
DELIBERATIVE AGENDA

LOCAL CONTROL COMMISSION
CONTOIS AUDITORIUM, CITY HALL
MONDAY, JUNE 10, 2013
7:06 P.M.

PRESENT: City Council President Shannon, Commissioners Bushor, Worden, Knodell, Tracy, Brennan, Siegel, Aubin, Mason, Blais, Paul, Ayres and Decelles

ABSENT: Commissioner Hartnett

CITY ATTORNEY'S OFFICE: Eileen Blackwood

CLERK/TREASURER'S OFFICE: Rich Goodwin, Lori Olberg, Scott Schrader, Bob Rusten and Paul Sisson

CITY COUNCIL PRESIDENT SHANNON PRESIDING:

1. AGENDA

On a motion by Commissioners Blais and Ayres the agenda was unanimously adopted as is.

2. CONSENT AGENDA

On a motion by Commissioners Blais and Ayres the consent agenda was unanimously adopted thus taking the following actions as indicated:

2.01. OUTSIDE CONSUMPTION PERMIT, PARKING AREA (one day only):

VFW, 176 South Winooski Avenue, Sunday, August 4, 2013, 12:00 p.m. – 5:00 p.m.

*waive the reading, accept the communication, place it on file and approve the one day only outside consumption permit application for VFW to include the parking area, rear of the building for a membership BBQ, Sunday, August 4, 2013, 12 p.m. – 5 p.m.

3. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2013-2014):

Luna61VT.Inc., d/b/a Revolution Kitchen (formerly Levity), 9 Center Street

Commissioners Blais and Ayres made a motion to approve the First Class Restaurant Liquor License Application for Luna61VT.Inc., d/b/a Revolution Kitchen. The motion passed unanimously.

3.01. OUTSIDE CONSUMPTION PERMIT APPLICATION (2013-2014):

Luna61VT.Inc., d/b/a Revolution Kitchen (formerly Levity), 9 Center Street

Commissioners Blais and Ayres made a motion to approve the Outside Consumption Permit Application for Luna61VT.Inc., d/b/a Revolution Kitchen. The motion passed unanimously.

4. OUTSIDE CONSUMPTION PERMIT APPLICATION (2013-2014):

RiRa Irish Pub, The Whiskey Room, College Street side

Commissioners Blais and Ayres made a motion to approve the Outside Consumption Permit Application for RiRa Irish Pub, The Whiskey Room. The motion passed unanimously.

5. ADJOURNMENT

Without objection, City Council President Shannon adjourned the Local Control Commission meeting at 7:08 p.m.

Attest:

Lori Olberg, Licensing, Voting & Records Coordinator & Amy Bovee, Executive Secretary

REGULAR MEETING, CITY COUNCIL
MONDAY, JUNE 10, 2013
7:08 P.M.

PRESENT: see above

CITY COUNCIL PRESIDENT SHANNON PRESIDING:

1. AGENDA

On a motion by Councilors Mason and Bushor the agenda was unanimously adopted as amended as follows: note title change for agenda item 2. PRESENTATION: Airport Strategic Plan, Adam Whiteman, Managing Director, Frasca & Associates, LLC, consultant to the Airport Strategic Planning Committee and Karen Paul, Co-Chair, Airport Strategic Planning Committee, additional comments on the Plan by community members of the Committee Ed Colodny, Ann Beland, Louise Stoll and Ernie Pomerleau; add to the agenda item 2.01. COMMUNICATION: Burlington International Airport, Airport Strategic Planning Committee Recommendations, June 10, 2013; re-number agenda item 9. RESOLUTION: Endorsement of IATSE Collective Bargaining Agreement 2012-2015 (Councilors Shannon, Knodell, Bushor, Aubin: pending BOF approval) as agenda item 3.5; add Councilor Ayres as a co-sponsor for agenda item 5.01. RESOLUTION: Amendment and Re-adoption of the Burlington Municipal Development Plan (Councilors Paul, Blais, Knodell, Decelles, Worden, Bushor, Siegel, Mason, Brennan, Shannon, Aubin, Tracy); note proposed amendment for agenda item 10. RESOLUTION: City Attorney Constitutional Analysis of No Trespass Ordinance for Church Street Marketplace June 12, 2012 (Councilors Siegel, Tracy, Brennan); suspension of the Council rules to change the public forum time certain to 7:45 p.m.

Councilor Paul stated that the planBTV resolution will have two additional co-sponsors with Councilor Ayres and Hartnett.

2. PRESENTATION: Airport Strategic Plan, Adam Whiteman, Managing Director, Frasca & Associates, LLC, consultant to the Airport Strategic Planning Committee and Karen Paul, Co-Chair, Airport Strategic Planning Committee, additional comments on the Plan by community members of the Committee Ed Colodny, Ann Beland, Louise Stoll and Ernie Pomerleau

Councilor Paul stated that the City Council passed a resolution to create the Airport Strategic Planning Committee. The need for a strategic plan coincided with the appointment of Gene Richards as the Director of Aviation and the Mayor's vision for a financially strong and stable Airport positioned for the

next decade. It is an economic driver for Burlington and the region for commerce, business and tourism. The Committee was tasked with creating a plan for long term financial strength, increasing airline service, expanding the number of travelers, an operations plan, a consideration of regional role and benefits, and the Airport Commissions' role in governance. The Committee was made up of 11 individuals and met 14 times to craft this plan. Representatives from South Burlington and Winooski City Councils were also involved.

Adam Whiteman, Frasca and Associates, stated that the Committee approached their task as a three step process. They gathered information to define the issue, then developed a mission statement and core values, and finally made recommendations to respond to the Committee charge. They invited a number of speakers to talk about what is happening in the Airport and airline industries, Airport governance models, and Airport privatization. After each of these presentations, the City performed a SWOT analysis. They were asked to view the Airport in terms of Strengths, Weaknesses, Opportunities, and Threats. They used the results to identify key issues and challenges the Airport faces. They identified Airport infrastructure as a strength but the credit rating as a weakness. There were opportunities for targeted marketing, crafting a new relationship with Airlines, and in the Canadian market. Threats were identified as competition from other regional airports, inflexibility in finances, slowing population growth, noise, and reductions in Canadian airport charges. Committee members then focused on specific areas of concern. These were used to craft recommendations. They spent a lot of time discussing financial issues at the Airport. The goal is to create the lowest cost to Airlines while providing financial flexibility for the Airport. Weak reserves, low credit ratings, passenger declines, and industry dynamics to keep prices low were all identified. They discussed maintaining and increasing air service options, airline consolidation, and competition with other regional airports. They discussed that BTV staffing should be structured in such a way that they can implement recommendations. There was discussion that the existing governance structure could limit the implementation of the strategic plan. The Committee felt it was important for the Airport to have a mission and vision statement articulated in one place. It was developed by staff to serve as a guide. The core values are integrity, safety, teamwork, accountability, and customer service. The Committee crafted recommendations and action steps. Some were straightforward, such as redefining the relationship with the airlines by crafting a new airline use agreement. Another was to develop a multi-year financial plan to improve the Airport's liquidity position. The Committee was concerned with maintaining and increasing air service through relations with airlines and marketing. The Committee felt that accomplishing recommendations will rely on appropriate staffing levels and they will be reviewing current staff. They want to ensure that BTV is an economic driver. They raised concerns about the current governance structure and the airports ability to meet its goals. They are recommending expanding the role of the Airport Commission so it is similar to how the Burlington Electric Commission has operated. The Commission would be responsible for all business agreements. They would report to the City Council and would be subject to a veto if the contract is over \$200,000 or longer than two years of duration. They would also require advance City Council approval for setting employee wages and salaries, acquiring any property by eminent domain, and authorizing revenue bonds and other debt obligations. They also recommended creating a seat on the Airport Commission for a Winooski City Council appointee, considering having a Director of Aviation selected by a list of three candidates that the Airport Commission would recommend, and exploring the advantages and disadvantages of converting to a regional airport form of governance.

Councilor Paul stated they were lucky to have Joe McNeil serve on the Committee as Secretary. He was the main crafter of the recommendations. They will also be presented in resolution format at a future date. She thanked those who contributed to the plan.

Louise Stoll, ASPC, outlined her history of working on large transportation projects. She found working on this committee interesting. Their consultant was great and always found answers to their questions and offered knowledge about the aviation industry. There were some issues with the recommendation. She felt the amount of money that airport governance would handle on their own was too low. She feels they need

Airport Commissioners who commit themselves to that job. The Airport will get bigger and should be more independent. She thinks they have come up with a good plan.

Ed Colodny, ASPC, thanked the Council and the Mayor for allowing him to serve on the Committee. He outlined his history of working in Airports and travelling in them and thanked those who served on the Committee. There are things that they would like to look different, but many of them are operational, such as split security lines. It would be nice to start from scratch and build an Airport designed for today's security, but that may not be feasible. The runway is terrific, operations are good, customer amenities are being improved. They need to ensure they are keeping airlines happy. He commended the Airport staff for new service to Atlanta. He does not feel this Airport is in crisis and feels they can address the issues that they have. One issue is governance. As long as the City of Burlington is a financial backer of the Airport, they will have the last word. Whatever governance changes may be reasonable have to accommodate the fact that the City has the fiduciary responsibility.

Ernie Pomerleau, ASPC, stated the Airport is Burlington's top economic stimulator. They have the beginning of a plan and have already started to launch it. The business community brought in a consultant and found that the Airport was very crucial and they felt they could help bring ideas to it. It spawned this program. Many large businesses are located here because of the Airport. This is a great Airport and there are huge opportunities.

Councilor Paul thanked the Committee. The creation of the Airport Strategic Planning Committee was done at the urging of the Mayor and she thanked him for that vision and allowing her to serve as co-chair.

City Council President Shannon thanked the Committee for their work. There will be a resolution to move this forward at the next meeting. She inquired if the Council has further questions. Councilor Bushor stated she would prefer to recess this item, go to public forum, and then return to this item to allow them to ask questions while members of the committee are present. City Council President Shannon agreed.

Councilor Bushor inquired where they could find more information about the topics. Joe McNeil, ASPC, recommended they review the minutes from the meetings which include details about the discussion. Councilor Bushor inquired if she could see the changes between the draft and final reports. Mr. McNeil stated she could. Councilor Bushor stated they mentioned empowering the Airport Commission in a way similar to the Burlington Electric Commission operated formerly. They have changed how the Electric Commission is operating and inquired what iteration of operation they should be looking to. She inquired if it was more important just to look at the list of recommendations. Mr. McNeil stated she can look at the list of recommendations which is how the Burlington Electric Commission once operated with a few modifications. The modification was to the amount and period of contracts because of the passage of time. Councilor Bushor stated they mentioned the acquisition of property through eminent domain. She inquired if an outright purchase would require the City to be involved. Mr. McNeil stated if the purchase contract were for less than \$200,000, the City would not be involved. Councilor Bushor inquired if the Committee is recommending that they examine the Charter in the long term. The short term recommendation was that normal business operations up to a magnitude should be within the authority of the Commission. Purchase or sale of land would not offend that concept. Eminent domain is in a different category altogether. They could put the buying or selling of land on that list, it could be done and be consistent with normal business affairs. Councilor Bushor stated the core values are wonderful and suggested they remove the word should. Those values should be adhered to completely. She read the draft and cares a lot about the success of the Airport. It is valuable to the community, region and State. She thanked the Committee for their work and thanked Ed Colodny for his service.

Councilor Tracy stated a portion of the report listed that the livable wage requirements as a potential threat. He inquired what the rationale behind that statement was and feels that paying a livable wage makes the community stronger. Mr. Whiteman stated it was raised by committee members because they

need to be able to compete with other concessioners. Councilor Tracy stated they included a section on the community impact and he feels the F-35 is one of the biggest community impacts. He inquired how they chose to deal with that issue and inquired if new information from the Air Force influenced that. Mr. McNeil stated the Committee looked to the passenger and fixed based operator side of the Airport. They did not spend a lot of time on the military side. They invited members of the Air National Guard to be part of the Committee, but they did not routinely attend. The committee focused on the business-side of the Airport. Councilor Tracy stated this plan has recommendations and everything listed in the plan will have to be dealt with individually.

Councilor Brennan stated they had discussed new flights to Toronto and Atlanta. He inquired if they have looked to market for potential employees in those areas, as they are both diverse and multicultural. Mr. McNeil stated that is a critical point that the committee felt was important. Their first goal is to not lose customers. Within the existing market, they will promote the Airport. They have heard stories about people flying or not flying out of Burlington for business purposes. They hope to be aggressive in marketing the value of the Airport to the existing customer base so they will use it to the greatest degree possible. Councilor Brennan stated it was noted during the public comment period that the City has an aggressive lead based paint program. There are planes at the Airport that use fuel that is leaded. The EPA has recognized that and has not made any movement yet. He does not see that in the SWOT analysis and does not feel using a fuel with lead is the best thing. Mr. McNeil stated they did not look at that. They went through hundreds of potential items but they did not discuss that one. Councilor Brennan stated he appreciates their work and hopes they will work on this in the future.

Councilor Worden stated each department has to focus on issues that pertaining to them and do not always see what issues will affect other departments. The Planning and Zoning side talks about housing preservation and replacement. That relates to housing in Burlington, but he hopes they will consider that as a guiding principle for development at the Airport.

Councilor Decelles inquired if the committee quantified what would happen if Burlington International Airport were located elsewhere. Mr. McNeil stated the Airport is the largest economic driver in the State of Vermont. The sustained good economy here is largely because of this facility. Their view was that Burlington would be nowhere near the community it now is without this jump.

Councilor Siegel stated she was shocked to see the livable wage listed under “threats” in the SWOT analysis. She can see arguments for including livable wage in any of the categories, but finds it disheartening that it is only listed under threats. She hopes that people will recognize that the livable wage ordinance is an asset to the community and is a strength and opportunity. Mr. McNeil stated one committee member argued that the fact that they are not meeting livable wage requirements is a threat to the Airport.

Councilor Mason thanked the Committee for their work.

Mayor Weinberger thanked those who served on the Committee. They have conveyed the importance of this institution to the community and that it must be an asset that is cultivated and cared for over time.

2.01. COMMUNICATION: Burlington International Airport, Airport Strategic Planning Committee Recommendations, June 10, 2013

Councilors Mason and Paul made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

3. PUBLIC FORUM

City Council President Shannon opened the public forum at 7:54 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Ron Ruloff	Ward 3 Resident	Client Advisory Group, Chittenden Emergency Food Shelf, Drug Problems
Christian Jordan	Ward 3 Resident	Zoning Residential in Downtown Burlington
Bea Bookchin	Ward 6 Resident	Against No-Trespass Ordinance
Sandy Baird	Ward 1 Resident	Against No-Trespass Ordinance
Robert Bristow-Johnson	Ward 7 Resident	Ward Redistricting
Charlie Giannoni	Ward 3 Resident	CSWD and Redistricting
Genese Grill	Ward 3 Resident	Against No-Trespass Ordinance
Lee Burch	Ward 4 Resident	Against No-Trespass Ordinance
Kelly Devine	Burlington Business Association	In favor of planBTV
Charles Simpson	Ward 6 Resident	Against Airport Strategic Plan

Mayor Weinberger honored Interim CAO Paul Sisson for his service and presented him with a plaque.

With no one further coming forward and no objection from the remaining Council, City Council President Shannon closed the public forum at 8:19 p.m.

3.5. (was 9.) RESOLUTION: Endorsement of IATSE Collective Bargaining Agreement 2012-2015
(Councilors Shannon, Knodell, Bushor, Aubin: pending BOF approval)

Councilors Bushor and Worden made a motion to waive the reading and adopt the resolution.

City Council President Shannon stated that the Board of Finance decided not to vote on this and wanted to bring it directly to the Council.

Joe McNeil, Esq., McNeil, Leddy, and Sheahan, stated this was an outlier of the collective bargaining agreements that the City deals with. It does not involve a direct expenditure of City funds. It was a pass through. These were part-time employees who worked for the City at Memorial Auditorium and Contois Auditorium when there were public, ticketed shows. They did staging, rigging, lighting and preparation of sets for the show. The City has recognized this organization as the certified bargaining representative of this class of employees since the 1980s. They negotiate contracts periodically. ITASE desired to expand their jurisdiction and the City desired to contain it to its existing limits. ITASE wanted its scope of coverage to include shows at the Waterfront or Oakledge Park. The Parks and Recreation Department was not comfortable with that level of expansion. They decided to roll the existing contract over for another three year period. Compensation and coverage will remain the same. This does not involve a payment of City money, but collection of revenues and payment of a portion of those revenues to those setting up performances.

Councilor Knodell inquired if the terms of employment are comparable to the terms of employment of similar employees in the rest of the City. Mr. McNeil stated they are with the exception of the CPI. It is 2.25% to 4.25%, which is not outrageously different than other contracts. They attempted to bring the numbers down, but since they were agreeing to a rollover, they allowed them to remain the same.

Councilor Blais inquired if the terms of this agreement would have a positive or negative impact on upcoming negotiations. Mr. McNeil stated he does not believe that it would.

The motion passed unanimously.

4. PUBLIC HEARING: Corrective Action Plan for Environmental Remediation of 151 South Champlain Street – Requirement for Vermont Brownfield Revitalization Loan Fund Application

Brian Pine, CEDO, stated that this hearing was required by the EPA to use funds to clean up contaminated sites. The developer of the project was seeking a Brownfield Loan to clean up a property in the South End on South Champlain Street. It has been the subject of work since 2002. They have done site assessments. It was a significant enough barrier to moving ahead with the development that the partners opted not to move forward. This is the culmination of many years of effort and a significant investment of environmental assessment funds.

Steve LaRosa, Weston and Sampson Engineers, stated he has done a number of investigations and has written a corrective action plan. The subject site is at 151 South Champlain Street. There is a historic building on the street called The Blinn House. During the 1950s, there was a cleaning establishment which released dry cleaning solvents into the subsurface. This was discovered in 2002 when they began investigating the property. They determined that contaminant has migrated with the ground water to the edge of the lake. The level of contamination is above drinking water standards but below the standards needed for an aggressive cleanup. It is an old plume that has been established for over 60 years. They have determined that the best method to address this residual contamination is to make sure that people are not coming into contact with it. They developed a corrective action plan with three phases. They installed mitigation systems in three buildings on Battery Street, which prevent fumes from entering their basements. They have been operating since 2009 and are monitored to ensure they are capturing the soil gas. The second phase was to look at other buildings in the area where people may be exposed to the contamination. They identified only two buildings in the neighborhood with the potential to be contaminated. They recommended continued monitoring of the two buildings. The third phase is to continue monitoring levels and ensure their mitigation systems are working. They are also keeping people who own these buildings informed of what they find. The only step they have not taken is to install a mitigation system in The Blinn House. The building is vacant and has been for many years. Now that there is interest in developing the property, they need to install a mitigation before people can inhabit that space. This will complete their mitigation process.

David Schlansky stated he became involved with this property about a year and a half ago. He is an attorney and has worked with Brownfield Development for fifteen of the twenty years he has been practicing. This is a classic in-fill opportunity in that the downtown area is fairly dense but there is a gap at this location. There is a vacant building and vacant space, but there is also contamination. He has received a lot of help from the City and the State because there are people who care about what happens to this property. They hope to oversee the remedial work. This loan is important to implementing that. The loan will help put remediation efforts into The Blinn House and allow them to adaptively re-use that building. They have created plans for how they would like to rehab the property and have received National Parks Services approval to do so. They are still in the early stages of what they would like to do with that space, but they hope to develop something positive for the City.

Mr. Pine stated that this was a 30 day comment period. Technical questions or comments regarding the corrective action plan should be directed to the Vermont Department of Environmental Conservation.

City Council President Shannon thanked them for their efforts on this project.

City Council President Shannon opened the public hearing at 8:40 p.m.

Councilor Bushor stated that there was a comment that overall, City staff is supportive of the project. She inquired if there are some reservations. Mr. Pine stated they are totally supportive.

Councilor Brennan thanked them and feels this project will have a positive outcome for the City. He inquired why the individual needed to answer technical questions is not at this meeting. Mr. Pine stated Mr. LaRosa can answer technical questions. The process requires that the State be the repository for comments for the public hearing questions. City Council President Shannon requested any questions that cannot be answered tonight be relayed to the State. Mr. Pine stated he will do that. Councilor Brennan stated the memo talks about contamination and inquired what those contaminations are. It also referenced clean water standards, and inquired what those contaminants are. Mr. LaRosa stated they are derivatives from dry cleaning solvent used in the 1950s. It was called Perc or Perchloroethylene. It is a chlorinated organic substance that is very volatile. It is being phased out of operation because it is a carcinogen, is volatile, and is persistent in the environment. They also found some petroleum compounds in the groundwater that are not sourced from this site. However, they are not at a level that requires mitigation. Perchloroethylene is the primary contaminant in both the ground and the water. These compounds are very persistent. The last time the chemicals were released on the site was 1958, but the contaminants are still there. The State requires them to monitor the site for 70 more years. The amount of vapor being generated is decreasing along with the levels in the groundwater, but they expect they will need to have these ventilation systems in place for 70 years. Councilor Brennan inquired if there will be a monitoring of the system itself to ensure that it is working. Mr. Larosa stated there are alarms on the systems in the building. If the fan stops operating, an alarm will sound and there are notes telling them how to handle it. They monitor the concentrations annually, but he hopes they can decrease them in the future. They have seen that regardless of weather conditions and operations in the buildings, the contaminants are not getting in.

With no one further coming forward and no objection from the remaining Council, City Council President Shannon closed the public hearing at 9:08 p.m.

- 4.01. COMMUNICATION: Nick Warner and Brian Pine, CEDO, re: Public Hearing on Corrective Action Plan for Environmental Remediation of 151 South Champlain Street – Requirement for Vermont Brownfield Revitalization Loan Fund Application

Councilors Mason and Ayres made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

5. PUBLIC HEARING: Proposed Municipal Development Plan Amendment – **planBTV: Downtown and Waterfront Master Plan**

David White, Planning and Zoning Director, thanked the Council and the community for their work on this project. The Downtown and Waterfront Master Plan has been award the 2013 Plan of the Year from the Vermont Planners Association. Sandrine Thibault has also been recognized as the Planner of the Year by the Vermont Planners' Association.

City Council President Shannon opened the public hearing at 9:10 p.m.

Rolf Kielman, a local architect, spoke in favor of planBTV.

Peter Owens, CEDO Director and Ward 3 Resident, spoke in favor of planBTV.

With no one further coming forward and no objection from the remaining Council, City Council President Shannon closed the public hearing at 9:16 p.m.

- 5.01. RESOLUTION: Amendment and Re-adoption of the Burlington Municipal Development Plan (Councilors Paul, Blais, Knodell, Decelles, Worden, Bushor, Siegel, Mason, Brennan, Shannon, Aubin, Tracy, Ayres and Hartnett)

Councilors Paul and Ayres made a motion to waive the reading and adopt the resolution.

Councilor Paul stated this represents both the beginning and the end of a journey. In 2009, the idea and vision for planBTV first became a reality. She looked at the resolution that was passed then, and found that everything in it happened. They applied for and received a HUD grant through the work of many City Departments. The plan is a cohesive vision of what the community wants for the future of Burlington. It is the first time that they will link the Downtown and the Waterfront in an effective and sustainable way. The resolution is co-sponsored by every member of the Council and it will adopt the plan and requests they make every effort to implement it.

Councilor Knodell stated there is a Waterfront Revitalization Plan which will remain in place alongside planBTV. Both are contained within the Municipal Development Plan. The Public Trust Doctrine says the lands have to be used in a way consistent with the public good, and that is still in place. They also have past policy statement that the future of the Urban Reserve is yet to be determined. That remains in place, as the area covered by planBTV ends where the Urban Reserve begins.

Councilor Brennan thanked them all for their work. He hopes they recognize the key piece of affordable housing put forth in this plan. It is greatly needed and duly noted. He looks forward to activities that will come forward to make the City even more livable.

City Council President Shannon stated when this started in 2009 Councilors were torn on issues regarding zoning. They worked together to develop this resolution to move forward. They kept the 50/50 Ordinance that required half of the downtown to be commercial. It was a holding place to ensure there was both residential and commercial development continued. The idea was that they could keep that holding place and then move forward to find better solutions. They got the money to ensure that happened. She has never seen a process like this that engaged the community and found a way to utilize that feedback. She is pleased to hear this was recognized by the planning community.

The motion passed unanimously.

- 5.02. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning, re: Proposed Municipal Development Plan Amendment – planBTV: Downtown and Waterfront Master Plan

Councilors Paul and Ayres made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

6. COMMUNICATION: Amy Jewell, Administrative Manager, CSWD, re: Proposed FY 14 Budget

Tom Moreau, CSWD General Manager, stated that he was there to request support for the CSWD FY14 Budget. The good news was that the budget was down 2.7% or \$240,000. The bad news was that revenues were down even more. One reason is because they had a problem with compost that cost them nearly \$800,000. A persistent herbicide contaminated it and they did not receive that revenue. The other reason revenue is down is because they have a fee on trash. Chittenden County's trash is at the lowest point it has been in the last 14 years. They are down to below 3 pounds per person per day, which is less than the national average of 3.7 pounds. They hope that Burlington's bio-solids will be down \$4 per ton. There is an increase at the drop off center of 2 cents per pound.

Councilor Bushor stated she always looks to see if their representative is present and supportive of the budget. She inquired if the vote on the budget in May was unanimously. Mr. Moreau stated it did pass unanimously, although Burlington's representative was not present. That was the same night that there was significant flooding in Burlington. The City can vote for the budget, against it with a written reason, or not vote which is counted as a yes. Councilor Bushor inquired if all members were present with the exception of Burlington. Mr. Moreau stated Winooski was also not present. Councilor Bushor stated there was a public forum speaker who touched on some of the things in the budget. There was a reference to cutting back on the ability to take tires and appliances. Mr. Moreau stated that they will still take tires and appliances, but they can no longer take them for free. The compost issue represented about 10% of their budget, so they have had to make some cuts this year. There used to be a weekend where people could drop off tires and appliances for free. There is a concern in rural communities that tires and appliances will accumulate on the side of the road. If that becomes an issue they may reconsider. Councilor Bushor stated the resident who spoke was hoping that this would only be for one year because he felt it would hurt low income people. She inquired if they hope this will only be for this year. Mr. Moreau stated he does not yet see it as permanent. Their population has increased for the last fourteen years, as have wages and fuel. They have also been able to cut their budget by nearly half a million dollars. They are seeing soft recycling markets and are being paid 15-20% less than they were 15 years ago. They will have to continue to look at global markets in the coming years when making decisions. Councilor Bushor inquired if the recycled paint program will be continued. Mr. Moreau stated it was going to be cut, but the Legislature passed a paint bill. When a person buys paint, a fee will be incorporated into the price. The American Coatings Association will recycle that paint. They were asked to be the recycler, so it will likely stay. Councilor Bushor inquired if anyone in the Administration reviews the budget and if they have a position on the budget. Mayor Weinberger stated he does not have a formal position on the budget. Councilor Bushor stated she will not hold the budget up unless other Councilors have concerns. City Council President Shannon suggested they could postpone action at this meeting and place it on the consent agenda at the next meeting.

Councilors Ayres and Paul made a motion to waive the reading, accept the communication and place it on file and postpone action on the budget until the next City Council meeting. The motion passed unanimously.

6.01. COMMUNICATION: FY 2014 BUDGET PROPOSAL, CSWD

Councilors Ayres and Paul made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

7. PUBLIC HEARING: Burlington Comprehensive Development Ordinances:

- Proposed Amendment ZA-13-02-Lot Line Adjustment – Vestigial Alleys
- Proposed Amendment ZA-13-04-Garage Size and Orientation

David White, Planning and Zoning Director, stated that these have been reviewed by the Planning Commission and Ordinance Committee. The first is 13-02-Lot Line Adjustment for Vestigial Alleys.

There are a few situations in the City where the vestiges of alleyways are along property lines. Over the years some of the alleyways have been assumed by the properties on one side or the other and are no longer continuous. When a property owner wishes to assume that portion of the property, it is a laborious process to go through a full-fledged subdivision. The proposal is to address them as lot line adjustments. The second is 13-04-Garage Size and Orientation, which has to do with design standards where the proportion of the street facing garage face to the rest of the structure is regulated. In more modern residential subdivisions, the streetscape is often characterized by a number of large garage doors. That is not Burlington's character, which is why it is regulated in that way. This makes front doors and houses the dominant feature as a person walks down the street. This does not accommodate smaller lots. The standards will be amended to allow the garage face to be up to 50% of the street face of the building rather than 30%. This will accommodate development on smaller lots which will be less land consumptive. Creation of more housing allows for greater affordability of that development.

City Council President Shannon opened the public hearing at 9:39 p.m.

Councilor Blais stated the notion of the alleyways is interesting to him as an attorney. He inquired if that is similar to adverse possession, which happens when an owner of a piece of property uses an adjacent piece of land for an extended period of time and then absorbs it. Mr. White stated they do not recognize whether the adverse possession has taken place or not. That alleyway is owned by someone, so if a neighbor approaches them to purchase the land, this facilitates that property.

Councilor Mason stated when this happens a person still has to purchase the land, but this deals with the administrative side and allows them to avoid going through a formal sub-division process. Both of these were heard at the Ordinance Committee and were passed unanimously.

Councilor Siegel inquired about a portion of the ordinance that says the number of stalls in a garage shall be limited to the number of bedrooms that there are in the accessory dwelling. She stated she finds it horrifying that there would be a need for that many garage bays. This speaks to their car culture and she hopes someday this will be limited to one bay per household.

City Council President Shannon closed the Public Hearing at 9:43p.m.

- 7.01. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE – Lot Line Adjustments; Vestigial Alley ZA #13-02 (Planning Department, Planning Commission; Councilors Mason, Bushor, Paul: Ordinance Committee)(2nd reading)

Councilors Mason and Bushor made a motion to waive the 2nd reading and adopt the ordinance. The motion passed unanimously.

- 7.02. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE – Garage Size and Orientation ZA #13-04 (Planning Department, Planning Commission; Councilors Mason, Bushor, Paul: Ordinance Committee) (2nd reading)

Councilors Mason and Bushor made a motion to waive the 2nd reading and adopt the ordinance.

City Council President Shannon stated she will not support this ordinance. It was originally created to eliminate the dominance of cars in their built environment. She appreciates the comment that the existing ordinance does not accommodate smaller lots, but she feels it really does not accommodate larger garages on smaller lots. She shares concerns about allowing as many car bays as there are bedrooms. It seems excessive and not reflective of their values.

The motion passed by a vote of 9-4 with City Council President Shannon, Councilors Tracy, Brennan, and Siegel voting against.

- 7.03. COMMUNICATION: Clerk/Treasurer's Office, re: Public Hearing Notice, Burlington Comprehensive Development Ordinance, Proposed Amendment ZA-13-02-Lot Line Adjustment – Vestigial Alleys and Proposed Amendment ZA-13-04 – Garage Size and Orientation

Councilors Mason and Ayres made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

8. CONSENT AGENDA

Councilor Worden stated he will recuse himself regarding consent agenda items 8.02.through 8.05. since his firm is an engineering sub-consultant.

On a motion by Councilors Bushor and Decelles the consent agenda was unanimously adopted thus taking the following actions as indicated:

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

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

- 8.02. RESOLUTION: Authorization to Execute Memorandum of Agreement with Correction Re: Waterfront Access North Project – BED Easement (Councilor Shannon)

*waive the reading and adopt the resolution

- 8.03. COMMUNICATION: Resolution relating to Authorization to Execute Memorandum of Agreement Re: Waterfront Access North Project –BED Easement] (Councilors Shannon, Bushor, Paul: Board of Finance)

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

- 8.04. COMMUNICATION: Memorandum of Agreement Between the City of Burlington and the City Of Burlington Electric Department

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

- 8.05. COMMUNICATION: Diagram of Easement

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

- 8.06. RESOLUTION: Approval of and Authorization to Execute Agreements with the Chittenden County Regional Planning Commission (CCRPC) for Consultant Planning Services for the Railyard Enterprise Project and North Avenue Corridor Study Project (Councilors Shannon, Bushor, Knodell, Aubin: Board of Finance)

*waive the reading and adopt the resolution

- 8.07. COMMUNICATION: Agreement to Provide Local Match for Special Planning/Project Development Project Between the City of Burlington Public Works Dept. and Chittenden County Regional Planning Commission in Association with CCRPC's Agreement with Parsons Brinckerhoff (PL 2013-16)

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

8.08. COMMUNICATION: Agreement to Provide Local Match for Special Planning/Project Development Project Between the City of Burlington Public Works Dept. and Chittenden County Regional Planning Commission in Association with CCRPC's Agreement with Resources Systems Group, Inc. (PL 2013-18)

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

8.09. COMMUNICATION: Nicole Losch, Transportation Planner, Office of Planning, DPW, re: Authorization to Enter Agreements to Provide Local Match

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

8.10. RESOLUTION: Authorization to Enter into License Agreement to Maintain Tables and Chairs on a Portion of the City's Right-of-way with Junior's Downtown (Councilors Blais, Tracy, Ayres: License Committee)

*waive the reading and adopt the resolution

8.11. COMMUNICATION: License Agreement for Tables and Chairs Junior's Downtown 2013-2014 Season

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

8.12. RESOLUTION: Authorization to Enter into License Agreement to Maintain a Sign Extending Over a Portion of the City's Right-of-way with Livery Barn, LLC (Councilors Blais, Tracy, Ayres: License Committee)

*waive the reading and adopt the resolution

8.13. COMMUNICATION: License Agreement for Sign with Livery Barn 2013-2014 Season

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

8.14. RESOLUTION: Authorization to Enter into License Agreement to Maintain Tables and Chairs on a Portion of the City's Right-of-way with Nunyuns Bakery & Café (Councilors Blais, Tracy, Ayres: License Committee)

*waive the reading and adopt the resolution

8.15. COMMUNICATION: License Agreement for Tables & Chairs with Nunyuns Bakery & Café 2013-2014 Season

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

8.16. RESOLUTION: Authorization to Enter into License Agreement to Maintain Whiskey Barrels and Stools on a Portion of the City's Right-of-way with RiRa Irish Pub (Councilors Blais, Tracy, Ayres: License Committee)

*waive the reading and adopt the resolution

8.17. COMMUNICATION: License Agreement for Whiskey Barrels, Stools and Stanchions with Chains with RiRa Irish Pub 2013-2014 Season

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

8.18. COMMUNICATION: Paul Sisson, re: Budget Amendments Report – May 2013

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

8.19. COMMUNICATION: Budget Amendments Report From Date: 5/1/2013 – To Date: 5/31/2013

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

8.20. COMMUNICATION: Jeff Nick, Nick and Morrissey Development, re: Request for an additional four (4) weeks for meter bags at 29 Church Street (on the Cherry Street side)

*waive the reading, accept the communication, place it on file and approve the request for an additional 4 weeks for meter bags at 29 Church Street (on the Cherry Street side)

8.21. COMMUNICATION: Michael Schirling, Chief of Police, TJ Donovan, State's Attorney, William Sorrell, Attorney General and Tristram Coffin, United States Attorney, re: Community Impact Teams and other information

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

8.22. COMMUNICATION: Tony Redington, 20 North Winooski Avenue, Apt. 2, re: Comments Before The Burlington City Council, June 3, 2013 Regarding Burlington PlanBTV

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

8.23. COMMUNICATION: Jean Poulin, Customer Service Associate, Clerk/Treasurer's Office, re: Dogs Not Registered for 2013 6/3/2013

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

8.24. COMMUNICATION: Lori Olberg, Licensing, Voting and Record Coordinator, re: Schedule of Meetings of the City Council through August, 2014 A=Adjourned; R=Regular; S=Special; T=Tentative DRAFT

*waive the reading, accept the communication, place it on file, review and send any changes to Lori Olberg no later than Wednesday, June 19, 2013 with the plan being to adopt the final schedule at the June 24, 2013 City Council Meeting

8.25. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance, Monday, May 13, 2013 Minutes

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

8.26. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance, Thursday, May 23, 2013 Minutes

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

8.27. COMMUNICATION: Amy Bovee, Executive Secretary, re: Redistricting Committee, Monday, April 8, 2013 Minutes

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

8.28. COMMUNICATION: Amy Bovee, Executive Secretary, re: Redistricting Committee, Tuesday, April 16, 2013 Minutes

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

10. RESOLUTION: City Attorney Constitutional Analysis of No Trespass Ordinance for Church Street Marketplace June 12, 2012 (Councilors Siegel, Tracy, Brennan)

Councilors Siegel and Brennan made a motion to waive the reading and adopt the resolution.

Councilor Siegel stated after they passed the Church Street No-Trespass Ordinance, she heard repeatedly from people asking her to reconsider her decision. She sought more information, much of which is

summarized in Attorney Franco's memo. She believes they should not discuss the content of the memo until they can also discuss the City Attorney's Memo from last spring. If they wish to uphold the Administration's commitment to transparency, they must waive the attorney-client privilege and make the document public. People are asking to know what is in the memo, and it should not be discussed in a secret executive session. They can then discuss all of the information and decide if they stand by their previous decision.

Councilor Brennan stated he is in favor of everything that is presented tonight. They should be open and transparent in this process. He hopes the Council as a whole will see this as a process that they are open about. They are a body of the people and this is important. Some may want to frame this question as something other than what they are trying to do, but they cannot have a full discussion without this information.

Councilor Decelles stated he was unable to find that email communication. It is difficult for him to make a decision without having that communication in front of him. He wants to ensure that the entire City Council has the three documents in front of them.

Councilors Decelles and Knodell made a motion to postpone action on this agenda item until the next meeting.

Councilor Bushor stated she will support the motion to postpone. She feels this has been controversial ever since it was adopted. She supports facing this issue, but feels people need to be prepared for that discussion.

Councilor Blais requested a 2 minutes recess. The Council recessed.

Councilor Siegel inquired if it is possible to hold the ordinance so that the Police cannot use it until they can discuss it further. City Council President Shannon stated that they cannot.

The motion to postpone action failed by a vote of 5-8 with Councilors Knodell, Bushor, Decelles, Brennan and Siegel voting in favor.

Councilors Blais and Ayres made a motion to amend the resolution to send the ordinance back to the Ordinance Committee.

Councilor Blais stated that they would be ill advised to waive the attorney-client privilege as it relates to any activity they have already moved. It is not a question of transparency and there are very sound reasons for having privileged communications with their attorney. What is happening is that there is politician's remorse on behalf of some of the Councilors who voted for this ordinance. Political concern over policy matters should not cause them to waive that privilege. There is more behind this than just the disclosure of the past City Attorney's opinion. The current City Attorney has agreed to present a current opinion taking Attorney Franco's opinions into consideration and it would be disseminated publically. It would set forth her current understanding of the constitutionality of the ordinance. He understands that the makers of the resolution were not satisfied with that offer. If they wish to determine the present understanding of the issue, they will have that. If this were ever challenged in court, the City Attorney would have to defend them. The disclosure being sought would put them in a position of needing to decide whether their own attorney or Attorney Franco has a more sound opinion. He does not feel they should act in that capacity. The amendment would send the matter back to the Ordinance Committee so they could take all viewpoints into consideration and decide if there should be a revision.

Councilor Bushor stated as a member of the Ordinance Committee, she feels the issues pertain to the entire Council. The City Attorney is here to serve the Council and offer them advice. They are not

obligated to take that advice. She would prefer they had not brought the political commentary into this. There is a difference of opinion and a concern about the legality of something that they passed. She is conflicted about how to proceed. She would like another chance for the City Attorney to speak to them now that they have the opinion from John Franco. She met with the City Attorney to understand the attorney-client privilege and understand why it is so guarded. She does not support the amendment, but does not want the conversation or issue to die. The public has been consistently concerned about the implementation of this, infringement of people's rights, and whether or not the street belongs to the City. For the benefit of Burlingtonians they need to collectively address this issue. She does not want to send it to a Committee. She will not support the amendment.

Councilor Brennan stated he is taken back by some of Councilor Blais' comments that are political in nature. He was conflicted when they voted on this. He tried not to vote on it, but reluctantly voted for it. He values the intent, which is to try to address a problem, but he feels it is the wrong tool. He will not support the amendment.

Councilor Mason stated he will be supporting the amendment because he feels that relinquishing their attorney-client privilege is the wrong tool. He understands the desire to have a fuller discussion on the constitutionality on the ordinance. The sanctity of attorney-client privilege should not be waived. The amendment is a way to reconsider the ordinance. He is frustrated because they held a number of public hearings on this issue. These issues should have been vetted. He wished that they had conversations about constitutionality at the executive session at one of those meetings. He will support the amendment to allow the Ordinance Committee to determine if revision is necessary.

Councilor Tracy stated he is also displeased by Councilor Blais' comments about politician's remorse. He was asked earlier in the day for his opinion on the matter. None of his comments were at all related to politics, but were about constitutionality. He feels that amending the resolution casts a shadow of doubt over the City Attorney's Office and the Council, and feels like they are trying to hide something.

Councilor Ayres stated he is an ardent advocate for civil liberties across the political spectrum and shares the concerns that have been voiced by constituents. He did not serve on the Council when this first came forward. He has concerns about the constitutionality of the ordinance. He will support the amendment to refer this ordinance because concerns about constitutionality should not trump attorney-client privilege. They need to respect that tradition while still giving this issue a thorough re-airing.

Councilor Worden stated when they voted for the resolution, they were voting for the job that they were hoping to get done. Now that they have determined this might not be the right tool, he would like to expedite the process of revisiting this and revising it if necessary. He is not in favor of delaying the process or of the original resolution which called for more discussion. He will support Councilor Blais' amendment, as it is the quickest way to begin the process of review. Civil liberties are very important to him and he wants to make sure they have this right.

Councilor Knodell inquired if the City Attorney feels they should never waive attorney-client privilege no matter what. City Attorney Blackwood stated she does not. The City Council has the right to waive privilege when they deem that it is in the best interest of the City. There are times that they give the City Council advice, but they may choose to reveal that. Councilor Knodell stated she believes that it would be in their best interest to go back to the original resolution and waive attorney-client privilege. It shows that they have nothing to hide, and it will promote an open discussion of constitutionality issues. She would like to hear the City Attorney's interpretation of the Franco memo. It will be an educational opportunity for the community. She worries that if it is sent to the Ordinance Committee, it will not get the airing that it needs. She will not support the amendment.

Councilor Siegel stated she appreciates the comment that they do not always have to hold the privilege. Her understanding was that in the past, privileged items that were not personnel related were often made public. She does not have a strong opinion about whether this should take place at the Council level or Ordinance Committee level. She is more concerned about making the memo public, as it looks very suspicious if they do not. If the document is sound, there is nothing to hide. If there is something suspect, they need to get it out. There is no reason to keep it secret.

Councilor Bushor requested that if this is referred back to the Ordinance Committee, she would like to request that they televise that meeting.

Councilor Decelles inquired if the amendment fails and the resolution is passed, the Mayor would have fourteen days or two meetings to sign the resolution before they would be able to release the document. City Attorney Blackwood stated she does not know the answer to that. Councilor Decelles stated he was not at that meeting. They all recognized that something needed to be done downtown, and this was a way to rectify it. They are recognizing that people are not happy with this and the outcome it has produced. He would have voted for it. He does not have that document in front of him. He has to vote no on the resolution. He will support the amendment because he does not have the document.

The amendment passed by a vote of 8-5 with Councilors Bushor, Knodell, Tracy, Brennan and Siegel voting against.

The motion to adopt the resolution as amended passed unanimously.

10.01. COMMUNICATION: John L. Franco, Jr., Law Offices of John L. Franco, Jr., re:
Church Street Marketplace District Trespass Authority
Ordinance

Councilors Siegel and Brennan made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

11. COMMITTEE REPORTS (5 mins.)

Councilor Paul stated that the Parks Arts and Culture Committee will be meeting to discuss the Public Investment Action Plan which has now completed phase 1. The PIAP team had three meetings and advanced some projects to the next phase. They will also have the master planners for the Parks Master Plan attending the meeting.

Councilor Worden stated that the Community Development and Neighborhood Revitalization Committee will be meeting.

Councilor Mason stated that the Ordinance Committee will be meeting to discuss the livable wage. They will also address three of the Zoning Amendments in the RH District.

City Council President Shannon stated that she has shifted some of the Committee assignments based on the change of membership of the Board of Finance. Councilor Decelles will be serving on the North Avenue Project that Councilor Aubin previously served on. Councilor Worden will be the Chair of the CD Committee. There will be a work session on BT. There will also be an executive session on negotiations. They are planning a work session on redistricting. The Committee had its last meeting and voted to advance three plans to the City Council. She feels they would benefit from discussion before attempting to come to a consensus on a plan. The Council will be holding its retreat. The EIS for the F-35s is out and she has been working on a communication to the Council. She is cutting and pasting relevant pieces and is trying to determine the best way to create a more condensed document.

12. COMMUNICATION: City Councilors, re: General City Affairs (oral)(10 mins.)

Councilor Bushor stated that the Ward 1 NPA will be meeting. The Mayor will be highlighting the budget for them. She recently visited the Airport to see the first flight of Delta take off. This was a new flight so they had the plane fly under an arch of water. The highlight for her was the Mayor's daughter who watched this.

13. COMMUNICATION: Mayor Weinberger, re: General City Affairs (oral)(5 mins.)

This item was not addressed at this meeting.

14. ADJOURNMENT

Without objection, City Council President Shannon adjourned the Regular City Council Meeting at 10:31 p.m.

Attest:

Lori Olberg, Licensing, Voting & Records Coordinator & Amy Bovee, Executive Secretary