

HIRING COMPETING AND DUPLICATIVE LEGAL COUNSEL

In the year Two Thousand Nine.....  
Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, on December 1, 2008 the Burlington City Council unanimously adopted a Resolution sponsored by Councilors Bushor, Keogh, Knodell and Wright which was later approved by the Mayor and which authorized the Chief Administrative Officer (CAO) to develop a Request for Proposals (RFP) for hiring an independent budget consultant to aid the Council; and

WHEREAS, as the December 1, 2008 Resolution noted:

- 1) "over time the annual City budget has become more complex to review;" and
- 2) "the City Council's Ad Hoc Committee on Staffing Issues recommended that the City Council needed additional money for expenses to enable Councilors to fulfill their responsibilities;" and

3) "the City's Fiscal Year 2009 budget included an additional \$21,000 for City Councilors;" and

WHEREAS, pursuant to the Resolution the CAO undertook to develop an RFP but as this task was completed he was directed by a representative of one Council political faction to make payment of approximately \$10,000 of the additional \$21,000 in order for this faction to retain the services of a Montpelier attorney to advise them in their official capacities; and

WHEREAS, the action of one Council faction in depleting the additional funds they received in the City's Fiscal Year 2009 budget not only contravened the spirit and intent of the

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December 1, 2008 Resolution, it also has undermined the ability of Councilors to trust each other and to effectively work together; and

WHEREAS, recognizing that the question of whether it would ever be proper for the City Council to retain outside legal counsel not in conjunction with the City Attorney's Office and absent a conflict of interest situation in that Office has never been explored and would need to be before a judgment could be made, it is clearly not in the best interests of effective government for the various political factions on the Council to do so independently; and

WHEREAS, a situation where some Councilors are receiving legal advice in their official capacities from other than the City Attorney's Office does not serve the best interests of Burlington's residents, as it creates the potential where, for example, these Councilors may:

1) elect to follow advice which they prefer rather than that which may be based upon more experienced judgment and intimate City knowledge but which may not be as palatable to them for political reasons; and

2) find the advice of their outside counsel merely replicates that of a City Attorney's Office which these Councilors have already expressed a vote of confidence in by approving the appointments of the City Attorney and his Assistants, thus wasting taxpayer dollars without receiving additional value for the money; and

3) undermine further the trust and confidence among Councilors and in the general public by giving rise to the question of what exactly outside counsel is advising upon and for what reason are these taxpayer dollars being spent, thus damaging standards for openness and transparency in City government which we all seek to maintain; and

WHEREAS, the depletion of the additional \$21,000 caused it to become impossible for the Council to later afford the services of the eminent, qualified individual who answered the

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RFP, thus necessitating the abandonment of the plan to hire an independent budget consultant to aid them with the Fiscal Year 2010 budget; and

WHEREAS, several years ago a blue ribbon panel which analyzed ways to improve the Council's effectiveness as a government body issued a report which recommended a higher level of staffing in terms of professional expertise in order to more fully serve the Council's needs as it endeavored to carry out its legal responsibilities; and

WHEREAS, Councilors expressed a desire to hire an independent budget consultant at its retreat in 2008; and

WHEREAS, the additional \$21,000 is present in the Mayor's Fiscal Year 2010 budget;

NOW, THEREFORE, BE IT RESOLVED that in order to honor the spirit and intent of the December 1, 2008 Resolution, it is the present intent of this City Council that each City Councilor should agree to place his/her respective allotment of the additional \$21,000 in the Fiscal Year 2010 budget in a separate account which will be controlled by the Council as a body; and

BE IT FURTHER RESOLVED that it is the present intent of this City Council that each Councilor should agree to use the additional \$21,000 for its original purpose, the hiring of an independent budget consultant; and

BE IT FURTHER RESOLVED that the details of these agreements will be developed by the full Council at a work session to be called by the Council President in time for the Council's first meeting in September 2009.