increase investments in clean energy and thermal efficiency, including a 10% surcharge on "break-open" tickets to raise a total of \$17 million -- \$6 million in base State funding for Home Heating Fuel Assistance (LIHEAP), \$6 million for thermal efficiency improvements, and \$5 million for the Clean Energy Development Fund (CEDF). The Governor's revenue source met with widespread skepticism among lawmakers so that in the end only the LIHEAP increase made it into the budget, as well as a modest increase to CEDF. Advocates had hoped that the Legislature would in some way embrace recommendations from the Thermal Efficiency Task Force to generate substantial new public funding to meet the goals of 2008's [Act 92](#), which called for improving the energy efficiency of 80,000 Vermont homes by 2020. The Task Force had looked at a number of revenue generating measures to help bolster weatherization funding, but with stiff opposition from fuel dealers and without the Governor's support, none of these succeeded.

In the end Act 89 only makes numerous tweaks to existing services provided by the state's energy efficiency utilities and weatherization service providers. For instance, it directs the Weatherization Assistance Program (WAP) to give priority to LIHEAP recipients who use the most BTUs per square foot to heat their homes. The act also directs WAP to give the next greatest weight in prioritizing funds to buildings that require the most BTUs per square foot to heat. It further increases eligible average project cost per unit from \$6,000 to \$8,000, indexing the average to CPI, and raises eligibility from 60 to 80% of median income.

²⁸ Energy update prepared in collaboration with Tom Buckley of BED.

H.520 also addresses commercial and residential buildings energy standards (RBES). It clarifies their applicability to mixed-use buildings and includes various amendments to enforce compliance through the use of existing State and local permit processes, for example by tying compliance to State and municipal certificates of occupancy. The act also amends the RBES statute to authorize DPS to adopt a “stretch” code for residential buildings to achieve greater energy savings than the RBES. Once a stretch code is adopted, residential buildings that comply will gain presumptive compliance with the energy conservation criterion of Act 250. Municipalities would have the option to adopt the stretch code as part of their land use bylaws.

Finally, the bill requests the PSB to conduct a public process and submit a report on potential thermal efficiency funding sources, including non-regulated fuel delivery processes. It creates a work group to study improving the energy efficiency of both single- and multi-family affordable housing units. It also directs the DPS to convene yet another working group to develop a voluntary energy rating tool that residential and commercial building owners can use to disclose energy performance to prospective purchasers.

Other Energy/Utility Related Bills

Pertinent energy-related bills that did not pass or received little to no action in committee nevertheless carry over to next year include:

Water and Sewer Disconnections (S.41) – Pending in a committee of conference. The bill addresses disconnection of service for water and sewer services. As passed by the Senate, S.41 would give renters whose service has been noticed for disconnection due to the landlord’s non-payment the right to continued service if they pay the utility directly. The utility can’t require repayment of arrears if water and sewer service is included in rent. The bill almost died in House Government Operations, but a compromise proposal was devised, which states simply that a municipality must accept payment from any person for any bill or delinquent charge. The bill never made it out of conference – therefore remains pending in conference for next year. The House bill also makes it the intent of the General Assembly that the Vermont League of Cities and Towns, Vermont Legal Aid and Vermont Apartment Owners Association work together on a proposal for next year to address the issue of disconnection for non-payment. Many municipalities, including Burlington, allow renters to make arrangements to avoid disconnection, while others do not, which has lead to health and safety issues for renters remaining in place without service.

Electronic Filings and Case Management (H.39) – Pending in a committee of conference. This bill would enable e-filing of utility regulatory documents. While hardly a high-profile issue, it’s one that would generate labor and material savings for BED. This bill got caught up in session end-game political machinations and so did not move forward.

Shoreland Protection (H.526) – Pending in Senate Natural Resources. This bill proposes to protect the lake shorelands of the State of Vermont and is described in detail in the section on “Environmental Protection & Permitting.” The important consideration for BED is that, under the current wording, activities not requiring the type of permit proposed in the bill include the routine repair and replacement of electric utility lines that are subject to 30 VSA Section 248 (any major utility project).

Protection of Personal Information/Security Breach (H.429) – Pending in House Commerce. This bill, supported by the Attorney General’s Office, proposes to enhance and clarify reporting requirements and protocols in the event of a breach of electronic data.

Health Care (H.107/Act 79; S.152/Act 54)²⁹

“This year, the legislature passed legislation that continues down the path of health system reform by focusing on moving the process forward and launching the health insurance exchange, Vermont Health Connect. This was primarily accomplished through the passage of H.107, ‘An Act Relating to Health Insurance, Medicaid, the Vermont Health Benefit Exchange and the Green Mountain Care Board Reform Implementation.’ Among other things, this bill adjusts state statute to comply with the federal rules being developed around the Patient Protection and Affordable Care Act, streamlines the health insurance regulation process, and places more restrictions on health insurers. Through charge-backs to insurers, hospitals, and state benefit programs, the bill also creates a state-funded Office of the Health Care Advocate. This office . . . represents a major expansion of the current state Health Ombudsman program . . .

“Many of the functions of this new office seem to duplicate activities that are already carried out by various state departments, offices, and boards. Of course the costs of this office will ultimately fall on the payers of health insurance premiums, health care services, and local and state taxes.

“Funding for Vermont Health Connect. Federal grants will fund the start-up and operation of Vermont Health Connect through 2014. In 2015, the state will have to take over the funding for the operational costs of the exchange, which are estimated to be \$18 million annually. Many funding methods were considered, but in the end, S.152 repurposed a current funding source to meet the new funding need. S.152 modifies and continues the assessment on employers that do not provide employees with health insurance. Previously this assessment funded Catamount Health, which will be eliminated and replaced with the health insurance provided through Vermont Health Connect. The assessment will now apply to employers with employees who purchase individual health insurance, as opposed to an employer-provided benefit through Vermont Health Connect.

“Cost Shift. In addition to requiring more studies and reports, the legislature actually approved an administration proposal, H.530, to increase Medicaid provider reimbursements by three percent, beginning in November 2013. While this additional funding will not reduce the Medicaid cost shift, it should keep it more level if the providers adjust their fees to other payers to reflect the additional revenue received from Medicaid.

“What does this mean for municipalities? As the health reform process moves along, there are a variety of impacts for municipalities to consider, including:

- “The health exchange will impact your health benefit plan if you are an employer with 50 or fewer employees. The exchange goes into operation on January 1, 2014, less than eight months from now. It is critical to consider your options and take the coming changes into account in any collective bargaining. It is important to maximize your flexibility in health plan design and funding. This will provide the best ability to respond to the changes in plan designs of the exchange.
- “Municipalities should consider the generous federal tax credits available to individuals who purchase their health insurance through the exchange. After careful analysis, some municipalities may find it advantageous to discontinue their employer provided health insurance plan in favor of having employees purchase their own health insurance through the exchange.
- “Municipal employees and employers should prepare for a single-payer, universal care system in Vermont. This is clearly the goal of health reform legislation and the Shumlin administration has

²⁹ Summary of Health Care Bills adapted from [“2013 VLCT Legislative Wrap-Up.”](#)

made this a priority. The details, including financing for the system, continue to be worked out. Whether the plan can ultimately be implemented will only be determined with time. As employers, municipalities should prepare for the time when health benefits are separated from employment and embrace the opportunity.

- “Collective bargaining issues are important. Endeavor to maintain flexibility in your collective bargaining agreements. As we move to a new system, there is an opportunity to fundamentally redefine the employer role in providing health benefits. This may be an opportunity to hit the ‘reset button.’
- “There will be considerably more state control of the health care system. If handled well, it will lead to a more universal, better managed, more affordable health care system. If not well managed ... ? In any event, we will know soon.
- “The long-term costs of these reforms and their impact on municipalities are not easy to fathom. Municipal officials need to be prepared. Plan ahead; leave flexibility. VLCT will continue to focus on being your partner in the transition to a new health system.”

Other Municipal Issues

The Vermont League of Cities and Town’s [2013 Legislative Wrap-Up](#) covered numerous additional issues that were the subject of legislative action this past session. Readers should consult VLCT’s report for write-ups of the following bills of general municipal interest:

- Summer Study Committees that Impact Municipalities
- Liquor and Tobacco Licenses (H. 240/Act 72)
- Paint Recycling (H.262/Act 58)
- Pet Breeders & Local Government (H.50/Act 30)
- Marijuana Decriminalization (H.200/Act 76)
- Automated License Plate Readers (S.18/Act 69)
- Equal Pay, Flexible Working Conditions (H.99/Act 31)
- Workers’ Compensation for Firefighters & Rescue or Ambulance Workers (S.85/Act 86)
- Annual Municipal Survey Repeal (H.63/Act 3)
- Search and Rescue (H.182/Act 26)

Attachments

VLCT Tax Increment Financing Summary

Amends 24 V.S.A. §§ 1891-1901; 32 V.S.A. §§ 5401-5404(a)

(From “2013 VLCT Legislative Wrap-Up”)

S.37, the Tax Increment Financing (TIF) district legislation, was one of the last bills to pass, having been held as hostage by the House in case it was needed as a vehicle for other legislative initiatives that looked like they might fail. Such is the end of session game.

TIFs are widely used across the country to attract economic development projects to areas where they otherwise would not occur. TIFs have been critical to the re-development of downtown Winooski and the Burlington waterfront, and the cities of St. Albans, Barre, and South Burlington are poised to implement TIF programs. A TIF district is ideal for driving development into the compact settlements that are the focus of state goals – our cities, historic downtowns, and new smart growth developments seeking to emulate traditional downtowns such as Colchester’s Severance Corners.

Complex tax increment financing district statutes have resulted in much confusion for a long time. S.37 resolves uncertainty around the administration and implementation of TIF districts in Vermont. In 2012, the office of the former state auditor performed audits of TIFs in Burlington, Milton, Winooski, and Newport that called into question the way in which TIFs were being implemented. The legislation establishes amounts that all parties agree should be repaid to the Education Fund, provides new oversight and reporting, and establishes a process and remedies in the future for all TIF districts once rules are adopted.

S.37, in its various sections, will:

[Section 1] establish specific dollar amounts to be repaid to the Education Fund from the audited towns. If rules that are written to enact the statutory changes in S.37 identify practices that result in future underpayment, and if those practices continue into the future, those amounts of underpayments will start to accumulate upon the date that rules are enacted and will be payable to the state.

[Section 2] clarify the definitions of “improvements,” “related costs,” and “financing” so that TIF municipalities, the legislature, and administering agencies will have the same understanding of those terms. “Original taxable value” is defined as the value of property in the district on the date the TIF was created. That original taxable value will not be changed throughout the life of the district.

[Section 3] provide for creation and administration of TIFs to include no more than those listed and (at Section 17) South Burlington. The Burlington Waterfront TIF is extended for five years, although its ability to retain an education tax increment is not extended. A municipality may designate a coordinating agency from outside its departments to administer the district.

[Sections 4 and 9] establish how and for how long education tax increments may be used in the TIF district. A municipality has five years in which to incur its first debt and may incur debt for ten years thereafter. If no debt is incurred in the first five years, the district will terminate unless the Vermont Economic Progress Council (VEPC) grants an extension. Thereafter, the TIF district may use up to 75 percent of the new education property taxes generated and at least an equivalent amount of municipal property taxes to repay debt incurred to finance improvements such as streetscapes, transportation improvements or wastewater treatment upgrades. The new education property taxes generated in the district may be used to repay debt for up to 20 years.

VEPC will approve a TIF financing plan; then the municipality's voters need to authorize each instance of debt incurred in the TIF district. The legislation stipulates the information that needs to be provided to voters in advance of a vote.

[Sections 5 and 6] clarify the listers' obligation to establish the original taxable value of property in the TIF district and how new taxes generated will be accounted for and expended at the local level.

[Section 8] amend the statute that authorizes a municipality to issue bonds.

[Section 10] establish information, data, and reporting requirements for TIF districts to the Department of Taxes and VEPC.

[Section 11] establish that "nonresidential property" will exclude that portion of a property's new incremental value that is dedicated to repayment of debt incurred in the TIF district for up to 20 years.

[Section 12] provide that new education property tax increment generated within the district is available to repay TIF debt for up to 20 years.

[Section 13] establish the Department of Taxes and VEPC reporting requirements to the legislature.

[Section 14] authorize VEPC to adopt rules to clarify the TIF statutes. A single rule will be adopted for all TIF districts that will include a process for distributing excess increments to the Education Fund. The rule will specify which of its provisions are written to address which pre-existing TIF. The Secretary of the Agency of Commerce and Community Development is authorized to issue decisions regarding administration of TIFs upon VEPC's recommendation. Appeals of decisions will go first before a hearing officer at the agency as a contested case, and then to the superior court. If non-compliance is found and repayments need to be made to the Education Fund, the State Treasurer is to bill for those amounts.

[Section 15] directs the State Auditor to undertake performance audits of TIF districts according to a schedule determined by him and VEPC, but generally not more than once in a five-year period. The cost of conducting the audit (which last year cost an eye-popping \$500,000 for four TIF districts) will be billed back to the audited cities and towns.

With the passage of S.37 and the subsequent adoption of rules to implement the new law, municipalities, VEPC, and the Tax Department should find it far easier to implement TIF districts and establish what expenditures may be paid for with new education property taxes generated within the district. This has been at the heart of disagreements over the years. Finally, Vermont may have a workable TIF program on which all can agree.

VLCT FY 14 Appropriations Act Summary Chart

(From “2013 VLCT Legislative Wrap-Up”)

Municipal Funding Priorities in FY 2014 Budget (in Millions) May 15, 2013 Approved					
Budget Line Item	FY13 Approved	FY14 Governor's Recommend	FY14 Approved	FY14 Approved \$ Change from FY13 Final	FY14 Approved \$ Change from Governor's Recommend
PILOT – ANR Lands	2.13	\$2.15	\$2.15	\$0.02	\$0.00
PILOT – Corrections Facilities ¹	0.04	\$0.04	\$0.04	\$0.00	\$0.00
PILOT – Montpelier ¹	0.18	\$0.18	\$0.18	\$0.00	\$0.00
PILOT – State Buildings ¹	5.80	\$5.80	\$5.80	\$0.00	\$0.00
Current Use – Municipal	12.64	\$13.48	\$13.48	\$0.83	\$0.00
Homeowner Rebate – Municipal	14.55	\$13.97	\$13.97	(\$0.58)	\$0.00
Renter Rebate – Municipal	2.89	\$2.65	\$2.65	(\$0.24)	\$0.00
Special Investigative Units	1.25	\$1.52	\$1.52	\$0.27	(\$0.00)
General Fund Transfer to Education Fund ²	282.32	\$288.92	\$288.92	\$6.60	\$0.00
General Fund Support of Teachers' Retirement System	63.61	\$71.78	\$71.78	\$8.17	\$0.00
Town Bridge Grants ³	19.30	\$13.97	\$15.55	(\$3.75)	\$1.58
Town Highway Aid Program	25.98	\$25.98	\$25.98	\$0.00	\$0.00
Town Highway Aid Program – Class 1 Supplemental	0.13	\$0.13	\$0.13	\$0.00	\$0.00
Town Highway Structures	6.33	\$6.33	\$6.33	\$0.00	\$0.00
Vermont Local Roads	0.40	\$0.40	\$0.40	\$0.00	\$0.00
Town Highway Public Assistance Grants ⁴	66.50	\$29.24	\$29.24	(\$37.26)	\$0.00
State Aid for Federal Disasters	3.60	\$3.60	\$3.60	\$0.00	\$0.00
State Aid for Nonfederal Disasters	1.15	\$1.15	\$1.15	\$0.00	\$0.00
Municipal Mitigation Grant Program	1.26	\$1.55	\$1.55	\$0.29	\$0.00
Class 2 Highway Paving and Rehabilitation	7.25	\$7.25	\$7.25	\$0.00	\$0.00
Total Local Highway Aid	\$131.91	\$89.60	\$91.19	(\$40.72)	\$1.58
TOTAL	\$517.31	\$490.10	\$491.68	(\$25.63)	\$1.58
<p>1. Figures for all years are all from local options tax sharing and no state monies.</p> <p>2. Required by statute to increase by New England economic project cumulative price index for government purchases (16 V.S.A. § 4025(a)(2)). In 2010 and 2011, legislature reduced this with “Notwithstanding” language. The 2011 legislature re-calibrated the amount of aid to be adjusted annually that will cost an additional \$27.5 million in property taxes having to be raised in FY13 and each succeeding year.</p> <p>3. Includes state and federal aid only, no local match.</p> <p>4. Contains \$27 million in federal funds most likely all FEMA and Federal Highway Administration (FHWA) reimbursements for Irene and other 2011 flood damage.</p>					

VLCT FY 14-15 Capital Bill Budget Adjustment Summary Chart

(From "2013 VLCT Legislative Wrap-Up")

CAPITAL BILL TWO-YEAR (FY 2014-2015)				
Agency/Department	Line Item	As Passed 2012-2013	Governor's Recommended FY14-15	Passed by Legislature FY14-15
Dept. of Taxes ¹	Orthophotographic Mapping	200,000	200,00	200,000
Agency of Commerce and Community Development ¹	Historic Preservation Grants (1:1 match)		400,000	450,000
	Human Services and Educational Facilities Grants	450,000	400,000	450,000
	Recreational Facilities Grants	450,000	400,000	450,000
	Historic Barns, Ag. Grants (1:1 match)	450,000	400,000	450,000
	Cultural Facilities Grants (1:1 match)	450,000	400,000	450,000
	Regional Economic Development	225,000	400,000	450,000
Department of Education ²	State Aid for School Construction	14,850,000	17,116,080	17,116,080
Agency of Natural Resources	Clean Water State/EPA Revolving Loan Fund Match ³	2,500,400	2,681,600	2,681,600
	Pownal Wastewater Treatment Facility	1,000,000	825,000	530,000
	Water Supply Revolving Loan Fund ³		4,100,000	4,100,000
Ecosystem Restoration Program	Ecosystem Restoration and Protection Grants	5,000,000	4,323,732	4,323,732
	Waterbury WWTF Phosphorus Removal	2,000,000	3,200,000	3,440,000
	Dam Safety and Hydrology	325,000	400,000	400,000
Agency of Agriculture, Food and Markets	Best Mgmt Practices on farms and Conservation Reserve Enhancement Program	2250,000	1,700,000	1,200,000
Rural Fire Protection Taskforce	Dry Hydrant Program	200,000	200,000	200,000
1. Funds are allocated half in year 1 and the other half in year 2. 2. Funds left over from year 1 may not be re-allocated to a different purpose. 3. Includes \$600,000 in administrative support.				

Memo from Chief Schirling on Possible Impacts of S.148



BURLINGTON POLICE DEPARTMENT

1 North Avenue
Burlington, Vermont 05401

Michael E. Schirling
Chief of Police

Phone (802) 658-2704
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To: Vermont Senate Judiciary Committee
From: Michael E. Schirling, Chief of Police
Re: Open Records – Police Investigations – Possible Impacts
Date: January 30, 2013

Let me begin by stating very clearly that I write today *not* to urge you to veil law enforcement operations in secrecy *but* to very carefully consider the privacy implications that will impact all Vermonters by enacting significant changes in our records laws.

Each day in Vermont police officers are called into the private lives of Vermonters to assist them in solving problems. They place their trust in a system that keeps their information confidential, except in instances that result in formal criminal charges or direct action against a person by the State or a government entity. Over the past 24 years, in innumerable public meetings, among the most common questions posed to our staff is whether information provided to police is confidential. As a result of the discussions that follow it is clear to me that Vermonters generally expect that the details of their contact with police, absent criminal proceedings, are kept private and that they would have concerns if the nature of their call to police or the details of their contact were available to all to see.

In our current system, each person involved in an investigation or making a report to police has access to the records created by their reports (except, of course, in circumstances where it would compromise an ongoing investigation). Anyone has access to the contents of police records under subpoena (if they are involved in civil litigation or other civil proceedings in which the government is not a party). In the event that someone believes they have been aggrieved by the actions of their respective police department, local or State governments each devise their own methods of accountability for their appointed law enforcement officials. Additionally, Federal and State law provides civil litigation options for those who believe the actions of government were inappropriate or unlawful.

Vermonters should have reasonable access to records of government operations, how their tax dollars are spent, and how government employees conduct government business. Balancing these interests is important and very complicated as government – especially police officers – has contact with Vermonters during a host of personal crises. Access to records that do not result in prosecution will compromise the privacy interests and may compromise the safety of Vermonters

in a host of ways. Records of government (including police) operations are not the same as records of police investigations.

The primary proposal to change access to police records is to simply mirror the Federal law that relates to criminal investigative records. It should be of concern to lawmakers, however, that the Federal criminal justice system bears only slight resemblance to the system in Vermont. In the Federal system, law enforcement agencies generally pick the cases that are investigated and 100% of the records relate to very complex criminal or counter-terrorism investigations. Federal law enforcement does not investigate sexual or domestic violence, burglary, or general larceny from vehicles, businesses, or residences. Nor do they respond to mental health, substance abuse, suicide, landlord/tenant disputes, child welfare calls, and a host of other things that local and State police agencies are responsible for. The rules in the Federal system work well in the context of the cases they are responsible for.

In Vermont, our police agencies are, increasingly, the safety net of last resort for all crises. Any crisis, big or small, is handled by police officers in Vermont as 911 is where “the buck stops.” As a result, everything from criminal investigation to mental health, substance abuse, and unmet social service needs are all within the records of Vermont police departments. More than 80% of the records held by police departments relate to the service calls and events that do not result in criminal investigation. The Federal construct is not designed to contemplate these records.

Below is a brief, *non-exhaustive/abbreviated list* of questions and, dependent on the answers to those questions, the types of information that opening these records could make public if not addressed carefully.

Questions:

- Will the new law apply to all police records or just criminal investigations? Federal FOIA case law discusses, at length, “law enforcement files?”
- Once public and published by anyone on the Internet, how will the information released be managed?
- How will requests by companies conducting data mining operations for public posting of information be managed or regulated?

Information located in police reports that has privacy implications (non-exhaustive list):

- **Names, addresses, and phone number of concerned citizens calling in reports or witnesses to a wide range of things ranging from assaults to suspicious activity or persons, persons in mental health crisis, drug activity, noise, and other public nuisance complaints. Many of these investigations do not result in prosecution.**
- Information about where prescription drugs, money, and other valuables are located within Vermonter’s homes, cars, or businesses.
- Vulnerabilities in security in homes, businesses, and other buildings.
- Details of what property is inside homes and businesses, what property has been taken, what was left behind, and what was recovered and returned to them.
- Details of personal schedules such as when they are home and away, when they go to appointments, doctor’s visits, etc.
- Personal biographical information or other personal information such as sexual orientation or religious affiliation.
- Personal information about finances (beyond direct personal financial records).

- General information about personal health and well-being (beyond direct medical records).
- Information about suicides and suicide attempts.
- Contents of personal diaries or journals.
- Educational and school related information.
- Photographs (including interior photographs) and diagrams of homes, businesses, etc.
- Details of personal relationships, intimate relationships, and parent-child relationships.
- Details about where and when people travel to see others ranging from friends to family, clergy, doctors, lawyers, and others.
- Details of unfounded accusations made by one person against another including but not limited to:
 - Sexual assault and misconduct
 - Physical assaults
 - Extortion
 - Embezzlement
 - Domestic violence
 - Child abuse
- Critical nuances of criminal or even ancillary investigations, techniques, or response methodologies that will compromise public safety.

The impacts of this information could include, but not be limited to:

- Any and all of these details could be posted online on the Internet anywhere in the world by anyone, irrevocably.
- Any and all of these details could be used by the media to generate stories and controversy about accusations that have been made that, while unfounded, cannot be undone.
- Disclosing the names of witnesses (not confidential informants) who call in reports to police of crime, suspicious circumstances, etc. could be subject to retaliation, or even the fear of retaliation.
- Any and all of these records could result in persons being the subject of extortion.
- Any and all of these records by people or companies seeking to profit from mining this information.

Having active and engaged citizens creates the fabric of safety in our communities. It is arguably the best defense we have against crime and disorder on our streets and in our neighborhoods. Opening records to public inspection will have a spate of consequences that could chill the public's engagement in crime fighting, crime prevention, and problem solving. It could reduce the number of times that crimes are reported and persons in need of assistance call for help. Each time someone picks up the phone to call 911 they will have to weigh how much of their privacy they are willing to risk in doing so.

Opening these records to public and media inspection will do little to create transparency in government operations as the overwhelming majority of the reports in these systems are about Vermonter's personal crises. Moreover, Vermonter's should be fully informed of all of the impacts of these changes before they are enacted as they will be more significantly impacted than government agencies.

I end as I began. The public does have a right to know how their police departments are operating. I write today not to urge you to veil police operations in secrecy but to carefully

consider innumerable dynamics in play in contemplating opening records held by police departments. Balancing the personal privacy interests of the public whose lives intersect police operations is incredibly complicated. There are a myriad of issues and complex dynamics that must be analyzed to ensure that the unintended consequences of making changes in this arena to do dwarf any benefits. Simple adoption of the Federal standard likely will have consequences that have not yet been fully contemplated. Federal FOIA standard *may* be the right answer for Vermont. Careful, exhaustive, vetting is critical to achieving the right balance of these delicate issues.

Summary of 2011 Public Records Bill (H.73/Act 59)

(From “2011 Burlington Legislative Review”)

Act 59/H.73 made substantial changes to the Public Records Law regarding the inspection and copying of records produced or acquired by a public agency in the course of agency business. Burlington values transparency and the basic intent of the bill and did not oppose it. Nevertheless, together with the League, the City followed this legislation closely all session as its repercussions for municipalities were potentially great. The City’s primary concerns centered on:

- The need to clarify the public/private status of personal/personnel records,
- Mandatory payment of attorney’s fees when a court rules that a municipality has improperly denied access to records, and
- Permissible charges and prescribed timing for copying records and allowing their inspection.

In the City’s view, current statute and case law are ambiguous as to whether personal documents are private or public. The City must make challenging decisions to balance potentially competing interests: the individual’s right to privacy and the public’s right to know. Municipal officials acting in good faith and using their best judgment may decide to protect documents that a court might later decide should have been made public.

Prior to passage of H.73, a judge could, at his or her discretion, award attorney’s fees when a complainant prevailed in court and forced the release of documents. In a letter to the Senate Government Operations Committee (see attachments), Mayor Kiss and City Attorney Schatz urged legislators to study the matter further and clarify the privacy issue before making the award of attorney’s fees mandatory. Though the bill did create a legislative study committee (the Public Records Committee), the act went ahead and mandated that public agencies shall pay legal fees if a court orders disclosure. However, if the public agency concedes that the contested records are public and complies with the request before having to appear in court, the judge may award attorney’s fees to the prevailing party if s/he so chooses. Unfortunately, this puts municipalities in a position where taxpayers could pay a financial penalty because an answer is not clear and a judge reaches a different conclusion than a public official acting in good faith.

Act 59 provided no further guidance to help public officials determine when personal records should be held private or made public, though this is one of the issues studied by the legislative committee. The bill did require the Secretary of State to “provide municipal public agencies and members of the public information and advice regarding the requirements of the Public Records Act ... [through] websites, toll-free telephone numbers, or other methods...”

In terms of charges and timing for copying and inspecting records, Act 59 established that public records can be requested anytime during a municipality’s customary business hours. It also extended the time a public agency has to respond to a public records request from two to three days. Legislators considered, but did not pass, provisions that would have:

- Increased the amount of time before a municipality could charge the person requesting a public record for staff time from 30 minutes to two hours, and
- Allowed state and local government agencies to charge for the staff time necessary to allow individuals to inspect public records.

The Public Records Committee is to meet over three years to review the requirements of the Public Records Act and its numerous exemptions. Prior to each legislative session, the study committee must submit recommended amendments to the Public Records Act to the General Assembly.

This committee has been meeting all fall and issued its first report in early January. One of the issues it considered is the privacy of property tax adjustment (income sensitivity) payments. Until a lower court ruled otherwise, the City long maintained that these records were private because they could be used to determine a taxpayer's household income. A more recent Vermont Supreme Court ruling reversed that decision, making them private. A narrow majority of the committee has voted to recommend that they be made public and that the Legislature pass a bill to overturn the Supreme Court's ruling. House Speaker Smith has said he considers them private.

City of Burlington: Key Legislative Issues

Education Financing & Property Taxes

- Maintain equity in education funding
- Protect Ed Fund
- Monitor education and municipal income sensitivity and property tax reform proposals affecting homeowners and renters in the City
- Monitor property valuation & CLA adjustment proposals
- Follow proposals for state collection of property tax
- Burlington Act 60/68 compliance

Education Policy

- Monitor pre-K education legislation
- Adjusted ADM for ELL and free and reduced lunch students
- Avoid cost shift to schools through adequate mental health & DCF funding
- Properly fund special education mandates
- Monitor impact of cost containment proposals on schools

Other Tax Policy Changes

- Tax restructuring, incl. tax exemptions, tax expenditures & recommendations of Blue Ribbon Tax Commission
- Cloud Computing

Appropriations

- Maintain adequate funding for Corrections & Mental Health
- PILOT funding
- Maintain funding for downtown street outreach workers
- Increase funding for drug & alcohol programs, incl. Recovery Centers & residential treatment
- Municipal planning grant funding
- State financial support for public safety, incl. state & regional emergency response

Transportation

- Funding for Champlain Parkway
- Public transit & downtown transit center funding
- Rail issues: western corridor & rail yard relocation

Capital Bill

- Address school capital needs
- Monitor State office building moves
- Monitor mental health system restructuring

Health and Welfare

- Health care reform (effect on municipalities & schools)

Economic Development and Job Creation

- Tax Increment Financing (TIF) issues, incl. desired policy changes, rules, legislative audit response, & other issues
- Support reform of Downtown Program & increased incentives
- Livable Wage

Local Government

- Charter changes
- Monitor Public Records proposals
- Monitor Open Meetings Law proposals
- Home rule
- Election Issues, including same day registration
- Regulation of taxis, local license fees, fining & revocation power for local control commissions

Public Safety and Corrections

- Monitor proposals for public access to police records
- Funding for Justice Reinvestment, incl. Community Justice Center & Offender Re-entry programs
- Monitor Corrections policy changes
- Enhance Department of Corrections supervision
- Expand authority/enforcement options for civil ticketing

Environmental Protection and Permitting

- Monitor permit reform proposals
- Monitor stormwater issue tax exemptions
- Monitor Lake Champlain issues, implementation of Act 138, shoreland protection, TMDL/phosphorous discharge levels

Energy & Telecommunications

- Energy efficiency legislation
- Biomass energy legislation
- Follow resolutions to support in-state renewable generation
- Reduction of fuel tax on wood
- Monitor telecom issues, esp. related to BT

Affordable Housing

- Support reform of VT Neighborhoods Program & increased incentives
- Full funding for VT Housing & Conservation Board
- Adequate funding for safety net programs, incl. for homeless shelters & services, General Assistance & other housing related programs and tax credits
- Statewide rental housing code enforcement system