

**** CITY COUNCIL WORKSESSION ****
CITY HALL, CONFERENCE ROOM 12
MONDAY, SEPTEMBER 21, 2009
6:00 P.M. TO 7:00 P.M.

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

* * * * **EXPECTED EXECUTIVE SESSION** * * * *

3. ADJOURNMENT

LOCAL CONTROL COMMISSION
CONTOIS AUDITORIUM, CITY HALL
MONDAY, SEPTEMBER 21, 2009
7:26 P.M.

PRESENT: Commissioners Caldwell (arrived at 7:30 p.m.), Davis, Mulvaney-Stanak, Bushor, Kaplan, Adrian, Keogh, Shannon, Ellis, Kehoe, Berezniak, Paul (left the meeting at 10:29 p.m.), Dober, Decelles and Mayor Kiss

OFFICE OF THE CITY ATTORNEY: Ken Schatz, Nikki Fuller (departed at 8:13 p.m.)

OFFICE OF THE CLERK/TREASURER: Jonathan P.A. Leopold, Jr., Ben Pacy, Lori Olberg

PRESIDENT KEOGH PRESIDING

1. AGENDA

On a motion by Commissioner Davis with no second requested, the Local Control Commission voted unanimously to amend the agenda as follows: note **written** materials for consent agenda item 2.03.

COMMUNICATIONS: Jessica Frank, Executive Secretary, re: Local Control Sub-committee/City Council License Committee Minutes for April 21, May 6, May 12, June 17, July 8, July 14, August 5, August 19, August 27 and September 9, 2009 with the consent action to “waive the readings, accept the communications and place them on file;” note **written** material for agenda item 3. **FIRST CLASS RESTAURANT LIQUOR LICENSE RENEWAL (2009-2010)**: Avenue Bistro, 1127 North Avenue, Suite 20; note **written** material for agenda item 4. **FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2009-2010)**: Saigon Bistro, 119 College Street. President Keogh accepted the agenda as amended.

2. CONSENT AGENDA

Commissioner Davis made a motion, seconded by Commissioner Dober, to adopt the consent agenda of the Local Control Commission.

Commissioner Bushor asked for information about Esox being placed on a watch status. Commissioner Davis explained that a watch status alerted the police to visit the establishment more often for a year with any violations being reported to the sub-committee immediately.

- 2.01. COMMUNICATION: Nikki Fuller, Esq., Assistant City Attorney to License Committee, re: Esox-Liquor License Renewal

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

2.02. FIRST CLASS CABARET LIQUOR LICENSE RENEWAL (2009-2010):

Esox, 194 Main Street

*waive the reading, accept the communication, place it on file and approve the 2009-2010 First Class Cabaret Liquor License Renewal for Esox with all standard conditions and Fire Marshal approval

2.03. COMMUNICATION: Jessica Frank, Executive Secretary, re: Local Control Sub-Committee/City Council License Committee Minutes for April 21, May 6, May 12, June 17, July 8, July 14, August 5, August 19, August 27 and September 9, 2009

*waive the readings, accept the communications and place them on file

The consent agenda was then approved unanimously.

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

Avenue Bistro, 1127 North Avenue, Suite 20

Commissioner Davis made a motion to deny the First Class Restaurant Liquor License, seconded by Commissioner Berezniak. Commissioner Davis noted that this decision was not made lightly; however, attempts to receive payment on delinquent taxes were not successful. Commissioner Ellis requested that the restaurant be given more time to work out a solution because this restaurant was important to the residents of the New North End. Commissioner Dober stated the sub-committee had worked for a year with the owner. CAO Leopold reported that he would support an extension of their license but not a renewal. The lack of response to the C/T Office during attempts to collect tax money through the pre-arranged payment plan was troubling to him.

Commissioner Bushor made a motion to amend, extending the license to December 1st, at which time if no agreement had been made with the City the license would expire. Commissioner Ellis seconded the motion. CAO Leopold suggested that the payment plan must be made within the next week and not later than September 28th. Commissioner Bushor then moved to continue the license until September 28th, during which time a payment plan must be established with the City to address the past due taxes. Commissioner Ellis seconded this motion.

Attorney Fuller clarified for the record that this licensee was currently under extension with the Department of Liquor Control and typically the Department did not like what was being proposed.

Commissioner Decelles stated that while it was difficult, the Council needed to follow through on the regulations set forth by the law and by the sub-committee.

The motion to amend was defeated by a vote of 10 opposed, 4 in favor, with Commissioners Bushor, Kaplan, Ellis and Adrian voting in favor. The motion to deny the license was approved by a vote of 10 in favor and 4 opposed, with Commissioners Bushor, Kaplan, Ellis and Adrian voting against.

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

Saigon Bistro, 119 College Street

Commissioner Davis made a motion, seconded by Commissioner Dober, to approve the First Class Restaurant Liquor License for Saigon Bistro. The motion passed unanimously.

5. ADJOURNMENT

On a motion by Commissioners Davis and Decelles, the Local Control Commission voted unanimously to adjourn at 7:48 p.m.

Attest:

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

ADJOURNED MEETING, CITY COUNCIL
MONDAY, SEPTEMBER 21, 2009
7:49 P.M.

PRESENT: See above

PRESIDENT KEOGH PRESIDING

1. AGENDA

Councilor Adrian made a motion, with no second requested, to approve the amended agenda as follows: note **written** material for consent agenda item 7.16. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (**one day only**): Tilley's Café, 161 Church Street, Saturday, October 3, 2009, 8:00 p.m. – 1:00 a.m., Celebration Party for Award as Restaurateur of the Year 2009, DJ, Dancing with the consent action to "waive the reading, accept the communication, place it on file and approve the Special Event Indoor Entertainment Permit Application for Tilley's Café for one day only; note **written** material for agenda item 8. INDOOR ENTERTAINMENT PERMIT RENEWAL (**2009-2010**): Avenue Bistro, 1127 North Avenue, Suite 20; note **written** material for agenda item 9. INDOOR ENTERTAINMENT PERMIT APPLICATION (**2009-2010**): Saigon Bistro, 119 College Street; note **written** material for agenda item 9.01. TOBACCO LICENSE APPLICATION (**2009-2010**): Saigon Bistro, 119 College Street; note **written** material for agenda item 10. TOBACCO LICENSE APPLICATION (**2009-2010**): Himalayan Food Market, LLC, 28 North Street; note **written** material for agenda item 11.01. COMMUNICATION: Margaret Bozik, Assistant Director for Management, Planning & Communications, re: Consolidated Annual Performance & Evaluation Report; add Councilor Dober as a co-sponsor to agenda item 13. RESOLUTION: Improvements to the Southern Entrance to the Route 127 Bike Path (Councilors Berezniak, Ellis); remove from the consent agenda item 7.07. COMMUNICATION: Jeanne Collins, Burlington School District Superintendent, re: Resolution Re: Opportunities for Cost Savings from Administrative Collaboration Between the City and the School Department and place it on the DELIBERATIVE agenda as item 14.5.; remove from the consent agenda item 7.04. RESOLUTION: Supplemental Budget Resolution #2009-___ General Fund Step Increase and Cost of Living Allowance Adjustments (Board of Finance) and place it on the DELIBERATIVE agenda as item 14.6. Councilor Davis noted that he wanted to be added as a co-sponsor to item 2. RESOLUTION: Recognition of Community Justice Center Volunteer Contribution (Councilors Bushor & Mulvaney-Stanak). The motion to adopt the agenda, as amended, passed unanimously.

2. RESOLUTION: Recognition of Community Justice Center Volunteer Contribution (Councilors Bushor, Mulvaney-Stanak & Davis)

Councilor Mulvaney-Stanak made a motion, seconded by Councilor Bushor, to waive the reading and adopt the resolution. Councilor Mulvaney-Stanak read the resolution into the record, honoring Carol Usher for being recognized as the United Way's Hometown Hero. Councilor Bushor added an additional clause requesting that a copy of the resolution be sent to Ms. Usher. Karen Vastine, Director of the

Community Justice Center, outlined the work that Ms. Usher had done over the years and Ms. Usher stated her appreciation to the Council. The motion passed unanimously.

3. PUBLIC FORUM

President Keogh opened the public forum at 7:52 p.m.

<u>Name</u>	<u>Affiliation/Ward</u>	<u>Subject</u>
Ron Redmond	Director, Church Street Marketplace	Downtown Partnership
Dave Feehan	Downtown Association/Consultant	Downtown Partnership

There being no one further coming forward, President Keogh closed the public forum at 7:54 p.m.

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

Councilor Ellis reminded the public of the upcoming Neighborhood Improvement meeting. Councilor Kehoe also noted Ward 6's upcoming Neighborhood Improvement meeting.

Councilor Mulvaney-Stanak reminded the Council that the work session on the use of Council funds had not been scheduled yet. As part of the prior discussion, the President of the Council was to convene a work session in August. Council President Keogh stated the discussion would be at the October 5th meeting.

Councilor Bushor remarked on a recent meeting held by the Fletcher Place neighborhood wherein multi-generational groups discussed neighborhood issues such as parking constraints, noise, trash, etc. She found the meeting to be very important and helpful and thought it was a great way to deal with neighborhood issues.

Councilor Davis informed the Council that UVM would be holding their off-campus living workshops beginning in November. These workshops would include talks from Assistant City Attorney Fuller and Bergman, representatives from the Police Department and Code Enforcement. Councilor Davis invited Councilors to attend.

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

Mayor Kiss reported he had welcomed the President of Macedonia to Vermont and explained that there was a fourteen year history between Macedonia and Vermont, with the major emphasis being the military support that comes from the Vermont National Guard. The President was in the state to discuss additional economic development and cultural connections that could be developed.

The Mayor then reminded residents that the 5th Annual Burlington Book Festival will be held during the weekend and encouraged people to attend.

6. COMMITTEE REPORTS

Councilor Shannon reported that the Ordinance Committee will be meeting on the Fire Ordinance, as well as the Noise Ordinance, during the upcoming week.

Councilor Bushor noted that the Human Resources Committee was reviewing the management positions that the Council had referred back to the Committee.

Councilor Paul noted that the Transportation, Energy and Utilities Committee would be meeting to complete the Transportation Plan which will then be referred to the Planning Commission.

7. CONSENT AGENDA

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

7.01. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re:
Accountability List

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

7.02. ORDINANCE: PERSONNEL – Amendments to Chapter 24, Article II, Retirement System Changes in Average Final Compensation for Non-Union Employees (Board of Finance)

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

7.03. ORDINANCE: PERSONNEL – Amendments to Chapter 24, Article II, Retirement System Disability Retirement; Benefits

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

7.05. RESOLUTION: Reorganization of the Public Works Department – Department Working Foreman Positions (Board of Finance)

*waive the reading and adopt the resolution

7.06. RESOLUTION: Authorization for Acceptance of Justice Assistance Grant (JAG) Funding for Crime Prevention Programs (Board of Finance)

*waive the reading and adopt the resolution

7.08. COMMUNICATION: Lori Sullivan, President, Appletree Point Historical Society, re:
Preservation of Staniford farmhouse at Appletree Point Farm

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

7.09. COMMUNICATION: Liisa Reimann, Principal, New England Preservation Collaborative, Historic Preservation Consultants to Lea Terhune, Member, Appletree Point Historical Society

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

7.10. COMMUNICATION: Owen Mulligan, 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 to Owen Mulligan thanking him for his time served on the Housing Board of Review

7.11. COMMUNICATION: Christopher Burns, General Manager, Burlington Telecom to Jonathan Leopold, CAO, Bill Keogh, City Council President and Tim George, Chair of the TAC, re: Telecommunications Advisory Committee Roles/ Proper Procedure for Reporting Burlington Telecom Troubles

*waive the reading, accept the communication, place it on file and refer to the Transportation, Energy and Utilities Committee

7.12. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council for Monday, May 18, 2009

*waive the reading, accept the communication, place it on file and adopt the minutes at the October 5, 2009 City Council Meeting

7.13. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: Special Meeting, City Council Minutes for January 21, 2009

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the September 14, 2009 City Council Meeting

7.14. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council for April 27, 2009

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the September 14, 2009 City Council Meeting

7.15. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council for May 11, 2009

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the September 14, 2009 City Council Meeting

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

Tilley's Café, 161 Church Street, Saturday, October 3, 2009, 8:00 p.m. – 1:00 a.m., Celebration Party for Award as Restaurateur of the Year 2009, DJ, Dancing

*waive the reading, accept the communication, place it on file and approve the Special Event Indoor Entertainment Permit Application for Tilley's Café for one day only

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

Avenue Bistro, 1127 North Avenue, Suite 20

Councilor Davis made a motion not to renew the Indoor Entertainment Permit for Avenue Bistro, seconded by Councilor Kehoe. Councilor Davis stated that the City generally does not grant an Indoor Entertainment Permit if no liquor license was in place. The motion passed by a vote of 8 to 5, with Councilors Caldwell, Ellis, Adrian, Bushor and Kaplan voting against. Councilor Decelles was not present for the vote.

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

Saigon Bistro, 119 College Street

Councilor Davis made a motion, seconded by Councilor Dober, to approve the Indoor Entertainment Permit for Saigon Bistro. The motion passed unanimously.

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

Saigon Bistro, 119 College Street

Councilor Davis made a motion, seconded by Councilor Dober, to approve the Tobacco License for Saigon Bistro. The motion passed by a vote of 13 to 1, with Councilor Caldwell voting against.

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

Himalayan Food Market LLC, 28 North Street

Councilor Davis made a motion, seconded by Councilor Dober, to approve the Tobacco License for the Himalayan Food Market. The motion passed by a vote of 13 to 1, with Councilor Caldwell voting against.

11. PUBLIC HEARING: Consolidated Annual Performance & Evaluation Report: Community Development Block Grant and HOME Investment Partnership Act Funds

Margaret Bozik, Assistant Director for Management, Planning & Communications, CEDO, explained that this was the first of two public hearings on the Community Development Block Grant and HOME Investment Partnership Act Funds. Both Councilors Bushor and Ellis spoke about the report.

President Keogh opened the public hearing at 8:37 p.m.

There being no one coming forward, President Keogh closed the public hearing at 8:37 p.m.

- 11.01. COMMUNICATION: Margaret Bozik, Assistant Director for Management, Planning & Communications, re: Consolidated Annual Performance & Evaluation Report

Councilor Kaplan made a motion, seconded by Councilor Shannon, to waive the reading, accept the communication and place it on file.

12. APPOINTMENT: Bob Kiss, Mayor, re: Human Resources Director appointment

Councilor Davis made a motion, seconded by Councilor Mulvaney-Stanak, to appoint Susan Leonard as the new Human Resources Director. Mayor Kiss explained the interview process and the superior qualifications of Ms. Leonard. Ms. Leonard addressed the Council briefly at Councilor Dober's request. Councilor Paul asked about her certification, while Councilor Mulvaney-Stanak asked of her philosophy with union negotiations. President Keogh asked for a vote on the appointment and pay rate for Ms. Leonard to which Councilor Adrian called a point of information asking if they were two separate items. Councilor Adrian then stated his belief there should be separate votes on this.

The motion to appoint Susan Leonard as the Human Resources Director was approved unanimously.

- 12.01. COMMUNICATION: Larry Kupferman, HR Director (interim) to Board of Finance, re: step placement for S. Leonard, Mayoral appointment for Director of Human Resources

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

- 12.02. RESOLUTION: Establishing Pay Level for Human Resources Director Susan Leonard (Board of Finance)

Councilor Davis made a motion, seconded by Councilor Mulvaney-Stanak, to approve the pay level recommended. Councilor Paul asked the Mayor for Mr. Kupferman's salary information and certifications. Councilor Decelles noted that the concern he had was that adopting this resolution would begin the implementation of the Sadowski report.

Councilor Adrian asked for the salary of Ms. Lonerwright, the previous HR Director. The Mayor explained that it was less than what was now being requested but it was because Ms. Lonerwright had less experience and education. The Mayor explained that there were variables in determining the salary, such

as finding an individual with the skills and abilities to fill the critical needs the City faces with human resource needs, finding a salary level that was consistent with her current salary, as well as the fact that this was for a two-year position. Councilor Adrian responded that people come to work in public service for a variety of reasons and that the City should look at offering more vacation time as a way to provide some incentives rather than money. Mr. Kupferman explained the current pay scale, which would allow for Ms. Leonard's salary to be at the level requested. He also informed Councilor Adrian that there is very little room to offer additional vacation, as the policy was quite clear about what was offered and what was allowed to be taken.

Councilor Caldwell asked where this salary request put the HR Director in relation to other department heads. CAO Leopold stated that half of the department heads compensation had been converted to market rate compensation and that it was significantly higher in ratio to those that had not made that conversion. The inequity in the salaries would only continue to grow, making it more difficult to fill certain positions until the Council dealt with the Gallagher Flynn study.

Councilor Shannon asked what the position had been advertised for. Acting HR Director Kuperferman responded. Councilor Bushor outlined the history again of the Sadowski report and the position the City found itself in as far as attracting and retaining candidates. She noted that the City was very fortunate to have attracted someone as qualified and with the depth of experience as Ms. Leonard. She stated the salary that was being recommended was appropriate. Councilor Berezniak stated he would not support this resolution because he felt it was a way to get around the Council and their previous vote on the Sadowski report.

The Mayor noted the difficulty in finding candidates who would commit to a position that was potentially short term in nature and that the Mayor had the authority to recommend a salary for critical positions. He noted this was not changing the pay scale but responding to a critical need of the City.

The motion to approve the proposed pay level passed by a vote of 11 to 3, with Councilors Berezniak, Adrian and Decelles voting against.

13. RESOLUTION: Improvements to the Southern Entrance to the Route 127 Bike Path
(Councilors Berezniak, Ellis, Dober)

Councilor Berezniak made a motion to adopt the resolution, seconded by Councilor Kehoe. Councilor Mulvaney-Stanak addressed the Council, stating she thought this resolution was premature, noting that local residents have re-initiated the effort to spruce up the landfill road in order to make use of the bikepath. She encouraged the Board of Finance and CEDO to work with the community group currently working on this project. Councilor Decelles asked Councilor Berezniak for additional information on this resolution. Councilor Berezniak responded and then emphasized that he did not want this project to drag on.

Councilor Decelles noted he believed Penny for Parks money was more appropriate to be used for this endeavor. He then offered an amendment, striking the last three Be It Resolved clauses and asked that the resolution be sent to the Parks Commission for consideration of allocation of Penny for Parks funds with a report back to the Council in December. This amendment was not considered friendly. Councilor Davis seconded the motion. Councilor Caldwell requested a recess which was then called.

Upon return, Councilor Caldwell called the question, seconded by Councilor Decelles. The motion passed unanimously. The amendment then failed unanimously.

Councilor Davis then offered an amendment, deleting any reference in the first whereas clause and the first Now Therefore Be It Resolved which mentioned the Adelpia Cable settlement, amending the second Be It Further Resolved clause such that the goal would be to have the construction completed no

later than the end of the 2010 construction season and Be It Further Resolved that the Finance Board report back to the City Council at its first meeting in November, 2009. The amendment was considered friendly by Councilor Berezniak. The amended resolution then passed unanimously.

14. RESOLUTION: To Establish the Burlington Telecom Commission (Councilors Keogh, Ellis, Kaplan, Berezniak)

Council President Keogh passed the gavel to Councilor Adrian. Councilor Keogh then made a motion, seconded by Councilor Kaplan, to waive the reading and adopt the resolution. Councilor Keogh explained the history of the creation of Burlington Telecom and the State and local oversight committees associated with it. He stated his belief that a commission would provide oversight and transparency.

Councilor Dober stated that Burlington Telecom was unlike any other entity that the City owns. Because of the competition, the information must be kept in-house to secure the success of the business. By establishing a commission and a department, it would compromise the security of Burlington Telecom. Councilor Decelles stated this issue was reviewed last year by the Charter Change Committee and was not approved. He noted there was a structure of oversight already in place and agreed with Councilor Dober that businesses kept their information private to be competitive. Councilor Mulvaney-Stanak expressed her opinion that this business was still in the beginning stages and it was premature to make it a department.

CAO Leopold explained that Burlington Telecom was a regulated utility and filings were public documents. Whatever was not listed in the filing was considered private, proprietary and confidential. Any information that was not provided by the Clerk/Treasurer's Office or Burlington Telecom was considered to be confidential and proprietary.

City Attorney Schatz followed up by saying that Councilors do have a fiduciary responsibility to keep information that was reported in executive session confidential and that because of the competitive nature of Burlington Telecom, it was a much more serious matter with respect to the proprietary nature of the information that was discussed. Additionally, expanding the group of people who have access to confidential information provided a greater risk of disclosure. He continued by stating that members of commissions had expertise in the field and in this case those with the type of expertise needed could be competitors.

Councilor Bushor noted her opposition to this resolution. She noted that the Human Resources Committee had talked about the idea of making Burlington Telecom a department of the City, which was quite different from a commission. She questioned the supporters of this resolution who continued to state they do not have enough information about Burlington Telecom as to why they might want a commission, as this would put another layer between the Council and the information they want. She reminded them of the Parks Commission decisions that the Council felt removed from. She stated that this issue kept coming up and she felt it was time to move on.

Councilor Berezniak stated his support of the resolution. He felt it was time to start the conversation. Councilor Kaplan expressed her belief that there are many departments, such as the Airport, that have competition and share confidential information and that they are similar to Burlington Telecom. She felt that input was not being taken from experts in the area because there was not a commission in place. She, too, felt that this resolution moved the conversation forward.

Councilor Davis noted his concern that, considering the amount of information the Council has received about Telecom, that this discussion continued to come up. He believed it was premature to make a department or commission for this entity. Burlington Telecom needed to remain nimble and had to have its trade secrets. He felt this could come back to hurt the Council and its residents. He disagreed with

Councilor Kaplan stating that Burlington Telecom was part of a highly competitive field and that it could be put out of business.

Councilor Kehoe disagreed with the arguments that others have presented. She did not feel the issue of confidentiality was an issue. She stated that Burlington Telecom was part of the government and it should be discussed in the Charter Change Committee.

CAO Leopold responded by saying that last year the City Council was embroiled in a personnel matter which had leaks in confidentiality resulting in serious legal consequences. He reminded the Council that several months ago there was a leak of confidential information from the Council itself regarding pending litigation, immediately following a discussion about the legal ramifications of keeping that information confidential. He also reported that the Burlington Telecom Advisory Committee (a group of citizens, much like the makeup of a commission) leaked confidential financial information given to them in executive session, which precipitated the decision by Burlington Telecom, the City Attorney's Office and the CAO to stop providing proprietary information to that group.

Councilor Shannon stated that a group of 5 or 6 individuals who have expertise in the telecommunications field would be more able to hold confidences and be responsible for the decisions required to run Burlington Telecom. Councilor Decelles called a point of order during Councilor Shannon's remarks, asking if materials that were discussed in executive session be discussed in front of the cameras. Acting President Adrian deferred to the City Attorney. City Attorney Schatz agreed it was better not to repeat statements that were made in executive session but that there had been no remarks made by Councilor Shannon of a substantive nature.

Councilor Caldwell felt that as a new Councilor she had been brought up to speed and a significant effort had been made to educate the Councilors about Burlington Telecom. She did not feel comfortable having a commission between Burlington Telecom and the Council. She explained that when the Legislature approved the establishment of Burlington Telecom, they tied Burlington's hands by putting certain requirements in place and that this resolution may further exacerbate that situation.

Councilor Ellis stated his opinion that the Council had not been provided information for quite some time. He thought it had been improving, but he was still learning new things all the time. He noted, however, that the Council voted on these budgets and it was important to know what they were voting on. He felt that Burlington Telecom was leaning toward excluding the Council from the details of the operation, which was why he supported the resolution.

Again CAO Leopold spoke, outlining the fact that Burlington Telecom and the Administration had made quarterly reports to the Board of Finance for the last 3 ½ years. The Council was fully briefed prior to voting on every contract and financing arrangement. The difference in reporting that Councilor Ellis referred to was due to the fact that in March the new City Council became dissatisfied with the oversight by the Board of Finance and wanted to be more directly involved.

Councilor Berezniak stated that he disagreed with the arguments from both sides of the issue. He said that moving forward allowed a discussion to occur about the type of structure that Burlington Telecom would have in the future.

Acting President Adrian then called a recess.

Upon return, Acting President Adrian stated that Councilor Paul had called the question, seconded by Councilor Decelles. The motion passed unanimously. Councilor Decelles then asked for a roll call.

Ayes: Adrian, Berezniak, Ellis, Kaplan, Shannon, Keogh, Kehoe

Nays: Bushor, Mulvaney-Stanak, Caldwell, Davis, Paul, Decelles, Dober

The motion to adopt the resolution failed by a vote of 7 to 7.

14.5. (was 7.07.) COMMUNICATION: Jeanne Collins, Burlington School District Superintendent, re:
Resolution Re: Opportunities for Cost Savings from
Administrative Collaboration Between the City and the School
Department

Councilor Bushor made a motion to waive the reading, accept the communication and refer it to the Board of Finance, seconded by Councilor Kaplan. Councilor Bushor stated her hope that the Board of Finance and Administration would be supportive of this resolution. She added an amendment that the CAO and Board of Finance working with the School Board Finance Committee and the Superintendent work to develop a plan for consolidation of purchasing and delivery of services that could be implemented for the next fiscal year. She noted this has been discussed many times with no real initiatives or plans.

Councilor Caldwell moved to suspend the rules and extend the meeting of the City Council beyond 10:30 p.m. Councilor Bushor seconded the motion. The motion passed unanimously.

Councilor Caldwell then reiterated that, having been on the Finance Committee of the School Board, she knew this had been discussed for a long time and she hoped to be able to see something tangible as a result of this resolution.

The motion passed unanimously.

14.6. (was 7.04.) RESOLUTION: Supplemental Budget Resolution #2009-____ General Fund Step Increase and Cost of Living Allowance Adjustments (Board of Finance)

Councilor Bushor made a motion to waive the reading and adopt the resolution, seconded by Councilor Mulvaney-Stanak. Councilor Adrian then asked questions of the CAO regarding the numbers noted in this resolution. He stated that he was concerned that this item had been on the consent agenda, especially due to the dollar amounts involved. He believed that the Council should always be able to weigh in on dollar amounts of this size. He further asked what the ramifications would be to the cost of living increases if this resolution were not adopted.

CAO Leopold noted that this resolution applied to last year's budget and was a routine budget reconciliation. It had nothing to do with this year's step increases or COLA's and the title stated that it related to FY2009. He explained how the budgeting process occurred relative to this item.

Following another question from Councilor Adrian, Councilor Mulvaney-Stanak noted this was standard procedure in other municipalities and school districts with union contracts.

The motion passed by a vote of 12 to 1, with Councilor Adrian voting against and Councilor Paul absent.

15. ADJOURNMENT

On a motion by Councilors Davis and Kaplan, the Council voted unanimously to adjourn at 10:38 p.m.

Attest:

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

CITY COUNCIL WITH MAYOR PRESIDING
MONDAY, SEPTEMBER 21, 2009
10:38 P.M.

PRESENT: See above

MAYOR KISS PRESIDING

1. AGENDA

There were no changes to the agenda.

2. RESOLUTION: Authorization to Grant Charter § 130 Hardship (Councilors Bushor, Kaplan, Dober: Institutions & Human Resources Committee)

Councilor Davis made a motion, seconded by Councilor Ellis to waive the reading and adopt the resolution.

Councilor Decelles stated that the public voted to require department heads be residents of the City of Burlington and he would be voting against this resolution. Councilor Shannon noted that subsequent to that the Council developed parameters for where exceptions should be made and that the Council does have the authority to make exceptions.

The motion passed by a vote of 11 to 2, with Councilors Caldwell and Decelles voting against.

3. ADJOURNMENT

On a motion by Councilors Decelles and Dober, the City Council With Mayor Presiding voted unanimously to adjourn at 10:42 p.m.

Attest:

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