



## 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

TO: Members, City Council

FROM: Lori Olberg, Licensing, Voting and Records Coordinator

DATE: October 21, 2013

RE: Proposed amendment to tonight's agenda

### ADJOURNED CITY COUNCIL MEETING:

Note revised version for consent agenda item 6.10. RESOLUTION: Delegation of Authority for Budget-Neutral Amendments That Reappropriate Grant Funds and/or Program Fund Balance Within CEDO Entitlement and Assistance Programs (Councilors Shannon, Bushor, Aubin, Knodell: Board of Finance). (per City Council President Shannon)

Add to the consent agenda item 6.40. COMMUNICATION: Amanda Paulger-Foran, re: Complaint re: Rasputin's with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.41. COMMUNICATION: Mary Gray, re: Burlington City Council, vote NO on any Burlington Gun Control with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.42. COMMUNICATION: Sam Guarnaccia, re: Thank you for voting against the F-35!! with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.43. COMMUNICATION: Peter Schmidtler, Winooski, re: Vote for the resolution to stop the F-35 basing with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.44. COMMUNICATION: Courtney Fleisher, Winooski, re: Vote for the resolution to stop the F-35 basing with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.45. COMMUNICATION: Robyn Biryissin, South Burlington, re: Vote for the resolution to stop the F-35 basing with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.46. COMMUNICATION: Ann Burke, Burlington, re: Vote for the resolution to stop the F-35 basing with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.47. COMMUNICATION: Emily Merrill, Burlington, re: Vote for the resolution to stop the F-35 basing with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.48. COMMUNICATION: Lily Chau, Burlington, re: Vote for the resolution to stop the F-35 basing with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.49. COMMUNICATION: SaveOurSkiesvt.org, re: StopTheF35.com with the consent action to "waive the reading, accept the communication and place it on file."

Amendments, City Council, Adjourned Meeting, October 21, 2013

Add to the consent agenda item 6.50. COMMUNICATION: Bruce Hatrail, South Burlington, re: Vote for the resolution to stop the F-35 basing with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.51. COMMUNICATION: Bruce Plumley, Burlington, VT, re: City Council measure on gun 'control' with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.52. COMMUNICATION: Rich Goodwin, ACAO, re: Draft of the opinion letter for the Standby Letter of Credit (SLOC) for the Workers' comp program with the consent action to "waive the reading, accept the communication and place it on file."

Add to the consent agenda item 6.53. COMMUNICATION: Randall Bishop, re: VT Sportsman's Bill of Rights & Gun Control with the consent action to "waive the reading, accept the communication and place it on file."

Note revised version for agenda item 10. ORDINANCE: OFFENSES AND MISCELLANEOUS PROVISIONS—ARTICLE VI - Livable Wages (Councilors Mason, Bushor, Paul: Ordinance Committee) (2<sup>nd</sup> reading). (per City Attorney Blackwood)

Note proposed amendments for agenda item 11. RESOLUTION: Charter Changes Concerning Police Seizure of Firearms During Domestic Abuse Incident (Councilors Siegel, Ayres, Blais). (per Democratic Staffperson Stephany Ahearn per Councilor Ayres)

Note proposed amendment for agenda item 12. RESOLUTION: Charter Changes Concerning Safe Storage of Firearms (Councilors Siegel, Ayres, Blais). (per Democratic Staffperson Stephany Ahearn per Councilor Ayres)

Note proposed amendment for agenda item 13. RESOLUTION: Charter Changes Concerning Ban on Firearms in any Establishment with a Liquor License (Councilors Siegel, Ayres, Blais). (per Democratic Staffperson Stephany Ahearn per Councilor Ayres)

Note proposed amendment for agenda item 14. RESOLUTION: Charter Changes Concerning Concealed Firearm Permits (Councilors Siegel, Blais). (per Democratic Staffperson Stephany Ahearn per Councilor Ayres)

Remove from the consent agenda item 6.28. COMMUNICATION: Mayor Miro Weinberger, re: Pension Summit Draft Proposal and place it on the Deliberative Agenda as agenda item 14.1; note it is a revised version. (per City Council President Shannon per Councilor Bushor)

Remove from the consent agenda item 6.30. COMMUNICATION: Mayor Miro Weinberger, re: Proposed Maker Space in Memorial Auditorium and place it on the Deliberative Agenda as agenda item 14.2. (per City Council President Shannon per Councilor Bushor)

1  
2 **Resolution Relating to**

6.10

**RESOLUTION**

Sponsor(s): Councilors Shannon,  
Bushor, Knodell, Aubin: Bd. of Finance

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4  
5 revised version

Introduced: \_\_\_\_\_

Referred to: \_\_\_\_\_

Action: \_\_\_\_\_

Date: \_\_\_\_\_

Signed by Mayor: \_\_\_\_\_

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7 DELEGATION OF AUTHORITY FOR BUDGET-NEUTRAL  
8 AMENDMENTS THAT RE-APPROPRIATE GRANT FUNDS AND/OR  
9 PROGRAM FUND BALANCE WITHIN CEDO ENTITLEMENT AND  
10 ASSISTANCE PROGRAMS

11  
12 **CITY OF BURLINGTON**

13  
14 In the year Two Thousand Thirteen.....

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

16  
17 That WHEREAS, the City Charter Article 56, Section 157 requires City Council approval of all budget  
18 amendments; and

19 WHEREAS, the Community and Economic Development Office (CEDO) annually receives  
20 various multi-year entitlement grants, the receipt of which has been approved by the City Council; and

21 WHEREAS, during the 2014 budget development, this department estimates the grant amounts  
22 that would remain unspent at the end of the 2013 Fiscal Year as well as new allocations and budgeted  
23 these estimates for FY 2014; and

24 WHEREAS, actual unspent balances and new allocations are now available making it necessary to  
25 amend the FY 2014 CEDO program budgets to properly reflect these balances and allocations; and

26 WHEREAS, all of the necessary budget amendments will result in the increase in anticipated  
27 grant revenue or use grant program income to meet corresponding program expenses and thus are budget  
28 neutral; and

29 WHEREAS, the Board of Finance, at its meeting on October 16, 2013, reviewed and  
30 recommended City Council approved the Chief Administrative Office and CEDO request that the Chief  
31 Administrative Officer and/or Mayor be authorized to execute budget amendments under current Board of  
32 Finance and City Council delegation that would appropriate grant revenue and/or fund balance for those  
33 programs where program revenue previously authorized or received in prior years exceeded prior years'  
34 program expenses;

35 NOW, THEREFORE, BE IT RESOLVED that the City Council hereby delegates additional  
36 authority for approval of budget neutral line amendments regarding re-appropriation of grant revenue or  
37 grant program fund balance and expenses related thereto, within the Community and Economic  
38 Development Office, to the Chief Administrative Officer and/or Mayor until December 31, 2013.



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**Resolution Relating to**

DELEGATION OF AUTHORITY FOR BUDGET-  
NEUTRAL AMENDMENTS THAT RE-APPROPRIATE  
GRANT FUNDS AND/OR PROGRAM FUND BALANCE  
WITHIN CEDO ENTITLEMENT AND ASSISTANCE  
PROGRAMS

BE IT FURTHER RESOLVED that this authority does not apply to any grant that requires a local match beyond the current fiscal year, or to any grant if in the Chief Administrative Officer's and/or Mayor's opinion the purpose of the grant is contradictory to state or federal law, the City Charter, City Ordinance, prior Council Resolution or the character of the City of Burlington, whereby all such grants must be submitted to the City Council for approval; and

BE IT FURTHER RESOLVED that the Clerk/Treasurer's office will prepare an easily understandable summary of all budget amendments processed under such authority and communicate such to the City Council on a quarterly basis beginning July 1, 2013.



## WHY THE BURLINGTON RETIREMENT SYSTEM MATTERS

Draft Proposal for a Potential Retirement Summit

*Date & Time:* November 5, 2013 from 5pm – 8:10pm

*Location:* Contois Auditorium

### Goals of the Council Resolution for the Pension Summit:

- Educate the public, the City Council, City Employees, and unions on the status of the City of Burlington Retirement System and why it is important
- Explain the causes of the current situation and the implications for our community
- Convey a sense of immediacy about a long-term issue
- Facilitate community input

*4:45pm – 5:10pm*

Food will be provided

*5:10pm – 5:15pm (the Pension Summit will start promptly at 5:10pm and will be televised)*

Welcome and Session 1 Introduction by Mayor Miro Weinberger

*5:15pm – 6:05pm*

#### **Session 1:** The Retirement System – Why It is Important

Part I: Pension 101 – Conversation with State Treasurer Beth Pearce and Ward 6 City Councilor Karen Paul

Part II: Panel - Why the Retirement System is Important and the Impact on Citizens of a Healthy System moderated by Ward 5 City Councilor Chip Mason with Human Resources Director Susan Leonard, Burlington Police Chief Michael Schirling, AFSCME Council 93 George Lovell, President of Vermont AFL-CIO, Burlington Fire Fighters Association Local 3044 President Joe Keenan, Burlington Police Officers Association President John Federico, and International Brotherhood of Electric Workers Local 300 Business Manager and Financial Secretary Jeffrey Wimette

*6:10pm – 7:00pm*

#### **Session 2:** Our System – Where We Are and How We Got Here

Presentation by Former City Attorney Joe McNeil, David Driscoll of Buck Consultants (tentative), and Chief Administrative Officer Bob Rusten

*7:10pm – 8:00pm*

#### **Session 3:** Keynote Speech: Stories from other Communities and a Path Forward

Part I: Elizabeth Kellar, President and CEO of the Center for State and Local Government Excellence

Part II: Public Forum comments and Q&A moderated by Ward 6 City Councilor Norm Blais for all Speakers and BERS Board Members from attendees, call-ins, & internet (the time available for Q&A may be extended following the closing remarks)

*8:00pm – 8:10pm*

Closing Remarks on Next Steps from Mayor Weinberger and City Council President Joan Shannon

Additional material related to Burlington's retirement system will be available prior to the pension summit on the City's retirement webpage, <http://www.burlingtonvt.gov/HR/Retirement/Home-Page/>.

Lori Olberg

6.40

**From:** Amanda Paulger-Foran <amanda.paulger@gmail.com>  
**Sent:** Sunday, October 20, 2013 12:10 AM  
**To:** Lori Olberg  
**Subject:** Message from Contact Us at www.BurlingtonVT.gov

This message was sent to you because you are a designated recipient for 'City Council' from

<http://www.BurlingtonVT.gov/ContactUs>

Sent on 10/20/2013 12:10:10 AM from IP Address: 69.54.16.80

Phone number provided: (802)224-6546

Comment/Question: Dear Burlington City Council, Vermont in general is known for being a liberal state. This is why I have stayed here even despite poor job markets, poor pay, and high costs of living. I especially feel comfortable here knowing that my family members who are part of the LGBTQ community are able to go to establishments without fear of discrimination or hatred. That was until tonight, when my cousin and her girlfriend both reported that they were turned away from Rasputin's on Church Street in Burlington. They went to Rasputin's in Burlington expecting, of course, as everyone in Vermont does, to be welcomed despite their sexuality. For the record, humanity doesn't wear their sexuality on their sleeves, so this story becomes more enraging as it goes on. My cousin and her girlfriend were standing in line behind a man who had tattoos, including a teardrop on his face. The man who was in charge of letting people in let this man in, and then let my cousin's girlfriend in. When my cousin got up to line, he looked her over, and stuttered out, "No ... uh... tattoos." She looked at him, the question clear on her face. He just let someone else in with tattoos, why wouldn't he let her in? He pointed to her neck, where she has three stars and the word "Dream big" tattooed. There is nothing in any of those tattoos that would suggest anything other than family friendly; nothing in those tattoos would incite violence or uncomfortableness. It is positive tattoo. If nothing else, it is certainly neutral. From what I've heard, there was a comment made on Rasputin's Facebook page earlier this year that one server said they would not serve any in the LGBTQ community, by stating it in a derogatory term starting with an F. I'm sure all of our readers out there can figure out what I mean by this, because I refuse to say or even write the word. What this says to me is not only that they have exhibited this behavior before, but they're continuing the behavior and the same server or servers is continuing to discriminate against the residents of our state. Tonight left my cousin and her girlfriend feeling that they couldn't go to ANY establishment in Burlington. Instead of trying to find another place to go out to, they went home. And promptly began posting on Facebook. When I asked them if they were going to write letters to anyone, they said they hadn't really thought about it. They said that their experience tonight made them feel like their voices wouldn't be heard anyway. As a person who cares deeply for her family, and as an ally to the LGBTQ community, I am writing to complain to any eyes that will read.. I thought Vermont had moved beyond this vein of thought. With the DOMA repeal earlier this year I would have expected open minds to crop up, not more closed minds plaguing our communities. I am physically ill with anger at the Burlington community for allowing a business like this to continue to operate. I'm physically ill that they are allowed to continue to discriminate against patrons for their perceived sexuality. I thought our state's community was better than that. I thought our businesses had common courtesy. Apparently that is not true. I hope this can change. Any business that refuses to serve patrons based on a perceived sexuality should be put out of business. They should not be allowed to operate. I look forward to hearing from you soon. Regards, Amanda Paulger-Foran 73 Farr Road Richmond, VT 05477 home: (802)434-5798 cell: (802)224-6546



Lori Olberg

6.41

**From:** Mary Gray <maryannscorner@yahoo.com>  
**Sent:** Monday, October 21, 2013 10:01 AM  
**To:** Lori Olberg  
**Subject:** Burlington City Council

Thank you for allowing me to part of tonight's Burlington City Council meeting, through e-mail.

I would like to encourage your to vote NO on any Burlington Gun Control.

I could site the 24 VSA, Chapter 61: Regulatory Provisions; Police Power of Municipalities

Sec. 2291 Enumeration of powers; Sec 2295 Authority of municipal and county governments to regulate firearms, ammunition, hunting, fishing and trapping.

But I won't. The reason? I am sure you have memorized the statutes and know the meaning.

Please!

Vote YES TO PROTECT THE SPORTSMEN'S BILL OF RGHTS!

Vote NO TO ANY BURLINGTON GUN CONTROL!

Thank you in advance.

Mary Gray

1111 Wheelock Road

Sutton, VT 05867

RECEIVED  
2013 OCT 21 A 10:39  
BURLINGTON CLERK  
TREASURY'S OFFICE



Lori Olberg

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6.42

**From:** Sam Guarnaccia <sam.guarnaccia@gmail.com>  
**Sent:** Friday, October 18, 2013 1:29 PM  
**To:** Lori Olberg  
**Subject:** Message from Contact Us at [www.BurlingtonVT.gov](http://www.BurlingtonVT.gov)

This message was sent to you because you are a designated recipient for 'City Council' from <http://www.BurlingtonVT.gov/ContactUs>

Sent on 10/18/2013 1:28:41 PM from IP Address: 71.169.174.21

Phone number provided: 802-734-1356

Comment/Question: Thank you for voting against the F-35!!

BURLINGTON VT 054



Liberty  
FOREVER

Dear Burlington City Councilors, F-35 1

I oppose F-35 basing at the Burlington Airport.  
It's too risky. **The F-35 will wreak havoc on  
8000 Vermonters: extreme noise, high  
crash risk, sinking property values.**

The Burlington City Council has the power to  
stop the F-35 basing at the city-owned airport.

**I urge you to vote for the resolution to  
stop the F-35 basing.** Thank you.

signature

name

address

ward

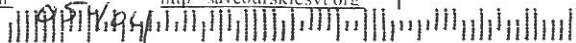
<http://www.stopthef35.com>

<http://saveourskiesvt.org>

BURLINGTON  
TREASURY  
CITY COUNCILORS  
OFFICE

City Councilors  
c/o Joan Shannon, President  
Burlington City Council  
Burlington City Hall  
149 Church Street  
Burlington, VT 05401

471



6.44

BURLINGTON VT 054

Dear Burlington City Councilors,

I oppose F-35 basing at the Burlington Airport. It's too risky. **The F-35 will wreak havoc on 8000 Vermonters: extreme noise, high crash risk, sinking property values.**

The Burlington City Council has the power to stop the F-35 basing at the city-owned airport.

**I urge you to vote for the resolution to stop the F-35 basing.** Thank you.

*Courtney Fleisher*  
signature

*Courtney Fleisher*  
name

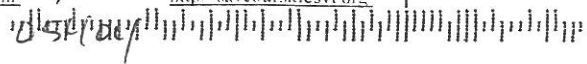
148 Cr. Allen St  
address Winooski, VT  
<http://www.stopthef35.com>

ward  
<http://savecourtskiesvt.org>

BURLINGTON  
REAS  
City Councilors  
c/o Joan Shannon, President  
Burlington City Council  
Burlington City Hall  
149 Church Street  
Burlington, VT 05401



471





6.45

BURLINGTON VT Q54

Dear Burlington City Councilors,

17 OCT 2013 PM 2 T

I oppose F-35 basing at the Burlington Airport.  
It's too risky. **The F-35 will wreak havoc on  
8000 Vermonters: extreme noise, high  
crash risk, sinking property values.**

The Burlington City Council has the power to  
stop the F-35 basing at the city-owned airport.

**I urge you to vote for the resolution to  
stop the F-35 basing.** Thank you.

*Robyn Birgison*

signature

*Robyn Birgison*

name

*11 Wright Ct.*

address

<http://www.stopthef35.com>

*SB*

ward

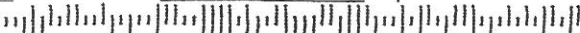
<http://saveourskiesvt.org>



PLEASE  
STICK  
TO  
THE  
POSTAGE

City Councilors  
c/o Joan Shannon  
Burlington City Council  
Burlington City Hall  
149 Church St.  
Burlington, VT 05401

471



6.46

BURLINGTON VT 05401  
Dear Burlington City Councilors, PM 1 P

I oppose F-35 basing at the Burlington Airport. It's too risky. **The F-35 will wreak havoc on 8000 Vermonters: extreme noise, high crash risk, sinking property values.**

The Burlington City Council has the power to stop the F-35 basing at the city-owned airport.

**I urge you to vote for the resolution to stop the F-35 basing.** Thank you.

*Ann Burke*  
signature

*Ann Burke*  
name

*83 Nottingham Ln 4*  
address

<http://www.stopthef35.com>

ward

<http://www.courtskiesvt.org>

City Councilors  
c/o Joan Shannon, President  
Burlington City Council  
Burlington City Hall  
149 Church Street  
Burlington, VT 05401



RECEIVED  
OCT 13 A 8:41  
MAIL ROOM  
CLERK  
OFFICE

44

6.47

WHITE RIV JCT VT 050

Dear Burlington City Councilors,

19 OCT 2013 PM 1 T

I oppose F-35 basing at the Burlington Airport.  
It's too risky. **The F-35 will wreak havoc on  
8000 Vermonters: extreme noise, high  
crash risk, sinking property values.**

The Burlington City Council has the power to  
stop the F-35 basing at the city-owned airport.

**I urge you to vote for the resolution to  
stop the F-35 basing.** Thank you.

signature

name

address

<http://www.stopthef35.com>

ward

<http://saveourskiesvt.org>

City Councilors  
Joan Shannon, President  
Burlington City Council  
Burlington City Hall  
149 Church Street  
Burlington, VT 05401

1:24  
ED





6.48

Dear Burlington City Councilors

I oppose F-35 basing at the Burlington Airport.  
It's too risky. **The F-35 will wreak havoc on  
8000 Vermonters: extreme noise, high  
crash risk, sinking property values.**

The Burlington City Council has the power to  
stop the F-35 basing at the city-owned airport.

**I urge you to vote for the resolution to  
stop the F-35 basing.** Thank you.

*Lily Chan*  
signature

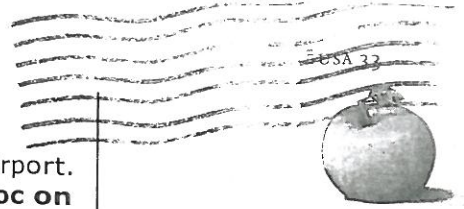
*Lily Chan*  
name

*199 South Union #12 6*  
address ward

<http://www.stopthef35.com>

<http://saveourskiesvt.org>

*Burlington, VT*

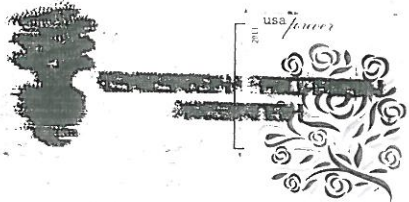


BURLINGTON  
TREASURY OFFICE

City Councilors  
c/o Joan Shannon, President  
Burlington City Council  
Burlington City Hall  
149 Church Street  
Burlington, VT 05401

6.49

**The Burlington City Council will soon be voting on a resolution to ban the basing of a newly designed F35 fighter jets in a residential neighborhood. The Air Force and World Health Organization have said nearby residents will suffer physical and mental health damage from the F35's extreme noise blasts.**

  
Burlington City  
Council  
Municipal Bldg.  
Burlington, VT  
05401

**SaveOurSkiesvt.org**

**StopTheF35.com**

6.50

BURLINGTON, VT 05401

Dear Burlington City Councilors,

I oppose F-35 basing at the Burlington Airport. It's too risky. **The F-35 will wreak havoc on 8000 Vermonters: extreme noise, high crash risk, sinking property values.**

The Burlington City Council has the power to stop the F-35 basing at the city-owned airport.

**I urge you to vote for the resolution to stop the F-35 basing.** Thank you.

signature

*Bruce M. HATRAIL*

name

*57 FIELDING LANE  
SOUTH BURLINGTON VT*

address

<http://www.stopthef35.com>

ward

<http://saveourskiesvt.org>



BURLINGTON, VT  
CITY COUNCIL  
OFFICE

City Councilors  
c/o Joan Shannon, President  
Burlington City Council  
Burlington City Hall  
149 Church Street  
Burlington, VT 05401

471





Lori Olberg

6.51

**From:** blplumley@comcast.net  
**Sent:** Monday, October 21, 2013 11:46 AM  
**To:** Lori Olberg  
**Subject:** City Council measure on gun 'control'

**Importance:** High

Laurie, thank you for getting back to me.

A copy of what I sent earlier (with mixed results) to council members:

The measures the council is considering in response to tragic incidents which are nonetheless isolated are:

- 1) shown to not be of any effect
- 2) counter to prevailing state law – creating multiple tiers of restriction, confusion, etc.
- 3) ill considered as to feasibility and manner of enforcement
- 4) an albatross of bureaucracy that is beyond the city's capability to manage

and lastly: is completely in disregard to actual causation of the referenced tragedies. There are no items which address in any meaningful way the behavior or roots of such behavior responsible. This renders this effort an exercise in feel good superficiality that will result (if enacted) in the restriction of the rights of those citizens not responsible.

NO

Respectfully,  
Bruce Plumley  
Burlington, VT

6.52

**Lori Olberg**

---

**From:** Richard Goodwin  
**Sent:** Monday, October 21, 2013 12:43 PM  
**To:** CityCouncil  
**Cc:** Bob Rusten; Miro Weinberger; Lori Olberg; Scott Schrader; Mary Fortier  
**Subject:** FW: Workers' Comp Standby Letter of Credit  
**Attachments:** Letter re Letter of Credit for Workers Compensation (00077780-2).docx

Dear Councilors –

Attached is a draft of the opinion letter for the Standby Letter of Credit (SLOC) for the Workers' comp program.

The opinion was received by bond council Friday, October 18<sup>th</sup>, at 6 PM.

I received feedback that additional clarification is needed why the SLOC requires approval.

I believe the attached opinion will help clarify why the Standby Letter of Credit (SLOC) is needed .

In addition, it should be noted the TD Bank has issued the SLOC for the last decade. It has never been used, and is required by our third party administrator of worker's compensation claims.

The Clerk Treasurer's Office, and Bond Council are in agreement that the SLOC should be approved by City Council, it should be noted this has not been done in the past.

Rich

***Rich Goodwin***

Assistant CAO for Finance  
149 Church Street  
Burlington, VT 05401  
Phone (802) 865-7013  
[rgoodwin@burlingtonvt.gov](mailto:rgoodwin@burlingtonvt.gov)

October \_\_, 2013

City Council  
City of Burlington  
Burlington, Vermont

Re: Standby Letter of Credit for Workers' Compensation

Ladies and Gentlemen:

You have requested this Firm's view as to whether the Charter (the "Charter") of the City of Burlington (the "City") and applicable Vermont law permits the City to enter into a reimbursement agreement for the issuance of a standby letter of credit to support the repayment of the City's obligations relating to workers' compensation. For the reasons set forth below, we are of the view that the City, subject to approval by the City Council, has the legal authority to enter into a reimbursement agreement and obtain a standby letter of credit in support of the repayment of workers' compensation as discussed herein.

Vermont law provides that employers are responsible for paying compensation to employees injured during the course of their employment. 21 V.S.A. § 618. All employment within the State, with limited exceptions, is subject to such requirement. 21 V.S.A. § 616. Employment, for purposes of the workers' compensation laws, expressly includes public employments by municipal entities. 21 V.S.A. § 601.

The City has the right to "exercise any powers now or hereafter granted to municipalities under the laws of the state, and not inconsistent with the provisions of the [City's] charter..." Charter § 48(60). The Charter provides that the City Council has the authority to "provide for, create, establish, maintain and regulate an insurance sinking or reserve fund to be used for the purpose of compensating the city for any and all losses and damages to city property by reason of...any and all compensation that may become their due from the city under the provisions of the laws of the state relating to workmen's compensation." Charter § 48(55). Vermont state law provides that municipalities may enter into insurance contracts to secure the benefits of all forms of insurance for the employees of the municipality. 21 V.S.A. § 698.

The City, like other employers in the State of Vermont, is required to provide for workers' compensation. 21 V.S.A. § 618. We understand that the City, as part of its annual budget, appropriates funds to pay for the proximate fiscal year's expected workers'

compensation claims. The amount set aside is based on trends in workers' compensation payouts in previous years and budgeted reserves.

We further understand that the City has an insurance agreement with The Travelers Indemnity Company ("Travelers") to provide the administration and costs of workers' compensation claims. The City is obligated to reimburse Travelers for all or a portion of the payments made by Travelers on behalf of the City to employees on the account of workers' compensation claims. Travelers, as part of such workers' compensation insurance agreement, requires the City to provide an irrevocable Standby Letter of Credit ("Standby Letter of Credit") for an established amount of money as security for the obligation of the City to pay for the costs of workers' compensation paid by Travelers on behalf of the City. The City seeks to enter into a reimbursement agreement with KeyBank National Association or other banks or financial institutions to provide such a Standby Letter of Credit. The reimbursement agreement would provide that the City would be obligated to immediately reimburse the issuer of any Standby Letter of Credit for any drawing on such Standby Letter of Credit. We understand the Standby Letter of Credit would be drawn not as an advance of funds but rather to cover obligations of the City to make, or reimburse Travelers for making, payments made for workers' compensation claims.

As the City has the legal requirement to provide for workers' compensation, and has the permissive authority to obtain insurance or establish reserves for such workers' compensation claims, we believe that the City has the legal authority to obtain a Standby Letter of Credit to support such obligations. The obligation to reimburse drawings under the Standby Letter of Credit would need to be immediate and would be a contractual obligation of the City to reimburse the bank's or other financial institution's payment under such Standby Letter of Credit.

This letter is rendered to you and may not be relied upon for any reason by any person other than you, without our prior written consent. This opinion is rendered as of the date hereof and we disclaim any obligation to update this letter based upon any future changes in laws, facts or circumstances, which changes may have the effect of causing us to reach a different view than that expressed herein.

Very truly yours,

6.53

**Lori Olberg**

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**From:** Randall Bishop <r.bishop7@gmail.com>  
**Sent:** Monday, October 21, 2013 3:10 PM  
**To:** Lori Olberg  
**Subject:** VT Sportsman's Bill of Rights & Gun Control

As a Vermont Sportsman I would like to see the Vermont Sportsman's bill of rights protected. I would also like to say **NO** to any additional gun control laws for Vermont.

signed

~Randall Bishop.

[r.bishop7@gmail.com](mailto:r.bishop7@gmail.com)



# CITY OF BURLINGTON

10.

## ORDINANCE

Sponsor: Councilors Mason,  
Bushor, Paul: Ordinance Com.

Public Hearing Dates \_\_\_\_\_

First reading: \_\_\_\_\_

Referred to: \_\_\_\_\_

Rules suspended and placed in all  
stages of passage: \_\_\_\_\_

Second reading: \_\_\_\_\_

Action: \_\_\_\_\_

Date: \_\_\_\_\_

Signed by Mayor: \_\_\_\_\_

Published: \_\_\_\_\_

Effective: \_\_\_\_\_

In the Year Two Thousand Thirteen

*revised version*

## An Ordinance in Relation to

OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

**It is hereby Ordained** by the City Council of the City of Burlington, as follows:

That Chapter 21, Offenses and Miscellaneous Provisions, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 21-80 through 21-87 thereof and adding new Sections 21-88 and 21-89 thereto to read as follows:

### **Sec. 21-80. - Findings and purpose.**

In enacting this article, the city council states the following findings and purposes:

- (a) Income from full-time work should be sufficient to meet an individual's basic needs;
- (b) The City of Burlington is committed to ensuring that its ~~year-round~~ employees (~~full and part-time~~) have an opportunity for a decent quality of life and are compensated, and such that they are not dependent on public assistance, to meet their basic needs;
- (c) The ~~city~~ City of Burlington is committed, through its contracts with vendors and provision of financial assistance, to encourage the private sector to pay its employees a livable wage and contribute to employee health care benefits;
- (d) The creation of jobs that pay livable wages promotes the prosperity and general welfare of the ~~city~~ City of Burlington and its residents, increases consumer spending with local businesses, improves the economic welfare and security of affected employees and reduces expenditures for public assistance;
- (e) It is the intention of the city council in passing this article to provide a minimum level of compensation for ~~city~~ employees of the City of Burlington and employees of entities that enter into service contracts or receive financial assistance from the City of Burlington.

**Sec. 21-81. - Definitions.**

As used in this article, the following terms shall be defined as follows:

a) Contractor or vendor is a person or entity that has a service contract with the City of Burlington ~~primarily for the furnishing of services (as opposed to the purchasing of goods)~~ where Burlington where the total amount of the service contract or service contracts exceeds fifteen thousand dollars (\$15,000.00) for any twelve-month period, including any subcontractors of such contractor or vendor. ~~A person or entity that has a contract with the City of Burlington for the use of property under the jurisdiction of the board of airport commissioners, or any person or entity that has a sublease or other agreement to perform services on such property, shall also be considered a contractor under this article.~~

(b) Grantee is a person or entity that is the recipient of financial assistance from the City of Burlington in the form of grants ~~administered by the city~~, including any contractors or ~~subcontractor~~ grantees of the grantee, that exceeds fifteen thousand dollars (\$15,000.00) for any twelve-month period.

(c) Covered employer means the City of Burlington ~~(except that the Burlington School Department shall not be considered a covered employer)~~, a contractor or vendor or a grantee as defined above. The primary contractor, vendor, or grantee shall be responsible for the compliance of each of its subcontractors (or of each subgrantee) that is a covered employer.

(d) Covered employee means an "employee" as defined below, who is employed by a "covered employer," subject to the following:

(1) An employee who is employed by a contractor or vendor is a "covered employee" during the period of time he or she expends on furnishing services under a service contract with the City of Burlington ~~funded by the city~~, notwithstanding that the employee may be a temporary or seasonal employee;

(2) An employee who is employed by a grantee who expends at least half of his or her time on activities funded by the ~~city~~ City of Burlington is a "covered employee."

(e) Designated accountability monitor shall mean a nonprofit corporation which has established and maintains valid nonprofit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and that is independent of the parties it is monitoring.

OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

(ef) Employee means a person who is employed on a full-time or part-time regular basis ~~(i.e., nonseasonal)~~. In addition, commencing with the next fiscal year, a seasonal or temporary employee of the City of Burlington who works ten (10) or more hours per week and has been employed by the City of Burlington for a period of four years shall be considered a covered employee commencing in the fifth year of employment. "Employee" shall not refer to volunteers working without pay or for a nominal stipend, persons working in an approved apprenticeship program, persons who are hired for a prescribed period of six months or less to fulfill the requirements to obtain a professional license as an attorney, persons who are hired through youth employment programs or student workers or interns participating in established educational internship programs.

(fg) Employer-assisted health care means health care benefits provided by employers for employees (or employees and their dependents) at the employer's cost or at an employer contribution towards the purchase of such health care benefits, provided that the employer cost or contribution consists of at least one dollar and twenty cents (\$1.20) per hour. (Said amount shall be adjusted every two (2) years for inflation, by the chief administrative officer of the city.)

(gh) Livable wage has the meaning set forth in section 21-82.

(i) Retaliation shall mean the denial of any right guaranteed under this article, and any threat, discipline, discharge, demotion, suspension, reduction of hours, or any other adverse action against an employee for exercising any right guaranteed under this article. Retaliation shall also include coercion, intimidation, threat, harassment, or interference in any manner with any investigation, proceeding, or hearing under this article.

(j) Service contract means a contract primarily for the furnishing of services to the City of Burlington (as opposed to the purchasing or leasing of goods or property) A contract involving the furnishing of financial products, insurance products, ~~and~~ or software, even if that contract also includes some support or other services related to the provision of the products, shall not be considered a service contract.

**Sec. 21-82. - Livable wages required.**

(a) Every covered employer shall pay each and every covered employee at least a livable wage ("Livable Wage") ~~as established under this article no less than:~~

OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

(1) For a covered employer that provides employer assisted health care, the livable wage shall be at least ~~nine dollars and ninety cents~~thirteen dollars and ninety four cents (\$~~13.94~~13.94) per hour on the effective date of the amendments ~~is to this article~~ [Dec. 19, 2001].

(2) For a covered employer that does not provide employer assisted health care, the livable wage shall be at least ~~eleven dollars and sixty eight cents~~fifteen dollars and eighty three cents (\$~~15.83~~15.83) per hour on the effective date of the amendments to this article [Dec. 19, 2001].

(3) ~~Tipped covered employees and other ee~~Covered employees whose wage compensation consists of more or other than hourly wages, including, but not limited to, tips, commissions, flat fees or bonuses, shall be paid so that the total of all wage an hourly wage ~~which, when combined with the other compensation,~~ will at least equal the Livable wWage as established under this article.

(b) The amount of the Livable wWage established in this section shall be adjusted by the chief administrative officer of the city, as of July 1st~~first~~ of each year based upon a report of the Joint Fiscal Office of the State of Vermont that describes the basic needs budget for a single person but utilizes a model of two (2) adults residing in a two-bedroom living unit in an urban area with the moderate cost food plan. Should there be no such report from the joint fiscal office, the chief administrative officer shall obtain and utilize a basic needs budget that applies a similar methodology. The livable wage rates derived from utilizing a model of two (2) adults residing in a two-bedroom living unit in an urban area with a moderate cost food plan shall not become effective until rates meet or exceed the 2010 posted livable wage rates. Prior to the first day of May preceding any such adjustment and prior to the first day of May of each calendar year thereafter, the chief administrative officer will provide public notice of this adjustment by ~~publishing a notice in a newspaper of general circulation, by posting a written notice in a prominent place in City Hall, by sending written notice to the city council and, in the case of covered employers that have requested individual notice and provided contact information an address of record to the chief administrative officer, by notice written letter to each such covered employer.~~ However, once a Livable Wage is applied to an individual employee, no reduction in that employee's pay rate is permissible due to this annual adjustment.



OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

(c) Covered employers shall provide at least twelve (12) compensated days off per year for full-time covered employees, and a proportionate amount for part-time covered employees, for sick leave, vacation, ~~or personal~~, or combined time off leave.

**Sec. 21-83. - Applicability.**

(a) This article shall apply to any service contract or grant, as provided by this article that is awarded or entered into after the effective date of the article ~~[Dec. 19, 2001]~~. After the effective date of the article, entering into any agreement or an extension, renewal or amendment of any contract or grant as defined herein shall be subject to compliance with this article.

(b) The requirements of this article shall apply during the term of any service contract subject to the article. Covered employers who receive grants shall comply with this article during the period of time the ~~city's~~ funds awarded by the City of Burlington are being expended by the covered employer.

**Sec. 21-84. - Enforcement.**

(a) ~~The City of Burlington shall require, as a condition of any~~ Each service contract or grant covered by this article section, shall contain provisions requiring that the ~~affected-covered~~ employer or grantee submit a written certification, under oath, during each year during the term of the service contract or grant, that the covered employer or grantee (including all of its subcontractors and subgrantees, if any) is in compliance with this article. The failure of a contract to contain such provisions does not excuse a covered employer from its obligations under this ordinance. -confirming payment of a livable wage as a condition of entering into said contract or grant. The ~~affected-covered~~ employer shall agree to post a notice regarding the applicability of this section in any workplace or other location where employees or other persons contracted for employment are working. The ~~affected-covered~~ employer shall agree to provide payroll records or other documentation for itself and any subcontractors or subgrantees, as deemed necessary by the chief administrative officer of the City of Burlington within ten (10) business days from receipt of the City of Burlington ~~city's~~ request.

OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

(b) The chief administrative officer of the City of Burlington may require that a covered employer submit proof of compliance with this article at any time, including but not limited to

(1) verification of an individual employee's compensation.

(2) production of payroll, health insurance enrollment records, or other relevant documentation, or

(3) evidence of proper posting of notice.

If a covered employer is not able to provide that information within ten (10) business days of the request, the chief administrative officer may turn the matter over to the city attorney's office for further enforcement proceedings.

(c) The City of Burlington shall appoint a designated accountability monitor that shall have the authority:

(i) To inform and educate employees of all applicable provisions of this article and other applicable laws, codes, and regulations;

(ii) To create a telephonic and electronic accountability system under this article that shall be available at all times to receive complaints under this article;

(iii) To establish and implement a system for processing employees' complaints under this article, including a system for investigating complaints and determining their legitimacy; and

(iv) To refer credible complaints to the City Attorney's office for potential enforcement action under this article.

The designated accountability monitor shall forward to the City of Burlington all credible complaints of violations within ten (10) days of their receipt.

(ed) Any covered employee who believes his or her covered employer is not complying with this article may file a complaint in writing with the City Attorney's office within one (1) year after the alleged violation. The City Attorney's office shall conduct an investigation of the complaint, during which it may require from the covered employer evidence such as may be required to determine whether the covered employer has been compliant, and shall make a finding of compliance or noncompliance within a reasonable time after receiving the complaint. Prior to ordering any penalty provided in subsections (e), (f), or (g) below, the City Attorney's office shall give notice to the covered employer. The covered employer may request a hearing within thirty (30) days of receipt of such notice. The hearing shall be conducted by a hearing

OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

officer appointed by the City Attorney's office, who shall affirm or reverse the finding or the penalty based upon evidence presented by the City Attorney's office and the covered employer.

~~(eeb)~~ The City of Burlington shall have the right to modify, terminate and/or seek specific performance of any contract or grant with an ~~affected~~ covered employer from any court of competent jurisdiction, if the ~~affected~~ covered employer has not complied with this article.

~~(fde)~~ Any covered employer who violates this article may be barred from receiving a contract or grant from the city for a period up to two (2) years from the date of the finding of violation.

~~(edg)~~ A violation of this article shall be a civil offense subject to a civil penalty of from two hundred dollars (\$200.00) to five hundred dollars (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any covered employee is not compensated as required by this article shall constitute a separate violation.

~~(h)~~ If a complaint is received that implicates any City of Burlington employee in a possible violation of this ordinance, that complaint will be handled through the City's personnel procedures, not through the process outlined in this ordinance.

~~(fi-)~~ Any covered employee aggrieved by a violation of this article may bring a civil action in a court of competent jurisdiction against the covered employer within two (2) years after discovery of the alleged violation. The court may award any covered employee who files suit pursuant to this section, as to the relevant period of time, the following:

(i) The difference between the livable wage required under this article and the amount actually paid to the covered employee;

(ii) Equitable payment for any compensated days off that were unlawfully denied or were not properly compensated;

(iii) ~~Liquidated damages in an amount equal to the amount of back wages and/or compensated days off unlawfully withheld or of \$50 for each employee or person whose rights under this article were violated for each day that the violation occurred or continued, whichever is greater;~~

(iv) ~~Reinstatement in employment and/or injunctive relief; and~~

(v) ~~Reasonable attorneys' fees and costs.~~

~~(gj)~~ It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this article. No person

shall engage in retaliation against an employee or threaten to do so because such employee has exercised rights or is planning to exercise rights protected under this article or has cooperated in any investigation conducted pursuant to this article.

**Sec. 21-85. - Other provisions.**

(a) No ~~affected~~ covered employer shall reduce the compensation, wages, fringe benefits or leave available to any covered employee in order to pay the livable wage required by this article. Any action in violation of this paragraph shall be deemed a violation of this article subject to the remedies of section 21-84.

(b) No covered employer with a current contract, as of the effective date of this provision, with the City of Burlington for the use of property located at the Burlington International Airport may reduce, during the term of that contract, the wages of a covered employee below the Livable Wage as a result of amendments to this ordinance.

~~(b)~~ Where pursuant to a contract for services with the city, the contractor or subcontractor incurs a contractual obligation to pay its employees certain wage rates, in no case except as stated in subsection 21-85(~~ed~~), shall the wage rates paid pursuant to that contract be less than the minimum livable wage paid pursuant to this article.

~~(ed)~~ Notwithstanding subsection 21-85(~~bc~~), where employees are represented by a bargaining unit or labor union pursuant to rights conferred by state or federal law and a collective bargaining labor agreement is in effect governing the terms and conditions of employment of those employees, this chapter shall not apply to those employees, and the collective bargaining labor agreement shall control.

~~(de)~~ Covered employers shall inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the Earned Income Tax Credit under federal and state law.

~~(ef)~~ The chief administrative officer of the city shall have the authority to promulgate rules as necessary to administer the provisions of this article, which shall become effective upon approval by the city council.



OFFENSES AND MISCELLANEOUS PROVISIONS--  
ARTICLE VI - Livable Wages

**Sec. 21-86. - Exemptions.**

An partial or complete exemption from the any requirement of this article may be requested for a period not to exceed two (2) years:

- (a) By a covered employer where payment of the livable wage authorized based upon a determination that compliance with the livable wage requirement would cause substantial economic hardship; and
- (b) By the City of Burlington - where application of this article to a particular contract or grant is found to violate specific state or federal statutory, regulatory or constitutional provision or provisions or where granting the exemption would be in the best interests of the City.

A covered employer or grantee granted an exemption under this Section 21-86 may reapply for an exemption upon the expiration of the exemption.

Requests for exemption may be granted by majority vote of the City Council. All requests for exemption shall be submitted to the chief administrative officer. The finance committee board of the city City of Burlington shall first consider such request and make a recommendation to the City Council. The decision of the City Council shall be final. shall consider the request for exemption with prior notice provided to the city council. A unanimous decision by the finance board shall be final. A split decision by the finance board is reviewable by the city council not later than the next meeting of the city council which occurs after the date of the finance board decision.

**Sec. 21-87. - Severability.**

If any part or parts or application of any part of this article is held invalid, such holding shall not affect the validity of the remaining parts of this article.

**Section 21-88. Annual Reporting.**

On or before April 15<sup>th</sup> of each year, the City Attorney's office shall submit a report to the City Council that provides the following information:

## An Ordinance in Relation to

(a) all list of all covered employers broken down by department;

(b) a list of all covered employers whose service contract did not contain the language required by this article; and

(c) all complaints filed and investigated by the City Attorney's office and the results of such investigation.

**Sec. 21-89. Effective Date.**

The amendments to this ordinance shall take effect on January 1, 2014, and shall not be retroactively applied.

\* Material stricken out deleted.

\*\* Material underlined added.

Lori Olberg

Proposed amendments:

**From:** Judith Stephany <stephany@together.net>  
**Sent:** Monday, October 21, 2013 11:07 AM  
**To:** Lori Olberg  
**Subject:** amendments

11, 12, 13, 14

Hi Lori,

I'm awaiting approval on these but don't expect any changes except I've got a call into Eileen on Deliberative 11 which is the only item that could might change. I'll let you know when they've been approved but, in the meantime, here are the "drafts".

Judy

Deliberative agenda

11. Domestic abuse (per Councilor Ayres) line 26: change "would" to "could delete lines 27-30 charter change section: 511(c) - enforcement: delete subsections 1 and 2; renumber subsection 3 as subsection 1

12. Safe storage (per Councilor Ayres)

delete lines 21-23 and replace with:

is consistent with the U.S. Supreme Court's ruling on the Second Amendment in 2008 in District of Columbia v. Heller which noted that its analysis does not "suggest the invalidity of laws regulating the storage of firearms to prevent accidents"; and

13. Bars (per Councilor Ayres)

delete lines 23-24 and replace with:

Court's ruling on the Second Amendment in 2008 in District of Columbia v. Heller; and

14. Concealed weapons (per Councilor Blais) delete lines 23-26 and replace with:

WHEREAS laws regulating the carrying of concealed weapons are consistent with the U.S. Supreme Court's ruling on the Second Amendment in 2008 in District of Columbia v. Heller which noted that "the majority of the 19th century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment"; and

Consent agenda

6.10 CEDO (per Councilor Aubin)

line 35 insert after the word delegates "to the Chief Administrative Officer and/or Mayor"

## Lori Olberg

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**From:** Judith Stephany <stephany@together.net>  
**Sent:** Monday, October 21, 2013 11:16 AM  
**To:** Lori Olberg  
**Subject:** Fw: amendments follow up

-----Forwarded Message-----

>From: Judith Stephany <[stephany@together.net](mailto:stephany@together.net)>

>Sent: Oct 21, 2013 11:12 AM

>To: [lolberg@burligtonvt.gov](mailto:lolberg@burligtonvt.gov)

>Subject: amendments follow up

>

>They're approved. I'll talk with Eileen about deliberative 11. BUT Norm has asked Tom to call Rachel about being the proposer of all 4 gun amendments (items 11, 12, 13 and 14). i'll let you know ASAP whehter or not Rachel will be the proposer.

>Judy