

**** CITY COUNCIL WORKSESSION ****
CITY HALL, CONFERENCE ROOM 12
MONDAY, AUGUST 10, 2009
6:05 P.M.

PRESENT: Councilors Keogh, Davis, Decelles, Bushor, Paul, Caldwell, Ellis, Berezniak, Shannon, Mulvaney-Stanak, Mayor Kiss

ABSENT: Councilors Adrian, Kaplan, Dober, Kehoe

OTHERS: Jonathan P.A. Leopold, Jr., Ben Pacy, William Ellis, Chris Burns, Ken Schatz

1. AGENDA

2. COMMUNICATION: Bill Ellis, Esq. and Jonathan P.A. Leopold, Jr., CAO, re: Burlington Telecom (oral)

On a motion by Councilors Paul and Caldwell, the Council voted unanimously to go into executive session to discuss pending litigation, premature public disclosure of which would clearly place the City at a disadvantage (6:12 p.m.).

* * * * EXECUTIVE SESSION * * * *

On a motion by Councilors Keogh and Mulvaney-Stanak, the Council voted unanimously to go out of executive session at 7:05 p.m.

3. ADJOURNMENT

On a motion by Councilors Keogh and Mulvaney-Stanak, the Council voted unanimously to adjourn the work session at 7:10 p.m.

Attest:

Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO

LOCAL CONTROL COMMISSION
CONTOIS AUDITORIUM, CITY HALL
MONDAY, AUGUST 10, 2009
7:30 P.M.

PRESENT: Commissioners Caldwell, Davis, Decelles, Mulvaney-Stanak, Bushor, Keogh, Shannon, Ellis, Berezniak, Paul, Mayor Bob Kiss

ABSENT: Commissioners Dober, Kaplan, Kehoe (arrived at 7:38 p.m.; departed at 11:00 p.m.), Adrian

OFFICE OF THE CITY ATTORNEY: Ken Schatz

OFFICE OF THE CLERK/TREASURER: Jonathan P.A. Leopold, Jr. (arrived at 7:36 p.m.), Ben Pacy and Sue Trainor

PRESIDENT KEOGH PRESIDING:

1. AGENDA

There were no changes to the agenda. On a motion by Commissioners Davis and Berezniak, the Local Control Commission voted unanimously to accept the agenda.

2. CONSENT AGENDA

On a motion by Commissioners Davis and Berezniak, the Local Control Commission voted unanimously to accept the consent agenda, thus taking the following actions as indicated:

2.01. EXPANSION OF OUTSIDE CONSUMPTION PERMIT (**two sets of dates only**)

Ken's Pizza and Pub, 71-73 Church Street, August 28th-30th; September 4th-6th

*waive the reading, accept the communication, place it on file and approve the expansion of Ken's Pizza and Pub outside consumption permit for August 28th-30th; September 4th-6th only

2.02. COMMUNICATION: Ron Redmond, Executive Director, Church Street Marketplace, re: **Confirmation of Action Taken by Church Street Marketplace** Commission on Thursday, July 23, 2009

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

3. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (**2009-2010**):

Pacific Rim Asian Café, 111 St. Paul Street

Commissioner Davis made a motion, seconded by Commissioner Berezniak, to approve the 2009-2010 First Class Restaurant Liquor License Application for Pacific Rim Asian Café with all standard conditions. The motion passed unanimously.

3.01. OUTSIDE CONSUMPTION PERMIT APPLICATION (**2009-2010**):

Commissioner Davis made a motion, seconded by Commissioner Berezniak, to approve the 2009-2010 Outside Consumption Permit Application for Pacific Rim Asian Café with all standard conditions. The motion passed unanimously.

4. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (**2009-2010**):

August First, Inc., d/b/a August First, 61 Main Street, Building "C"

Commissioner Davis made a motion, seconded by Commissioner Berezniak, to approve the 2009-2010 First Class Restaurant Liquor License Application for August First. The license would not be sent to the Department of Liquor Control until the final Certificate of Occupancy was received. The motion passed unanimously.

5. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (**2009-2010**):

K2D Group, Inc., d/b/a 156 Bistro, 156 St. Paul Street

Commissioner Davis made a motion, seconded by Commissioner Berezniak, to approve the 2009-2010 First Class Restaurant Liquor License Application for 156 Bistro with the understanding that the license would be held until all standard conditions, including issues with the Fire Marshal, were satisfied. The motion passed unanimously.

6. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2009-2010):

One Pepper Grill, Inc., d/b/a One Pepper Grill, 260 North Street

Commissioner Davis made a motion, seconded by Commissioner Berezniak, to approve the 2009-2010 First Class Restaurant Liquor License Application for One Pepper Grill with all standard conditions. The motion passed unanimously.

7. SECOND CLASS STORE LIQUOR LICENSE APPLICATION (2009-2010):

JR's Corner Store, LLC, d/b/a JR's Corner Store, 144 North Street

Commissioner Davis made a motion, seconded by Commissioner Berezniak, to approve the 2009-2010 Second Class Store Liquor License Application for JR's Corner Store. The motion passed unanimously. Commissioner Bushor noted overdue and delinquent taxes; no gross receipts paid by the previous owners as they had never signed up.

8. OUTSIDE CONSUMPTION PERMIT APPLICATION (2009-2010):

Vietnam Restaurant, LLC, d/b/a Vietnam Restaurant, 169 Church Street

Commissioner Davis made a motion, seconded by Commissioner Berezniak, to approve the 2009-2010 Outside Consumption Permit Application for Vietnam Restaurant with all standard conditions. Note the following: 4 seats total; 2 tables, 2 chairs per; hours: Sunday through Saturday 11:00 a.m. – 10:00 p.m. The motion passed unanimously.

9. ADJOURNMENT

On a motion made by Commissioners Davis and Berezniak, the Local Control Commission voted unanimously to adjourn at 7:35 p.m.

Attest:

Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO

REGULAR MEETING, CITY COUNCIL
MONDAY, AUGUST 10, 2009
7:35 P.M

PRESENT: See above; Councilor Adrian (via phone when the Council reached item 11); Councilor Decelles left after item 17

PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilor Shannon (with no second) the Council voted unanimously to amend the agenda as follows: note revised version for item 2. RESOLUTION: Farewell to Wayne Gross (Full City Council); add to the agenda item 5.5. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Credit Rating and Bond Sale (oral)(5 mins.); note written material for consent agenda item 7.34. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for July 13, 2009 with the consent action to "waive the reading, accept the communication and place it on file;" note written material for consent agenda item 7.35. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO,

re: Board of Finance Minutes for July 20, 2009 with the consent action to “waive the reading, accept the communication and place it on file;” add to the agenda item 10.02. APPOINTMENT: Development Review Board (Alternate)(Term expires 6/30/11); add to the agenda item 10.03. APPOINTMENT: Fence Viewer (Term expires 6/30/10); note **written** material for agenda item 11. RESOLUTION: Authorization for the Implementation of Select Non-union Compensation Adjustments (Board of Finance) and the addition of the Institutions/HR Committee as co-sponsor; note **written** material for agenda item 12. RESOLUTION: Authorization for Compensation and Benefit Changes for Non-union Employees (Board of Finance) and the addition of the Institutions/HR Committee as a co-sponsor; note **written** material for agenda item 13. RESOLUTION: Budget Amendment re: Department of Parks and Recreation Collaboration with Burlington School Department for Afterschool Programs (Board of Finance); note **written** material for item 16. ORDINANCE: FIRE PROTECTION AND PREVENTION – Chapter 13 Revisions (Councilors Shannon, Mulvaney-Stanak, Bushor: Ordinance Committee)(2nd reading); remove item 16. ORDINANCE: FIRE PROTECTION AND PREVENTION – Chapter 12 Revisions (Councilors Shannon, Mulvaney-Stanak, Bushor: Ordinance Committee) (2nd reading); add to the agenda item 16.01. COMMUNICATION: BC Terence Francis, Fire Marshal, re: B.C.O. Chapter 13 Fire Protection and Prevention; remove item 16.01. COMMUNICATION: BC Terence Francis, Fire Marshal, re: B.C.O. Chapter 13 Fire Protection and Prevention. Councilor Davis asked to remove consent agenda item 7.01: Recognizing Big Heavy World’s Contributions to Burlington’s Musical Heritage (Councilor Davis). Councilor Mulvaney-Stanak asked to remove consent agenda item 7.12 COMMUNICATION: Clerk/Treasurer’s Office, re: Special City Election Schedule and move it to the deliberative agenda as item 17.1 and add her name as a co-sponsor to item 7.03: Fair Trade (Councilors Adrian, Bushor). Councilor Caldwell asked to remove consent agenda item 7.05 RESOLUTION: Appointment of Ward One Inspector of Election (Councilors Adrian, Bushor) and place it on the deliberative agenda as item 17.2 and add her name as a co-sponsor to item 7.03: Fair Trade (Councilors Adrian, Bushor). Councilor Bushor asked to amend the consent action for item 7.15. REPORT: Timothy George, Chair, Telecommunication Advisory Committee, re: Report to the City Council For the Year ending April 30, 2009: “refer to the Board of Finance with a report back to the Council as to the role of the Telecommunication Advisory Committee as the Council moves forward with Burlington Telecom.” The agenda, as amended, was approved unanimously.

2. RESOLUTION: Farewell to Wayne Gross (Full City Council)

Councilor Paul made a motion, seconded by Councilor Shannon, to waive the reading and adopt the resolution. The resolution was read into the record. Councilors Decelles, Bushor, Shannon, Keogh and Parks and Recreation Commission Chair Steve Allen spoke, thanking Mr. Gross for his service and leadership over the years. Mr. Gross thanked everyone for their support and noted his pride in the accomplishments of the Parks and Recreation Department during his tenure. The motion passed unanimously.

3. PUBLIC FORUM

President Keogh opened the public forum at 7:45 p.m.

<u>Name</u>	<u>Affiliation/Ward</u>	<u>Subject</u>
Sandy Wynne	1	Supports Fair Trade Resolution
Leslie Delaney	7	Opposes Compensation Changes
Joe Delaney	7	Opposes Compensation Changes

There being no one further coming forward, President Keogh closed the public forum at 7:51 p.m.

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

Councilor Shannon stated that Burlington Telecom was offering a \$50 certificate to any new or existing client who gave blood. She thought this was a terrific benefit to Burlington residents who had Burlington Telecom. Councilor Ellis invited everyone to the Ward 4/7 NPA Neighborhood Grill at the Miller Center on August 20th.

Councilor Caldwell highlighted the fact that there are two vacancies on the School Board and provided the dates and times of the special election to fill these positions. Councilor Berezniak spoke of the honor of being present at the swearing-in of new police officers.

Councilor Bushor noted with appreciation the work that has been involved in making Burlington a Fair Trade City. Further she expressed appreciation for the reactivation of the accountability list. She then highlighted two reports from Committees: noting her delight that the Board of Registration of Voters registered over 7,000 voters for the November election and then expressing her concern about the empty storefronts on Church Street.

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

Mayor Kiss outlined the success of the Pilot Program of the After School Program combining the resources of the School Department and the City Kids Program. He then explained the implementation of the Compensation Study approved by the Board of Finance and the City Council in June of 2008 (items 11 and 12). Lastly, he updated the Council on the Code Enforcement Director, as well as the Parks and Recreation Director hiring process.

5.5. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Credit Rating and Bond Sale

CAO Leopold reported that the City's bonds were reconfirmed as AA3 by Moody's. The bids on the bonds were excellent with very favorable interest rates.

6. COMMITTEE REPORTS

Councilor Shannon reported that the Ordinance Committee met to discuss stormwater items as well as the shading of parking lots. The shading of parking lots ordinance was referred to staff.

At this time, Councilor Bushor made a motion, seconded by Councilor Kehoe, to amend the agenda such that a resolution, presented to Councilors earlier in the meeting, titled Extension of Time for Burlington Telecom to File Testimony in Support of Amending Condition 17 of its Certificate of Public Good be added as consent agenda item 7.36 with the action to be "waive the reading and adopt the resolution." The motion, as amended, passed unanimously.

7. CONSENT AGENDA

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

7.02. RESOLUTION: Authorization to Enter into Agreement for Legal Services with McNeil, Leddy & Sheahan, P.C. (Board of Finance)

*waive the reading and adopt the resolution

7.03. RESOLUTION: Fair Trade (Councilors Adrian, Bushor, Mulvaney-Stanak, Caldwell)

*waive the reading and adopt the resolution

7.04. RESOLUTION: Authorization of Burlington Electric Department for Renewal of Contract for Property Boiler and Machinery Insurance (Board of Finance)

*waive the reading and adopt the resolution

7.06. ORDINANCE: ELECTRICITY – Regulations for operation of department; Reservation of space on poles for signaling systems; When permits not required; License required (Public Works Dept.)(1st reading)

*consider this the 1st reading and refer to the Ordinance Committee)

7.07. COMMUNICATION: Shelley Warren, City Electrical Inspector, Department of Public Works to Burlington City Council Ordinance Committee, re: Chapter 12 Ordinance changes

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

7.08. COMMUNICATION: Ben Pacy, Assistant Chief Administrative Officer, re: Automatic Changes in Taxicab Rates

*waive the reading, accept the communication, place it on file and note that the taxicab rates went into effect August 1, 2009

7.09. COMMUNICATION: William Perkins, VLCT Board of Directors, VLCT, re: Voting Delegates at the VLCT Annual Business Meeting

*waive the reading, accept the communication, place it on file and re-appoint Mayor Bob Kiss as the Voting Delegate for the City of Burlington

7.10. REPORT: Andy Montroll, Member, CCMPO, re: Chittenden County Metropolitan Planning Organization Update for the Burlington City Council July 27, 2009

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

7.11. REPORT: Ron Redmond, Executive Director, Church Street Marketplace, re: Public Hearing re: Review, Approval of FY 10 Budget; Adoption of FY '10 Common Area Fee; Year in Review: FY 09

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

7.13. COMMUNICATION: Lori Olberg, Administrative Assistant, Clerk/Treasurer's Office, re: Accountability List

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

7.14. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning, re: FY2009 Dept. of Planning & Zoning Annual Report

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

7.15. REPORT: Timothy George, Chair, Telecommunication Advisory Committee, re: Report to the City Council For the Year ending April 30, 2009

*waive the reading, accept the report and refer to the Board of Finance with a report back to the Council as to the role of the Telecommunication Advisory Committee as the Council moves forward with Burlington Telecom.

7.16. COMMUNICATION: Kirsten DeLuca, Member, Housing Board of Review, re: Resignation

*waive the reading, accept the communication, place it on file, advertise the vacancy and send a letter of appreciation thanking Kirsten DeLuca for her time served on the Housing Board of Review

- 7.17. REPORT: Jennifer Wallace-Brodeur, Chair, Burlington Electric Commission, re: Commission Chair Report
*waive the reading, accept the report and place it on file
- 7.18. REPORT: Parks and Recreation Commission, re: FY09 Annual Report Burlington Parks and Recreation
*waive the reading, accept the report and place it on file
- 7.19. REPORT: Fletcher Free Library 2009 Commissioner's Report
*waive the reading, accept the report and place it on file
- 7.20. REPORT: Cemetery Commission, re: FY 2009 Cemetery Commission Annual Report
*waive the reading, accept the report and place it on file
- 7.21. REPORT: Christina B. McCaffrey, Chair, Board for Registration of Voters, re: Annual Report
*waive the reading, accept the report and place it on file
- 7.22. COMMUNICATION: Sue Trainor, Executive Secretary to the CAO, re: Minutes, Emergency Meeting, Board of Civil Authority, March 10, 2009
*waive the reading, accept the communication, place it on file and adopt the minutes as received at the July 13, 2009 City Council Meeting
- 7.23. COMMUNICATION: Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO, re: Minutes, Special City Council for March 30, 2009
*waive the reading, accept the communication, place it on file and adopt the minutes as received at the July 13, 2009 City Council Meeting
- 7.24. COMMUNICATION: Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO, re: Minutes, Organization Day, April 6, 2009
*waive the reading, accept the communication, place it on file and adopt the minutes as received at the July 13, 2009 City Council Meeting
- 7.25. COMMUNICATION: Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO, re: Minutes, Regular City Council Meeting, April 13, 2009
*waive the reading, accept the communication, place it on file and adopt the minutes as received at the July 13, 2009 City Council Meeting
- 7.26. REPORT: Austin Hart, Chair, Development Review Board, re: Development Review Board Requests for Fiscal Year 2009
*waive the reading, accept the report and place it on file
- 7.27. REPORT: Adam Portz, Chair, re: Design Advisory Board Annual Report
*waive the reading, accept the report and place it on file
- 7.28. COMMUNICATION: State of Vermont, Agency of Transportation, Department of Motor Vehicles, Enforcement and Safety to Jeffrey & Arthur Goldfield, Queen City Iron & Metal Co. Inc., re: License to Operate a Vermont Junkyard
*waive the reading, accept the communication and place it on file

7.29. COMMUNICATION: James H. Douglas, Governor to The Honorable Bob Kiss, re: Lake Champlain Quadricentennial Celebration

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

7.30. COMMUNICATION: Vermont Center for Independent Living, re: FY'08 Annual Report

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

7.31. COMMUNICATION: Larry Kupferman, Director, CEDO, re: Special Report to City Council on General Fund use for the Moran Redevelopment

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

7.32. SPECIAL EVENT OUTDOOR ENTERTAINMENT PERMIT APPLICATION (**one day only**):

Drink @ECHO, Wedding Reception, DJ, Dancing, Saturday, August 8, 2009, 5 p.m. – 1 a.m.

*waive the reading, accept the communication, place it on file and ratify the Special Event Outdoor Entertainment Permit Application for Drink (**one day only**)

7.33. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance/Joint Institutions of Human Resources Policy Committee Minutes for Monday, August 3, 2009

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

7.34. COMMUNICATION: Jonathan P.A. Leopold, Jr. CAO, re: Board of Finance Minutes for July 13, 2009

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

7.35. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for July 20, 2009

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

7.36. RESOLUTION: Extension of Time for Burlington Telecom to File Testimony in Support of Amending Condition 17 of its Certificate of Public Good (Bushor)

*waive the reading and adopt the resolution

8. INDOOR ENTERTAINMENT PERMIT APPLICATION (**2009-2010**):

August First, Inc., d/b/a August First, 61 Main Street Building "C"

Councilor Davis made a motion, seconded by Councilor Berezniak, to approve the 2009-2010 Indoor Entertainment Permit Application for August First. The motion passed unanimously.

9. TOBACCO LICENSE APPLICATION (**2009-2010**):

JR's Corner Store, LLC, d/b/a JR's Corner Store, 144 North Street

Councilor Davis made a motion, seconded by Councilor Berezniak, to approve the 2009-2010 Tobacco License Application for JR's Corner Store. The motion passed by a vote of 10 to 1, with Councilor Caldwell asking to abstain. President Keogh stated she could not abstain, at which point Councilor Caldwell voted against the application.

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

With no objection from the remaining Council, President Keogh made a motion to waive the reading, accept the communication and place it on file.

10.01. APPOINTMENT: Telecommunications Advisory Comm. (Term expires 6/30/11)

Councilor Shannon made a motion to readvertise this position, seconded by Councilor Ellis. Councilor Caldwell noted she would be voting against this motion, as there was someone who had already applied for the position, noting the applicant had done their due diligence in responding to this opening. The motion to readvertise passed by a vote of 6 in favor, with 5 opposed. Councilors Berezniak, Ellis, Kehoe, Shannon, Keogh and Davis voted in favor.

10.02. APPOINTMENT: Development Review Board (Alternate) (Term expires 6/30/11)

Councilor Shannon made a motion to readvertise this position, seconded by Councilor Ellis. The motion passed unanimously.

10.03. APPOINTMENT: Fence Viewer (Term expires 6/30/10)

Councilor Shannon nominated Christopher St. Martin for this appointment. There was no second for this nomination. Christopher St. Martin was appointed to Fence Viewer by President Keogh.

11. RESOLUTION: Authorization for the Implementation of Select Non-Union Compensation Adjustments (Board of Finance)

Councilor Caldwell made a motion, seconded by Councilor Shannon, to waive the reading and adopt the resolution. Councilor Bushor explained that the HR Committee had narrowed the focus of this review, looking only at positions that had been vacant for some period of time and/or positions that were vacant that internal candidates were not inclined to apply to due to salary inequities. They also reviewed the costs associated with these vacancies. She noted that over the past week a flurry of e-mails occurred which resulted in confusion over this item and she suggested that this resolution not be voted on at this meeting. She did not want people to be confused about what they were actually voting on. However, she stated that this reduced listing of positions was carefully selected by the HR Committee and needed to be acted on. The cost of losing employees due to low salaries or not filling positions came at a price to the City and the taxpayers.

Councilor Kehoe noted she still did not have the data she needed to agree with the majority of the resolution. However, after speaking with Mr. Sadowski, author of the report, she determined that the CAO was woefully underpaid and the salary for the unfilled Assistant to the CAO for Finance position needed to be increased.

Councilor Caldwell noted the positions in this resolution all require a specific skill set that was difficult to fill and require appropriate salaries. She also noted her support for increasing the salaries of the positions in the CAO's office.

Councilor Shannon stated she believed the case had not been made for this resolution and that it had been the Administration's role to do so. She also noted that she agreed with Councilor Kehoe that the CAO was underpaid and it was a serious situation. Councilor Shannon then moved to amend the resolution, eliminate all the positions except for the Assistant CAO for Finance. Councilor Kehoe seconded the motion.

Councilor Ellis noted his appreciation to the HR Committee and the Board of Finance for bringing forth the issue. However, he believed this was a bad time to increase salaries with the public not being

supportive of this resolution. He thought that in a month the public may have had time to digest the information and support it.

Councilor Davis called for a recess at 9:03 p.m. The meeting was reconvened at 9:10 p.m.

Councilor Davis then proposed an amendment, with all positions except for the Assistant CAO for Finance to be sent back to the HR Committee. That was considered friendly by Councilor Shannon and Councilor Kehoe. Councilor Decelles then asked what direction the HR Committee was being given. Councilor Bushor stated that with a transcript provided by the Clerk/Treasurer's Office, the Committee would determine what supporting documentation was needed by the Council. She stated it was her intention to bring this item back to the Council at the first meeting in September.

The vote on the amendment was 7 in favor, 5 opposed, with Councilors Ellis, Keogh, Adrian, Berezniak and Decelles voting against.

Councilor Decelles requested a roll call on the final resolution. The resolution passed by a vote of 7 in favor and 5 opposed. The votes were as follows:

Ayes: Bushor, Mulvaney-Stanak, Caldwell, Davis, Shannon, Kehoe, Paul

Nays: Adrian, Berezniak, Ellis, Keogh, Decelles

12. RESOLUTION: Authorization for Compensation and Benefit Changes for Non-union Employees (Board of Finance)

Councilor Bushor made a motion, seconded by Councilor Shannon, to waive the reading and adopt the resolution. Councilor Bushor noted that this resolution made changes to non-union employees' retirement benefits (average final compensation: length of service calculation change from three years to five years) and health insurance contribution amounts (dependent on the percentage increase in health insurance costs.)

Because the cost of living increase for non-union employees had been left blank in the resolution, Councilor Bushor made a motion to allow for a 1% increase. This was not friendly to the seconder of the motion. Councilor Davis then seconded the motion. Due to the fact that these employees were now going to see a change in their benefits and due to the compression issue of management versus non-management wages, she felt it was appropriate and fiscally responsible to offer a 1% increase.

In response to a question from Councilor Adrian, CAO Leopold stated it would cost less than \$70,000 from the General Fund to support a 1% increase.

The vote on the amendment was 10 in favor, 2 opposed, with Councilors Decelles and Adrian voting against.

Councilor Davis noted that this resolution dealt with management as well as non-management positions. Those in non-management positions did not have a say at the union table and were now having their benefits changed. In the future it would be important to solicit their input on any changes being enacted.

Councilor Paul noted the importance of the changes being addressed in this resolution, particularly the retirement changes. She stated the Council was asking a lot of the employees in the resolution and a 1% increase in wages was reasonable.

Councilor Adrian questioned the fact that step increases were continuing. CAO Leopold stated that to change that practice would have a chilling effect in labor relations. CAO Leopold stated that about one-third of the City's employees (excluding BED) do not receive step increases because they are at their

maximum step. The amended resolution passed by a vote of 11 in favor, 1 opposed, with Councilor Adrian voting against. Councilor Adrian signed off via phone at this time.

13. RESOLUTION: Budget Amendment re: Department of Parks and Recreation
Collaboration with Burlington School Department for Afterschool
Programs (Board of Finance)

Councilor Bushor made a motion, seconded by Councilor Davis, to waive the reading and adopt the resolution. The Mayor outlined that this amendment sought to expand the pilot operation of this combined program to all schools except for Wheeler, noting that if both departments adhere to the budget, the program should be able to continue through the year. He believed this was a valuable program for working families.

Councilor Mulvaney-Stanak questioned the fact that Wheeler was not included in this effort. The Mayor stated the Boys and Girls Club currently serviced Wheeler very well and in a unique fashion. The motion then passed unanimously.

- 14 RESOLUTION: Downtown Plan (Councilors Paul, Shannon, Kaplan)

Councilor Paul made a motion, seconded by Councilor Shannon, to waive the reading and adopt the resolution. Councilor Paul and Shannon praised each other's work on the downtown plan. Councilor Caldwell offered a friendly amendment to the first paragraph, adding citizens to the process of review. The amendment was considered friendly by the maker and the seconder. The motion, as amended, passed unanimously.

15. PUBLIC HEARING: Comprehensive Development Ordinance – Stormwater Performance
Standards #ZA 09-16

President Keogh opened the public hearing at 10:04 p.m. With no one coming forward, President Keogh closed the public hearing at 10:04 p.m.

- 15.01. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE –Stormwater
Performance Standards #ZA 09-16 (Planning Dept.; Ordinance Committee)(2nd reading)

Councilor Shannon made a motion, seconded by Councilor Bushor, to waive the reading and adopt the ordinance. The motion passed unanimously

- 15.02. COMMUNICATION: Clerk/Treasurer's Office, re: Public Hearing Notice

With no objection from the remaining Council, President Keogh made a motion to waive the reading, accept the communication and place it on file.

17. REPORT: Emily J. Stebbins, Chair, Burlington Planning Commission, re: Annual
Report of the Burlington Planning Commission, Fiscal Year 2009
(July 1, 2008 – June 30, 2009)

Bruce Baker, David White and Peter Potts were available to answer questions of the Council. Councilor Bushor commented on the last several years of collaboration between the Planning Commission and the Council, noting it was a rare opportunity of time wherein members of the two groups collaborated. She was proud of the accomplishments and united vision that was developed at the time.

17.1 (was 7.12) COMMUNICATION: Clerk/Treasurer's Office, re: Special City Election Schedule

Councilor Mulvaney-Stanak asked what publicity was being used to inform residents of the upcoming School Commission elections, as they were being held outside of the customary cycle. Councilor Mulvaney-Stanak then made a motion to waive the reading, accept the communication and place it on file.

17.2 (was 7.05) RESOLUTION: Appointment of Ward One Inspector of Election (Councilors Adrian, Bushor)

Councilor Caldwell made a motion, seconded by Councilor Ellis, to waive the reading and adopt the resolution. Councilor Caldwell requested clarification on how this applicant was selected for this position. The motion then passed unanimously.

Councilor Keogh called a recess of the City Council at 10:20 p.m. to move into the Board of Civil Authority Meeting.

18. COMMUNICATION: Ken Schatz, City Attorney and Jonathan P.A. Leopold, Jr., CAO, re: Pending Litigation (oral)

On a motion by Councilors Kehoe and Shannon, the Council voted unanimously to go into executive session to discuss pending litigation, premature public disclosure of which would clearly place the City at a disadvantage (10:23 p.m.).

The motion was then withdrawn by Councilor Kehoe in order to allow Councilor Shannon to move to extend the meeting past 10:30 p.m. Councilor Kehoe seconded the motion. The motion passed unanimously.

On a motion by Councilors Kehoe and Shannon, the Council voted unanimously to go into executive session to discuss pending litigation, premature public disclosure of which would clearly place the City at a disadvantage (10:24 p.m.). (Also present in executive session was Ben Pacy)

* * * * EXECUTIVE SESSION * * * *

On a motion by Councilors Mulvaney-Stanak and Davis, the Council voted unanimously to go out of executive session at 11:10 p.m.

Councilor Bushor made a motion to make one final amendment to the agenda. Councilor Mulvaney-Stanak seconded the motion. The motion passed unanimously. Councilor Bushor then made a motion to authorize the City to enter into an agreement with a law firm to perform legal services for the City including potential litigation and the City was authorized to pay related out of pocket expenditures. The motion passed unanimously.

19. ADJOURNMENT

On a motion by Councilors Paul and Shannon, the Council voted unanimously to adjourn the meeting at 11:10 p.m.

Attest:

Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO

BOARD OF CIVIL AUTHORITY
MONDAY, AUGUST 10, 2009
10:20 P.M.

PRESENT: See above

MAYOR KISS PRESIDING:

1. AGENDA

There were no changes to the agenda.

2. RESOLUTION: Designation of Polling Place for Ward 7 (Board of Civil Authority)

Board of Civil Authority Member Kehoe made a motion, seconded by Board of Civil Authority Member Davis, to waive the reading and adopt the resolution. The motion passed unanimously.

3. ADJOURNMENT

On a motion by Board of Civil Authority Members Davis and Mulvaney-Stanak, the Board of Civil Authority voted unanimously to adjourn the meeting at 10:22 p.m.

Attest:

Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO