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DELIBERATIVE AGENDA

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LOCAL CONTROL COMMISSION  
TUESDAY, NOVEMBER 13, 2012  
CONTOIS AUDITORIUM, CITY HALL  
7:04 P.M.

PRESENT: City Council President Shannon; Commissioners Worden, Bushor, Kranichfeld, Tracy, Brennan, Siegel, Aubin, Mason, Blais, Paul, Decelles, Dober and Hartnett (arrived at 7:05p.m.)

CITY ATTORNEY'S OFFICE: Eileen Blackwood

CLERK/TREASURER'S OFFICE: Scott Schrader and Lori Olberg

CITY COUNCIL PRESIDENT SHANNON PRESIDING:

1. AGENDA

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

2. CONSENT AGENDA

Commissioner Bushor stated in the communication there was a statement about the fact that the applicant was sensitive to noise and there had not been complaints. She inquired if the committee had investigated that. Commissioner Dober stated he did not recall that statement. This expanded the license without any changes. They did not get into noise issues with this application.

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

2.01. EXPANSION OF LIQUOR LICENSE SPACE: Drink and The Cellar  
\*waive the reading, accept the communication, place it on file and approve the expansion of liquor license space for Drink and The Cellar

3. ADJOURNMENT

Without objection, City Council President Shannon adjourned the Local Control Commission meeting at 7:06 p.m.

Attest:

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

BOARD OF CIVIL AUTHORITY  
TUESDAY, NOVEMBER 13, 2012  
7:06 P.M.

PRESENT: see above

MAYOR WEINBERGER PRESIDING:

1. AGENDA

On a motion by Board of Civil Authority Members Kranichfeld and Shannon the agenda was unanimously adopted, as amended, as follows: note revised version of agenda item 2.01.

RESOLUTION: Ratify Appointment of Assistant Election Officials (Councilor Shannon); add to the agenda item 2.5. COMMUNICATION: Rachel Siegel, Ward Three City Councilor, re: Election Concerns (oral)

2. CONSENT AGENDA

Board of Civil Authority Member Dober inquired what the amendments to the resolution were. Lori Olberg, Licensing, Voting and Records Coordinator, stated they had to add additional names to the resolution.

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

2.01. RESOLUTION: Ratify Appointment of Assistant Election Officials (Councilor Shannon)  
\*waive the reading and adopt the resolution

2.5 COMMUNICATION: Rachel Siegel, Ward Three City Councilor, re: Election Concerns (oral)

Board of Civil Authority Member Siegel stated she had concerns on Election Day. She was at Ward 1 and saw concerns both at that poll and at other polls in the City. She had a constituent email her saying he had gone to the Clerk's Office to get an absentee ballot in September before going on vacation and was asked if he would like a General Ballot or a City Ballot. He was concerned that the language they were using would confuse people into thinking all of the information was on the General Ballot. He wrote to the Mayor's Office and Clerk's Office about this. There were then new ballots by the time he returned from his vacation. He accidentally recycled his new ballot. He then returned to the Clerk's Office where he had the same problem with the language. They used the same language at the poll. She would like to standardize the language used at both locations. She suggested that they hand everyone both ballots and if they choose not to vote one, they can do that. Several other concerns were that she was not allowed to side check. It may be true that it is not legal, but they have not had problems in the past. This practice should be standardized. She noted that the boundaries for electioneering were unclear and should be clearly marked. There was a sign telling people that they needed to know their district before getting their ballots and there was a map. The map was not helpful, especially to students and first time voters. There was a sign at Ward 1 that said no renters beyond this point, which could easily be confusing to people who thought it was referring to people who rent their home. It was intended to keep people participating in the election out of the school, but that was confusing to voters. Finally, people were given the wrong ballot. One woman said she was given a different ballot than her husband and was told it could not be corrected. There were people in Ward 3 from entire streets that were given the wrong ballot. She was surprised that there was not a recall.

Mayor Weinberger stated that this was a thorough and thoughtful list and there would be a communication back to address each item.

3. ADJOURNMENT

Without objection, Mayor Weinberger adjourned the Board of Civil Authority Meeting at 7:15 p.m.

Attest:

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

REGULAR MEETING, CITY COUNCIL  
TUESDAY, NOVEMBER 13, 2012  
7:15 P.M.

PRESENT: see above

CITY COUNCIL PRESIDENT SHANNON PRESIDING:

1. AGENDA

On a motion by Councilors Kranichfeld and Bushor the agenda was unanimously adopted, as amended, as follows: add to the consent agenda item 3.30. RESOLUTION: Accepting Economic Development Agency Grant (Board of Finance); add to the consent agenda item 3.31. COMMUNICATION: Tom Buckley, Burlington Electric Department to City of Burlington City Council Board of Finance, re: Economic Development Agency grant award acceptance approval with the consent action to “waive the reading, accept the communication and place it on file;” note **title change and written material** for agenda item 9. RESOLUTION: Burlington International Airport Supplemental Resolution No. 4 (Board of Finance, pending BOF approval on 11/13/12); add to the agenda item 9.01. COMMUNICATION: Thomas R. Melloni, Esq. to Paul Sisson, Interim CAO, re: Supplemental Resolution No. 4; re-number agenda item 12. RESOLUTION: Moran Plant Development & Public Good (Councilors Tracy, Siegel, Bushor, Brennan) as **agenda item 11**; re-number agenda item 11. RESOLUTION: March 5, 2013 Annual City Meeting—Advisory Referendum re: City Ownership of the Waterfront Properties (Councilor Brennan) as **agenda item 12**.

2. PUBLIC FORUM

City Council President Shannon opened the public forum at 7:43 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Greg Guma	Ward 6 Resident	Questions re: BPD Incident/Protest
Peter Adams	Ward 2 Resident	Moran Redevelopment
Barbara Prine	Ward 3 Resident	Keep Moran Public
Brian Perkins	Ward 2 Resident	In favor of BPD Incident/Protest Resolution
Connie Krosney	Ward 6 Resident	Keep Moran Public
Ron Ruloff	Ward 3 Resident	Close Shelters/Somalian Residents
Tiki Archambeau	Ward 2 Resident	In favor of BPD Incident/Protest Resolution, Keep Moran Public

Becca Mandel	Ward 2 Resident	Keep Moran Public
Kit Andrews	Ward 3 Resident	Keep Moran Public
Patrick Wood	Ward 2 Resident	Keep Moran Public/Transparent Investigation of Police Incident

With no one further coming forward and no objection from the remaining Council, City Council President Shannon closed the public forum at 8:14 p.m.

### 3. CONSENT AGENDA

On a motion by Councilors Bushor and Aubin 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: Waive Permit Fees for Solar Installations (Board of Finance)  
\*waive the reading and adopt the resolution
- 3.03. RESOLUTION: Acceptance of Continuation Grant from U.S. Department of Justice  
Related to Internet Crimes Against Children; and Amending the FY 2013  
Budget (Board of Finance)  
\*waive the reading and adopt the resolution
- 3.04. RESOLUTION: Authorization to Amend Champlain Parkway Design Contract with  
Clough, Harbour & Associates, LLP (Councilors Shannon, Bushor:  
Board of Finance)  
\*waive the reading and adopt the resolution
- 3.05. COMMUNICATION: Norm Baldwin, P.E., Assistant Director-Technical Services, DPW, re:  
Champlain Parkway-Design Contract Amendment  
\*waive the reading, accept the communication and place it on file
- 3.06. RESOLUTION: Approval of Downtown Parking Facilities Upgrades and Automation  
(Board of Finance)  
\*waive the reading and adopt the resolution
- 3.07. COMMUNICATION: Patrick Buteau, Asst. Director, Parking & Fleet Services, DPW, re:  
Approval of Downtown Parking Garage Upgrades to facilitate  
acceptance of Credit Cards and.  
\*waive the reading, accept the communication and place it on file
- 3.08. RESOLUTION: Authorization to Execute Contract for Route 127 Bike Path Slope  
Failure Remediation Project (Board of Finance—pending BOF approval  
on 10/29/12)  
\*waive the reading and adopt the resolution
- 3.09. COMMUNICATION: Norman Baldwin, P.E., Assistant Director-Technical Services, DPW, re:  
Request Authorization to award construction contract for 127 Bike Path

Slope Failure Remediation Project

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

3.10. RESOLUTION: Ratify Appointment of Acting Inspectors of Election for Wards Two and Four and Appointment of Acting Ward Seven Ward Clerk (Councilor Shannon)

\*waive the reading and adopt the resolution

3.11. RESOLUTION: Authorization to Enter into License Agreement with Lakewind Construction, Inc. to Erect Construction Barrier and Occupy Four Metered Parking Spaces on a Portion of the City's Right-of-way (Councilors Dober, Blais: License Committee)

\*waive the reading and adopt the resolution

3.12. RESOLUTION: Amendment #2 to Lease Agreement Between The City of Burlington and The Lake Champlain Community Sailing Center, Inc. (Board of Finance; Parks, Arts and Culture Committee)

\*waive the reading and adopt the resolution

3.13. COMMUNICATION: Kirsten Merriman Shapiro, CEDO, Special Projects Manager, re: Community Sailing Center Lease Extension

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

3.14. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance Minutes for August 30, 2012

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

3.15. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance Minutes for September 4, 2012

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

3.16. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance Minutes for September 10, 2012

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

3.17. COMMUNICATION: Amy Bovee, Executive Secretary, re: Redistricting Committee Minutes for August 27, 2012

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

3.18. COMMUNICATION: Amy Bovee, Executive Secretary, re: Redistricting Committee Minutes for October 2, 2012

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

3.19. COMMUNICATION: The Parks, Arts and Culture Committee, re: Bulletin Board Resolution Dated February 6, 2012

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

3.20. REPORT: Telecommunication Advisory Committee (TAC), re: Report to the City Council for the year ending April 30, 2012

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

3.21. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (one day only):

El Gato Cantina, 169 Church Street, November 2, 2012, 10 p.m. – 1 a.m., Salsa Dancing  
\*waive the reading, accept the communication, place it on file and retroactively approve the special event indoor entertainment permit application for one day only

3.22. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (one day only)

Manhattan Pizza, 167 Main Street, October 31, 2012, Extension of Entertainment by 1 ½ hours  
\*waive the reading, accept the communication, place it on file and retroactively approve the special event indoor entertainment permit application for one day only

3.23. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (one day only):

Skinny Pancake, 60 Lake Street, Suite 1A, October 31, 2012, 8 p.m. – 1 a.m., Dancing  
\*waive the reading, accept the communication, place it on file and retroactively approve the special event indoor entertainment permit application for one day only

3.24. RESOLUTION: Recommendation of Matthew Perry for Reappointment as City Deputy Health Officer (Councilor Kranichfeld)

\*waive the reading and adopt the resolution

3.25. RESOLUTION: Approving the Extension of the Maturity Date of a Grant Anticipation Note for The Costs of Certain Airport Improvement Projects (Board of Finance: pending BOF approval on 11/13/12)

\*waive the reading and adopt the resolution

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

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

3.27. COMMUNICATION: Ashley Sandy, Vermont Council on World Affairs to Joan Shannon, Burlington City Council President, re: Thank you

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

3.28. COMMUNICATION: Richard H. Cate, Vice President for Finance and Administration and University Treasurer to Joan Shannon, City Council President, re: City of Burlington and University of Vermont Memorandum of Agreement Re: 2009 Zoning Amendments

\*waive the reading, accept the communication, place it on file and invite Mr. Cate to the November 26, 2012 City Council Meeting

3.29. COMMUNICATION: Kevin Worden, DPW Commission, Member, re: Resignation

\*waive the reading, accept the communication, place it on file, advertise the vacancy and send a letter of appreciation to Kevin Worden thanking for his time served on the DPW Commission

3.30. RESOLUTION: Accepting Economic Development Agency Grant (Board of Finance)

\*waive the reading and adopt the resolution

3.31. COMMUNICATION: Tom Buckley, Burlington Electric Department to City of Burlington City Council Board of Finance, re: Economic Development Agency grant award acceptance approval

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

3.32. COMMUNICATION: BTAC Members, re: Public Forum Handout, 10/15/12, Dissolution of their Committee

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

4. REPORT: Jerome F. O'Neill, Chair, Board of Police Commissioners, re: Annual Report of the Burlington Police Commission to the Burlington City Council June 2011 through May 2012

Jerome O'Neill, Police Commissioner, requested the Chief present a portion of the report. He stated they published the Police Commission Report. He noted that Police Departments were often referred to as law enforcement agencies, which was an unfortunate use of the term in Burlington. The Burlington Police Department went far beyond law enforcement with their involvement in the community. He listed several awards the Department had received. The Street Outreach Program bore little resemblance to law enforcement in the classic sense. It takes the more difficult citizens and helps them avoid law enforcement by finding them services. The Department does this well. He requested the Chief discuss crime trends.

Police Chief Michael Schirling stated they have struggled with recruitment and retention of sworn officers. They currently have 90 officers out of an authorized number of 100. They are making progress in the area of retention and hope to have some good news in the next month. It is an area of concern and has been a challenge. The Dispatch strength is at full strength with 12 employees. Retention remains a challenge but the hope is that number will hold. Crime trends are changing in type and number. Burglary has been a concern. There was a spike in 2011 that has remained constant in 2012 at about 380. The greater concern is the spike in Assault and Robberies at 28, which has risen from 13 in the prior year. Through all of this, there is an ongoing concern about trends in the drug market. This is not exclusive to the City of Burlington, but relates to trends throughout the state and region. As urban policing in larger Northeast Cities has improved, there has been displacement to smaller urban communities and rural areas. Drugs are a primary theme of what is driving some of this crime. They are currently working on the Street Outreach intervention in partnership with the Howard Center. The program seeks to deliver mental health services in a de facto case management sense in lieu of emergency workers responding to crises after they happen. They continue to look at reorganization to increase efficiency outside of the sworn ranks. One primary strategy was the implementation of computer aided dispatch and records management systems. This dramatically reduces the amount of time officers spend doing paperwork and operating costs. There are a number of other law enforcement agencies across Vermont using this system. Mr. O'Neill asked the Chief to explain who developed this program. Chief Schirling stated that a team in the department developed the software. Mr. O'Neill inquired how much it would have cost to purchase similar software. Chief Schirling stated the quotes they received ranged from \$750,000 to \$3.5 million. So far they have spent \$85,000 on the project development. Mr. O'Neill stated the department has saved the City a significant amount of money. Chief Schirling stated they expect the savings will be somewhere in the millions. He stated they plan to finalize a policy rewrite. The policy has slowly evolved and the documents are substantial. Their goal is to make that more useful for employees and reduce the size. They are also working to re-invigorate community engagement. One idea is to institute a modern version of neighborhood watch. They also may run a citizen police academy to put people through a process to learn the complexities of police work.

City Council President Shannon inquired if they have an update on the decision of the July 29 events. Mr. O'Neill stated he was prepared to do that. City Council President Shannon stated they would first take questions on the report.

Councilor Brennan thanked the Police Chief for coming to the Wards 2 & 3 NPA and addressing concerns around crime. He also appreciated the comments around recruitment efforts. He stated there were criteria of areas that they seek out new hires from. The country has been at war for the last ten years and a number of prime candidates have served honorably. There has not been enough effort to provide

Veteran's with the help that they need. He inquired if there is anything in the Employee Assistance Program (EAP) to ensure those needs had been met for those who need those resources. Chief Schirling stated approximately 40% of recruitment has been people coming out of military service. That has tapered off significantly in the last decade. Those who were part time guard members have left the Police force because they have been offered full time guard jobs. That has created retention challenges. They do actively recruit from people who are getting out of the military, but have not had good luck. Military vets who are working for the Police Department are some of the most creative and engaged employees. This type of work has an enormous amount of stress associated with it, regardless of background. They have recently developed a program called CARES to supplement the EAP. The Council approved a small line item in the budget where they got a police psychologist. This person has developed useful programs for training and helping employees build the resilience they need. This helps with the mental health aspect of police work. Having someone to go to in an informal way has been helpful.

Councilor Hartnett stated he has heard concerns about the Old North End in the Peru, Murray, and Johnson Street area. He coaches young athletes and hears that their families do not feel safe in that neighborhood. There are crimes in each neighborhood, but it was striking to hear them say this. He inquired what they are doing to address the situation. Chief Schirling stated it is a fair statement because how someone feels about their safety level is as important as the rates and frequency of incidents. They should do something to remedy that. In the Old North End there have been 8 robberies and 76 burglaries. This is about the same as the rest of the City. That does not mean their fear is unwarranted. The Department is doing a number of things to mitigate that fear. They are making efforts with partners to hold more significant offenders accountable as well as smaller efforts such as early intervention for drug and mental health treatment. They are also providing supports for parallel justice to support victims and survivors of crime even when their crime does not result in an arrest. There are traditionally victim support resources through the State Attorney's Office, but only if an arrest is made. This has left a gap that Burlington has been working to fill. It is not enough, but they will continue to increase those efforts. The number one thing that can create feelings of safety is community engagement. It was a great meeting because there was energy and engagement about working together to be part of the solution.

Councilor Dober inquired if the increase in assaults has been the result of a few repeat offenders. The change is striking. Chief Schirling stated there is not a specific pattern around the events. The common theme is that the events seem to involve a pair of people. There have been some arrests that clear more than one event. The true answer is that they do not yet know because the crimes have not all been cleared.

Councilor Siegel stated she has a Front Porch Forum post that will be going out as a result of that NPA meeting. This will include some safety tips.

Councilors Dober and Brennan made a motion to suspend this agenda item to address public forum. The motion passed unanimously.

The Council returned to this item at 8:14 p.m.

Mr. O'Neill stated in situations like this, the Police Commission reviews events and does not automatically agree with the Police Department. They have met three times since the July incident. The first meeting was to speak with concerned citizens to hear their accounts of events that were inconsistent with the Department's report. The first question was to sort out the information. They allowed people to send photos, videos and other information to them. The Department's report was based on video from many sources. They did not receive much other video or photo information from the public. The Commission then crafted five questions for the Police to answer. The Department answered those questions for the public to view. They then had a Police consultant review the reports. As of right now, no law enforcement professional has found that anything was done wrong that day. They then heard more comments in September. They also requested the Department provide comparisons of how a comparable

department would have handled the events. The responses from the other Cities showed the Burlington's policies are in fact better than most. They then reviewed the policies and asked the Department to draft some changes to their rules and regulations. These policies relate to wearing of a uniform and directives about use of force. The Commission has done what they have been asked to do. These are tactical calls that need to be made about when protective gear should be worn. They have voted that no more investigation about the July 29 events would be helpful. He has looked at the video, and the events were caused by a small number of violent people who were determined to cause trouble when they refused to be arrested. He stated he was glad that people were able to speak freely that day, but a line was crossed when the violence began.

Councilor Bushor stated she felt the process was flawed because the Commission and the Council should have worked together to look at the investigation. The public was concerned about this. She was pleased that the Police Commission said they would review policies to understand what is in place and whether or not it was followed. She is cautious about using best practices as a standard, though understands why this is necessary. The reason the Council should also have been involved is because the Commission is too close to the Police Department and has a relationship with them. There is a lot of information out there and she does not feel they have yet solved the problem. She inquired if the Commission and Department feel that these actions were appropriate, why would they look for a better way to handle this. That seems inconsistent. Mr. O'Neill stated that even if a situation was handled right and in accordance with best practices, it did not mean it could not be done better in the future. Right or wrong was not the issue so much as determining what could be done to prevent this from happening in again. The Department and the majority of demonstrators did not want violence. They discussed having more arrest teams, but that seems to bring up the level of confrontation. The Department and Commission both feel that they should look at ways to do it better in the future, even though it was done right this time. Councilor Bushor requested that the Council be updated on any policy changes that result from this. Mr. O'Neill stated they will do that.

Councilor Kranichfeld stated he will recuse himself from this discussion because of his position in the State's Attorney's Office and the possibility of criminal charges that may arise from this incident.

Councilor Brennan stated he is disturbed by this whole event. He is concerned that there was a comment that a small number of people wanted to incite violence. In the reports, it was said that the Mayor and Governor were briefed on what those activities were before they happened. That has not been fully flushed out. There were 300-500 protestors that came out to talk about tar sand oils. This whole story has changed, and he is concerned that someone wanted to do that and they may have incited this for other outcomes. He is unsure if they have more information about that briefing and what weapons were involved. Mr. O'Neill stated he does not have that information. As a community member, he was also disturbed at the outcome of these events. He stated he is not privy to the intelligence information. Councilor Brennan inquired if he feels there was adequate planning when the pushing began. Mr. O'Neill stated there was certainly adequate planning. In hindsight, it maybe could have been differently, but no one expected the actions that occurred. Councilor Brennan stated he does respect the Police force, but this is an important issue that needs to be flushed out. He inquired what the range of the shots were. Mr. O'Neill stated in the video it appeared to 15-20 feet. These are low impact munitions that are designed for this purpose so they do not cause significant injury. They are designed to end problems without significant injury. Councilor Brennan stated that these weapons do not penetrate skin, but inquired if killing could happen without penetration. Mr. O'Neill stated no one intended to injure anyone. The idea is to use a non-lethal weapon to prevent injury to even more people. In this case, there were no injuries to the Police Department and only one injury to a protestor. It would be difficult to say that using the non-lethal weapon was not appropriate as the individual sought to assault a Police Officer. None of the munitions are perfect, but they are a reasonable approach to prevent further injury.

Councilor Decelles raised a point of order and noted the Council should be careful about the questions that are being asked, as Mr. O'Neill is not an expert on weapons. City Council President Shannon stated she will trust Mr. O'Neill to tell them where his expertise falls short.

Councilor Brennan inquired if they compared Burlington with Boston. Mr. O'Neill stated they did not because Boston is too large. Councilor Brennan stated they had an incident in Boston where there was a death as a result of non-lethal weapons. That was a wide held case and they put together some good recommendations. Mr. O'Neill stated that would be mixing apples and oranges. They looked at the use of force here, how it was applied, and if it was consistent with their directives. They were not looking at the efficacy of the weapons. Boston is too large of a department to compare with how Burlington operated. It was a different subject that was beyond their expertise, but they would be happy to if they receive City Council directive. Councilor Brennan stated Commissioner O'Toole offered three different investigations, one of which was independent. It brought light to the issues and brought the community back together. He suggested they look at that. He stated someone he spoke with believed that the governors were being held hostage. He inquired if the protestors were holding the governors hostage. Mr. O'Neill stated the governors had already left and staff people were affected. He would prefer not to use the term hostage, and felt people were obstructed and prevented from leaving. Hostage is a term that does not apply in this circumstance.

Councilor Siegel stated she has talked about having a conversation outside of the standard public forum and has set a date for this to happen. This back and forth has been extremely useful. There were still a tremendous amount of questions about both protestor and Police behavior. She hoped they could come up with specific questions that were lingering so this could be put to bed. The Commission did seek additional information, but that email was sent only to those who wrote their email addresses down at the Police Commissioner public forum. Mr. O'Neill stated there were about ten email addresses. Councilor Siegel stated that was not enough outreach to get information from this group of people. Mr. O'Neill stated these were people who were directly involved in the protest. They were asked to spread the word. Councilor Siegel stated there might be an impression that they were too close to the Police Department and there might be a lack of trust for some people. Doing this through a different vehicle could be very productive.

Councilors Bushor and Aubin made a motion to waive the reading, accept the report and place it on file. The motion passed unanimously. Councilor Kranichfeld recused himself from this vote.

4.01. COMMUNICATION: Greta Dumas, Clerk, Burlington Police Commission, re;  
Commissioners' Signatures

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

5. REPORT: Steven Goodkind, DPW Director and Nathan Lavery, Chair, DPW  
Commission, re: DPW Report

Nathan Lavery, DPW Commission, stated the Council should have received the report. He asked the Department Head to summarize the report.

Steve Goodkind, Public Works, stated he tried to provide the finances and highlights in the report. Overall, it was a pretty good year. The general fund budget returned \$300,000. The Revenue Departments ended in good shape with their next budgets. Recycling did not quite meet their revenues for the year, but they did have reserves to make up the difference. Engineering met its expenses but did not return as much to the general fund as hoped.

Councilor Bushor stated the report highlighted some challenges and changes including a change to staffing at the Water Department. She inquired how that was working out. She also inquired how the challenges regarding Stormwater revenues were going. She also inquired how the Mid-Block Crossing by Edmunds was going. Mr. Goodkind stated the Water Plant Operators in the AFCSME Union negotiated a clause in their contract twenty years ago that said their schedules could not be changed without their consent. He has been struggling to change their schedule since he became Director. Their schedule was very odd and it resulted in certain staff members never interacting with management. They persuaded the staff to agree to an arrangement where they would work twelve hour shifts to cover the twenty four hour schedule. They did have to add one more staff member. It is working well for management and he believes staff is adjusting to it. It was a very odd schedule, but many of them were used to that. Most of the staff wanted the change and it is better for staff and the plant. They are in the third year of the Stormwater project. Their formula predicted they would have \$1 million in revenue at this time. As it turned out, some of the information used to define impermeable areas was overestimated. Revenues are closer to \$800,000. They are budgeting at the range they have for money and are not over-expending. There could be a time when that is not enough, but they are alright for now. They are considering updating the information to have a better handle on what the impermeable area is. Councilor Bushor inquired who oversees the Stormwater Program. Mr. Goodkind stated Public Works oversees it and they have a Stormwater Coordinator. The crosswalk by Edmunds' School continues to be controversial. The school requested they add a mid-block crosswalk a number of years ago. There are crosswalks with guards at Union and Willard Streets where 99% of the students cross. They said they had teachers who could not park behind the school who were parking on the North side of Main Street. The school would then give them money to feed the meters. There were also parents who preferred to drop their children on that side of the street. DPW was not crazy about the plan, but did it. There have been arguments that it needs to be upgraded and more work should be done to it. They relocated the drop off area for cars to the South Side of Main Street to prevent students from crossing the street. They also put a sign in the middle of the road for pedestrians. They bring it in at night time and at times have had a school staff person helping people cross that intersection. Public Works maintains that is not a good place to put a crosswalk or a crossing guard. There could be a handful of students living across the street on Main Street, but they can walk the extra twenty seconds up or down the hill to a corner. On the other hand, they have worked to obtain a grant through the Safe Route to School Program to improve the crossing. They were ready to begin work on that project a couple of years ago, but the schools worked to redesign their entryway. They said they may move the entryway and would like it to line up with the crosswalk. Once that was done, Public Works had a staff shortage and was unable to complete the project. It is now in the final design phase to be completed next spring and summer. There will be bump outs on both sides of the road so that people will not step out between parked cars. There will also be rapid flashers installed. They also may install flashing school zone signs. Even with that, he is not sold that this is a good place for a crossing guard. Adults with good judgment can cross safely, but there are students that guards cannot control. Guards at corners have enough trouble with traffic lights. Councilor Bushor stated it is not a safe situation and the Council should be aware of it. Mr. Goodkind stated there are very few students who have to cross there. Mr. Lavery stated there are improvements planned for that crossing. There was testimony at the last meeting from concerned parents and the PTO. They plan to hold monthly meetings until construction begins to ensure everything goes according to plan. They also sent a memo to the PTO and Edmunds Staff asking them to work on reaching a consensus about whether or not that crosswalk should be there at all. They are afraid to close the crosswalk because it is an established path.

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

6. REPORT: James Strouse, Chairman of the Board, re: Burlington Employees' Retirement System, re: City Council Report for June 2012

Robert Hooper, Retirement Board, stated he is the Vice Chair of the Retirement Board filling in for the Chair. Five years ago the Council authorized 90% of the funds being moved from the City to the Vermont Pension Investment Committee, which is run through the State Treasurer's Office. That money has done well. 10% is still in town. Only about 7% of that is invested. The funded ratio is 71% and is likely to remain about the same. The number of unfunded liability is around \$55 million, which is not concerning because it will not come due for a long time. The decision to move funds to the State was a sound one and they are doing well now.

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

7. RESOLUTION: Independent Investigation Re July 29, 2012 New England Governor's & Eastern Canadian Premier's Conference (Councilor Brennan)

Councilor Kranichfeld stated he has a conflict of interest on this matter because of his position at the State's Attorney's Office. This matter may result in criminal charges, so he will recuse himself from the vote and discussion on this resolution.

Councilor Brennan stated he would like to postpone action based on information that has come forward from the Commission, the Public, and Councilor Siegel.

Councilors Brennan and Tracy made a motion to postpone action until December 3.

Councilor Dober inquired what he believes they will achieve by tabling this. Councilor Brennan stated he has learned more information tonight than he had when he wrote the resolution. He feels that he would prefer to get a handle on that information and possibly change the resolution.

The motion passed unanimously.

8. PRESENTATION: Charlie Baker, Executive Director and Michele Boomhower, Assistant/MPO Director, re: ECOS Project

Charlie Baker, ECOS Project, introduced himself and his team. He stated the NPO and the RPC merged last year and that has been successful. They have been having conversations about how to update each of the plans. The ECOS Project was an effort to bring the Regional Plan, the Metropolitan Transportation Plan, and the Comprehensive Economic Development Strategy together under one plan so that they are aligned. This is the long range planning and vision for the County for the next 20-30 years. They wanted to bring a number of partners into this and have accountability. They have included indicators to measure progress towards goals. They have 65 different partner organizations. When applying for this grant, they modeled it off of what the City of Burlington did with the Legacy Project. They have a draft and discussion on the strategies and actions listed on their website. The grant money funding this is a companion to the money that the City got to do PlanBTV, but on a broader level. There are eight strategies that have come from the discussion and research done on this project. These are strengthening the economic system, smart growth strategy by investing in certain areas, water quality and safety, rural investment, health and safety, education and skills, financing and governance, and equity to ensure everyone is represented in decision making. They are also looking to attach projects to this plan so that funding may be easier down the line.

Sandy Miller, ECOS, stated that is a good survey of the project in terms of specific strategies. All of these plans have been worked on in a way to fit them together as well as can be done for a community the size of Chittenden County. It has been good to see all of the different partners working together to affect ideas.

The project is about how to make the larger community sustainable in many different areas. It is about looking forward for the next generation. This has not been talked about by the entire County before.

Andy Montroll, ECOS, stated this is exciting to work on. It has been an outgrowth of the RPC and the NPO and could not have happened before. It has allowed for collaborations on many different levels. It identifies community projects and shows how it fits in with the larger goals of the community. He stated the Legacy Project has helped set the course for how something like this can be done successfully.

Michele Boomhower, ECOS, stated that she has a map available of areas each community has identified as sites for concentrated development. There is important information in the packet about fiscal restraint. They are going to be facing a deficit in the future years. They will have to make tough choices across the board about how to make community investments. The hope is the planning process will provide a framework for having those discussions.

City Council President Shannon inquired about dotted lines in the project list. Ms. Boomhower stated the line shows how far funding will go based on the use of funding splits described in the memo. It would take historic spending patterns and shift them to new investments for walking and biking projects. These will reduce the needs for new transportation facility investments. A project below the dashed line may get funding because there are many factors that go into funding beyond the regional planning aspect. It is meant to demonstrate what the most valuable projects are.

Councilor Bushor inquired if there is any access to money that could be accessed on a regional level even though individual municipalities may not be able to. Ms. Boomhower stated there has been emphasis on intercommunity projects that provide a wider range of benefit from a regional perspective. VTRANS is looking in that direction and are more competitive when there are federal funding streams available. Projects with interconnectivity will be ranked higher when those funding sources become available. Councilor Bushor stated she has concerns about parallel entities competing. She hopes that this can be rolled into Legacy eventually so moneys will not be divided. Mr. Baker stated this is an effort to work together and have the regional list of projects. This is funded by HUD, DOT, and EPA. Going through this process will give bonus points when applying for funding.

Councilor Brennan stated there was talk about stimulus through road projects. He inquired what the pulse on the congressional delegation is. Ms. Boomhower stated communication is not on a daily basis. There have been extra investments in transportation in the past few years. The delegation has looked to this group for ready to go projects. They work closely with VTRANS and City Staff to make sure that opportunities are advanced as quickly as they can be. Should opportunities arise, there will be a number of activities ready to be advanced.

Councilor Siegel stated she is impressed how quickly this has been put together. She commended them for including Equity and Inclusion as a part of this.

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

8.01. COMMUNICATION: Charlie Baker, Executive Director and Michele Boomhower, Assistant/MPO Director, re: Chittenden County ECOS Regional Plan – Municipal Outreach

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

9. RESOLUTION: Airport Bond Issue Supplemental Resolution (Board of Finance)

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

Thomas Melloni, Burak, Anderson, Melloni, stated in 1997, the City Council adopted a bond resolution allowing a series of revenue bonds to finance improvements at the Airport. Since then, they issued three series of bonds in 1997, 2000, and 2003 for runway improvements, terminal improvements, and construction of the parking structure. This is proposed to refund the series 1997 and 2000 bonds for interest rates savings. It will also refinance the Bond Anticipation Note the City issued last year in the amount of \$12 million for parking garage expansions. The series of bonds and the action presented amounts to an issuance not to exceed \$30 million in bonds with an interest rate not to exceed 6.25%. The issuance of those bonds will be delegated to Board of Finance in terms of the actual principal and interest rate. This is consistent with prior City Council action because the underwriter will be marketing these bonds and using official report of the Airport for bids and will then present to the Board of Finance.

Councilor Dober inquired if this will impact the debt service amount that they have currently. Mr. Melloni stated the Bond Anticipation Note is intended to be melded in so it is paid out over a period of time. Interim CAO Sisson stated one reason they are refunding is to obtain a net present value savings. This is estimated to save \$675,000 - \$700,000 with an expected interest rate of 4.75%. The numbers about the size of the issuance are there to provide cushions in case something goes wrong. They will not go forward with the deal if they do not get the numbers they were told. An advantage of this deal is that it levelizes the debt service requirements at the Airport for the next fifteen years at the same level they are at now. Councilor Dober stated they are supposed to have an amount of money in reserve and inquired if this will impact that. Interim CAO Sisson stated it will not impact the debt service ratio.

Councilor Brennan inquired if this is the appropriate time to do this with another large bond on the ballot. Mayor Weinberger stated they are making an effort with City finances to move away from reliance on short term borrowings to long term stable finances. This is similar with the Airport's finances. The Bond Anticipation Note was short term borrowing which will be converted through this borrowing. The Airport faces similar risk. This action was authorized by the voters in 2010. By going through with this, there is a chance to stabilize finances and reducing interest rates. Interim CAO Sisson stated that they have no choice but to refinance the BAN, as it matures on December 15. Councilor Brennan stated he appreciates the \$12 million and it all sounds great. There has been a lot of talk about the Moody's rating. He wonders if they will be locked in for 15 years knowing that in the short term there may be a better opportunity. Interim CAO Sisson stated they had rating agency presentations that went well. They are hopeful they will get Moody's to at least change the outlook from negative to stable. Fitch has not rated the City as low as Moody's and the hope is they will stay where they are with a neutral or positive outlook. There are historically low interest rates that might not be there in a year.

The motion passed unanimously.

9.01. COMMUNICATION: Thomas R. Melloni, Esq. to Paul Sisson, Interim CAO, re: Supplemental Resolution No. 4

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

10. RESOLUTION: Approving the Pledging of the Credit of the City in Anticipation of the Receipt of Revenue from the Airport Department (Board of Finance)

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

Thomas Melloni, Burak, Anderson, Melloni, stated this resolution authorizes the pledging of the credit of the City in an amount not to exceed \$3 million in anticipation of receipt of revenue from the Airport. The City Charter authorizes the Council to pledge the credit for normal operating expenses of City Departments. Last year the City Council authorized \$5 million of Revenue Anticipation Notes for various improvements at the Airport. The requirement is that borrowing has to mature within the current fiscal year.

The motion passed unanimously.

11. RESOLUTION: Moran Plant Development & Public Good (Councilors Tracy, Siegel, Bushor, Brennan)

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

Councilor Bushor stated the Mayor announced he has decided to look at the Moran Plant and consider other options. There will be a process with an RFQ that will come forward. Since there was a change from a process that the community had been involved with and a development of projects that had been supported, it may be beneficial to look at those opinions that the community held regarding the Waterfront and the Moran Plant. The resolution requests that public engagement in each step of the process. The original resolution was pulled from the agenda because the Mayor was not supportive of it. The Mayor met with the makers of the resolution to come to a common agreement that everyone was supportive of. The other principles were to strive to find uses that were accessible and affordable, ensure that re-development includes free and inviting public space, and retain full or majority ownership by the City of the building and lease space. The people she has spoken with have said they would like the City to control the uses of that structure in the long term. There may be a long term lease, but ultimately the City would have the right to retain the property. Citizens want to ensure they can enjoy the Waterfront in whatever way possible.

Councilor Dober stated his first reaction was that it ties the City's hands of the City. He does understand the concept behind why it was written. He feels it could be tweaked to convince him.

Councilors Dober and Decelles made a motion to add the phrase "strive to" to lines 84 and 86.

Councilor Siegel stated this is a non-binding resolution to begin with and is unsure what the goal of the amendment is. Councilor Dober stated if it is non-binding they should be using non-binding words. He stated that is what will make him comfortable endorsing it.

The motion passed by a vote of 10-3 with Councilors Hartnett, Mason and Blais voting against.

Councilor Brennan thanked Councilor Bushor for providing the history behind this resolution. As the City considers leasing this space, there will be revenue from a private entity through this. He does not see the benefit of selling. Seventh Generation is a company that is on the Waterfront. They are looking beyond the landscape of their business. This is the people's property. He does not want to hold up any plan, but does want to look towards future generations to ensure this is still in play.

Councilor Blais stated his concern is that he does not know why this resolution is being proposed now. He has a hard time imagining that he would approve a proposal that would allow the building to be sold. However, there may be a time down the road when a worthy buyer may come along. He would not want to suggest that the Council is opposed to that. Before anything happens to Moran it will be brought to the Council, and that will be the time to address this. He stated he will vote against the resolution.

Councilor Aubin stated he does not understand the necessity of this when the checks are already in place for the process moving forward. This does not need to be done before there is a concept of what will be done. This property has a huge amount of creative opportunity. The City has been successful over the past few decades because it has adapted to different economies. There are people out there with great ideas and there could be a great idea that comes forward later. He would not like to limit those opportunities.

Councilor Mason stated he will not support the resolution although he appreciates the language that was added. He is concerned that they will be limiting themselves from potential partners. It creates an artificial concept that leasing is bad and owning is good. The same outcome can be achieved through a long term lease or a deed with restrictions.

Councilor Kranichfeld stated he supports the spirit of the resolutions which is that whatever is done, it needs to be open to the public and accessible to everyone. He has concerns about supporting this resolution because it is premature and may interfere with the ability to negotiate with potential partners. It is time to move forward with this project. The public trust doctrine will protect the public use of this property no matter what happens. The Council will have the final say on what happens with this project. If the Mayor's proposal is not up to the appropriate standards, they can vote against it. With a project this complex, property rights become complicated and the line between leasing and owning becomes blurred. Any negotiation with a partner will involve a large set of property rights and liabilities. Preemptively limiting the types of ownership structures could preclude partners and proposals from coming forward. He would prefer to wait until there is a concrete proposal from the Mayor. At that time they can discuss the ownership structure, the uses of the property, and how the public plays in.

Mayor Weinberger stated he shares the sense that the City has a wonderful waterfront that is a treasure of the City. The Art space event that was referenced tonight was an important and exciting discussion that will lead to ideas that will impact the City. This is a historic opportunity to make additional public investments in the Waterfront. The Administration is focusing on this. It will be a difficult process. There have been thirty years of efforts to redevelop this site. This is not the moment to be adding new rules prematurely. He has heard the great interest and care that the Council and the public feel towards this site and will work to bring a worthy project forward. He will return to the Council when there is a more concrete proposal that can be acted on. He will return with a great process moving forward and looks forward to implementing a plan.

Councilor Tracy stated he has heard the phrase that Burlington is open for business, but it is not for sale. It has been inspiring for him to think that Burlington can promote business without compromising its values. This provides some helpful parameters for entering into that debate. It is a necessary effort because there is a desire for expediency when it comes to this site. Expediency may not result in the best outcomes in terms of accessibility for different socioeconomic levels, free space, or the ability to control that site. This is a time of economic uncertainty and they should not even consider selling off a jewel of the City. Not passing this suggests that the Waterfront is for sale. Retaining public ownership is crucial for him. Something that should be considered is using New Market Tax credits. This requires low income accessibility and may open up opportunities. The resolution is advisory and encourages the Mayor.

Councilor Decelles stated everyone has constituents who want the plant sold, want to keep it privately owned, or want it torn down. He views this as a template for the future because of the past. The last time the voters weighed in on this, they decided to go ahead with the Ice Factor proposal. It has been stressed that the City should keep some kind of ownership stake. The voters have not been gauged since 2006 and the current outcome is not known. This is advisory and stresses what the voters in the past have said. He does not see this as tying anyone's hands. Any prospective buyer, tenant, or partner would look at this as what the Council and Burlington are looking for. It does not preclude anything from happening and he will support this.

Councilor Hartnett stated that he believes that if Moran were brought back to the voters there would be a different outcome. No one is going to be barred from visiting the Waterfront. This has been in the works for five years in and \$1 million of taxpayer money has been spent. Now the Council is concerned about accessibility and affordability. The proposal for a \$50 an hour climbing wall would not have been affordable. He stated he wonders why these concerns were not raised in the past. He supports the Mayor's decision and would like to move forward. The Waterfront is not for sale, but tying hands and adding additional restrictions is not a good idea. This resolution is premature and he will not support it.

Councilor Siegel stated there have been questions about why this is being done now. They had hoped to do this in July. The new Administration has changed tracks and they indicated the information about what the public wants is outdated. If this is true, there needs to be new information. If the people are ready to sell it, that would be fine, but it is not what she has heard from her constituents. This does not preemptively decide anything, it just restates important principles. Everyone seems to agree about protecting the use. That will primarily be done by the Public Trust Doctrine. There may be more control over that land if it is sold or leased, but that is not known. Once it is sold, that asset will be gone and no money will be made off of it.

Councilor Kranichfeld requested a brief recess. The Council took a five minute recess. Councilors Paul and Dober made a motion to suspend the rules to complete the agenda. The motion failed by a vote of 10-3 with Councilors Bushor, Decelles, and Brennan opposed.

Councilor Bushor inquired if they will finish the executive session. City Council President Shannon stated no one is present for the executive session. The Council took a one minute recess. City Council President Shannon stated another motion can be considered to hold the executive session. No motion came forward.

12. RESOLUTION: March 5, 2013 Annual City Meeting—Advisory Referendum re: City Ownership of the Waterfront Properties (Councilor Brennan)

This item was not addressed at this meeting.

13. COMMITTEE REPORTS (5 mins.)

This item was not addressed at this meeting.

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

This item was not addressed at this meeting.

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

This item was not addressed at this meeting.

16. COMMUNICATION: Joseph McNeil, Esq., re: IBEW Negotiations (oral)

This item was not addressed at this meeting.

17. ADJOURNMENT

Without objection, the Regular City Council Meeting was adjourned at 10:38 p.m.

Attest:

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