

LOCAL CONTROL COMMISSION
CONTOIS AUDITORIUM, CITY HALL
MONDAY, NOVEMBER 16, 2009
7:03 P.M.

PRESENT: Commissioners Caldwell, Davis, Mulvaney-Stanak, Bushor, Kaplan, Adrian, Keogh, Shannon, Ellis, Kehoe, Berezniak, Paul, Dober, Decelles and Mayor Kiss

CITY ATTORNEY'S OFFICE: City Attorney Schatz

CLERK/TREASURER'S OFFICE: Jonathan P.A. Leopold, Jr., Lori Olberg, Sue Trainor

PRESIDENT KEOGH PRESIDING

1. AGENDA

On a motion by Commissioners Davis and Bushor, the Local Control Commission voted unanimously to amend the agenda as follows: add to the agenda item 1.5. CONSENT AGENDA; add to the consent agenda item 1.5.01. APPLICATION FOR SPECIAL EVENT PERMIT (**one day only**): WYC, LLC, d/b/a The Reservoir, at Burton Flagship retail store, Tuesday, November 24, 2009, 7:00 p.m. – 9:00 p.m., Store Party with the consent action to “waive the reading, accept the communication, place it on file and approve the one day only special event permit application for WYC, LLC, d/b/a The Reservoir, at Burton Flagship retail store, Tuesday, November 24, 2009, 7:00 p.m. – 9:00 p.m.”

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

Das Bierhaus, 175 Church Street

Commissioner Davis made a motion, seconded by Commissioner Dober, to approve the Outside Consumption Permit. This permit is conditioned upon receiving Fire Marshal and City Inspector final approval and will be held in the Clerk's Office until then. The motion passed unanimously.

3. ADJOURNMENT

On a motion by Commissioners Davis and Dober, the Local Control Commission voted unanimously to adjourn at 7:05 p.m.

Attest:

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

ADJOURNED MEETING, CITY COUNCIL
MONDAY, NOVEMBER 16, 2009
7:05 P.M.

PRESENT: See above

PRESIDENT KEOGH PRESIDING

1. AGENDA

On a motion by Councilors Adrian and Shannon, the Council voted unanimously to adopt the agenda, as amended, as follows: note written material for item 2. RESOLUTION: Congratulating the Burlington High School Girls Soccer Team (Full City Council); note revised version of consent agenda item 7.01.

COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re: Accountability List with the consent action to “waive the reading, accept the communication and place it on file;” note written material for consent agenda item 7.03. RESOLUTION: Smoking Ban in Public Gathering Places (Councilor Paul) with the consent action to “waive the reading and adopt the resolution;” add to the consent agenda item 7.05.01. COMMUNICATION: David Weinstein & Richard Haesler, re: Intervale Food Enterprise Center with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 7.06.01. COMMUNICATION: David Weinstein & Richard Haesler, re: BED contribution towards environmental clean-up at Moran with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 7.13. COMMUNICATION: Larry Kupferman, CEDO Director, re: Moran Finances with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 7.14. COMMUNICATION: William F. Ellis, Esq., Law Offices McNeil, Leddy & Sheahan, re: Burlington Telecom CPG Compliance with the consent action to “waive the reading, accept the communication, place it on file with a report due back to the Council at their December 7, 2009 City Council Meeting;” note written material for item 10. RESOLUTION: Honoring Mr. John Whitehead Tucker III (Full City Council); note title change and written material for item 11. RESOLUTION: Honoring Dr. Lawrence McCrorey (Full City Council); note written material for item 12. RESOLUTION: Veterans’ Day (Councilors Decelles, Dober). Strike the second “WHEREAS clause.” Note additional co-sponsors as follows: Councilors Adrian, Berezniak, Davis, Kaplan, Kehoe, Keogh Paul, Shannon; note additional sponsors and written material for item 14. RESOLUTION: Pedestrian Safety on Main Street in Front of Edmunds Elementary School (Councilors Kaplan, Paul, Davis, Mulvaney-Stanak, Berezniak, Adrian, Bushor); add to the agenda item 14.1. COMMUNICATION: Mayor Bob Kiss, re: Veto Message—Resolution Relating to Temporary Removal of Chief Administrative Officer; add to the agenda item 14.2. Re-Consideration of Resolution Relating to Temporary Removal of Chief Administrative Officer (Councilors Shannon, Kehoe); add to the agenda item 14.5. RESOLUTION: Burlington Telecom Use of Pooled Cash and Pursuit of Financing (Mayor’s Office) add to the agenda item 14.6. RESOLUTION: Release of Confidential Information (Councilors Caldwell, Davis, Mulvaney-Stanak); add to the DELIBERATIVE agenda item 16. COMMUNICATION: Michael E. Schirling, Chief of Police, Karen Vastine, Community Justice Center, Richard Haesler, Assistant City Attorney, re: Noise Ordinance Proposed Changes – Operation Workflow; remove from the consent agenda item 7.02 and place it on the DELIBERATIVE agenda as item 16.01. RESOLUTION: Proposed Pilot Program for Amended Noise Ordinance (Councilors Shannon, Bushor, Mulvaney-Stanak: Ordinance Committee); re-number the original item 16. ORDINANCE: Offenses and Miscellaneous Provisions Re: Noise Control Ordinance (Police Department)(2nd reading) as item 16.02; remove from the consent agenda item 7.03. and place it on the DELIBERATIVE agenda as item 16.5. RESOLUTION: Smoking Ban in Public Gathering Places (Councilor Paul). Councilor Shannon requested that item 14.2. Re-Consideration of Resolution Relating to Temporary Removal of Chief Administrative Officer (Councilors Shannon, Kehoe) be moved to item 16.6. Councilor Kaplan added Councilor Caldwell as a sponsor in support of the resolution for pedestrian safety at Edmunds School.

2. RESOLUTION: Congratulating the Burlington High School Girls Soccer Team (Full City Council)

Councilor Shannon made a motion, seconded by Councilor Kaplan, to waive the reading and adopt the resolution which was read into the record. The coach and team members were present for the recognition. The motion passed unanimously.

3. PUBLIC FORUM

President Keogh opened the public forum at 7:41 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Lisa Geisweit	Burlington Telecom	Manager of Marketing/ Customer Service
Robert Valentine	Burlington Telecom	Commercial Sales Mgr.
Allen Parker		Melissa Parker Resolution
Craig Gutchell	7	Supported Moran Center
Mike Glynne	UVM Student Govt.	Noise Ordinance
Page Atcheson	UVM Student Govt.	Noise Ordinance
Kim Mason		Burlington Telecom/Veterans
David Grossnickle		Burlington Telecom/Veterans
Ann Kiley		Supported Pedestrian Safety/ Edmunds
Reggie Greene		Burlington Telecom
Tom Dion		Veterans' Day
Kate Neubauer	Sailing Center	Supported Moran Center
Michael Seaver		Burlington Telecom
Roger Kilbourn		Transparency in Government
Don MacDonald		Veterans' Day
Jonathan Leavitt		Partisan Politics
Robert Colby		Veterans' Day
Kurt Wright		Burlington Telecom/Veterans

There being no one further coming forward, President Keogh closed the public forum at 8:15 p.m.

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

Councilor Dober expressed his disappointment and anger over Mayor Kiss' selection of a representative to speak at a Veterans' Day event who advocated against serving in the military.

Councilor Bushor explained that UVM was now charging for space that was presently being used by the Ward 1 NPA. Because the NPA had no money allotted to it, she hoped that CDBG monies would be considered for this use. On another note, she explained that the Trinity Campus was now being used primarily by freshman who were creating noise problems in the neighborhood surrounding it. She had asked the Mayor to convene a meeting with UVM addressing this problem.

Councilor Adrian outlined information about Burlington Telecom and the role of the Administration to the members of the public in the audience. He also noted that the Council recently voted to put the CAO on administrative leave and he hoped the Council would keep that in mind when reviewing the information that the CAO provided for this meeting.

Councilor Caldwell then addressed some of the items that Councilor Adrian had just brought up.

Councilor Bushor asked the Council President to require that City Councilors not speak to agenda items on the agenda. The previous speakers were debating issues which she felt was not the purpose of this section of the agenda.

Councilor Ellis informed the public that the Ward 4/7 NPA would be meeting during the week and would be introduced to the new Parks Director.

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

Mayor Kiss noted his appreciation to those who were in attendance from the VFW and the Veterans of Foreign Wars. The Mayor explained that at his request the Board of Finance had approved money for new flags to be provided to local cemeteries as well as funds being provided to the National Guard Emergency Assistance Fund for families of those overseas. Because he was out of town on Veterans' Day he asked a veteran to represent him. He did not preview this veteran's comments. He noted that the comments that were provided were the veteran's view of the world and he apologized that it upset those in attendance. However, he noted that he continued to support that it was not unreasonable that a veteran would be asked to represent him at the ceremony at Battery Park. The Mayor stated he had been at that ceremony six times in the last three years and he had always recognized the commitment and sacrifice that Burlington veterans had made.

6. COMMITTEE REPORTS

Councilor Shannon reported on the work being done by the Ordinance Committee on the Livable Wage Ordinance, the Retirement Ordinance, and the Downtown Ordinance. The Ad Hoc Committee on Burlington Telecom Governance would meet during the week.

Councilor Paul commented on the Parks, Arts and Culture Committee's review of the expansion of the Farmer's Market, which was then referred to the Parks and Recreation Director. At that meeting the smoking ban was also reviewed. The independent audit RFP of Burlington Telecom would be discussed at the upcoming meeting of the sub-committee that she chaired.

Councilor Bushor noted that the Human Resources Committee would be meeting to have continued discussion about compensation for Battalion Chiefs and Burlington Telecom employees. Continuation of domestic partner coverage would also be discussed.

7. CONSENT AGENDA

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

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

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

7.04. RESOLUTION: Authorization for Land Purchases and Relocation Services in

Anticipation of AIP Grant Funds for Burlington International Airport
(Board of Finance)

*waive the reading and adopt the resolution

7.05. RESOLUTION: Authorization to Execute Addendum to Memorandum of Understanding
With Burlington Community Development Corporation and the Intervale
Center (Board of Finance)

*waive the reading and adopt the resolution

7.05.01. COMMUNICATION: David Weinstein & Richard Haesler, re: Intervale Food Enterprise Center
*waive the reading, accept the communication and place it on file

7.06. RESOLUTION: Authorization for Settlement with BED re Moran Environmental
Remediation Costs (Board of Finance)

*waive the reading and adopt the resolution

7.06.01. COMMUNICATION: David Weinstein & Richard Haesler, re: BED contribution towards
environmental clean-up at Moran

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

7.07. COMMUNICATION: Bob Kiss, Mayor, re: Status of the Moran Project (distributed at the
November 9, 2009 City Council Meeting)

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

7.08. COMMUNICATION: Sharon Foley Bushor, Ward One Councilor, re: UVM rezoning request
for Grove Street

*waive the reading, accept the communication, place it on file and send copies to UVM President Fogel
and the Burlington Planning Commission

7.09. COMMUNICATION: Tracy Brooks, Clerk of the Board, Fire Commission, re: Attendance
Record

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

7.10. COMMUNICATION: Mike Glynne, Chair, Committee on Legislation for the UVM Student
Government Association, re: Opposition to the proposed changes to the
Burlington Noise Ordinance

*waive the reading, accept the communication, place it on file and send copies to the Ordinance
Committee Members for further consideration

7.11. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for
November 9, 2009

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

7.12. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: BCDC Minutes for November 9,
2009

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

7.13. COMMUNICATION: Larry Kupferman, CEDO Director, re: Moran Finances

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

7.14. COMMUNICATION: William F. Ellis, Esq., Law Offices McNeil, Leddy & Sheahan, re:
Burlington Telecom CPG Compliance

*waive the reading, accept the communication, place it on file with a report due back to the Council at their December 7, 2009 City Council Meeting

8. OUTDOOR ENTERTAINMENT PERMIT APPLICATION (2009-2010):

Das Bierhaus, 175 Church Street

Councilor Davis made a motion, seconded by Councilor Dober, to approve the Outdoor Entertainment Permit Application for Das Bierhaus pending Fire Marshal and City Inspector approval. Councilor Bushor asked about the rooftop location and asked how the noise issue would be resolved. Councilor Kehoe was most concerned about safety with the potential for things being thrown from the rooftop. Councilor Davis responded to both issues. The motion passed by a vote of 13 in favor, 1 opposed, with Councilor Kehoe voting against.

9. RESOLUTION: Honoring Old North End Neighborhood Advocate Melissa Parker (Councilors Caldwell, Mulvaney-Stanak, Davis, Shannon, Paul, Berezniak)

Councilor Caldwell made a motion, seconded by Councilor Davis, to waive the reading and adopt the resolution. The family of Mrs. Parker and members of the Barnes community came forward to be recognized as the resolution was read into the record. Councilors Shannon, Paul and Berezniak asked to be added as co-sponsors. Councilor Bushor added an amendment making July 30th the Melissa Parker Day on an annual basis, which was considered friendly by the maker and seconder of the resolution. The resolution, as amended, passed unanimously.

10. RESOLUTION: Honoring Mr. John Whitehead Tucker III (Full City Council)

Councilor Mulvaney-Stanak made a motion, seconded by Councilor Davis, to waive the reading and adopt the resolution. Councilor Mulvaney-Stanak read the resolution into the record which outlined the impact that Mr. Tucker had within our community in his efforts to address racism and racial equality in Burlington and Vermont. Councilors Caldwell and Davis contributed their thoughts about Mr. Tucker. The motion to pass the resolution passed unanimously.

11. RESOLUTION: Honoring Mr. Lawrence McCrorey (Full City Council)

Councilor Davis made a motion, seconded by Councilor Mulvaney-Stanak, to waive the reading and adopt the resolution. Councilor Davis read the resolution into the record which outlined the impact and contributions that Dr. McCrorey had at the University of Vermont, the City of Burlington and the State of Vermont. Councilor Bushor provided the Council with her memories of Dr. McCrorey. The motion passed unanimously.

12. RESOLUTION: Veterans' Day (Councilors Decelles, Dober, Adrian, Berezniak, Davis, Kaplan, Kehoe, Keogh, Paul, Shannon)

Councilor Decelles made a motion, seconded by Councilor Dober, to waive the reading and adopt the resolution. Councilor Decelles spoke about the sacrifices made by those who serve in the armed forces and expressed his appreciation for their service. Councilor Caldwell stated she would not support the resolution but thanked the veterans for their service and mentioned her family connections to the military. Councilor Davis noted he would not support the resolution simply because he wanted this particular resolution to be a resolution of thanks and appreciation. He believed this resolution was political in nature.

Councilor Kaplan asked that Councilor Decelles read the resolution into the record. Councilor Shannon proposed the following amendment which was considered friendly by the maker and the seconder: “Be It Further Resolved that the Burlington City Council hereby sincerely thanks all the veterans who have served our country with honor.” Councilor Mulvaney-Stanak spoke about the rights of veterans to speak about war or conscience objection and would not be supporting the resolution. Councilor Decelles then addressed the public stating that the resolution was not meant to be political and he apologized to the public for the debate involved with this.

Councilor Adrian requested a roll call:

Ayes: Councilors Decelles, Dober, Paul, Kehoe, Ellis, Shannon, Keogh, Adrian, Kaplan, Bushor, Berezniak

Nays: Mulvaney-Stanak, Davis, Caldwell

13. RESOLUTION: Implication of Withdrawal of the Green Mountain Children’s Museum From the Moran Renovation and Redevelopment Project (Councilor Decelles)

Councilor Decelles made a motion, seconded by Councilor Dober, to waive the reading and adopt the resolution. Councilor Decelles then modified the resolution changing dates within the document and adding a clause stating that the Parks, Arts and Culture Committee hold at least one but not more than two public hearings. Councilor Decelles noted that while this project was previously approved by the residents of the City, changes have now occurred as far as tenants and it should be brought to the committee and possibly before the voters again.

Councilor Shannon noted her concern that this action would affect the future of the Moran Plant. She asked for David G. White and David Weinstein for their opinions on this resolution. Mr. White stated that originally he had been a skeptic about the potential of bringing this project to fruition. However, he now believed in the success of the project as each of the risks had been dealt with. The money to pay for this project has been determined and a plan was in place to project the City going forward. His concern was that this resolution would put the project at risk. It would send the message to the remaining tenants that the project was uncertain. David Weinstein stated they are committed to a public process and suggested that the Council approve CEDO sending out an RFP asking for another tenant. Councilor Bushor appreciated the reasoning behind the resolution and asked for clarification on how the public would be involved in the selection process of a new tenant. Mr. White provided a number of options that they envisioned. Councilor Bushor stated she believed a schedule should be developed so that both the public and the Council could keep track of the progress and be actively engaged.

Councilor Decelles then called for a recess at 9:28 p.m., reconvening at 9:35 p.m. An amendment, considered friendly, was proposed by Councilor Shannon, removing all of the resolve clauses and adding: “Be It Resolved that the Parks, Arts and Culture Committee is charged with developing a process of public engagement in coordination with CEDO after receipt of the RFQ’s for Moran redevelopment and recommendations of the Committee will be referred back to the full City Council.” Councilor Caldwell further amended the resolution on page 2 at the second whereas clause, eliminating the words “or before City funds are committed.” The amendments were considered friendly.

At the request of Councilor Paul, David Weinstein outlined the economic development aspects of the Moran Plant project as being 676 temporary jobs, 60-80 permanent jobs (40 on-site) and \$2 million in gross receipts each year. The resolution, as amended, passed unanimously.

14. RESOLUTION: Pedestrian Safety on Main Street in Front of Edmunds Elementary School (Councilors Kaplan, Paul, Davis, Mulvaney-Stanak, Berezniak, Adrian, and Bushor)

Councilor Kaplan made a motion, seconded by Councilor Mulvaney-Stanak, to waive the reading and adopt the resolution. Councilor Kaplan felt this resolution reflected a failure of communication, of imagination and diplomacy. She noted that the crosswalk by Edmunds was placed against the wishes of DPW but with the agreement of other City departments. For at least seven years the crosswalk had been considered unsafe. DPW was able to get funding from VTRANS to make changes to the crosswalk, however, it was not on the schedule to be fixed for another year. Therefore, this resolution asked for the development of a safer way for children to cross the street at that location. Councilors Bushor, Mulvaney-Stanak, Caldwell, Adrian and Berezniak spoke in favor of the resolution. The motion passed unanimously.

14.1. COMMUNICATION: Mayor Bob Kiss, re: Veto Message—Resolution Relating to Temporary Removal of Chief Administrative Officer

Mayor Kiss spoke about his decision to veto a prior resolution approved by the Council to temporarily remove the CAO, as well as limiting the use of pooled cash. He stated again his belief that proposal was unwarranted. This was the first veto he had issued in his four years in office and he did not take it lightly. He reminded the Council he had put through an alternative resolution relating to the use of pooled cash.

With there being no further objection from the remaining Council, Councilor Adrian made a motion, seconded by Councilor Kaplan, to waive the reading, accept the communication and place it on file. The motion passed unanimously.

14.5. RESOLUTION: Burlington Telecom Use of Pooled Cash and Pursuit of Financing (Councilors Davis, Mulvaney-Stanak, Caldwell)

Councilor Davis made a motion, seconded by Councilor Mulvaney-Stanak, to waive the reading and adopt the resolution. Bond Counsel Thomas Melloni, Esq. was asked to answer questions from the Councilors.

Councilor Ellis asked Mr. Melloni what obligations the City would be making if they approved this resolution. Mr. Melloni explained that upon the signing of the documents, Piper Jaffray would begin their due diligence and complete the paperwork required to seek financing. Councilor Ellis asked if there would be a benefit to having other companies do this work instead. Mr. Melloni replied that due to time sensitivity it would be best to move forward. Piper Jaffray had familiarity with the City due to its recent work with the Burlington Electric bond and that served as an advantage, as opposed to going out to bid for other companies. CAO Leopold outlined the City's history of competitive bidding for municipal bond financing and the work that Piper Jaffrey has done for the City in the past.

Councilor Kehoe asked Mr. Melloni why the Council was being asked at this meeting to authorize going forward with Piper Jaffrey. She continued by stating that the Council was being asked to approve \$60 million in financing when it did not seem to be necessary and the Council itself had very little information about what underlied this need. Mr. Melloni explained that considering the complexity of the proposal and the time sensitivity it was important to begin the process. He then outlined the financial requirements associated with a Certificate of Participation.

Councilor Shannon called a point of order, making a motion to suspend the rules to a time certain of 11:00 p.m., seconded by Councilor Kehoe. The motion to suspend the rules failed (lack of two-thirds vote) by a vote of 10 in favor, 4 opposed, with Councilors Dober, Decelles, Davis and Caldwell voting against. Councilor Dober made a motion to suspend the rules and continue with the meeting. Councilor Adrian called a point of order stating that the meeting was adjourned. Councilor Caldwell seconded Councilor Dober's motion. Council President Keogh disagreed. Councilor Adrian requested a ruling from the City Attorney. City Attorney Schatz stated it was reasonable for the Council President to

consider another motion from the floor. The vote was then taken, the motion passed by a vote of 10 to 4 with Kaplan, Adrian, Keogh and Kehoe voting against, and the rules were suspended.

Councilor Adrian asked Mr. Melloni a number of questions about Piper Jaffray and the City's financial involvement related to signing the Letter of Agreement. He then made a motion to divide the resolution. Following extended discussion, City Attorney Schatz suggested a simple way to divide the resolution, dividing the two resolve clauses. The motion was seconded by Councilor Kaplan. The motion passed by a vote of 10 to 4 with Councilors Bushor, Mulvaney-Stanak, Davis and Caldwell voting against.

The first resolve clause required that Burlington Telecom repay any debts paid from pooled cash within sixty days. Councilor Ellis called the question, seconded by Councilor Kaplan. The motion to call the question passed by a vote of 10 to 4, with Councilors Bushor, Mulvaney-Stanak, Davis and Caldwell voting against. The motion to repay the pooled cash then passed by a vote of 12 to 2 with Councilors Bushor and Caldwell voting against.

Councilor Adrian then made a motion, seconded by Councilor Kaplan, to approve the second resolve clause. Councilor Caldwell noted if this clause was not approved by the Council they were effectively closing the doors of Burlington Telecom. Councilor Bushor was unhappy that she had been boxed in by the Council with the way the resolution had been divided. Councilor Adrian followed by making a motion to postpone this matter to the meeting of December 7th. He then passed out a list of questions he wanted answered to a time certain of two weeks from the date the answers to the list of questions was provided. Councilor Davis called a point of information, noting there was a motion on the floor that had been seconded, which Council President Keogh agreed with. Nevertheless, Councilor Adrian continued with his motion to postpone. Councilor Kehoe seconded the motion.

Councilor Bushor explained that as a part of an elected body the Council would work toward solutions to fund the debt and reimburse the pooled cash with a resource. She believed that the Councilors who brought forth this amendment understood the ramifications of it. She did not understand the actions of those Councilors who stated they were protecting residents but working toward the collapse of BT. She then asked that a roll call be taken for both of the amendments.

Councilor Caldwell expressed her concern with the amendment and asked the CAO what would happen if the amendment passed. CAO Leopold stated that within a relatively short period of time proponents of this would have succeeded in putting Burlington Telecom out of business unnecessarily. This original resolution had offered a solution that was not dissimilar to financings that were done with the other Burlington Telecom financings. The CAO explained that the resolution was put forward in order to determine whether the Council wanted to work through a solution to the financing and make the cash pool whole. He was appalled that the partisanship was continuing, with little regard for the outcome to the City. He questioned the Council members asking if they seriously wanted to affect the credit rating of the City and the \$50 million investment in Burlington Telecom. He continued by saying that Piper Jaffray was one of the premiere underwriting firms in the world today and they have the ability to do the financing. He stated his belief that the Council, with these amendments, was interested in destroying a \$50 million investment for the purpose of embarrassing the current Administration.

Councilor Caldwell then asked City Attorney Schatz about the Council's fiduciary responsibility, to which he replied that the Council as stewards of Burlington Telecom had the fiduciary obligation to make decisions that would protect Burlington Telecom and the citizens of the City of Burlington. City Attorney Schatz stated that the Council could choose to terminate Burlington Telecom and that was within the Council province to make. In response to a question from Councilor Caldwell, Mr. Melloni stated the suggested financing was, in his opinion, reasonable and widely accepted.

Councilor Caldwell then spoke outlining her frustration with the Council's dismantling of Burlington Telecom for political reasons and asked when the Council would begin to work toward solutions. She

asked when saving the assets of such an important resource for the City would be more important than winning the upcoming March election.

Councilor Kaplan stated her concern was not politically motivated but more about the financial obligations of the City. She felt she needed more information – pro-formas and a business plan - before making decisions in this regard. She did not believe that discussing this item in two weeks would make a difference. Councilor Shannon stated that she was pleasantly surprised by the financing option but would not rubber stamp a proposal offered by the Administration. She outlined the way in which financings were approved by the Council in the past, with projections being offered as to repayment. This proposal did not offer this information.

Councilor Kehoe noted that as a steward of Burlington Telecom she needed to have more information before making an informed decision on this resolution. She then explained her confusion and anger over annual appropriations mentioned in the November 12th terms letter from Piper Jaffray, which Mr. Melloni responded to. A point of order was called by Councilor Mulvaney-Stanak requesting that civility and addressing the Council President rather than individuals directly be implemented, as Councilor Kehoe reacted to a statement made by the CAO.

At this time a five minute recess was called by Council President Keogh at 11:30 p.m. The Council reconvened at 11:51 p.m.

Councilor Adrian then made a motion to amend the amendment such that all conditions be stricken and that action be postponed until the Council's scheduled December 7th meeting. The motion was seconded by Councilor Paul. Councilor Adrian stated he wanted all of the items in the amended resolution dealt with prior to the next Council meeting.

At this point, Councilor Davis called a point of order, noting that prior to the recess there was a queue that was now apparently abandoned. Councilor Shannon then gave her time to Councilor Davis. Councilor Davis reminded individuals there was a window of time with many major holidays coming up. While he wanted as much information as possible, it was important to note the deadlines involved. He then reminded the Council this information was confidential. He asked Mr. Melloni what the net effect of postponing this, to which Mr. Melloni replied that it took 90 days to complete a financing.

Councilor Caldwell did not see this amended resolution as a compromise as it continued to slow the process and not offer approval of a financing solution offered by Piper Jaffray. She reminded the Council that this was not a process that was any different than other financing done by the City. She again stated that the Council was now telling the Administration that money needed to be paid by BT within 60 days but not allowing the Administration to refinance.

CAO Leopold stated the reason there was urgency in bringing forward the financing proposal was that the Council told the CAO to come back with a financing option by November 16th. He noted that the Administration's resolution stating that repayment would occur within 60 days was made prior to the resolution was divided. It was assumed that the financing would take place, allowing the repayment. To now postpone the decision may make it difficult to accomplish. He then explained that a presentation to the Council would be done on the financing options provided by Piper Jaffray. However, prior to that a commitment needed to be made to the firm to start the work.

Councilor Paul explained that she would prefer to have a work session the following week rather than wait until December 7th. She then asked everyone to think before they speak and to respect each other's opinions. Councilor Kehoe then apologized for her previous conduct to the Council, the Mayor and the CAO. Councilor Shannon noted that the question being brought to the Council was now whether to go forward with a \$60 million financing. While she wanted BT to be successful, she wanted the documentation to prove that it could be.

Councilor Mulvaney-Stanak was confused by the decision to add the second resolve clause, considering that the Council had requested a solution to the pooled cash issue and was now being provided one. She noted her infuriation and disappointment in the fact that the Council did not seem interested in working toward a solution, despite what the members were saying and that the conduct of Councilors toward each other could have ramifications for the future. Councilor Bushor then asked the Council why the Administration could not go forward with Piper Jaffray, report back on December 7th and then, based on the executive session, decide whether to move forward or not. The Mayor then proposed that the Council schedule a series of open meetings so that this process can move forward. He asked, though, that the Council support the Administration being able to pursue funding with Piper Jaffray now.

Councilor Decelles called the question, seconded by Councilor Dober. Councilor Kaplan asked a point of information on what question was being voted on. President Keogh deferred to Councilor Adrian, who read the clause, postponing the decision to the December 7th meeting. The motion to call the question passed unanimously.

The vote to postpone the second resolve clause until December 7th then passed by a vote of 10 in favor, 4 opposed with Councilors Bushor, Mulvaney-Stanak, Davis and Caldwell voting against.

Councilor Decelles, noting there was nothing time sensitive on the agenda, made a motion to adjourn, seconded by Councilor Dober. The motion passed by a vote of 13 to 1 with Councilor Caldwell voting against. The meeting was adjourned at 12:32 a.m.

****Item 14.5 was the last order of business with all remaining items being postponed until the December 7, 2009 City Council Meeting****

Attest:

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