

---

---

DELIBERATIVE AGENDA  
LOCAL CONTROL COMMISSION  
CONTOIS AUDITORIUM, CITY HALL  
MONDAY, MAY 7, 2012  
7:00 P.M.

---

---

PRESENT: City Council President Shannon, Commissioners Adrian, Bushor, Kranichfeld, Tracy, Brennan, Siegel, Aubin, Hartnett, Mason, Blais, Paul, Decelles and Dober

CITY ATTORNEY'S OFFICE: Ken Schatz and Gene Bergman

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

CITY COUNCIL PRESIDENT SHANNON PRESIDING:

1. AGENDA

On a motion by Commissioners Dober and Blais the Local Control Commission Agenda was adopted as is.

2. NON-RENEWAL OF 2012-2013 FIRST CLASS RESTAURANT LIQUOR LICENSE:

Bove's Restaurant, 68 Pearl Street

Commissioners Dober and Blais made a motion to deny the non-renewal of the 2012-2013 First Class Restaurant Liquor License for Bove's Restaurant.

Commissioner Dober stated there was money owed to the City and the owners had been invited to attend License Committee meetings three times. They had not attended and the resulting decision was to reject their application.

Richard Bove, Jr., son of the owner of Bove's Restaurant, inquired if the liquor license could be held up because a call box fee associated with Victoria Place had been unpaid. His father owns Bove's Restaurant and not Victoria Place. He stated he spoke to the Fire Marshal and the call box fee was not part of property taxes paid on that property. He inquired how the two could be tied. Commissioner Dober stated that all fees owed to the City on the renewal of the license were due at that time. City Council President Shannon stated Mr. Bove had said that Victoria Place has a different owner than Bove's Restaurant. Commissioner Dober inquired if the land was owned by Mr. Bove's father; Mr. Bove stated it was. Commissioner Dober stated the restaurant sat on the property that the father owns, and therefore it was still the same property.

City Council President Shannon requested clarification from the City Attorney. Senior Assistant City Attorney Bergman stated liquor licenses were privileges under Vermont law. The owner of the land where the call box was located and bills were sent was Richard and Josephine Bove. He stated he researched the land records to find that agreement. The property that was being charged was owned by Mr. Bove and he had not paid those fees. He also owned the restaurant that was the subject of this license. Those were the two pieces of ownership that link the fees to the restaurant owner. Mr. Bove stated the ownership was correct. However, without a building, Victoria Place, the land would not have a call box.

Councilor Decelles inquired if a bar or restaurant was located on a leased piece of property, and the owner of the property was late on his taxes, would the establishment be penalized. Senior Assistant City Attorney Bergman stated that was not the question on the table. The Ordinance stated that the fee was the responsibility of the owner. In this case, the property owner was also the owner of Bove's Restaurant. He

stated he was not prepared to answer that hypothetical. In this case, it was clear the owner of the establishment that was seeking the license was the same person that owed money.

Commissioner Dober stated they have attempted to resolve this for a month. This could have been resolved in Committee but Bove's Restaurant decided not to do that.

Commissioner Mason inquired if the owner was the same legal entity or the owner individually. Senior Assistant City Attorney Bergman stated Richard Bove was the owner of the land upon which Victoria Place sits. He is the landlord of that property, along with his wife. He was sent the bill. Commissioner Mason inquired who applied for the liquor license. Senior Assistant City Attorney Bergman stated Bove's Restaurant, with Richard Bove, Sr. listed on the application. Establishments are linked to the individuals running it frequently. They are reviewed for criminal records. There is no corporate veil. Commissioner Mason stated the fact that Mr. Bove is a member of the LLC applying for a license ties him to the property.

Commissioner Blais stated he sits on the License Committee and they notified Bove's 3-4 times to share this information. They did not respond. This establishment was not being singled out. The Committee chair made it clear that any license holder that owed money to the City would be required to pay that money or engage in a payment plan. With the exception of this license holder, every other applicant complied.

Senior Assistant City Attorney Bergman stated the applicant was Richard Bove, Sr. not as a corporate entity. He is doing business as Bove's Restaurant. They are clearly linked.

Mr. Bove (Jr.) inquired if the ordinance refers to the property, or the property and the buildings that sit on it. Senior Assistant City Attorney Bergman stated it is the property owner who is responsible. The recorded lease states the landlord is responsible for the entire property. Who pays what is between the landlord and the tenant. Mr. Bove stated the Assistant Fire Marshal told him the fee for the box was not part of the property taxes. The confusion is that without the building, there would be no call box.

Commissioner Dober stated this happens a few times a year where a family owns or leases a property. Somebody owes these fees. They have been asking for them to be paid for several months and this could have been handled in committee.

Commissioner Decelles stated this seems like more of a clerical error. No one wants to see a business suffer in Burlington. He inquired what the next step is once fees are collected. Commissioner Dober stated he does not want a business to suffer. He would be willing to call a special meeting to address this. It will still require approval from the State. Mr. Bove will have to go through a new license application.

Commissioner Bushor inquired if the motion could be amended to say that the license would be renewed effective payment of the overdue fees. Senior Assistant City Attorney Bergman stated the problem will be with the administration of licensing with the State. They have an April 30 deadline and they are no longer willing to extend that. However, there is a desire for an expeditious process to allow a new permit to be issued soon. If this was paid tomorrow, that could be accomplished.

Commissioner Bushor offered an amendment with the motion to state that when payment is received, the new application process and license will be expedited and generated as soon as possible. Commissioners Dober and Blais accepted the amendment.

Commissioner Hartnett inquired if there was any way for them to renew at this time. Senior Assistant City Attorney Bergman stated if it were paid within 24 hours they could accept it and move on. The processing could then happen in the next day or so. This would not cause problems with the State. The contingencies should be limited. Commissioner Hartnett stated it was a misunderstanding and there had been clarification. He stated he hoped the City would do everything possible to make the process simple.

Commissioner Dober stated their license expired at midnight of April 30. There would be no extension. Senior Assistant City Attorney Bergman stated if there was a pending application to renew a license, that license remained in effect until the body acted on it. They do have a license right now and this body has not yet acted.

Commissioner Decelles inquired if no action was taken on this item and the bill was paid tomorrow, could the subcommittee then approve the renewal of the license. Once the Council took action on the item, the license was invalid and they would have to reapply. Senior Assistant City Attorney Bergman stated the Local Control Commission was acting as a State agency. The State's first principle was that this could not be extended. The second was that a decision needed to be made to satisfy the requirements of the State. He stated he would not advise delaying action. If that was the decision, the business would continue to operate under their current status. It would cause problems with the State and maintaining a good relationship with them was important.

Commissioner Mason inquired if it would be acceptable to grant the license subject to payment within 24 hours. Senior Assistant City Attorney Bergman stated that would provide sufficient clarity. Commissioner Mason inquired if Mr. Bove was willing to make the payment if that was the condition. Mr. Bove stated he was. Senior Assistant City Attorney Bergman stated it should be clear the license would be denied if that condition was not satisfied.

Commissioners Mason and Dober made a motion to amend the action to state that the renewal would be granted with the condition that the payment must be made by close of business on May 8. If that payment was not made, the license would be denied.

City Council President Shannon inquired if this was a legitimate motion. Senior Assistant City Attorney Bergman stated it was.

Commissioner Siegel inquired if there should be a provision that it must be paid by treasurer's check. Commissioners Mason and Dober accepted the amendment.

The motion passed by a vote of 13-1 with Commissioner Blais voting against.

### 3. ADJOURNMENT

Without objection, City Council President Shannon adjourned the Local Control Commission at 7:34 p.m.

Attest:

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

REGULAR MEETING, CITY COUNCIL  
MONDAY, MAY 7, 2012  
7:35 P.M.

PRESENT: see above

### 1. AGENDA

On a motion by Councilors Kranichfeld and Paul, the Regular City Council Agenda was amended as amended as follows: note written material for agenda item 3.02. RESOLUTION: Authorize a Concession and License Agreement with the Burlington Farmers' Market for the 2012 Outdoor Market Season; add to the agenda item 3.02.05. COMMUNICATION: Gregg Meyer, Esq., Assistant City Attorney, re:

Concession and License Agreement with the Farmers' Market with the consent action to "waive the reading, accept the communication and place it on file."

Councilors Decelles and Hartnett made a motion to add to the agenda item 6.02. RESOLUTION: Creation of Special Committee to Address Residential Occupancy Issues in the High Density Residential Zoning District (Councilor Decelles). Councilor Decelles stated the Council has a deadline for adding items to be taken up during the meeting. This resolution was introduced tonight and he apologized for submitting it at the last minute. He stated it is relevant to the discussion tonight and deferring it would not be appropriate. Councilor Mason noted he would recuse himself from any discussion of the amendment and the proposed ordinance change due to a conflict of interest with his employer. Councilor Siegel inquired if referring the resolution to the Ordinance Committee and addressing this resolution at the next meeting would be problematic. City Council President Shannon stated this was a request to form a task force that would report back in September. It could be done after referring to the Ordinance Committee. Councilor Decelles stated the intent of the resolution was to suggest an alternative format for discussion than the Ordinance Committee; it would include all parties. Sending it to the Ordinance Committee would take longer to get to the point. Councilor Tracy stated it is germane to discuss this, but he only received the resolution a few hours before the meeting. He stated he would be happy to discuss it at the next meeting but would not support it on this agenda.

City Council President Shannon stated amending the agenda required a 2/3 vote. It has been submitted on time to be discussed at the next meeting.

The motion to add item 6.02. failed by a vote of 8-4(Councilors Decelles, Bushor, Hartnett and Dober) - 1(Councilor Mason abstaining.)

The agenda was adopted as amended.

## 2. PUBLIC FORUM

City Council President Shannon noted that the Ordinance that was on the agenda tonight would be referred to the Ordinance Committee and Planning Commission before it would be enacted. She opened the public forum at 7:43 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Eric Winslow	Ward 2 Resident/Landlord	Against RH Zone Ordinance
Bill Church	Ward 2 Resident	In favor of RH Zone Ordinance
Anne Breña	Ward 2 Resident	In favor of RH Zone Ordinance
Neil Gardner	Burlington Landlord	Against RH Zone Ordinance
Linda Rizvi	Ward 2 Resident	In favor of RH Zone Ordinance
Tim Elliott	Ward 2 Resident/Business Owner	In favor of RH Zone Ordinance
Emily Lee	Ward 2 Resident	In favor of RH Zone Ordinance
Caryn Long	Ward 1 Resident	In favor of RH Zone Ordinance
Debra Roseman	Ward 2 Resident	In favor of RH Zone Ordinance

Richard Hillyard	Ward 1 Resident	In favor of RH Zone Ordinance
Robert Hemley	Attorney Representing Landlords	Against RH Zone Ordinance/ Deliberative Process Important
Sandy Wynne	Ward 1 Resident	In favor of RH Zone Ordinance
Jeff Schulman	Airport Commission Applicant	Asking for Support
Gene Richards	Burlington Landlord/Business Owner	Against RH Zone Ordinance
Bob Myers	Burlington Landlord/Ward 6 Resident	Against RH Zone Ordinance
Peg Boyle Single	Ward 1 Resident	In favor of RH Zone Ordinance

There being no one further coming forward and no objection from the remaining Council, City Council President Shannon closed the public forum at 8:25 p.m.

### 3. CONSENT AGENDA

On a motion by Councilors Adrian and Brennan, the consent agenda was unanimously adopted as amended thus taking the following actions as indicated:

- 3.01. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re:  
Accountability List  
\*waive the reading, accept the communication and place it on file
- 3.02. RESOLUTION: Concession and License Agreement Between the City of Burlington  
And the Burlington Farmers' Market for the 2012 Outdoor Market  
Season (Board of Finance)  
\*waive the reading and adopt the resolution
- 3.02.05. COMMUNICATION: Gregg Meyer, Esq., Assistant City Attorney, re: Concession and License  
Agreement with the Farmers' Market  
\*waive the reading, accept the communication and place it on file
- 3.03. RESOLUTION: Approval of Burlington Electric Department's Agreement for the  
Purchase and Sale of Renewable Energy Credits (Board of Finance)  
\*waive the reading and adopt the resolution
- 3.04. RESOLUTION: Second Amendment to Lease Agreement with Lake Champlain Basin  
Science Center (Board of Finance)  
\*waive the reading and adopt the resolution
- 3.05. RESOLUTION: Reclassification of the Burlington Electric Department Supervisor of  
Metering Services Position (Board of Finance)  
\*waive the reading and adopt the resolution
- 3.06. RESOLUTION: Authorization to Accept a Vermont Department of Public Safety Police  
Equipment Grant and Amending the FY 2012 Budget (Board of Finance)  
\*waive the reading and adopt the resolution

3.07. COMMUNICATION: Lise E. Veronneau, Business Administrator, Burlington Fire & Police Departments, re: Vermont Department of Public Safety Agreement # 02140-70252-025

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

3.08. RESOLUTION: Authorization to Execute Mutual Aid Agreement with Vermont Air National Guard (Board of Finance)

\*waive the reading and adopt the resolution

3.09. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (5/10-5/12):

A Single Pebble, Contois Auditorium, City Hall, Spielpalast Cabaret Theater Performance, May 10 - 12, 2012, 7 p.m. to 11 p.m.

\*waive the reading, accept the communication, place it on file and approve the Special Event Indoor Entertainment Permit Application for A Single Pebble

3.10. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (5/18-5/19):

A Single Pebble, Contois Auditorium, City Hall, Spielpalast Cabaret Theater Performance, May 18 -19, 2012, 7 p.m. to 11 p.m. (until 12 a.m. on the 19<sup>th</sup>)

\*waive the reading, accept the communication, place it on file and approve the Special Event Indoor Entertainment Permit Application for A Single Pebble

3.11. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (5/24-5/26):

A Single Pebble, Contois Auditorium, City Hall, Spielpalast Cabaret Theater Performance, May 24 – 26, 2012, 7 p.m. to 11 p.m.

\*waive the reading, accept the communication, place it on file and approve the Special Event Indoor Entertainment Permit Application for A Single Pebble

3.12. UMBRELLA ENTERTAINMENT PERMIT APPLICATION (June 1-10):

Burlington Discover Jazz Festival, June 1 – 10, 2012, Various Entities around the City

\*waive the reading, accept the communication, place it on file and approve the Umbrella Entertainment Permit Application (June 1 -10) for the Burlington Discover Jazz Festival

3.13. SPECIAL EVENT OUTDOOR ENTERTAINMENT PERMIT APPLICATION (June 1-10):

Leunig's Bistro, 115 Church Street, June 1 – 10, 2012, Live Jazz on Patio

\*waive the reading, accept the communication, place it on file and approve the Special Event Outdoor Entertainment Permit Application (June 1 – 10) for Leunig's Bistro

3.14. COMMUNICATION: Lori Cragin, MS, PhD, Acting State Epidemiologist – Environmental Health, Vermont Department of Health, State of Vermont, re: Town Health Officer Recommendation Form

\*waive the reading, accept the communication, place it on file and re-appoint Steve Goodkind as the Town Health Officer, term expiring 5/31/15

3.15. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Amy Bovee, Executive Secretary, Minutes, Regular, City Council, March 12, 2012 Draft

\*waive the reading, accept the communication, place it on file and adopt the minutes at the May 21, 2012 City Council Meeting

3.16. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary, re: Informational Meeting of the City Council, February 27, 2012, Draft Minutes

\*waive the reading, accept the communication, place it on file and adopt the minutes as received at the April 30, 2012 City Council Meeting

4. TOBACCO LICENSE APPLICATION (2012-2013): Good Stuff, 21 Church Street

Councilors Dober and Blais made a motion to approve the tobacco license application for Good Stuff. The motion passed unanimously. Councilor Paul was not at the table.

5. RESOLUTION: Authorization to Submit 2012 Burlington Consolidated Plan One-Year Action Plan (Councilors Adrian, Aubin, Siegel: Community Development & Neighborhood Revitalization Committee)

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

Larry Kupferman, CEDO, stated this was the second step in the consolidated action plan and the block grant allocation that the advisory committee recommended. With approval, this would be sent to the HUD manager for consideration. The public comment period for the plan was open until May 11. Comments would be integrated into the document, which was due May 15.

Councilor Dober inquired if this was for housing grants. Mr. Kupferman stated this was the follow up from the public hearing that the Council held pertaining to Community Development Block Grant. The City could receive this funding for projects as outlined by HUD; it was not housing, per se. Councilor Dober inquired if any of this allocation affected the grand list. Mr. Kupferman stated it did not directly impact it. It did support the economic development office. 15% of the allocation was for non-profit organizations in the social service field. The remainder was allocated to the programs that CEDO operated. Economic Development was comprised of 3 employees to help businesses in Burlington. There was an indirect impact on the grand list because of that work. Councilor Dober stated one of the organizations was Champlain Housing Trust, who purchases real estate for the City. He inquired if the \$85,000 allocated to them would be for a purchase. Mr. Kupferman stated that was to support their staff who then develop the property. The money was not invested in property, but in operating expenses that lead to the development of property. Again, it was indirect. Councilor Dober inquired if all of these organizations had indirect effects on the grand list. He stated he was concerned that there were more and more houses being purchased by non-profits, who do not pay taxes. Homeowners then need to cover these costs, and it was concerning. Mr. Kupferman stated they were decreasing the allocation by about 30%. He could not comment on all non-profits that have developed in Burlington, but Champlain Housing Trust's homeowner and apartment models to result in property taxes being paid. There were some issues with tax appeals, though he was unfamiliar with them. In general, their homeownership and apartment programs do pay taxes to the City.

Councilor Bushor inquired if CEDO has received additional communications regarding this proposal since the last meeting. Mr. Kupferman stated they have not.

Councilor Siegel stated she was a Champlain Housing Trust homeowner and she paid taxes on the house and CHT paid the tax on the land. The board that determined these numbers was very fair and inclusive and did a very thorough job. The CEDO Office was not required to have an advisory panel, but doing so allowed more inclusion. She hopes it continues to happen in this way.

Councilor Brennan thanked CEDO and the Advisory Board for their work. He inquired what can the Community and the Council do to help fulfill the needs of Community Organizations as HUD dollars shrink. Mr. Kupferman stated a key activity would be to renew and review the five year consolidated plan that is required to describe and outline the future five years. That needed to be examined in the context of shrinking federal funds. Non-profits and CEDO would need to plan how to move forward. This year's advisory board did a great job with 30% less funds to work with than in the previous year. Certain conditions in the federal budget might require a further reduction in the next year.

Councilor Dober inquired which of these applicants affected the grand list and to what extent. Mr. Kupferman stated he could develop those numbers, but probably not before the report was due. He would need to do research with the Assessor's Office to determine which entities own property and what their tax status was; It would take some research. City Council President Shannon stated that would be considered an informal request and suggested Councilor Dober follow up with Mr. Kupferman. Councilor Dober offered an amendment to the motion to authorize the plan and requested an update at the second meeting in June. City Council President Shannon inquired if that was appropriate. City Attorney Schatz stated the report needed to be submitted prior to the due date of the report. The request from Councilor Dober would require research and the action did not need to be amended. Councilor Dober stated that was agreeable.

The motion passed unanimously.

Mr. Kupferman stated he would add that comment in the action plan and there would be future reporting to the Council.

- 5.01. COMMUNICATION: Larry Kupferman, Director, CEDO, re: 2012 Community Development Block Grant Proposed Allocations and Action Requested on the Proposed 2012 Action Plan for Housing & Community Development

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

6. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE Amendments related to Residential Occupancy Limits in the RH District ZA #\_\_\_\_(Councilors Shannon, Tracy)(1<sup>st</sup> reading) **Proposed action: refer to the Ordinance Committee**

Councilors Tracy and Kranichfeld made a motion to waive the 1<sup>st</sup> reading and refer to the Ordinance Committee.

Councilor Tracy thanked the residents of Buell Street, Bradley Street, and Hungerford Terrace for coming to speak. He stated these people were very passionate about their neighborhood and were fighting for something they believe in. Many people spoke on this issue and with many perspectives. One missing perspective was that of students living in these large homes. He stated he used to live in a home that would have been affected by this. It was an interesting experience and he would not soon revisit it. There was an idea that the appearance of broken windows contributed to further breakdowns in the community. When he moved in, he asked the landlord to make the building appear better and be more livable, but it did not happen. There were token improvements to building, but it gave the impression that it was a temporary home. The more people living in these places, the more problems it created. This ordinance would help deal with that type of behavior and create more tenable situations for students and landlords. This shift was required to get a hold on this ordinance. The organization of space had an important role in shaping the ways people interact. This ordinance was a great way to rectify the harms that happen on a daily basis. Going through the Ordinance Committee, the Planning Commission, and holding public hearings would

allow this to be fully vetted and come forth in a way that worked for all. It would not solve all problems, but would take a necessary step towards improving neighborhoods. Residents deserved this.

City Council President Shannon stated that Councilor Mason had recused himself from this item.

Councilor Adrian stated several landlords have stated that the tools were already in place to regulate this behavior. They were correct and there should be more enforcement. However, enforcement was just a bandaid on a more chronic issue. This was a step in the right direction. Medium and Low Density areas of Ward 1 have seen dramatic changes in their neighborhoods. He stated his street was not silent, but there was a balance. This would help restore that balance.

Councilor Kranichfeld stated that there were problems in the high density residential areas with bad behavior, parking shortages, and low quality, crowded housing stock. The City had failed to put restrictions on this zone and by doing so set a policy that drove single families out of this neighborhood. This has sold out many residents for the benefit of the few landlords. It was time for the City to change this attitude. He stated those opposing the change do not live in this neighborhood. It was not about a small, vocal minority, but what was best for the City in the long run and improving the quality of life for residents. The current zoning would be grandfathered in. If the Council adopted this, there would be no immediate change. This was just the beginning of the conversation and it would be sent to the Ordinance Committee and other boards for further discussion. There would be time to talk about this issue and make compromises. Opposing this at the beginning of the process was extreme. He encouraged Councilors to support sending this to the Ordinance Committee.

Councilor Decelles stated that since Councilor Mason that recused himself was chair of the Ordinance Committee and inquired if he would have to recuse himself from all future discussions on this issue. City Attorney Schatz stated he would. City Council President Shannon stated she was aware of this when making committee assignments. She stated she was willing to step into any sub-committee on which a Councilor had to recuse him or herself. Councilor Decelles inquired what the current vacancy rate was in Burlington. Councilor Tracy stated it was somewhere between 2-3%. Councilor Decelles inquired if that was hard data. Councilor Tracy stated it was somewhere in that range. Councilor Decelles inquired how many apartments or individuals could be displaced if this were to go into effect tomorrow. City Council President Shannon stated that information regarding the number of houses this would apply to was provided during the first discussion, but she did not have it tonight. Councilor Decelles inquired how many properties would be affected by this. City Council President Shannon stated that information could be provided, but she did not have it. Councilor Decelles stated he did not remember seeing those numbers. He inquired if this change were adopted, what the quickest scenario for this becoming the new Ordinance would be. City Attorney Schatz stated he could not provide a time frame, however, the Ordinance Committee would deliberate and determine if they would like to amend it, recommend it be passed, or reject it. That decision would come back to the Council. Senior Assistant City Attorney Bergman provided a memo that stated the Planning Commission would need to review it and provide comments before the Council made a final determination. Councilor Decelles he inquired what would be a realistic expectation for change to begin. City Attorney Schatz stated that was a different issue and there would be some type of grandfathering for tenants living in this situation. It would vary depending on the term of the lease. The implementation of the Ordinance could not require someone to leave in the middle of their lease term. Councilor Decelles stated those in the New North End and South End were fortunate that they did not have to deal with these issues. There were issues in this district, but there were issues in other parts of downtown where this Ordinance already applied. No one was saying they were pro-landlord or pro-homeowner. This was not the solution to the problem. It was a great first step that homeowners and landlords have met to discuss the issue. However, they would not improve the living situation.

Councilors Decelles and Dober proposed an amendment to strike all of the ordinance and replace it with the resolution that was on the table but not added to the agenda.

Councilor Adrian raised a point of information that Councilor Decelles stated no one was pro-landlord or pro-homeowner. He stated he would like to go on record that he was pro-homeowner.

City Council President Shannon inquired if that was allowable, as it was already voted down from being added to the agenda. City Attorney Schatz stated it was allowable if it was determined the amendment was germane to the issue at hand. City Council President Shannon stated she believed it was germane.

Councilor Decelles read the resolution aloud.

Councilor Bushor stated she would have supported the resolution Councilor Decelles put forth, but she would not support the strike-all. The resolution solidified the activity that others have been going through since February. The group had a good mix and explored issues that were raised regarding the make-up of neighborhoods. There needed to be more owner occupied properties. This could be done in a number of ways and the CEDO Office had discussed that. The resolution just links this process more closely to the Council. That process offers additional help, but it was not the "be all end all." She would not support this.

Councilor Hartnett stated he was hoping the resolution would be added to the agenda tonight. This was the first step, and he wanted to ensure that everyone was included. All parties have not yet been brought together. Tonight, some landlords and neighbors who really care spoke up. There have been many problems on Brookes Avenue, where his mother lives, and this rule is already in effect. This is not the whole answer. All parties need to come together and unsure if that will happen with the current proposal. Everyone needs to learn more about the process and what is really going on. He hopes Councilors will consider this amendment, as it gets to the crux of the matter.

Councilor Dober stated he supports the resolution because he would like the City Council President to form this body. The Ordinance Committee will now have to organize it. There are good landlords out there. Landlords say the issues arise because the rules are not enforced. The best solution is for the City Council President to form this group and start the discussion. This will include all necessary parties.

Councilor Paul stated she trusts that the Ordinance Committee will form a side committee if it is necessary. There was a similar situation with the Downtown Smoking Ordinance and a subcommittee of stakeholders was included.

The amendment failed by a vote of 3-10-1 with Councilors Hartnett, Decelles, and Dober voting in favor and Councilor Mason recusing himself.

Councilor Bushor stated she supported referring this to Ordinance Committee. She requested the Committee be sent the meeting minutes so they would have all comments on record. She stated this has come up in the past, and she would like the minutes from previous discussions to enrich the whole process. It was important that the Ordinance Committee look at a number of issues that could be related to changing the density. For example, structures could just be divided into two apartments with the same total number of people. Everything must be vetted very carefully to ensure that when a referral happens, there would not be an impasse, as has happened in the past. She stated she looked forward to including the people mentioned in the resolution for a full discussion. There was no problem with both groups meeting to address this issue. She stated she would ensure each voice in each constituency was heard.

Councilor Dober stated he would support this. It was important that all involved organizations were included. He stated he would try to have all of his questions answered. He stated he wanted this to be heard and solved, but wanted to understand all consequences of the action.

Councilor Paul thanked those who have spoken on this subject. This was an opportunity to learn from each other. It was important that there be identifiable problems so they can determine what solution they are

looking for. Opposing something like this from the start is extreme. There should be an opportunity for the discussion to be had. It is an important issue and the debate should occur with all voices present. She stated she does not live in this area, but did grow up in the heart of UVM Campus and it can be loud. She hopes discussion will focus on the displacement that will take place, how many beds will no longer be available and how that will affect affordability of housing. When she lived in Boston, there were 7 people living in a 4 bedroom, but she could not have afforded to live there otherwise. She hopes everyone understands this is a step forward, but not the only solution to the problem. Residents of that neighborhood deserve to discuss and debate the issue. Landlords who attended the meeting are the good landlords. She hopes that problem is addressed as well. She hopes all voices will be heard.

Councilor Hartnett stated he is in favor of this and there is a critical need. Tonight there was a chance to ensure all parties were brought to the table, but now it is just a hope. He stated in the future he hopes that the proper steps are taken. That opportunity was missed tonight.

City Council President Shannon stated there were helpful comments and many questions were raised need to be answered. She asked the Ordinance Committee to address what is expected in terms of enforcement, what the larger impact will be on housing, and what the vision for converting these buildings is. There is no harm in parallel efforts. The resolution requested this and requested a task force. She stated she supports that initiative. There are still issues outside of this ordinance that need to be addressed. She stated she hopes the resolution be put forward at the next meeting, however the process can happen regardless. With the increase in enrollment at UVM, these problems are beginning to arise in areas of the City where they did not exist before.

Councilor Decelles stated this discussion occurred in February and those in opposition were concerned about the lack of information. He stated he did not have more information tonight. He stated his proposal was a better option to bring everyone to the table. He would not support this. It will probably come back exactly as it was written.

Councilor Siegel stated she will vote in favor of this, however, she is not sold on the Ordinance itself. Senior Assistant City Attorney Bergman's memo outlined the process very effectively. It would allow public input and allow it to be fully vetted before it becomes law. Her two concerns were that the overall rate of rentals will increase and adversely affect low income residents, and that non-transient low income residents will be negatively affected.

Councilor Dober stated he hopes Councilor Decelles continues to promote the resolution after this is passed because it is important to have an executive order to the departments that are being charged a service. This will fully involve them in that way.

City Council President Shannon stated she had requested Senior Assistant City Attorney Bergman include language in his memo about action of the Council being the best way to move forward. The memo reads that it was the Chair of the Planning Commission who made that request, but it was actually her.

Mayor Weinberger stated he is sympathetic and appreciative of the residents of the RH neighborhood. He stated this item needs to be addressed very carefully. Shortage of and the high cost of housing is one of the most acute problems that Burlington faces. Other initiatives that will impact the cost of housing are happening through Plan BTV and he is glad the debate is moving forward.

The motion passed by a vote of 12-1-1 with Councilor Decelles opposed and Councilor Mason abstaining.

- 6.01. COMMUNICATION: Senior Assistant City Attorney Bergman, re: Adoption process for zoning ordinances related to the residential occupancy limits in the residential high density district

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

6.02. RESOLUTION: Creation of Special Committee to Address Residential Occupancy Issues in the High Density Residential Zoning District (Councilor Decelles)

The motion passed by a vote of 12-1-1 with Councilor Decelles opposed and Councilor Mason abstaining.

7. RESOLUTION: Authorization for Public Improvement Bonds or Notes for Fiscal Year 2012 and Pledging of the Credit of the City in Increased Amounts (Board of Finance)

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

Councilor Paul stated this was discussed at the Board of Finance and related to the increase in the borrowing limit of the City from \$1 million to \$2 million and Burlington Electric from \$1 million to \$3 million. This was on the ballot and approved by voters. ACAO Goodwin had indicated that bonding would occur in August.

Councilor Dober inquired if this was what voters approved in March. City Attorney Schatz stated it was. Because it was a Charter Change, it needed to be approved by the State Legislature and signed by the Governor. This had happened and the City now had the authority to utilize the increased borrowing limit.

The motion passed unanimously.

8. RESOLUTION: Authorize Implementation of Market Adjustments for Manager of Operations and Distribution Superintendent at the Burlington Electric Department (Councilors Shannon, Bushor, Paul: Board of Finance)

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

Interim CAO Sisson stated this has been a long-standing situation at Burlington Electric. They have been trying to fill the Manager of Operations position for 18 months but have been unable to because the salary was inadequate. The recommendation was to adopt the Sadowski report recommendations for these two positions to move forward with filling them.

Councilor Decelles stated he was the dissenting vote at the Board of Finance. The Sadowski report showed many salaries needed to be adjusted extensively. Though the findings are correct, he cannot support these increases in this economy.

Councilor Dober stated this is one of the increases that came in front of the HR Committee that he did not support. Burlington Electric was already on a modified Winters Scale, but now they want to use Sadowski because it was higher. This was the only department that was on their own pay scale and raise schedule. City Council needs to reel this in because millions of dollars were being spent on executive salaries.

Councilor Bushor stated that the Distribution Superintendent position was vacant and because of the low salary range, they used the Sadowski range. That created a compression problem with the Manager of Operations position, which necessitated the adjustment of that range. She stated if there were other ways to address this, she would not support this. The salary ranges have been adjusted from the original Sadowski amounts to include cost of living adjustments. The manager of BED was now being paid less than the people below her. The two adjustments that were not supported for department heads were the manager of Burlington Electric and the Director of City Arts because there were not enough comparatives. A lot of thought was put into decisions to make sure people were fairly compensated.

Councilor Paul stated she was in favor of the resolution and three out of four Board of Finance members supported it. While people may not like the salaries paid at Burlington Electric, it was an enterprise fund in a highly competitive business. It did not have a territory that it competed with, but it was competitive for jobs. This was part of the reason that one of these positions had been vacant for 18 months. Compression was an issue at BED, but that was not the main discussion tonight.

The motion passed by a vote of 12-2 with Councilors Decelles and Dober voting against.

9. COMMITTEE REPORTS (5 mins.)

City Council President Shannon stated she would participate in Ordinance Committee to discuss RH Occupancy limits. She requested Councilor Bushor chair the committee for that discussion.

Councilor Paul stated the Parks Arts and Culture Committee was working to arrange meeting.

Councilor Hartnett stated the Transportation Committee planned to meet in the coming weeks.

Councilor Mason stated there would be an Ordinance Committee Meeting next week; 6 minor amendments would be on the agenda.

Councilor Dober stated there was a Taxi License meeting last week and former City Council President Keogh was now involved in that process.

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

Councilor Hartnett stated the Old North End lost a member of their community. Jeff Rockwood, who was 38, lost his battle with cancer. He did a lot for his community and coached basketball and softball. He was named coach of the year by Parks and Recreation and there would be an award given in his honor each year. Opening day of Little League passed and the Mayor participated. Burlington has a couple thousand kids who participate in this program. He attended a seminar that talked about inner-City baseball and how it is decreasing around the country. It is an important program. Burlington has made great strides in this area in the Old North End.

Councilor Decelles stated opening day reminded everyone of the passing of Bruce Seifer's son. The South End had a special ceremony for the passing of the 12 year old. He gave back to his community and they named the park after him. His family and community will never forget him and how many lives he touched by the age of 12.

Councilor Brennan stated that Councilors received a communication from Stephanie Seguino. He encouraged them to review it and attend the School Board meeting. It was a vital conversation to the whole community. The School District needed to get this right and it would impact the City Council. The community needed to be open to all members. Having good schools was the place that this conversation was starting. The Mayor attended several Little League opening days and he appreciated him visiting all areas of the City. It was welcomed by all the kids.

Councilor Bushor stated the Ward 1 NPA would be discussing a housing proposal by Frank Von Turkovich that will be close to Fletcher Place. The proposed development will be examined to make sure it is compatible with existing neighborhoods. This is part of a process that the Council supported which requires developers proposing significant projects to go before the NPAs before entering the formal process. This is the first step. She stated the warm weather and end of classes has increased the levels of drinking and noise in neighborhoods. There have been lots of complaints and attempts to deal with issues of noise, litter, banners across houses, and inappropriate behavior.

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

Mayor Weinberger stated he was happy that they were able to avoid raising property taxes for FY13. He thanked them for appointing Interim CAO Sisson on Organization night, as it would have been difficult to make this decision without him. The Assistant CAOs were also vital to the process. The budget work continues and the Board of Finance had a discussion about the Fire and Police Department budgets. It is clear that they will need to work through the transition to a new administration and financial software. There will be full City Council Work-sessions earlier than usual because of complications with the new software.

He stated the experience of appointing the City Attorney will result in a better working relationship between the Mayor's Office and the City Council in the future.

He stated he is continuing to have weekly breakfasts to allow people to engage with him. Councilor Hartnett attended one of these and raised the issue of opt-out fees for smart metering. There was action in the State Legislature that will make it so those who choose to opt out will not be charged these fees. 1-2% of people have been opting out.

He stated he sat in on a conference call regarding the proposed doubling of student loan rates that will take place July 1. The President and Vice President of the UVM Student Government Association also sat in. It was an interesting discussion and touched on how social media is affecting public policy.

This past weekend was a great Burlington weekend. He spent Saturday morning at Callahan Park where there was a moving ceremony for Bentley Seifer. He stated he witnessed his daughter playing her first soccer game with other young girls. He then went to Center City where there was a moving ceremony involving Stu McGowan as an umpire. That league, which was in trouble years ago, is now successful. He stated he would like to see all the leagues at some point during the season. He stated the baseball high school championships will return to Centennial Field this June.

The crabapple blossoms were beautiful this year and are some of the finest trees in the world. Their passage should not go unnoticed.

12. ADJOURNMENT

Without objection, City Council President Shannon adjourned the Regular City Council Meeting at 10:01 p.m.

Attest:

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

CITY COUNCIL WITH MAYOR PRESIDING  
MONDAY, MAY 7, 2012  
10:01 P.M.

PRESENT: see above

MAYOR WEINBERGER PRESIDING:

1. AGENDA

Councilors Bushor and Shannon made a motion to note the untimely application for agenda item 4.  
APPOINTMENT: Board for Registration of Voters (Term expires 6/30/14) for Helen Rock.

The agenda was adopted unanimously as amended.

2. CONSENT AGENDA

On a motion by Board of Civil Authority Members Shannon and Decelles, the Board of Civil Authority unanimously adopted the consent agenda thus taking the following actions as indicated:

2.01. COMMUNICATION: Clerk/Treasurer's Office, re: Openings Burlington City Commissions/Boards

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

3. APPOINTMENT: Airport Commission (Term expires 6/30/12)

Councilor Mason nominated Jeff Schulman.

Councilor Hartnett nominated Pat Kearney.

Councilor Hartnett stated this was an important position and Pat Kearny was retired and would have time to commit to this position. He was very committed.

City Council President Shannon thanked all applicants. There was an exceptional pool and it was a difficult decision.

Jeff Schulman was appointed to the Airport Commission by a vote of 11-4 with Councilors Hartnett, Dober, Aubin and Siegel voting against.

4. APPOINTMENT: Board for Registration of Voters (Term expires 6/30/14)

Councilor Decelles nominated Lenore Broughton.

Councilor Brennan nominated Helen Rock.

Councilor Bushor stated that two members of the Board for Registration of Voters are from Ward 1 and it would not be appropriate to appoint Lenore, who would be the third. Even though she likes her constituent, she stated she will not support her.

City Council President Shannon stated she appreciates what Councilor Bushor has said, but the other applicant did not have a timely application. She stated she had planned to support Lenore Broughton because her application was on time and she was qualified.

City Council President Shannon and Councilor Paul made a motion to postpone the appointment and re-advertise the position.

Councilor Hartnett stated there was an applicant who followed the rules and was qualified. Although Councilor Bushor made a good point, it would be difficult not to vote for Lenore tonight. She followed the rules and failing to appoint her was the wrong thing to do. It sends the wrong message.

Councilor Decelles stated there are a number of criteria, such as political balance. The Council has never failed to make an appointment because of political affiliation. Having 3 people from the same ward should not prevent this appointment either.

Councilor Siegel stated she received an email from Helen Rock 7-10 days ago saying she had put in an application. It came as a late entry, but according to her it had already been submitted. Lori Olberg, Clerk/Treasurer's Office, stated she was told the deadline date.

The motion to postpone and re-advertise failed by a vote of 12-2 with City Council President Shannon and Councilors Bushor and Paul voting in favor.

Councilor Siegel stated when looking for balance on the commissions, Helen Rock would provide geographic diversity and political affiliation. There were already 2 people who were Republicans on the Board and Lenore would make three.

Councilor Brennan stated that he put forth Helen for this position because he knows her personally and there was no better person to sit on this Board. She was fair minded and she brought a balance. It was important that elections have credibility and she was a person who has credibility and dignity.

City Council President Shannon stated she agreed with Councilors Siegel and Brennan's comments about balance for political party and geographic diversity. The public has stated in the past that it is unfair for the Council to have a deadline and not honor it. Re-advertising would have been unfair to people. For that reason, she stated she will support Lenore Broughton who filled out her application on time. It may not create the best board, but it will be a better process.

Lenore Broughton was appointed to the Board for Registration of Voters by a vote of 9-6.

5. ADJOURNMENT

Without objection, Mayor Weinberger adjourned the City Council Meeting with Mayor Presiding at 10:14 p.m.

Attest:

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