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DELIBERATIVE AGENDA  
LOCAL CONTROL COMMISSION  
CONTOIS AUDITORIUM, CITY HALL  
MONDAY, OCTOBER 20, 2008  
7:04 P.M.

1  
COMMUNICATION  
DATE 12/1/08  
AGENDA ITEM # 7.07

PRESENT: Commissioners Adrian, Ashe, Bushor, Berezniak, Knodell, Davis, Ellis, Wright, Shannon, Montroll, Paul, Decelles and Mayor Kiss

ABSENT: Commissioner Keogh

OFFICE OF THE CITY ATTORNEY: Ken Schatz, Richard Haesler, Jr., Nikki Fuller

OFFICE OF THE CLERK/TREASURER'S OFFICE: Jonathan P.A. Leopold, Jr., Ben Pacy, Lori Olberg and Sue Trainor

1. AGENDA

There were no changes to the agenda.

2. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2008-2009):

Euro Corner, LLC, d/b/a Euro Corner, 61 Main Street

Commissioner Davis made a motion, seconded by Commissioner Ashe, to approve the First Class Restaurant Liquor License application for Euro Corner. The motion passed unanimously.

3. OUTSIDE CONSUMPTION PERMIT APPLICATION (2008-2009):

Euro Corner, LLC, d/b/a Euro Corner, 61 Main Street

Commissioner Davis made a motion, seconded by Commissioner Ashe, to approve the Outside Consumption Permit application for Euro Corner. The motion passed unanimously.

4. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2008-2009)

The Nutz, Inc., d/b/a Menores (formerly Plan B), 156 St. Paul Street

Commissioner Davis made a motion, seconded by Commissioner Ashe, to approve the First Class Restaurant Liquor License application for Menores. Commissioner Davis noted that condition 1 (alcohol sales not to exceed 60%) had been removed per recommendation of the Department of Liquor Control; condition 2 (licensee will be required to provide detailed documentation of its gross sales of food and alcohol by January 30, 2009) will remain. The motion passed unanimously.

4.01. COMMUNICATION: Nikki A. Fuller, Esq., Assistant City Attorney, re: Proposed Conditions for the Nutz d/b/a Menores Restaurant Liquor License Application

4.02. COMMUNICATION: Brad M. Luck and Mathew A. Rogerson, Owners, Rasputin's, re: 156 St. Paul Street

At their meeting of 12/1/08  
the Burlington City Council voted to  
waive the reading, accept this communication  
and place it on file.  
Attest: *[Signature]*  
December 15, 2008 City Council Meeting *[Signature]*

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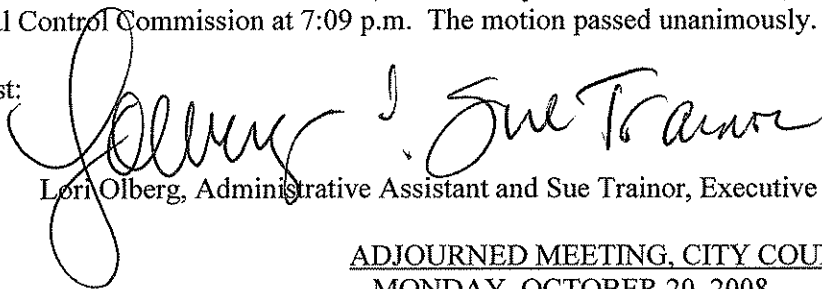
- 4.03. COMMUNICATION: John Ficociello, CPO, President, Yankee Medical, re: 156 St. Paul Street
- 4.04. COMMUNICATION: James W. Murdoch, Austin Hale Building Company, re: 156 St. Paul Street
- 4.05. COMMUNICATION: Steve Aridgides, Unit 705 Owner, Vermont House, re: New Restaurant in the Vermont House
- 4.06. COMMUNICATION: David John Carleton, Owner, Mane Attraction, re: 156 St. Paul Street
- 4.07. COMMUNICATION: Rick Machanic, Tag New Media, re: 156 St. Paul Street
- 4.08. COMMUNICATION: Benjamin M. Gerace, Owner of Unit #706, 131 Main Street, re: 156 St. Paul Street
- 4.09. COMMUNICATION: William Rockwood, Owner, Kerry's Kwik Stop, re: Menores
- 4.10. COMMUNICATION: Erik J. Hoekstra, Development Manager, Redstone, re: Current Proposal for 156 St. Paul Street

With no objection from the remaining Commission, Commissioner Wright proposed to waive the readings and place items 4.01.through 4.10. on file.

5. ADJOURNMENT

Commissioner Davis made a motion, seconded by Commissioner Ashe, to adjourn the meeting of the Local Control Commission at 7:09 p.m. The motion passed unanimously.

Attest:



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

ADJOURNED MEETING, CITY COUNCIL  
MONDAY, OCTOBER 20, 2008  
7:09 P.M.

1. AGENDA

On a motion by Councilors Bushor and Knodell, the Council voted unanimously to amend the agenda as follows: remove consent item 6.02. RESOLUTION: License Agreement with Chittenden County Transportation Authority to Enlarge Bus Shelter on a Portion of the Public Right-of-way on Shelburne Road (Councilors Davis, Ashe, Berezniak: License Committee) and place it on the October 27, 2008 City Council Consent Agenda; please note the written material for consent item 6.13. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for October 6, 2008 (not October 2, 2008 as the agenda indicated—those were part of the 10/6 City Council packet.); add to the agenda item 9.02. COMMUNICATION: Brad M. Luck and Mathew A. Rogerson, Owners, Rasputin's, re: In Opposition of Adding DJ to Tilley's Entertainment Permit; please note the proposed action for item 11.01. COMMUNICATION: Burlington Committee on Open Government, re: Report is "to refer to the Planning & Zoning Department and the CAO with a report due back at the November 17, 2008 City

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Council Meeting citing what recommendations have been put into place and what recommendations have not and why;" please add to the agenda item 14.5. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Report on School Bonding Issue Update (per Councilor Paul)

Councilor Paul made a motion to move item 14.5 to an earlier spot on the agenda for the benefit of those residents in attendance. The motion passed unanimously and the item was re-numbered 5.5.

2. PUBLIC FORUM (Time Certain: 7:30 p.m.)

President Wright opened the public forum at 7:34 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Jared Wood	1	Moran Plant
Ron Ruloff		Against Moran Plant Design
Roger Cole	3	McNeil Plant, Adam Cate and Moran Plant
Susan Dorn	6	Open Government Committee
Michael Rooney	6	Moran Plant Funding

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

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

Councilor Gutchell congratulated City Market's success as outlined in the recent Business Magazine. He also praised Bruce Seifer, Brian Pine and Larry Kupferman for the work being done in CEDO. They are a great economic and housing engine for the City.

Councilor Knodell informed the Council of the November 13<sup>th</sup> Button Up Vermont meeting being held in Contois, with BED and the Legacy Project co-sponsoring the event.

Councilor Berezniak welcomed Roger Cole to the Steering Committee of the Ward 2/3 NPA.

Councilor Shannon noted her appreciation to Councilor Paul for providing information on retirement funds and asked that the Mayor keep the Council informed on items relating to the retirement fund and the School-City Task Force.

Councilor Wright asked for a moment of silence on behalf of D.G. Weaver who recently passed away.

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

Mayor Kiss noted that the Mobile Voting Pilot Project was recently completed. He informed Councilors that Burlington's Church Street Marketplace was recently named as one of "ten great places" by the American Planning Association. Additionally, the Wall Street Journal also reported on Burlington as a place to retire to. The City is noted as providing an urban experience with the intimacy of a small town. Finally, he also informed the Council that he had met with all of the social service and housing groups to work on the various conditions that low income residents will be experiencing this winter.

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5. COMMITTEE REPORTS

Councilor Decelles spoke about the Charter Change Committee which has been tasked with making a recommendation to the Council on whether CEDO and Burlington Telecom should have commission oversight. They have had their first meeting and broader discussion will take place in November with presentations from both CEDO and Telecom.

Councilor Knodell reported that the Community Development and Neighborhood Revitalization Committee is looking at the final draft of the survey that has been developed on the NPA's. This survey will be given out at the upcoming election. The Committee will also be speaking with the Planning Committee about using the NPA's to update the residents of changes occurring in their area. This was a recommendation from the Open Government Committee.

Councilor Adrian stated that the Public Safety Committee voted unanimously to table action on the sex offender registry resolution.

Councilor Bushor reported that the revision of the HR Policy will be ready and presented to the Council at the first meeting in November, to be acted on at the second meeting in November. The Institutions and Human Resource Policy Committee will be meeting in the next month with Champlain College and UVM.

Councilor Montroll reported on the Transportation, Energy and Utilities Committee. They will be discussing the Transportation Plan, as well as the Stormwater Plan. The Committee is still working on scheduling a public hearing on the Shelburne Road Rotary Design.

Councilor Shannon noted that the Joint Committee on PUD's next meeting will have drafts of the vision of the Committee, a matrix of how a PUD might work in different districts and a draft of an ordinance.

5.5. (was 14.5) COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Report on School Bonding Issue Update

CAO Leopold informed the Council that the first meeting of the Task Force was scheduled for October 29<sup>th</sup>. The School Board requested and received a preliminary facilities audit and had been working with the architect to divide them into the critical aspects of the Master Plan. The cost estimates will require considerable work due to stand-alone work that may be requested. The CAO has met with DPW Director Goodkind and City Engineer Carol Duncan and has asked them to expand the scope of their 5 year plan. They will be working with all capital improvements in General Fund departments. They will also be working on a five to ten year project plan. Non-General Fund departments, Telecom and Airport, also need to be reviewed for their bonding and capital improvement needs. The goal is to analyze and integrate the School and City needs in January.

6. CONSENT AGENDA

On a motion by Councilors Knodell and Bushor, the Council voted to unanimously adopt the consent agenda as amended thus taking the following actions as indicated:

- 6.01. RESOLUTION: Authorization of Execution and Delivery of a Master Lease Agreement, Equipment Schedule No. 11, an Escrow Agreement, and Related Instruments, and Determining Other Matters in Connection Therewith (Board of Finance)

\*waive the reading and adopt the resolution

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6.03. RESOLUTION: Authorization to Contract for Concrete Repair at Burlington International Airport (Board of Finance)

\*waive the reading and adopt the resolution

6.04. COMMUNICATION: Burlington International Airport, re: Finance Board Approval Request-Contract with Contracting Specialist Inc.-Repair of concrete terminal apron/joint sealing

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

6.05. COMMUNICATION: Vermont Department of Health, re New Appointment of Deputy Health Officer

\*waive the reading, accept the communication, place it on file and appoint George Coutrayer as Deputy Health Officer

6.06. COMMUNICATION: Vermont Department of Health, re: New Appointment of Deputy Health Officer

\*waive the reading, accept the communication, place it on file and appoint Donald Charles Robear as Deputy Health Officer

6.07. COMMUNICATION: Vermont Department of Health, re: New Appointment of Deputy Health Officer

\*waive the reading, accept the communication, place it on file and appoint Timothy Ahonen as Deputy Health Officer

6.08. COMMUNICATION: Vermont Department of Health, re: New Appointment of Deputy Health Officer

\*waive the reading, accept the communication, place it on file and appoint Margaret Fallon Van Brunt as Deputy Health Officer

6.09. COMMUNICATION: Vermont Department of Health, re: New Appointment of Deputy Health Officer

\*waive the reading, accept the communication, place it on file and appoint Sara N. Alicea as Deputy Health Officer

6.10. COMMUNICATION: Vermont Department of Health, re: New Appointment of Deputy Health Officer

\*waive the reading, accept the communication, place it on file and appoint Donata Sikon-Amato as Deputy Health Officer

6.11. COMMUNICATION: Vermont Department of Health, re: New Appointment of Deputy Health Officer

\*waive the reading, accept the communication, place it on file and appoint Sybil M. Thomas as Deputy Health Officer

6.12. COMMUNICATION: Steve Kosareff, re: Documentary

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

6.13. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, Board of Finance Minutes for October 6, 2008

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

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6.14. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for October 14, 2008

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

CAO Leopold noted that the minutes of the meeting reflect that the Master Lease reads "at an amount of approximately \$1.4 million" and should be revised to read \$1,379,317.

7. INDOOR ENTERTAINMENT PERMIT APPLICATION (2008-2009):

Euro Corner, LLC, d/b/a Euro Corner, 61 Main Street

Councilor Davis made a motion, seconded by Councilor Berezniak, to approve the application. The motion passed unanimously.

8. INDOOR ENTERTAINMENT PERMIT APPLICATION (2008-2009):

The Nutz, Inc., d/b/a Menores (formerly Plan B), 156 St. Paul Street

Councilor Davis made a motion, seconded by Councilor Ashe, to approve the application. The motion passed unanimously.

9. AMENDMENT TO TYPES OF INDOOR ENTERTAINMENT (2008-2009):

Tilley's Café, 161 Church Street, Addition of DJ Thursday-Saturday, 9 p.m – 1 a.m.

Councilor Ashe made a motion, seconded by Councilor Gutchell, to approve the trial period of indoor entertainment. Councilor Davis expressed several concerns he had about the addition of a DJ. He read four special conditions into the record that would apply if this amendment is approved. Following discussion, the motion passed by a vote of 12 in favor and 1 opposed, with Councilor Davis voting against.

9.01. COMMUNICATION: Nikki A. Fuller, Esq., Assistant City Attorney, re: Proposed Conditions for Tilley's Restaurant Amended Entertainment Application

There being no objection from the remaining Council, President Wright proposed to waive the reading and place this item on file.

9.02. COMMUNICATION: Brad M. Luck and Mathew A. Rogerson, Owners, Rasputin's, re: In Opposition of Adding DJ to Tilley's Entertainment Permit

There being no objection from the remaining Council, President Wright proposed to waive the reading and place this item on file.

10. PRESENTATION: Jenn Davis, Director, Turning Point Center, re: Overview—Mission and Goals

Director Davis educated the Council on Chittenden County's only recovery center. The mission of the Center is to provide a safe, supportive and substance free environment for people interested in recovery and their families. It is a non-clinical, non-residential facility open 365 days a year which provides peer-to-peer recovery support services. She mentioned that the location in Burlington has become costly and

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the space itself is less than ideal to support their needs. She asked for assistance from the Council with suggestions or comments of other options.

10.01. COMMUNICATION: Jenn Davis, Director, Turning Point Center, re: Information

There being no objection from the remaining Council, President Wright proposed to waive the reading and place this item on file.

11. PRESENTATION: David Mindich, Professor, St. Michael's College/Committee Member and Geoffrey Crawford, Judge, Chittenden County/Committee Member, re: The Burlington Committee on Open Government's final report

David Mindich, Geoffrey Crawford, and Steve McIntyre, all Committee members, spoke to the Council about the recommendations outlined in the report. Mr. Mindich, at the beginning of the presentation, stated that some of the Committee members would have liked the Committee to continue year-round. He noted that if this were to happen, he would hope that the same mix of individuals would participate as it was excellent and worked well. Steve McIntyre, at the end of the presentation, informed the Council that he had developed a website for the Council members to use in order to communicate with committee members and the public: BurlingtonCityCouncil.com.

Councilor Bushor expressed her concern about the recommendation of a week's notice for meetings and felt it was unrealistic. Mr. Mindich explained that the Committee felt the City is not as accountable as it should be and that proper noticing of meetings was important.

Councilor Montroll agreed that the Open Government Committee should continue to meet, possibly several times a year, due to the ebb and flow of government action.

Councilor Berezniak made a motion, seconded by Councilor Adrian, to refer this to the Planning & Zoning Department and the CAO with a report due back at the November 17, 2008 City Council Meeting citing what recommendations have been put into place and what recommendations have not and why.

Councilor Bushor thought the timing of the report to the Council should be moved to December 15<sup>th</sup>.

Councilor Montroll stated the reasons he thought a report could come to the Council on November 17<sup>th</sup> and the President of the Council asked the CAO if it were possible. The CAO outlined the numerous priorities of the office and stated the December meeting would be better.

The amendment to refer the report to the Planning and Zoning Department and the CAO then passed unanimously.

Councilor Adrian asked a final question about Commission appointments (item 6 on the report) and Mr. Crawford explained that the Committee felt the discussion of appointees should happen in public rather than in private.

11.01. COMMUNICATION: Burlington Committee on Open Government, re: Report

There being no objection from the remaining Council, President Wright proposed to waive the reading and place this item on file.

12. COMMUNICATION: Larry Kupferman, Director, CEDO, re: Complete package: Moran MOU's - highlights and comparisons

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Director Kupferman and Kristen Merriman-Shapiro presented a side-by-side comparison of the three MOU's that have been finalized through the Board of Finance. Director Kupferman noted that there is good momentum at this point with all three parties. Councilor Paul noted that due to all of the information that has been provided throughout this process, (public meetings, memos, worksessions and Council meetings) she asked to call the question authorizing the execution of the MOU's between the City and the prospective tenants.

12.01. RESOLUTION: Authorization for Execution of MOUs Between the City and the Prospective Tenants re: The Moran Redevelopment Project (Board of Finance)

Councilor Paul made a motion, seconded by Councilor Ashe, to authorize the execution of the MOU's between the City and the prospective tenants. Councilor Montroll reminded the Council members that these documents set up expectations and does not set up requirements for either the City or the tenants. It allows anyone to back out of any agreement and does not require the City to enter into the architect and engineering agreement or funding.

Councilor Shannon wanted it on the record that on the advice of the City Attorney she was allowed to vote on this particular item related to the Moran Plant, which was clarified by City Attorney Schatz.

Councilor Ashe congratulated the CEDO staff for the work that had been done. Councilor Adrian noted his support for this resolution but expressed his concern about the next step and the economic realities of the future and any financial risk to the City. Councilor Bushor expressed her concern about the rent that will be due for 30 years from the non-profit organizations. Director Kupferman explained the rent was essentially the development fees that would be paid in advance.

Councilor Berezniak expressed his support for the project and the high expectations he had of the negotiating team.

The motion passed unanimously.

13. RESOLUTION: Authorization to Contract for Architect & Engineering Services for the Moran Redevelopment Project (Board of Finance)

Councilor Montroll made a motion, seconded by Councilor Ashe, to approve the resolution. Councilor Montroll explained that the resolution required that all three MOU's be signed prior to the architect and engineering services beginning.

Councilor Ellis asked the CAO where the money would be coming from. The City would ultimately be responsible for 1/3 of the contract which would be \$55,000. The immediate source of funding is from the City's fund balance and there are funds available. This is an appropriate source for one-time capital improvement projects. This money would be reimbursed to the fund balance through a debt financing instrument.

Councilor Berezniak noted his concern that the Ice Factor was not paying for these costs and he expected more from the negotiating team. Councilor Paul stated that in reviewing the documentation that was provided by CEDO it states that once the development agreement is signed the Ice Factor will pay the costs. She thought the team had done an excellent job.

The resolution was then passed unanimously.



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13.01. COMMUNICATION: Larry Kupferman, CEDO Director, re: Moran Center Project-Architectural and Engineering Services

There being no objection from the remaining Council, President Wright proposed to waive the reading and place this item on file.

14. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: The Employee Retirement Advisory Group Resolution (oral)

CAO Leopold noted there was merit for continuing this Advisory Group as it represents all the different employee groups covered by the City's retirement program. He reported that they were asked for their opinion and have not heard back from all members. He suggested another week would be appropriate to hear back. He explained that the initial reason for the establishment of the group was due to a resolution that dealt with non-union members and the possibility of changing the calculation from a three year average to a five year average of their salary. The thought was that the various groups may want to discuss it together. Four unions will be negotiating soon for contracts that are expiring at the end of the fiscal year, and it is possible that they may want to instead work on this only in negotiations.

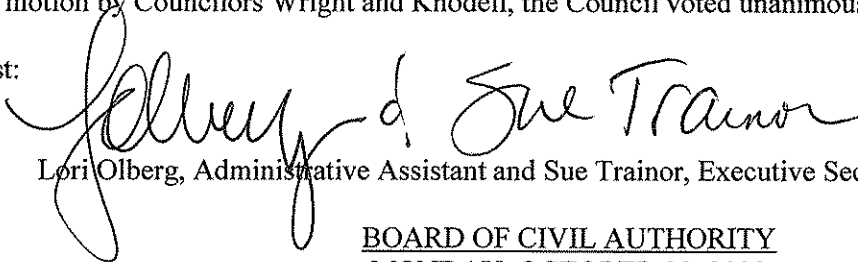
14.01. RESOLUTION: The Employee Retirement Advisory Group (Councilors Keogh, Montroll & Adrian)

President Wright asked the makers of the resolution if they would agree to postpone action on this resolution for a week. Councilor Montroll agreed to the request. Councilor Adrian also agreed, but wanted it noted that the members of the group could come to the next meeting to express their concerns. Councilor Adrian then moved to postpone action to the next meeting, with Councilor Montroll seconding the motion. The motion passed unanimously.

15. ADJOURNMENT

On a motion by Councilors Wright and Knodell, the Council voted unanimously to adjourn at 9:58 p.m.

Attest:



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

BOARD OF CIVIL AUTHORITY  
MONDAY, OCTOBER 20, 2008  
9:50 P.M.

- 1. AGENDA
- 2. CONSENT AGENDA

On a motion by Councilors Knodell and Bushor, the Council voted unanimously to amend the consent action for items 2.01. through 2.06. thus taking the indicated actions:

2.01. REPORT: Sue Alenick, Ward Clerk, Ward One, re: Primary Election 2008  
\*waive the reading, accept the report and place it on file and send a letter to each Ward Clerk thanking them for submitting reports and refer all reports to CAO Leopold

2.02. REPORT: Wendy Coe, Ward 2 Clerk, re: State Primary Election, September 2008  
\*waive the reading, accept the report and place it on file and send a letter to each Ward Clerk

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thanking them for submitting reports and refer all reports to CAO Leopold

2.03. REPORT: Richard T. Jeroloman, Ward 3, Ward Clerk, re: Feedback Questionnaire  
\*waive the reading, accept the report and place it on file and send a letter to each Ward Clerk thanking them for submitting reports and refer all reports to CAO Leopold

2.04. REPORT: Jim Couture, Ward Four, Ward Clerk, re: Feedback Questionnaire  
\*waive the reading, accept the report and place it on file and send a letter to each Ward Clerk thanking them for submitting reports and refer all reports to CAO Leopold

2.05. REPORT: Nancy Nesbitt, Ward 5 Clerk, re: Ward 5 Primary Election, September 9, 2008  
\*waive the reading, accept the report and place it on file and send a letter to each Ward Clerk thanking them for submitting reports and refer all reports to CAO Leopold

2.06. REPORT: Owen Mulligan, Ward Six Clerk, re: Primary 2008 Election Report  
\*waive the reading, accept the report and place it on file and send a letter to each Ward Clerk thanking them for submitting reports and refer all reports to CAO Leopold

CAO Leopold outlined the training that was done by the Vermont Secretary of State's Office prior to the September election, as well as the staff assistance that was provided to the Ward Clerks on the day of the election.

Councilor Shannon made a motion to amend the action to read "and send copies to Kathy DeWolfe at the Secretary of State's Office." The amendment was friendly to the makers. Councilor Ashe made a motion to pass the consent agenda as amended, with Councilor Bushor seconding the motion. The motion passed unanimously.

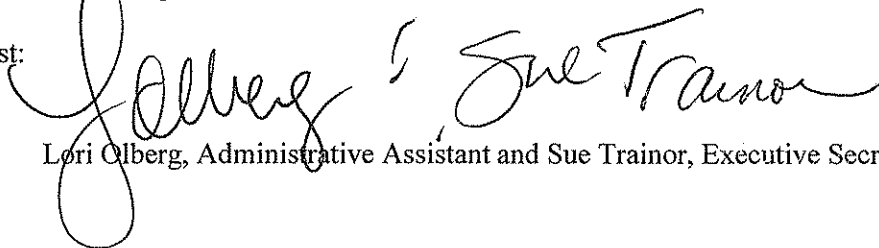
3. COMMUNICATION: Ben Pacy, Assistant CAO, re: Mobile Polling Update

Assistant CAO Pacy informed the Council that election officials visited Birchwood Terrace, where 16 people completed ballots and one ballot was spoiled. Starr Farm Nursing Home will be the next location. Burlington Health and Rehab declined to participate, as they have done a lot on their own.

4. ADJOURNMENT

On a motion by Board of Civil Authority Members Ashe and Bushor, the Board of Civil Authority was adjourned at 9:56 p.m.

Attest:



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