

REGULAR MEETING, CITY COUNCIL
CONTOIS AUDITORIUM, CITY HALL
MONDAY, FEBRUARY 8, 2010
7:03 P.M.

PRESENT: Councilors Davis, Bushor, Kaplan, Adrian, Keogh, Shannon (arrived at 7:06 p.m.), Ellis (arrived at 7:04 p.m.), Paul, Dober, Decelles, Berezniak, Kehoe (arrived at 7:04 p.m.), Caldwell (via phone at 7:22 p.m.), Mayor Kiss

CITY ATTORNEY'S OFFICE: Ken Schatz, Gene Bergman (arrived at 7:13 p.m.; departed at 9:02 p.m.), Richard Haesler, Jr. (arrived at 7:15 p.m.; departed at 7:38 p.m.)

CLERK/TREASURER'S OFFICE: Ben Pacy, Lori Olberg

PRESIDENT KEOGH PRESIDING

A moment of silence was held for Brian McNeil.

Wolf Pack #651 was introduced.

1. AGENDA

On a motion by Councilor Adrian, with no second, the agenda was amended as follows: add to the consent agenda item 3.08.01. COMMUNICATION: Richard W. Haesler, Esq., Asst. City Attorney, re: Correction: Agreement with North Country Specialty Foods, Inc. with the consent action to "waive the reading, accept the communication and place it on file;" add to the agenda item 4.5. RESOLUTION: Ratification and Authorization to File Arbitration Claim Against Morgan Stanley (Board of Finance); note **revised** version for item 5. RESOLUTION: Equipment and Machinery Tax (Councilors Decelles, Dober); note written material for item 6. RESOLUTION: Authorize Implementation of Compensation Range Adjustment for Manager of Engineering at Burlington Electric Department (Councilors Keogh, Davis: Board of Finance) and note **revised** version of this item; remove from the consent agenda item 3.14. COMMUNICATION: Richard Cate, Vice President for Finance and Administration, UVM, re: January 25, 2010 City Council Resolution Relating to UVM's Progress in Building More Student Housing on Campus and place it on the DELIBERATIVE agenda as item 6.5; remove from the agenda item 10. COMMUNICATION: Joseph E. McNeil, Esq., re: Collective Bargaining Update (oral); add Councilor Paul as a co-sponsor to item 5. RESOLUTION: Equipment and Machinery Tax (Councilors Decelles, Dober). The agenda was accepted by Council President Keogh as amended.

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

There being no one coming forward, President Keogh closed the public forum at 7:34 p.m.

3. CONSENT AGENDA

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

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

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

3.02. RESOLUTION: Appointment of Ward Officer (Councilor Berezniak)

*waive the reading and adopt the resolution

3.03. RESOLUTION: Approval of Second Amendment to Landowner PRP Settlement

Participation Agreement (Board of Finance)

*waive the reading and adopt the resolution

3.04. RESOLUTION: Reclassification of the Burlington Electric Department Billing Services Coordinator (Board of Finance)

*waive the reading and adopt the resolution

3.05. RESOLUTION: Authorization for Settlement of Pending Litigation (Board of Finance)

*waive the reading and adopt the resolution

3.06. RESOLUTION: Authorization for Lease of an Aircraft Repair Shop at Burlington International Airport (Board of Finance)

*waive the reading and adopt the resolution

3.07. COMMUNICATION: Alan Campbell, Auditorium Manager and Park Event Host, Department of Parks and Recreation, re: Proposed Concessions Agreement for Memorial Auditorium

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

3.08. RESOLUTION: Authorization to Enter into Concession Agreement with North Country Specialty Foods (Board of Finance)

*waive the reading and adopt the resolution

3.08.01.COMMUNICATION: Richard W. Haesler, Esq., Asst. City Attorney, re: Correction: Agreement with North Country Specialty Foods, Inc.

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

3.09. COMMUNICATION: Michael Schirling, Chief of Police and Karen Vastine, Community Justice Center, re: Update on Pilot Project – Civil Ticketing

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

3.10. COMMUNICATION: City Council President Bill Keogh, re: Council Workload-Council President Memo – January 27, 2010

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

3.11. COMMUNICATION: Rob Chapman, Executive Director, Vermont Community Access Media, Inc. to Ronald Ruloff, Radio Free Brooklyn, re: Violation of State Laws: Re: Episode 14 of Radio Free Brooklyn

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

3.12. COMMUNICATION: Ron Ruloff, Producer, Radio Free Brooklyn, re: Pulling of an Episode from VCAM

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

3.13. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council, September 14, 2009

*waive the reading, accept the communication, place it on file and adopt the minutes at the February 22, 2010 City Council Meeting

3.15. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for January 25, 2010

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

3.16. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for February 1, 2010

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

4. COMMUNICATION: Clerk/Treasurer's Office, re: Notice of Public Hearing **Revised**

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.

Council President Keogh opened the public hearings at 7:08 p.m.

4.01. PUBLIC HEARING: March 2, 2010 Annual City Meeting—Proposed Charter Change
Re: Clarification of Mayoral Appointment Process

No one came forward for the public hearing.

4.02. PUBLIC HEARING: Proposed Charter Change Re: Elimination of Instant Runoff
Voting and Majority Vote Requirement for Election of Mayor

Jason Lorber, State Representative, Co-Chair of 50% Matters spoke about this issue. In 2002, 2004 and 2005 the city residents voted and passed IRV overwhelmingly. Over 64% of the residents voted yes on the IRV in the last vote. He asked why the proponents of this item removed the 50% requirement and instead placed 40% in the ballot language.

Kerry Tuksu from the League of Women Voters spoke in support of a 50% majority for a winning candidate. Rolling the margin back to 40% will then mean that 60% of the residents who voted did not vote for the person in office. Kerry noted that the League supports IRV on both the local and state level.

Chris Pearson from Ward 1 spoke in opposition to this item. He believed it was a Republican power grab after losing the last Mayoral election and that they are now changing the rules in order to win. He believed 50% does matters and that giving voters as much choice as possible is important.

There being no one further coming forward, President Keogh closed the public hearings at 7:13 p.m.

4.5. RESOLUTION: Ratification and Authorization to File Arbitration Claim Against
Morgan Stanley (Board of Finance)

Councilor Davis made a motion, seconded by Councilor Bushor, to waive the reading and adopt the resolution. City Attorney Schatz provided background to the Council. Morgan Stanley was the investment advisor to the Retirement Board from 1991 until 2006. Morgan Stanley provided investment advice and evaluated, monitored, initiated and terminated investment managers on behalf of the Board. The Board relied on Morgan Stanley's objective review of the investments. Recently, following a review and investigation, in the City's view, Morgan Stanley's practices of "pay to play" harmed the fund and represented a conflict of interest. The City believes this practice resulted in a loss of millions of dollars to the Retirement Fund.

Councilor Ellis and Councilor Adrian asked questions of the history of this matter. Councilor Kaplan asked where money received through this arbitration would be placed. Attorney Schatz stated his assumption that it would be placed in the retirement system, although he noted that decision may be the Council's to make.

The motion then passed unanimously. It should be noted that while Councilor Caldwell was on the phone, she did not vote on this matter as she had just joined the discussion.

5. RESOLUTION: Equipment and Machinery Tax (Councilors Decelles, Dober)

Councilor Decelles made a motion, seconded by Councilor Dober, to waive the reading and adopt the resolution. Councilor Decelles explained that this tax amounted to approximately \$1 million for the City, but he was concerned that with municipalities wanting to encourage business in to the City, it may be better to repeal this tax. Councilor Bushor noted that the timeline on the resolution should be changed. As this was a budget item, it should be explored more fully and extended into mid-April. Councilor Bushor then made a motion to amend the resolution stating that the matter be extended to the end of April. The motion was considered friendly. The timeline on the resolution was then amended. Councilor Berezniak noted his concern this may act as a tax shift from commercial to residential and asked that be part of the review that is done. The amended resolution then adopted unanimously.

6. RESOLUTION: Authorize Implementation of Compensation Range Adjustment for Manager of Engineering at Burlington Electric Department (Councilors Keogh, Davis; Board of Finance)

Councilor Davis made a motion, seconded by Councilor Bushor, to waive the reading and adopt the resolution. General Manager Barbara Grimes and Human Resources Director Susan Leonard addressed the Council outlining the reasons the increase is needed. City Attorney Schatz responded to Councilor Decelles' questions regarding a contract approach. Both Councilors Dober and Decelles spoke against the compensation adjustment. A point of order was called by Councilor Paul after Councilor Dober used the employee's name in the discussion which President Keogh agreed with. Councilor Decelles called for a point of order, stating that he disagreed with the decision, as people could review salaries in the annual report. Councilor President Keogh stated the point of order was not well taken. Councilor Dober asked for particulars about this position and why an increase in this employee's salary was warranted. Councilors Ellis, Kehoe both noted and explained their support of the request. Councilor Berezniak noted this was ratepayer money funding the request.

Councilor Decelles asked for a roll call.

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

6.5. COMMUNICATION: Richard Cate, Vice President for Finance and Administration, UVM, re: January 25, 2010 City Council Resolution Relating to UVM's Progress in Building More Student Housing on Campus

Councilor Bushor made a motion to waive the reading, accept the communication and place it on file, seconded by Councilor Adrian. Councilor Caldwell left the meeting (via phone) at 8:16 p.m. Councilor Bushor asked Mr. Cate, Vice President for Finance and Administration of UVM, about enrollment figures and the delay of a year in adding housing. Mr. Cate stated UVM anticipated no increase in enrollment until additional beds are available. The motion passed unanimously with Councilor Davis abstaining from the vote.

7. COMMITTEE REPORTS

8. COMMUNICATION: City Councilors, re: General City Affairs (oral)

9. COMMUNICATION: Mayor Kiss, re: General City Affairs (oral)

11. ADJOURNMENT

The meeting was adjourned at 8:32 p.m. by the Council President.

Attest:

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

BOARD OF ABATEMENT OF TAXES
MONDAY, FEBRUARY 8, 2010
8:32 P.M.

PRESENT: See above

MAYOR KISS PRESIDING

1. AGENDA

On a motion by Councilors Shannon and Paul, the Council voted unanimously to amend the agenda as follows: remove item 2.02. REQUEST FOR ABATEMENT OF TAXES: City of Winooski Depeau Island from the Consent Agenda and place it on the Deliberative Agenda as item 1.02 (per Councilor Shannon); amend the consent action for item 2.05. REQUEST FOR ABATEMENT OF TAXES: Rema S. Frankel Trustee et al, Stewart Title Guaranty Co., 230 College Street, Unit 5, 049-3-163-005 to “waive the reading and grant the request for abatement of interest and penalties upon check received for taxes.” (per City Assessor/Councilor Bushor) and to remove item 2.13 REQUEST FOR ABATEMENT OF TAXES: Margradel Hicks, Clerk/Treasurer’s Office), 282 Ethan Allen Parkway, 029-1-136-001 from the Consent Agenda and place it on the Deliberative Agenda as item 1.03 (per Councilor Shannon).

1.02. (was 2.02)REQUEST FOR ABATEMENT OF TAXES: City of Winooski
Depeau Island
041-2-002-000

Councilor Ellis made a motion, seconded by Councilor Shannon, to grant the request for abatement of the taxes, penalties and interest. The motion passed by a vote of 11 to 1, with Councilor Bushor voting against.

1.03. (was 2.13)REQUEST FOR ABATEMENT OF TAXES: Margradel Hicks
(Clerk/Treasurer’s Office)
282 Ethan Allen Parkway
029-1-136-001

Councilor Ellis made a motion, seconded by Councilor Keogh, to grant the request for abatement of taxes, penalties and interest. The motion passed unanimously.

2. CONSENT AGENDA

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

2.01. COMMUNICATION: Clerk/Treasurer’s Office, re: Notice City of Burlington Board of Abatement of Taxes

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

2.03. REQUEST FOR ABATEMENT OF TAXES: Burlington Telecom Inc.
John Van Vught
PILOT

PILOT

*waive the reading and grant the request for abatement portion of PILOT and not all of Telecom's Business Assets

2.04. REQUEST FOR ABATEMENT OF TAXES: Hiem Pham
119 North Champlain Street
044-1-314-000

*waive the reading and grant the request for abatement of interest

2.05. REQUEST FOR ABATEMENT OF TAXES: Rema S. Frankel Trustee et al
Stewart Title Guaranty Co.
230 College Street, Unit 5
049-3-163-005

*waive the reading and grant the request for abatement of interest and penalties upon received check for taxes

2.06. REQUEST FOR ABATEMENT OF TAXES: Light Works Inc.
Martin Feldman
19 Marble Avenue
PPP 127145

*waive the reading and grant the request for abatement of taxes, penalties and interest

2.07. REQUEST FOR ABATEMENT OF TAXES: David & Mitsuko Goldman
32 Glen Road
058-2-014-000

*waive the reading and deny the request for abatement of taxes

2.08. REQUEST FOR ABATEMENT OF TAXES: Robert & Alice Daniels
195 South Prospect Street
050-3-010-000

*waive the reading and grant the request for abatement of taxes

2.09. REQUEST FOR ABATEMENT OF TAXES: Sonja L. Olson
23 Pine Street
044-2-009-000

*waive the reading and deny the request for abatement of taxes

2.10. REQUEST FOR ABATEMENT OF TAXES: Michael Paul Morwood
288 Main Street, B9
050-1-002-014

*waive the reading and deny the request for abatement of taxes

2.11. REQUEST FOR ABATEMENT OF TAXES: Video World Inc.
Lorraine Bailey
1147 North Avenue
PPP 227580

*waive the reading and grant the request for abatement of taxes

2.12. REQUEST FOR ABATEMENT OF TAXES: University of Vermont
(Clerk/Treasurer's Office)
Various/Unknown
Various

*waive the reading and grant the request for abatement of taxes, penalties and interest

3. REQUEST FOR ABATEMENT OF TAXES: Sarah E. Bigger et al
179 Plattsburgh Avenue
024-1-052-000

Councilor Berezniak made a motion, seconded by Councilor Kaplan, to abate 60% of the original benefit. The motion passed unanimously.

4. ADJOURNMENT

On a motion by Councilors Berezniak and Decelles, the Board of Abatement of Taxes voted unanimously to adjourn at 9:12 p.m.

Attest:

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