

DRAFT  
REGULAR MEETING, CITY COUNCIL  
CONTOIS AUDITORIUM, CITY HALL  
MONDAY, OCTOBER 6, 2008  
7:08 P.M.

1  
COMMUNICATION  
DATE 12/1/08  
AGENDA ITEM # 7.06

PRESENT: Councilors Ashe, Adrian, Berezniak, Gutchell, Knodell, Davis, Ellis, Wright, Keogh, Shannon, Montroll, Paul, and Decelles and Mayor Kiss

ABSENT: Councilor Bushor

OFFICE OF THE CITY ATTORNEY: Ken Schatz, Gene Bergman and Richard Haesler, Jr. (left at 8:30 p.m.)

OFFICE OF THE CLERK/TREASURER: Ben Pacy and Lori Olberg

PRESIDENT WRIGHT PRESIDING

1. AGENDA

On a motion by Councilors Knodell and Bushor, the Council voted unanimously to amend the agenda as follows: add to the consent agenda item 6.09. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance, Minutes of Meeting, Thursday, October 2, 2008 with the consent action to "waive the reading, accept the communication and place it on file;" add to the consent agenda item 6.10. COMMUNICATION: Emily J. Stebbins, Chair, Burlington Planning Commission, re; Update on Planning Commission activities, June-September 2008 with the consent action to "waive the reading, accept the communication and place it on file;" move agenda item 15.5. COMMUNICATION: Larry Kupferman, CEDO Director, re: Update on the history and status of 131 Battery St./Cornell Building to item 6.11 on the consent agenda with the consent action to "waive the reading, accept the communication and place it on file;"; add to the agenda item 15.6. COMMUNICATION: Ken Schatz, City Attorney, re: Personnel Matter (oral)—expected Executive Session.

Regular Meeting of the City Council was recessed at 7:18 p.m. to convene the Board of Civil Authority at 7:18 p.m.

Regular Meeting of the City Council was reconvened at 7:38 p.m.

2. PUBLIC FORUM

President Wright opened the public forum at 7:38 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Greg Jenkins	7	Disc Golf
Maggie Standley	3/Avant Garden	Avant Garden
Emily Stebbins	3	Chair/Planning Commission Update

There being no one further coming forward, President Wright closed the public forum closed at 7:47 p.m.

3. COMMUNICATION: City Councilors, re: General City Affairs

At their meeting of 12/1/08 the Burlington City Council voted to waive the reading, accept this communication and place it on file/adapt to the minutes @  
Attest: *[Signature]*  
the 12/19/08 CC meeting

DRAFT

Councilor Davis noted that October was Domestic Violence Awareness Month and outlined various resources in the community working on this issue. He also encouraged everyone to go to the open house being hosted by Big Heavy World at the Radiator, a low power radio station in Burlington.

Councilor Adrian stated he had attended the Fletcher Allen Health Care Rounds Program which was excellent. He appreciated having such excellent staff available and suggested others attend this program.

4. COMMUNICATION: Mayor Kiss, re: General City Affairs

Mayor Kiss noted that Brenda Torpey received the World Habitat Award today in Africa from the United Nations for the affordable housing work that Champlain Housing has done. Therefore, he has pronounced October 6, 2008 as Champlain Housing Trust Day.

5. COMMITTEE REPORTS

Councilor Knodell, speaking as Chair of the Community Development Committee, reminded Councilors that the Committee was tasked with evaluating effectiveness of the NPA's. She asked for guidance about the broader evaluation of the NPA from other Councilors.

Councilor Montroll noted that the Transportation, Energy and Utilities Committee would be scheduling a public hearing about the Shelburne Rotary. He hoped that it will be well attended.

6. CONSENT AGENDA

On a motion by Councilors Knodell and Ashe, the Council voted unanimously to accept the consent agenda as amended, thus taking the indicated actions on the following consent items:

6.01. RESOLUTION: Reclassification of the Department of Public Works Right-of-way Foremen of Streets, Water and Traffic (Board of Finance)

\*waive the reading and adopt the resolution

6.02. RESOLUTION: Authorization to Apply for a \$75,000 Grant from the Vermont Downtown Program's Downtown Transportation and Related Capital Improvement Fund (Councilor Ashe)

\*waive the reading and adopt the resolution

6.03. RESOLUTION: Clarification of Burlington Electric Department's Authority to Purchase and Sell Renewable Energy Credits (Councilor Paul)

\*waive the reading and adopt the resolution

6.04. COMMUNICATION: William F. Ellis, Esq., Law Offices McNeil, Leddy & Sheahan, re: Approval of Sale of Renewable Energy Credits by BED

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

6.05. COMMUNICATION: Richard W. Haesler, Asst. City Attorney on behalf of the Public Safety Committee, re: Sex Offender Residency Restrictions

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

6.06. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance, Monday, September 22, 2008 Minutes

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

DRAFT

6.07. COMMUNICATION: Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO, re: City Council Minutes for June 23, 2008

\*waive the reading, accept the communication, place it on file and adopt the minutes as received at the September 22, 2008 City Council Meeting

6.08. COMMUNICATION: Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO, re: City Council Minutes for July 14, 2008

\*waive the reading, accept the communication, place it on file and adopt the minutes as received at the September 22, 2008 City Council Meeting

6.09. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance, Minutes of Meeting, Thursday, October 2, 2008

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

6.10. COMMUNICATION: Emily J. Stebbins, Chair, Burlington Planning Commission, re: Update on Planning Commission activities, June-September 2008

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

6.11. COMMUNICATION: Larry Kupferman, CEDO Director, re: Update on the history and status of 131 Battery St./Cornell Building (previously was 15.5 on the Deliberative Agenda)

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

7. COMMUNICATION: David E. White, AICP, Director of Planning and Zoning, re: Proposed Zoning Amendment ZA-09-01 – Electronic Message Display

Planning & Zoning Director White addressed the Council giving examples of electronic message displays (UVM Athletic Board on Spear Street being one of them). This particular zoning amendment dealt specifically with Burlington High School's request for a display. As this was being drafted, the amendment is only for secondary schools. President Wright noted his desire to hold a public hearing at the next Council meeting so as to move this amendment along. Councilor Montroll made a motion, seconded by Councilor Decelles to hold a public hearing at the next Council meeting. The motion passed unanimously

8. PRESENTATION: Jennifer Green, Legacy Project and Sandrine Thibault, Planning & Zoning Department, re: Update on the Climate Action Plan Re-Write

Presenters Jennifer Green and Sandrine Thibault outlined the CO2 emissions that City Government and the Burlington community produce and the goals that have been set by Mayor Kiss for reduction of these emissions. Information is available on the Climate Action website.

8.01. COMMUNICATION: Sandrine Thibault, Department of Planning and Zoning and Jennifer Green, Burlington Legacy Project, re: Climate Action Plan Update

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

9. PUBLIC HEARING: Charter Change - Penny for Parks

City Attorney Schatz explained that as this item has been placed on the ballot, the City is required by State Law to have two public hearings prior to the election. This is the first one of two.

DRAFT

President Wright opened the public hearing at 8:07 p.m.

Chris Hadsel, a former Parks and Recreation Commissioner for four years, spoke in support of the charter change.

There being no one further coming forward, President Wright closed the public hearing at 8:10 p.m.

The second hearing on this item will be held on October 10<sup>th</sup> at noon.

9.01. COMMUNICATION: Notice of Public Hearing, re: Charter Change – Penny for Parks

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

10. COMMUNICATION: Larry Kupferman, CEDO Director, re: Moran Redevelopment Update

CEDO Director Kupferman thanked the Board of Finance for their help in developing the MOU's, two of which will be available to review at the next Council meeting.

11. REPORT: Scott Gustin and Laurie Adams, Co-Chairs, Stormwater Task Force,  
Re: Proposed Stormwater Program

Scott Gustin, Laurie Adams and Steve Goodkind reported on the Mayor's Stormwater Task Force report, outlining the reasons for the proposals being suggested. An ordinance was included in the packet, which allowed the Councilors to suggest changes to the Task Force. Following questions from the Councilors, Councilor Gutchell moved to refer this to the Board of Finance and the Transportation, Energy and Utilities Committee, seconded by Councilor Davis. The motion passed unanimously.

11.01. COMMUNICATION: Chapter 26, WASTEWATER, STORMWATER AND  
POLLUTION CONTROL

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

11.02. COMMUNICATION: Emily Stebbins, Chair, Burlington Planning Commission, re:  
Proposed Stormwater Management Program

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

12. RESOLUTION: The Development of a Consolidated School-City Capital Plan  
(Councilors Knodell, Paul, Wright & Bushor)

Councilor Knodell made a motion, seconded by Councilor Paul, to adopt the resolution. Councilor Knodell explained that this resolution puts definition to the process that will be used as the Council moves forward in their commitment to work jointly with the School Department to identify the aggregate borrowing capacity of the City, to identify all of the capital needs and to prioritize them on both the City and school side and to come back with options to address the most pressing capital needs of both the schools and the City.

Councilor Ashe asked if the group noted in the resolution would supersede the earlier established group. Councilor Knodell responded that it will continue to be the same group but with a different charge.

## DRAFT

Councilor Adrian offered an amendment adding two names to the group: William Chip Mason and Megan Munson Warnken, which was seconded by Councilor Keogh. Councilor Ashe opposed the amendment, offering that it was not the proper way to include members to the group. Councilor Knodell also raised an issue of accountability to the electorate. It was noted that individuals will be able to come to meetings and weigh in on the choices that are made by the Committee. Councilor Berezniak believed it was important to include qualified citizens in the process. Councilor Davis and Wright agreed it was not appropriate to select members to an advisory group in this manner. Mayor Kiss noted how complex this discussion will be. He agreed that any individual can address the Council with suggestions or opinions. The members of the current committee are school and city officials. A random group of individuals being added did not seem productive.

Councilor Gutchell, seconded by Decelles, called the question on the amendment offered by Councilor Adrian. The amendment failed by a vote of 9 to 4, with Councilors Shannon, Adrian, Berezniak and Keogh voting for the amendment.

Councilor Paul spoke in favor of the proposal and approved of using PFM. Councilor Knodell read into record the addition of the following statement to the resolution: "Be it further resolved that the joint Boards of Finance are directed to hold public hearings after choices are framed by the administrative task force." Councilor Montroll supported the resolution and asked the School Department representatives to come forward for questions.

Jeanne Collins, Superintendent of Schools, addressed the Council stating that she supported the intention of the resolution but was concerned about the level of detail regarding dates. School Board Commissioner Lane appreciated the review of the bonding capacity and the coordination between the two entities, but felt it was ultimately the School Board that should bring the suggestions to the Council. Following questioning, Mr. Lane said the timeline was within reason, primarily because those are the dates they currently have to live by. Councilor Shannon agreed to support the resolution despite her desire to have particular members on the task force. She then offered an amendment: after analysis: add "and report to the City Council" of the City's bonding capacity. This was friendly to the maker and the seconder.

Councilor Berezniak asked if the committee is going to be rewriting the plan or simply prioritizing the items that the School Board already suggested. Councilor Paul noted there was already a Master Plan developed by the School Board. The intention was to look at the items that are related to safety, accessibility and energy improvement. The idea was to break apart the aspects of the plan that were related to those.

Councilor Gutchell called the question, seconded by Councilor Decelles. The vote was 10 to 3, with Councilors Shannon, Adrian and Berezniak voting against.

The vote was then taken on the resolution itself. The motion passed unanimously.

13. RESOLUTION: The Employee Retirement Advisory Group (Councilors Keogh, Montroll & Adrian)

Councilor Keogh moved to adopt the resolution, seconded by Councilor Montroll. Councilor Keogh expressed his frustration with the Employee Retirement Advisory Group. He wanted to receive a report from the group and disband it. Councilor Ashe offered an amendment, suggesting that the group should be given notice of the intent to disband the advisory group and asked to postpone a decision until the October 20<sup>th</sup> meeting. The amendment was considered friendly to the maker and the seconder.

14. RESOLUTION: Authorization to Commence the Application Process for Establishing a New Tax Incremental Financing District (Councilors Knodell, Gutchell,

DRAFT

Ellis: Community Development & Neighborhood Revitalization Committee)

Councilor Knodell made a motion, seconded by Councilor Gutchell, to approve the resolution. The motion passed unanimously.

14.01. COMMUNICATION: Larry Kupferman, CEDO Director, re: Tax Incremental Financing (TIF) & Burlington TIF District

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

15. COMMUNICATION: Ron Redmond, Executive Director, Church Street Marketplace, re: FY08 ANNUAL REPORT

In response to questions from the Councilors, CSM Executive Director Redmond informed the Council that restaurants did very well during the summer months and that while the beginning of the summer was soft for retail establishments, ultimately they did well. Several Councilors expressed their support and appreciation for the work that the management and maintenance staff does to keep the street vibrant.

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the report and place it on file.

15.6. COMMUNICATION: Ken Schatz, City Attorney, re: Personnel Matter (oral)

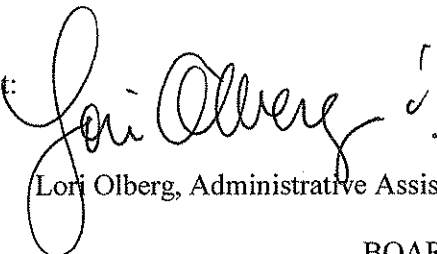

On a motion by Councilors Knodell and Paul, the Council voted unanimously to go into executive session to discuss a personnel matter, premature public disclosure of which would clearly place the City at a disadvantage (9:42 p.m.). Also present were: HR Director Lonerwright, Parks and Recreation Director Gross and Senior City Attorney Bergman.

\* \* \* \* EXECUTIVE SESSION \* \* \* \*

On a motion by Councilors Knodell and Ashe, the Council voted unanimously to go out of executive session (10:45 p.m.).

16. ADJOURNMENT

On a motion by Councilors Knodell and Davis, the Council voted unanimously to adjourn the meeting at 10:46 p.m.

Attest:    
Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO

BOARD OF CIVIL AUTHORITY  
MONDAY, OCTOBER 6, 2008  
7:18 P.M.

MAYOR KISS PRESIDING

1. AGENDA

DRAFT

2. CONSENT AGENDA

2.01. COMMUNICATION: Connie Krosney, Inspector of Elections, Ward Six, re; Resignation  
\*waive the reading, accept the communication, place it on file, send Connie Krosney a letter of appreciation thanking her for years of being a Ward Six Inspector of Elections and recruit another individual to be a Ward Six Inspector of Elections

Councilor Knodell made a motion, seconded by Councilor Wright to accept the consent agenda. Councilor Paul requested clarification that Ms. Krosney noted her resignation as being a result of the requirement of working a 14-16 hour day on election day. The Mayor stated that this is an elected position and those are the times required to serve. The Mayor also referred the question to Asst. CAO Pacy who stated he had not spoken with Owen Mulligan, Ward Clerk for Ward Six, but that was the communication he received. City Attorney Schatz agreed that it was an elected position which required overseeing the entire election day process but that it may be worth suggesting to Ms. Krosney that she consider serving as an Assistant Election Official with set times being noted. The motion then passed unanimously.

3. COMMUNICATION: Benjamin Pacy, Assistant CAO, re: Mobile Polling for General Election

Councilor Ashe made a motion to accept the communication and place it on file, seconded by Councilor Berezniak. Councilor Ashe then explained the purpose of mobile polling. The Board of Finance had already reviewed the item and approved it by a vote of 3 to 2, with Councilor Ashe, Mayor Kiss and CAO Leopold in favor. Following a lengthy discussion, Councilor Ashe asked to vote on the communication. The motion passed unanimously.

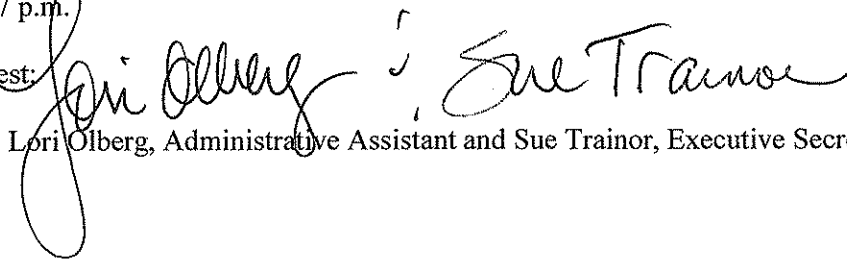
4. ACTION ON ITEM 3

Councilor Ashe made a motion to approve the request of the Secretary of State to participate in the Mobile Polling Project. Councilor Berezniak seconded the motion. The motion passed by a vote of 10 in favor, 2 opposed (Councilors Wright and Decelles) with 1 abstention (Councilor Adrian, who works at the Vermont Secretary of State's Office).

5. ADJOURNMENT

On a motion by Councilors Davis and Ashe, the Council voted unanimously to adjourn the meeting at 7:37 p.m.

Attest:



Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO