

****OPEN HOUSE FOR PROSPECTIVE COMMISSION/BOARD MEMBERS****
MONDAY, MAY 21, 2012
CITY HALL LOBBY/CONTOIS AUDITORIUM, CITY HALL
6:30 P.M. TO 7:15 P.M.

DELIBERATIVE AGENDA

LOCAL CONTROL COMMISSION
MONDAY, MAY 21, 2012
CONTOIS AUDITORIUM, CITY HALL
7:30 P.M.

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

CITY ATTORNEY'S OFFICE: Attorney Schatz

CLERK/TREASURER'S OFFICE: Interim CAO Sisson, ACAO Schrader

1. AGENDA

On a motion by Councilors Dober and Blais, the agenda was adopted as presented.

2. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2012-2013):

Bluebird Barbecue (formerly Bluebird Tavern), 317 Riverside Avenue

2.01. OUTSIDE CONSUMPTION PERMIT APPLICATION (2012-2013):

Bluebird Barbecue (formerly Bluebird Tavern), 317 Riverside Avenue

Commissioners Dober and Blais made a motion to approve the applications. The motion passed unanimously.

3. ADJOURNMENT

City Council President Shannon adjourned the Local Control Commission meeting at 7:30pm.

ADJOURNED MEETING, CITY COUNCIL
MONDAY, MAY 21, 2012

PRESENT: See Above

1. AGENDA

On a motion by Councilors Adrian and Kranichfeld the agenda was unanimously adopted as amended as follows: add to the consent agenda item 4.29. COMMUNICATION: Clerk/Treasurer's Office, Openings Burlington City Commissions/Boards with the consent action to "waive the reading, accept the communication and place it on file;" note proposed amendment for agenda item 6. RESOLUTION: Improving Parking Management in Neighborhoods (Councilors Shannon, Tracy); remove agenda item 7. RESOLUTION: Strengthening Noise Ordinance Enforcement (Councilor Paul); remove agenda item 7.01. ORDINANCE: OFFENSES AND MISCELLANEOUS PROVISIONS – Noise Control Ordinance (1st reading)(Proposed action: consider this 1st reading and refer to the Ordinance Committee); add

Councilors Adrian and Brennan as co-sponsors for agenda item 8. ORDINANCE: OFFENSES AND MISCELLANEOUS PROVISIONS—Health Access Buffer Zone (Councilors Shannon, **Adrian**, Siegel, Paul, Hartnett, Kranichfeld, Aubin, Mason, Tracy, Blais, **Brennan**; note that the sponsor for agenda item 9. RESOLUTION: Authorization to Execute Amendment #3 to Cooperative Agreement with the State of Vermont for the Champlain Parkway Project is the Board of Finance; add to the agenda item 4.30 re-advertise all board and commission seats that have not been filled with a deadline of June 1.

Councilor Bushor requested that item 4.30 be amended to have a deadline of Wednesday, May 28. Councilor Adrian accepted the amendment as friendly. Councilor Siegel stated that vacant seats must be advertised in *Seven Days* and the deadline for the next issue is passed. She also noted that May 28 is Memorial Day. Councilor Bushor changed her amendment to May 30. If the deadline were June 1, the Council would not have time to review the applications. She would like a deadline that would allow the process to work. City Council President Shannon suggested adding this to the deliberative agenda to be discussed at the end of the meeting. Councilor Adrian stated this will be item 11.5.

The agenda was adopted unanimously as amended.

2. RESOLUTION: Honoring Claude Mumbere for Excellence in the National Poetry Out Loud Competition (Full City Council)

City Council President Shannon invited Claude Mumbere to come forward.

Councilors Adrian and Hartnett made a motion to adopt the resolution.

Councilor Adrian stated this is a fortuitous occasion for everyone. He read the resolution aloud.

City Council President Shannon stated they are proud to have Claude as a member of the community and are proud of his accomplishments. She requested that he present his poem.

Mr. Mumbere recited *Chicago* by Carl Sandburg for the audience.

3. PUBLIC FORUM

City Council President Shannon opened the public forum at 7:45 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Linda Rizvi	Ward 2 Resident	Parking in Neighborhoods
Kevin Ryan		35' Buffer Zone
Cecile Rouge	VT Worker's Center	In Favor of 35' Buffer Zone
Rabbi Joshua Chasan	Ward 1 Resident	Racism in Burlington
Sharon Winzler	40 Days for Life	Against 35' Buffer Zone
Hayley Archer	FedUp VT/Ward 3 Resident	In Favor of 35' Buffer Zone
Claudine Safar, Esq.	Planned Parenthood	In Favor of 35' Buffer Zone
Robert Cavooris	Ward 3 Resident	In Favor of 35' Buffer Zone

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Agnes Clift	40 Days for Life	Against 35' Buffer Zone
Jill Krowinski	PPNNE	In Favor of 35' Buffer Zone
Marni Faye Salerno	Fed Up Vermont	In Favor of 35' Buffer Zone
Michele Morin	Ward 5 Resident	Against 35' Buffer Zone
Rev. Charles Danielson	St. Thomas Catholic Church/ St. Mary's Catholic Church	Against 35' Buffer Zone
Tonia Barbin	Vermont Right to Life	Against 35' Buffer Zone
Emily Eck	FedUp/ Ward 2 Resident	In Favor of 35' Buffer Zone
Sandy Wynne	Ward 1 Resident	In Favor of 35' Buffer Zone
Bill Oetjin	Ward 7 Resident	In Favor of 35' Buffer Zone
Bridget Mount	VT Right to Life	Against 35' Buffer Zone
Diana Charbonneau	VT Right to Life	Against 35' Buffer Zone
Raymonde Perron	VT Right to Life	Against 35' Buffer Zone
Julielyn Gibbons	Ward 3 Resident	In Favor of 35' Buffer Zone
Peggy Luhrs	Ward 3 Resident/ Fedup VT	In Favor of 35' Buffer Zone
Emily Lee	Ward 2 Resident	Parking in Neighborhoods
Maddy Posig	Ward 2 Resident	Parking in Neighborhoods
Jared Wood	Ward 1 Resident	State Law Regarding Bike Enforcement
Emma Mulvaney-Stanak	Ward 3 Resident	In Favor of 35' Buffer Zone
Drusilla Roessle	Ward 3 Resident	In Favor of 35' Buffer Zone
Rebecca Golvin	Ward 5 Resident	In Favor of 35' Buffer Zone
Gretchen Kruesi	Ward 5 Resident	In Favor of 35' Buffer Zone
Annika Ljung-Baruth	Ward 4 Resident	In Favor of 35' Buffer Zone
Paul Dame	Ward 3 Resident	35' Buffer Zone
Catarina Campbell	Ward 5 Resident	35' Buffer Zone

There being no one further coming forward and no objection from the remaining Council, City Council President Shannon closed the public forum at 8:50 p.m.

4. CONSENT AGENDA

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

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

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

4.02. RESOLUTION: Authorization to Accept Grant (AIP-92) and to Contract for Services For AIP Land Purchases at Burlington International Airport (Board of Finance) (pending 5/17 BOF approval)

*waive the reading and adopt the resolution

4.03. RESOLUTION: Authorization to Accept Grant (AIP-91) and to Contract for Update of Noise Exposure Maps at Burlington International Airport (Board of Finance)(pending 5/17 BOF approval)

*waive the reading and adopt the resolution

4.04. RESOLUTION: Authorization to Accept Grant for Costs Associated with Start Up and Operation of Porter Air at Burlington International Airport (Board of Finance)(pending 5/17 BOF approval)

*waive the reading and adopt the resolution

4.05. RESOLUTION: Authorization to Enter into License Agreement to Erect and Maintain A Sign Extending Over a Portion of the City's Right-of-way with Penny Cluse (Councilors Dober, Tracy, Blais: License Committee)

*waive the reading and adopt the resolution

4.06. RESOLUTION: Church Street Marketplace District Commission—Authorization to Enter Into License Agreement with Information Gallery, Inc. (Board of Finance)

*waive the reading and adopt the resolution

4.07. RESOLUTION: Authorization to Execute Contract for 2012 Street Reconstruction Program (Board of Finance)

*waive the reading and adopt the resolution

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

*waive the reading and adopt the resolution

4.09. RESOLUTION: Authorization for Execution of Contract for Feasibility Study Related to Refinancing of Debt for the Burlington International Airport (Board of Finance)(pending 5/17 BOF approval)

*waive the reading and adopt the resolution

4.10. RESOLUTION: Authorization to Accept Grant (AIP-90) for Airport Design Services at Burlington International Airport (Board of Finance) (pending 5/17 BOF approval)

*waive the reading and adopt the resolution

Minutes, Adjourned City Council for May 21, 2012

- 4.11. RESOLUTION: Authorization to Enter into License Agreement to Erect and Maintain an Awning Extending Over a Portion of the City's Right-of-way with Dobra Tea (Councilors Dober, Tracy, Blais: License Committee)
*waive the reading and adopt the resolution
- 4.12. 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 as received at the May 7, 2012 City Council Meeting
- 4.13. COMMUNICATION: Mari Steinbach, Director, Department of Parks and Recreation, re: Miller Community & Recreation Center Update
*waive the reading, accept the communication and place it on file
- 4.14. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator, re: DRAFT Schedule of Meetings of the City Council through August 2013
*waive the reading, accept the communication, review all dates and contact Lori Olberg if any need to be changed so that the final City Council Schedule can be placed on the June 4, 2012 City Council Consent Agenda
- 4.15. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance February 13, 2012
*waive the reading, accept the communication and place it on file
- 4.16. COMMUNICATION: Amy Jewell, Administrative Manager, CSWD to Joan Shannon, City Council President, re: CSWD Appointments
*waive the reading, accept the communication and place it on file
- 4.17. COMMUNICATION: Amy Jewell to Selectboard/Council Chair, Board of Commissioners, Town Clerks, re: CSWD Board of Commissioner Appointment
*waive the reading, accept the communication and place it on file
- 4.18. APPOINTMENT: Chittenden Solid Waste District, Representative (Term expires 5/31/14)
*waive the reading, accept the communication, place it on file and re-appoint Steve Goodkind as the CSWD Representative, term expiring 5/31/14
- 4.19. COMMUNICATION: Tim Noordewier, Vermont Resident, re: Proposed ordinance that would limit unrelated occupants to 4
*waive the reading, accept the communication, place it on file and send a copy to the Ordinance Committee Members
- 4.20. COMMUNICATION: Laura Babcock, Clerk, Board of Electric Commissioners, re: Electric Commission Attendance Record
*waive the reading, accept the communication and place it on file
- 4.21. COMMUNICATION: Mayor Miro Weinberger, re: 2012 Justice Assistance Grant (JAG)
*waive the reading, accept the communication and place it on file
- 4.22. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary, re: Draft Minutes, City Council, March 26,

2012

*waive the reading, accept the communication, place it on file and adopt the minutes at the June 4, 2012 City Council Meeting

4.23. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary, re: Draft Minutes, Organization Day, April 2, 2012

*waive the reading, accept the communication, place it on file and adopt the minutes at the June 4, 2012 City Council Meeting

4.24. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary, re: Draft Minutes, Regular, City Council for April 16, 2012

*waive the reading, accept the communication, place it on file and adopt the minutes at the June 4, 2012 City Council Meeting

4.25. REPORT: Ross A. Feldmann, Chair, Board of Tax Appeals, re: Board of Tax Appeals – 2011 Annual Report

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

4.26. REPORT: Yumiko Jakobcic, Executive Director, Winooski Valley Park District, re: Annual Report: July 1, 2010 – June 30, 2011

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

4.27. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance March 12, 2012 Minutes

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

4.28. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance March 26, 2012 Minutes

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

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

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

5. INDOOR ENTERTAINMENT PERMIT APPLICATION (2012-2013):

Bluebird Barbecue (formerly Bluebird Tavern), 317 Riverside Avenue

Councilors Dober and Blais made a motion to approve the permit. The motion passed unanimously.

6. RESOLUTION: Improving Parking Management in Neighborhoods (Councilors (Councilors Shannon, Tracy)

Councilors Tracy and Siegel made a motion to adopt the resolution with the proposed amendments.

Councilor Tracy stated this will deal with city-wide parking issues, particularly in high density neighborhoods. There are often blocked driveways that result from a lack of delineated parking spaces. There are also cases where cars take up more than one parking space. In some cases, people claim they have lost parking permits and get replacements but use both. This will examine problems that exist throughout the City and attempt to find solutions.

Councilor Dober stated he has reservations about this. There is a need in high density areas. He stated he does not want white lines on his street, though there may be places that need it. He stated he will support it going to Public Works, but will argue against it if it is outside of high density areas.

Councilor Decelles stated he is confused and inquired if this will only look at high density parking areas, or if it will apply to the whole city. Councilor Tracy stated they have not established the scope of the issue. There have been concerns city wide, though most have come from the high density area. This will start the discussion process.

Councilor Bushor stated she will support this. She stated that there is a line in the resolution that addresses resident only parking, and stated guest passes should be included. There should be rules about how many guest passes are allowed per household. The number of permits that are allowed may be capped, but with guest passes the amount may be the same. Her amendment was accepted as friendly.

Councilor Dober stated he lives on a corner and he has seven children all with significant others. All of them drive. They are able to live in the house and visit the house. It is important to be careful what actions are taken.

The motion passed unanimously.

7. RESOLUTION: Strengthening Noise Ordinance Enforcement (Councilor Paul)
- 7.01. ORDINANCE: OFFENSES AND MISCELLANEOUS PROVISIONS -
Noise Control Ordinance (1st reading)(Proposed action:
consider this 1st reading and refer to the Ordinance Committee)

Items 7 and 7.01 were removed from the agenda.

8. ORDINANCE: OFFENSES AND MISCELLANEOUS PROVISIONS—Health Access
Buffer Zone (Councilors Shannon, Siegel, Paul, Hartnett, Kranichfeld,
Aubin, Mason, Tracy, Blais)(1st reading)(Proposed Action: consider this
1st reading and refer to the Ordinance Committee)

City Council President Shannon passed the gavel to Councilor Adrian for this item.

Councilors Shannon and Paul made a motion to consider this first reading and refer to the Ordinance Committee.

Councilor Shannon stated there has been a lot of discussion about this issue. It is important to have a discussion and find the right balance between the interests of having safe access to healthcare and protecting free speech. There has also been discussion about the constitutionality of the Ordinance. The Ordinance Committee will look further at the details. People have mentioned that people will have different rights, and that is not the intention. Everyone's rights will be protected.

Councilor Dober stated he has mixed emotions on this. Pro-life versus pro-choice has been a battle forever. He stated he is pro-choice, and agrees with this in portion. However, he stated he is concerned about the free speech part. He stated he hopes that the Ordinance Committee will be able to work on this and accomplish something. There will need to be a lot of work to get this done. He stated he will vote in favor of this tonight, and there will be a lot of work to do.

Councilor Decelles inquired if anyone from the Police Department is in attendance to speak about the issue. Acting City Council President Adrian stated he does not think that is in order and it could be done

during Councilor Comments. Councilor Decelles stated he is looking for clarity from the Police Department to see what tools are in place to handle this kind of situation. He stated he would like clarity as to what laws are on the books. Acting City Council President Adrian stated if this is referred to the Ordinance Committee, there will be plenty of time to address these questions. Councilor Dober inquired if Councilor Decelles may ask the maker of the resolution questions. Councilor Shannon stated she did not invite anyone to the meeting tonight. Councilor Decelles stated they heard from people on both sides of the issue and it the discussion was very emotional. He stated he does not have facts. Before the decision is made, there should be an opportunity to ask for that information. He requested that the highest ranking representative from Planned Parenthood answer some questions. He inquired how long the facility has been on St. Paul Street. Jill Krowinski, Planned Parenthood, stated it has been there since 2011. Councilor Decelles inquired how many patients there were. Ms. Krowinski stated they had over 5,000 patients. Councilor Decelles inquired how many times they have called the police. Ms. Krowinski stated they have called several times, and neighbors and passerbys have also called. Councilor Decelles inquired how many times. Ms. Krowinski stated she does not have the exact number, but the Police Department would. Councilor Decelles inquired if there were any arrests. Ms. Krowinski stated there were none to her knowledge and they try to avoid it coming to that point. Councilor Decelles inquired if there have been citations or tickets. Ms. Krowinski stated she can consult with the Police Department about that. Councilor Decelles inquired if anyone has been cited for trespassing. Ms. Krowinski stated their parking lot is privately owned, so in order for the police to issue trespassing citations, they need permission from the owner. The owner has given that permission. She stated she does not have a number, but there have been a number of incidents in the parking lot. Councilor Decelles stated he is not trying to be argumentative, but does need some numbers to make his decision. There may be tools in place that will solve the problem. Ms. Krowinski stated they have been working with the Police Department on this and now feel it is necessary. She stated they have been keeping records and would be happy to show Councilors the Health Center. Councilor Decelles stated he is not comfortable with this and believes it inhibits rights to free speech. He stated he saw people outside of Citizen's Bank protesting and that may have been intimidating. It is hard to know if people are behaving. This is not a pro-life or pro-choice issue. It is about treating this establishment differently from others. There could be another resolution regarding financial institutions that would prevent protesting outside of their buildings. This is spot zoning. If there were a buffer zone in all of Burlington, he could support it. It is not necessary for just one place. He stated he also does not know what the Police Department has to say about it and he cannot support it.

Councilor Brennan stated he was a late co-sponsor to this resolution. He was concerned with the free speech issues. Protest is an important part of Democracy. It is important to have a place where that voice can be heard. Healthcare is being debated right now as a human right. People need to have access and feel free to get the healthcare that is needed.

Councilor Siegel stated she supports this Ordinance. While it sounds that the current protesters are peaceful and appropriate, that is not and has not always been the case. Abortion providers wear bullet proof vests to work and get shot. This is about being pro-active and ensuring safety.

Councilor Tracy stated he will support this. He stated he went to the Planned Parenthood facility to get the patient experience so that he would have that perspective. It is important to go to the facility and look at what is being debated. The physical space is smaller than the old facility. When there are any people too close, their presence would be very intimidating.

Councilor Kranichfeld stated he supports this Ordinance. This is about protecting women seeking healthcare from being harassed. It is necessary because the existing tools in place are not adequate to do that. There are disorderly conduct and trespassing statutes. Both are reactive and not preventative. Someone would have to be aggressively harassed in order for the police to do anything. The main

problem is the chilling effect that this sort of harassment can have on someone seeking healthcare. This is the right thing to do. This will start the process to create this buffer zone.

Councilor Blais stated it is a mistake to correlate the unemotional decision to walk into a bank to cash a check with the harder decision a woman would make walking into that facility seeking healthcare. Nothing should chill a woman's right to seek healthcare. He stated he is proud of his daughter who worked as an escort to women walking into healthcare facilities.

Acting City Council President Adrian requested a roll call.

The motion passed by a vote of 13-1.

AYES: City Council President Shannon, Councilors Adrian, Aubin, Blais, Brennan, Bushor, Dober, Hartnett, Kranichfeld, Mason, Paul, Siegel, and Tracy.

NAYS: Councilor Decelles

Acting City Council President Adrian returned the gavel to City Council President Shannon.

9. RESOLUTION: Authorization to Execute Amendment #3 to Cooperative Agreement with the State of Vermont for the Champlain Parkway Project (BOF)

Councilors Bushor and Blais made a motion to adopt the resolution.

City Council President Shannon stated she has reservations about the Champlain Parkway. She voted to approve this because it is retroactive reimbursement of money that has been spent. She does not like this practice. She has been assured that going forward, these amendments will be presented in advance.

Councilor Siegel stated she is supportive of this resolution because she does want the City to be reimbursed for money. She stated she is offended by the design and does not want it to proceed to the next stages. Having the parkway terminate in the King Street neighborhood, one of the lowest income neighborhoods in the City, is highly offensive.

The motion passed unanimously.

9.01. COMMUNICATION: Norman Baldwin, P.E., Assistant Director of Public Works, re: Champlain Parkway Cooperative Agreement Amendment #3

Councilors Bushor and Blais made a motion to accept the communication and place it on file. The motion passed unanimously.

10. RESOLUTION: Penny for Parks Reapportionment to Appletree Tennis Courts Funding Category FY 2012 (Board of Finance)

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

Jen Francis, Parks and Recreation, stated the Pennies for Parks allocation of \$100,000 was allocated in FY10 and rolled over into FY11 and FY12 because the project was not completed. In FY12, the department took measures to facilitate the project. It was determined that the project could not be done properly at that price. The primary question is should facilities be presented there. The water table is high and it is a former wetland. Sustaining concrete structures at that park in the long term would be a challenge.

Councilor Hartnett stated in many parks, drainage is a big issue. Appletree has damage on the tennis courts because it was built on a wetland. He inquired why they are not planning to address the drainage issues there. Lack of funds would not be the reason because there is enough in reserve that is being put away for flood damages. There is also \$150,000 allocated for the Skate Park that may or may not be used. He suggested it would be wise to fix the real problem. Ms. Francis stated that the Parks System needs a master plan. It is premature to spend money on tennis court replacement when it may not be sustainable without major drainage improvements. The master planning effort needs to dictate that effort and determine what will best serve the public. It is not a regional park, but a neighborhood park. Councilor Hartnett stated he understands the need for a master plan to fix the drainage issues. Penny for Parks has been mismanaged and there have not been corrections in the upcoming budget. The bandaid approach of putting \$40,000 into Appletree is a waste because in the next few years the drainage issue will require major renovations. Mari Steinbach, Parks and Recreation, stated she does not understand his statement about putting \$40,000 into hard court repairs. Councilor Hartnett inquired if they are putting a playground in. Ms. Steinbach stated they are not. Ms. Francis stated that will happen in the FY13 budget, but this is a \$15,000 allocation in the FY12 budget for the tennis courts. A playground uses a different footing system that will not have the same drainage problem. Councilor Hartnett stated that they are losing focus on the main issue, which is fixing the drainage. That issue should be fixed first, and the resources are available.

Councilor Dober stated there was \$100,000 that was not used 2 years ago. Now that is being broken up and a piece will be used for this project. He inquired if \$100,000 is enough to fix the drainage problem. Ms. Francis stated that today, it is not enough. Councilor Dober stated that they have had discussions about doing things in a timely manner and the economy could use the work. It is a shame because the boat was missed. Two years ago this probably could have been done for \$100,000. It is not a good idea to keep doing band-aid fixes to the parks. The root of the problem should be addressed so that in a couple years there is not a shortage of funding. Some money should be reallocated for the root causes.

Councilor Aubin inquired if part of the engineer's assessment to redo the tennis courts included the cost of fixing drainage and what that cost was. Ms. Francis stated the entire park needs drainage improvements. The cost for the courts as they are would be \$107,000 with design fees of \$12,000-\$15,000. That would replace the tennis courts and create drainage around the courts, but not in the park itself. That would not guarantee proper drainage to sustain the life of the courts.

Councilor Bushor stated the two communications spell out the dilemma. There is a need to study more about Appletree Park. The total area needs to be examined and the cost exceeds what is available. Even if that had been studied a few years ago, it probably would have been problematic with the flooding last year. It is frustrating for those who live there, but this approach makes more sense. It has not been abandoned. It incorporates some repairs and some money for planning. Planning will be key. This is a solution that is acceptable, although not ideal. She inquired how long it will take to accomplish the master planning. Ms. Francis stated they plan to get that done in the next fiscal year. Councilor Bushor inquired if a decision could be made so that if capital investment were to be made next year, this could be included. Ms. Francis stated it depends on the outcomes of the master plan. Councilor Bushor inquired how long stabilizing the courts with \$15,000 will allow them to be used. Ms. Francis stated 1-3 years.

Councilor Mason inquired what would happen if this failed. He inquired where funding for the Master Plan will come from. Ms. Steinbach stated if it were voted down, the Parks and Recreation Commission would look for other alternatives. She stated there is \$17,000 from Pennies for Parks, \$54,000 from Park Impact Fees, and the remainder will come from the capital plan.

Councilor Hartnett stated he asked about impact fees in the past few months and was told there was no money in that account. This process has been frustrating and he stated he does not have confidence in the

process. He stated he has a hard time imagining a master plan being complete in a year, and it will cost more to do this project in a few years.

Councilor Adrian inquired if this went before the Parks Commission. Ms. Francis stated it did and they approved it unanimously. They have been part of the process and there has been community dialogue to choose the best path.

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

- 10.01. COMMUNICATION: Mari Steinbach, Director, Department of Parks and Recreation, re: Penny for Parks Re-appropriation

Councilors Bushor and Dober made a motion to accept the communication and place it on file. The motion passed unanimously.

- 10.02. COMMUNICATION: Parks & Recreation Commission Meeting Staff Report, re: Agenda Item: Appletree Park – Tennis Court Replacement

Councilors Bushor and Dober made a motion to accept the communication and place it on file. The motion passed unanimously.

11. COMMUNICATION: Staff from the Airport and a member of the Airport Commission, re: An F35-A Update (oral)(10 mins.)(to view the draft EIS go to: <http://www.acplanning.org/>)

City Council President Shannon stated she invited people from the Airport and the National Guard to speak to the Council because this issue has been discussed in South Burlington. She wanted the Council to have an update on the EIS done for the F35. This will outline highlights from public meetings and provide clarification about the future of the F16.

Bob McEwing, Airport, introduced members of the National Guard. Gene Richards, Airport Commission, stated the National Guard will best be able to answer questions.

City Council President Shannon inquired what the status of the EIS is, who the decision makers are, and the major points of interest that have been raised in various public forums. She stated housing and noise issues are a large concern. Adam Wright, National Guard, stated they are in the public comment period after the draft environmental impact statement for basing the jet was released. The EIS was released on April 14 and public comment period will extend until June 20. From here, Public Comments will be received. The Secretary for Installations of the Air Force, Kathleen Ferguson is the final decision maker. She will take all comments and issue a final Environmental Impact Statement in October. This will address substantive comments and answer questions that have been asked. The content of the EIS will be edited to address as many concerns as possible. After that, there is a 30 day waiting period and a record of decision may be issued at that point. That would be the final decision as to where they intend to base the F35 starting in 2015. He stated they are proud to be considered an alternative. If chosen, it would be the first time their National Guard Base received a jet in its first installation. The key message is that noise will have a significant impact and has been the primary concern among residents. The document is very detailed on this. Besides noise, they look at air quality, hazardous waste generation, wetlands, socioeconomic concerns and environmental justice. All federal agencies are required to address these issues for any action that it takes. A new jet required an environmental impact statement. This is similar to Vermont's Act 250. Air quality and hazardous waste impacts seem to be less with the F35 compared with the F16.

Colonel Caputo, National Guard, stated a big comment on noise is an understanding of what the 65 DNL line means and how it is reflected in the EIS. That takes the total operations that military and civilian aircrafts make. They average those over a 24 hour period. A 65 DNL noise contour has been deemed the level at which the noise becomes an annoyance. On both sides of the airport, the 65 DNL line shrinks with the F35. On the departure end, it extends further into Winooski and Williston. The other difference in the EIS is the decrease in operations on a yearly basis at the airport. Comparing the two scenarios, it is a 32% flight reduction for the F35s.

Councilor Dober stated he wrote a resolution on this issue a year ago and have been waiting on the EIS to come back. He inquired about how the sound issue affects both sides of the ramp. Col. Caputo stated the lines are plotted all the way around the airport. When comparing the F16 to the F35 noise contours, the F35 lines extend further out into the South Burlington community than with the F16. On the departure end, it extends further out into Winooski and Williston with the F35. Councilor Dober inquired if there is any draft material available for the public to view. Col. Caputo stated at www.acplanning.org you can access the executive summary. There are also hard copies at the library

Councilor Siegel stated there are potential opportunities for job creations, and that there are two different scenarios. She inquired how many new jobs would be created under each scenario. She also inquired if those jobs would go to local people, or if people from out of state would be recruited. Mr. Wright stated that going from eighteen F16s to eighteen F35s would not result in increases in employment. The second scenario is twenty-four F35s and that would result in an increase of personnel at the base. Councilor Siegel inquired if those would go to local people. Mr. Wright stated it would be a combination of military personnel and contractors that would be hired. Col. Joel Clark stated it would mostly be military personnel, and they would like Vermonters for that. They would be trained to work on that air craft. Col. Caputo stated that is included in the EIS. The second scenario calls for an increase in 266 military personnel. Councilor Siegel inquired if the intention is to recruit new people to the Guard to fill those positions. She inquired where they will be filled from if that does not happen. Col. Caputo stated that is the intention, but if not they would be recruited from neighboring states.

Councilor Bushor stated she has heard the preliminary discussions about this issue. She stated she attended one public hearing and did not have a chance to speak, and many others faced the same problem. She stated she is pleased to hear the deadline has been extended. Vermonters came out to speak verbally with community members and are used to having that opportunity. She stated there had been discussions about the hours that the flights would take off. They would typically be Monday through Friday and during the day time. She inquired what had been agreed upon for the number of days and the hours they would be flying. Col. Caputo stated they have changed their hours and do what they can to minimize the impact on the community. They fly on Tuesday-Friday and do as much as possible during the day time. Takeoffs are usually at 9:00am and 1:00pm. All planes land by 10:00pm so as not to violate the environmental night time which is 10:00pm until 7:00am. There is one drill weekend with flights once a month. On Sundays there are no flights at all so as not to interfere with church services. If there is a need to take off, they try to take off after church is out at noon. Councilor Bushor stated she has mixed feelings, but does support the F35s coming to Burlington. She stated she had asked Fletcher Allen Healthcare if they had an official statement, and they said they did not. She inquired if they get the F35s and flight hours are expanded, would there be any recourse for residents of this region. Mr. Wright stated if they were to expand the number of operations they would have to go through this process again. There are various levels depending on the scope of the project. When there are weekend flights, they try to announce it so that people are aware. Councilor Bushor stated there are whole neighborhoods that will be defined as uninhabitable under this. She inquired what the Air Force says about them being uninhabitable. Col. Clark stated it is important that the Airport is the lead agency in home buyback. He invited people to review the noise portion on the website to review the information. The area inside that contour is where the controversy comes from. There are things that should be included in the building if they live in that area. Some of that is already in place in a northern climate like Vermont. The study does not say it is

incompatible. There would be programs to provide loans to help with these projects. Mr. Richards stated that rustling leaves is 20 decibels, whispering is 30, normal conversation is 60, being inside of a moving car going 60 mph the highway is 65-75, a ringing telephone is 80 decibels, a hair dryer or a lawnmower are 85-90. OSHA allows exposure for 90 decibels for 8 hours. The key is comparing this to other noises. A fire engine is 120 decibels.

Councilor Brennan thanked the National Guard members for their service. He stated he has problems with increasing the amount of jets at the facility because of the tendency towards offensive tactics in recent years. Many of his neighbors have been displaced through tragedies across the world. They do not all worship on Sunday. He stated he hopes that is considered when looking at hours. There are people in low income areas in flight paths that worship on Fridays or Saturdays. He stated he has problems with increasing the military right now, even if it does benefit the economics of the local community.

Councilor Decelles stated he has attended several of these meetings. It would be fortunate to have the F35s come here. He inquired what the economic impact to the community. Col. Caputo stated there are 400 full time members in the Vermont National Guard and 700 part time members. The annual payroll is \$53 million. Each year on drill weekend \$325,000 is spent and the base swells to 1,100 individuals. There are contracts to bring people into hotels and sales. There are trainings that take place where pilots come in to train at this center that spend money on rental cars, plane tickets, and meals in the local community. The crash and fire rescue services that are part of the National Guard takes care of the Airport for civilian airliners at \$2.5 annually. Councilor Decelles stated they are doing the best that they can to alleviate noise. Oftentimes he hears announcements about when planes will be coming by. He commended them for all of the work they have done.

Councilor Dober stated he retired from the 158th National Guard and worked with these pilots. He stated that military bases often have a lot of people who are not from there, but this group has a majority of people from Vermont. That base is special because there are so many local people.

Mayor Weinberger stated a statistic that stuck with him is that the F16 or the F35 have an impact while operating, but the amount of time when this happens is only about six minutes a day. He inquired if that is the correct number. Col. Caputo stated the normal turn pattern is 6 takeoffs in the morning and 6 takeoffs in the afternoon. This is where the most noise is produced. Each takeoff sequence lasts 30 seconds before they are gone from the area. Mayor Weinberger inquired if that would go decrease with the F35s. Col. Caputo stated it would reduce the number of total operations. If they replace the F16s with F35s, the total number of airfield operations would decrease by 32%.

City Council President Shannon stated that the community has adapted to the F16s, and inquired if the status quo will be continued if the F35s do not come here. She inquired what would happen to the services at the Airport if those were to go away. Col. Caputo stated the F16s will not be around forever. The design life is projected to be 8,000 flight hours. On average, they are at about 6,200 to 6,300 per year. They will probably be around until 2018 or so. They will then be retired. They do not know what will happen if they are not chosen as an F35 base. Col. Clark stated the F35 is the replacements for the F16. The Airforce will have less planes in the future, so it is difficult to determine what will happen if the F35s do not come. City Council President inquired what it would cost to replace the services that they currently offer to the Airport. Mr. McEwing stated it would cost about \$25 million. They would have to outfit a fire station to comply with FAA requirements. Mr. Richards stated they receive millions of dollars from the FAA for projects like runway improvements. They would be less likely to get that because the relationship would not be the same.

11.5 Re-advertisement of Commission and Board Positions with No Applicants

Councilors Adrian and Kranichfeld made a motion to suspend the rules to complete the agenda. The motion passed unanimously.

Councilors Adrian and Bushor made a motion to re-advertise all positions that are not currently filled with a deadline of May 30 to allow the Council to receive information in their packet before the June 4 meeting. This will give everyone an opportunity to recruit people if they would like to. There are a number of positions that remain unfilled.

Councilor Decelles inquired why it has to be advertised in *Seven Days* when it could be advertised in the *Free Press* and be completed in the needed time frame.

Councilors Decelles and Dober made a motion to call to question. The motion failed.

Councilor Hartnett stated there are positions where there are two seats and one applicant. City Council President Shannon stated the motion is only to re-advertise position that had no applicants. Councilor Adrian stated there are some examples where there are two seats and one person has applied, and in this case the whole thing would be re-advertised. Councilor Hartnett stated he does not agree with doing that. Councilor Adrian stated that would mean that the single applicant would automatically be appointed. City Council President Shannon stated there are no automatic appointments because the Council has to make them. The advertising would be for the one seat that is still open.

Councilor Dober stated the Council has always felt that if there is an application submitted on time, that person should be appointed. If the application is not of par, they have the choice to re-advertise. He stated he does not know if that is the case, and cannot support re-advertising as stated. City Council President Shannon stated that there is always the choice of re-advertising the position. If the person is not up to par, the Council will re-advertise instead. They would not be automatically appointed.

Councilor Siegel inquired if there is a way to give priority to the person who applied the first time. Attorney Schatz stated that is up to the Council and they will have to nominate and approve a person. There can be an indication that people who applied on time are preferred, but the Council is not bound by that designation. Councilor Siegel inquired if they do not re-advertise, but do put in an application, would it still be considered because it is a rolling application process for open seats. City Council President Shannon stated it has not been. People who have not met deadlines are not considered. Councilor Siegel stated that people have been appointed to vacant seats. Attorney Schatz stated the deadlines are not binding. The Council can make decisions as they choose, but the Council has worked to respect the deadline process.

Councilor Bushor stated the reason deadlines are so important are because the process is on the line. People applied on time and came to the open house. Shelving all of those applications and appointing people that the Council likes eroded confidence in the process. If none of the applicants are the right people for the position, it would be open and re-advertised. She stated that she would not want to go back on that commitment.

Councilor Decelles stated there are nine positions total that would need to be re-advertised. Five had no applicants, and four had at least one applicant. He stated he hopes the Council will respect who applied on time, but it is up to the Council to use their judgment.

Councilor Brennan stated he is in favor of opening it up. Strengthening the pools of applicants is a good and healthy process. While he appreciates the deadlines, there is nothing wrong with saying there is a weak pool.

Councilor Adrian stated last year there was a discussion about term limits and bringing in new blood and having diversity. It is too bad that since there is a tradition of reappointing people who want to keep their seats. He stated he is less likely to recruit new people for seats that there are openings and not people reapplying for their own position. He stated if he had known there would be two vacancies on the Public Works Commission, there are people he would have informed about this and let them know they had a good shot.

Councilor Hartnett stated the Council can change the way things are done that work well, or implement a program where there is advance notice so Councilors can do their jobs and advertise positions. City Council President Shannon stated there has been much discussion about this process, and there are many options for ways to change and improve it. She stated anyone who has not read the report on open government should read it because it expresses community feeling on this issue. In this case, the recommendation is to re-advertise only positions that are listed on the sheet. That could result in having more people apply, even if one person has already applied. What the Council does with that information is up to the Council. The Council can ignore deadlines, though the process has deadlines in place.

The motion passed by a vote of 13-1 with Councilor Hartnett voting against.

12. COMMITTEE REPORTS (5 mins.)

Councilor Dober stated there is a License Committee meeting and a Taxi Board meeting coming up. They will be discussing the finalization of meter rates for the Airport and the City. Those will come forward soon.

Councilor Bushor stated she will be chairing the Ordinance Committee on the topic of the RH Four Unrelated issue that was referred to the Committee. The Committee felt the meeting would be well attended and that they would attempt to secure Contois in June. There were also discussions about who should be in attendance. She stated she will send that information out to the Committee when that is determined. She stated she hopes the first meeting will ensure that everyone who should be is present and then they will have two more meetings. There has been a lot said on the topic and they will bring it back to the Council when it is well thought out.

Councilor Hartnett stated there was a speaker talking passionately about diversity issues in the School System. This is not just a school issue, but a bigger issue. It is time that everyone get involved. He requested everyone speak to their school board members. There are a lot of great stories from the schools.

Councilor Brennan stated they have a date set for Tax Abatement next month.

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

Councilor Brennan stated he appreciates what Councilor Hartnett brought forward. This was an individual who excelled and everyone was able to celebrate together. There will certainly be some successes, but it important to remember that systems need to be looked at. There needs to be transformational leadership in place. The new Mayor has said he is committed to that. It is also important to look at all departments and department heads to make sure all citizens are being served. There will be more talks with Schools.

Councilor Tracy congratulated all UVM Graduates, including Councilor Paul who got a Masters in Public Administration. With graduation comes move out and there are always issues with dumping. The Spring Move Out Project is happening on Wednesday on Loomis Street and on Bradley Street. They offer the ability to get rid of large items and find items. If there is illegal dumping on green belts or public spaces, it should be reported to code enforcement.

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

Mayor Weinberger thanked City Council President Shannon for her efficient and effective running of the meeting tonight.

He stated the Bike Path is ready for the marathon. Work was done in five sections in the last six weeks to bring it to that point. There is also a schedule for completion of \$1.4 million FEMA funded repairs from spring flooding that will be completed by the end of the years. There is a detailed analysis laying out the elements of the repairs. He thanked Norm Baldwin for his work in this area.

The budget process continues to move forward with Monday and Thursday meetings. There are ongoing work sessions. Progress is being made and he thanked the CAO's Office for putting out a large amount of information while changing financial software and responding to a new administration. He stated he hopes they are on track for a successful passage of the budget.

He stated he has been working on appointment efforts. They have nationally advertised the CAOs position. He stated he hopes Paul will be a strong applicant, but that process is underway. The City Attorney search has been re-tooled and CEDO director interviews are underway. There is a change within the Mayor's Office. Peggy Ellis-Green has resigned. There is a woman named Jen Kaulius who served as a City Arts intern and a temp in the Assessor's Office. She graduated from UVM with a nearly perfect GPA and she will be a good resource to the Council and the City.

Steps have been taken to reset the relationship with South Burlington in regards to Airport issues. There will be times that there is disagreement, but hopefully there will be greater clarity and collaboration.

The leadership at CCTA is moving forward with efforts to bring a new mass transit center to the City. He encouraged people to check out their design. They are hoping to have a new center open by 2015. He stated he went on a multi-modal tour to bring attention to alternative transportation in the community.

He stated the Idea Innovation tour is a nationwide effort to bring attention to positive things happening in the schools and that took place last week. There was good will and good ideas that came out of that.

15. ADJOURNMENT

Without objection, City Council President Shannon Adjourned the Meeting of the City Council at 11:00 p.m.

Attest:

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