

ADJOURNED MEETING, CITY COUNCIL
LOCAL CONTROL COMMISSION, CITY HALL
MONDAY, MARCH 22, 2010
7:20 P.M.

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

OFFICE OF THE CITY ATTORNEY: Ken Schatz, Gene Bergman (arrived at 7:35 p.m.), Richard Haesler (arrived at 7:34 p.m.) and Nikki Fuller

OFFICE OF THE CLERK/TREASURER: Jonathan P.A. Leopold, Jr. (arrived at 7:31 p.m.), Ben Pacy, Lori Olberg and Sue Trainor

PRESIDENT KEOGH PRESIDING

1. AGENDA

On a motion made by Commissioners Davis and Dober, the Local Control Commission voted unanimously to amend the agenda as follows: add to the consent agenda item 2.02. **OUTSIDE CONSUMPTION PERMIT RENEWALS (2010-2011)**: see attached list with the consent action to “waive the reading, accept the communication, place it on file and approve the 2010-2011 Outside Consumption Permit Renewals for all listed.”

2. CONSENT AGENDA

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

2.01. **FIRST CLASS CLUB, HOTEL, RESTAURANT AND STORE RENEWALS (2010-2011)**: see attached list

*waive the reading, accept the communication, place it on file and approve the 2010-2011 First Class Club, Hotel, Restaurant and Store Renewals for all listed

2.02. **OUTSIDE CONSUMPTION PERMIT RENEWALS (2010-2011)**: see attached list

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Outside Consumption Permit Renewals for all listed

3. FINDING OF FACTS AND CONCLUSIONS, NOTICE, FINDINGS AND RECOMMENDATION:

Vedia Inc., d/b/a Red Square Bar and Grill, 136 Church Street

Commissioner Davis made a motion, seconded by Commissioner Dober, to adopt the recommendation of the Hearing Panel of the License Committee of a two-day suspension. The motion passed unanimously.

4. **FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2010-2011)**:

Gallus, LLC, d/b/a Buffalo Wild Wings, 555 Shelburne Road

Commissioner Davis recommended approval of the First Class Restaurant Liquor License for Buffalo Wild Wings, seconded by Commissioner Dober, with all standard conditions, pending Fire Marshal approval and payment of outstanding fees. The motion passed unanimously.

4.01. **OUTSIDE CONSUMPTION PERMIT APPLICATION (2010-2011)**:

Gallus, LLC, d/b/a Buffalo Wild Wings, 555 Shelburne Road

Commissioner Davis recommended approval of the Outside Consumption Permit for Buffalo Wild Wings, seconded by Commissioner Dober. The motion passed unanimously.

5. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2010-2011):

Catamount Hospitality LLC, d/b/a The Farmhouse Tap & Grill, 160 Bank Street

Commissioner Davis recommended approval of the First Class Restaurant Liquor License for The Farmhouse Tap & Grill, seconded by Commissioner Dober, with all standard conditions, pending Fire Marshal approval and payment of any outstanding fees. The motion passed unanimously.

5.01. OUTSIDE CONSUMPTION PERMIT APPLICATION (2010-2011):

Catamount Hospitality LLC, d/b/a The Farmhouse Tap & Grill, 160 Bank Street

Commissioner Davis recommended approval of the Outside Consumption Permit for The Farmhouse Tap & Grill, seconded by Commissioner Dober. The motion passed unanimously.

6. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2010-2011):

SELY, LLC, d/b/a Phuong's Kitchen, 1130 North Avenue

Commissioner Davis recommended approval of the First Class Restaurant Liquor License for Phuong's Kitchen, seconded by Commissioner Dober, with all standard conditions, pending Fire Marshal approval and payment of any outstanding fees. The motion passed unanimously.

7. ADJOURNMENT

On a motion made by Commissioner Davis and seconded by Commissioner Dober, the Local Control Commission voted unanimously to adjourn at 7:27 p.m.

Attest:

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

ADJOURNED MEETING, CITY COUNCIL
MONDAY, MARCH 22, 2010
7:27 P.M.

PRESENT: See above

PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion made by Councilor Adrian, with no second, the agenda was amended as follows: amend the action for consent agenda item 3.05. COMMUNICATION: Susan Leonard, Human Resources Director, IHRPC, re: Policy Revision, Section 6.1, Leaves to "waive the reading, accept the communication, **adopt the policy amendment** and place it on file;" remove the word "**DRAFT**" from consent agenda item 3.06. COMMUNICATION: Susan Leonard, Director of Human Resources to City Council President, Bill Keogh, re: Institutions and Human Resources Policy Committee Status at Term End 4/2009-4/2010

DRAFT; add as a co-sponsor Councilor Caldwell to consent agenda item 3.15. **RESOLUTION**: Recognizing Big Heavy World’s Contributions to Burlington’s Musical Heritage (Councilor Davis); note that there is an **amended** version to this item; add as a co-sponsor Councilor Caldwell to consent agenda item 3.16. **RESOLUTION**: Maintaining A Parallel Justice Program and Parallel Justice Commission (Councilor Davis); remove from the agenda item 7. **COMMUNICATION**: Jonathan P.A. Leopold, Jr., CAO, re: Financial Report (oral)(10 mins.); note **proposed** amendment for item 14. **RESOLUTION**: Moran Negotiating Team Reports to City Council and Parks, Arts & Culture Committee (Councilors Shannon, Dober); remove agenda item 11. **RESOLUTION**: Supplemental Budget Resolution #2010-09 Re Authorization for Added Expenditure to Develop a Downtown District Plan (Councilor Paul; Councilors Keogh, Davis, Decelles: Board of Finance). The amended agenda passed unanimously.

2. PUBLIC FORUM

President Keogh opened the public forum at 7:31 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Emma Mulvaney-Stanak	3	Appreciation to Councilors Ellis and Davis for Years of Service
Doug Dunbebin	5	Opposed Google Participation
Jay Vos	Board of Health	Healthy Green Lawn Project

There being no one further coming forward, President Keogh closed the public forum at 7:38 p.m.

3. CONSENT AGENDA

On a motion made by Councilors Adrian and Kaplan, 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. **COMMUNICATION**: David E. White, AICP, Director of Planning & Zoning and Bill Ward, Code Enforcement Director, re: “After-the-Fact” Certificates of Occupancy Fees
*waive the reading, accept the communication and place it on file
- 3.03. **RESOLUTION**: Authorization to Add/Clarify/Cap A Fee for “After The Fact” Zoning Certificate of Occupancies to the Burlington Planning & Zoning Fee Schedule (Councilors Davis, Decelles: Board of Finance)
*waive the reading and adopt the resolution
- 3.04. **COMMUNICATION**: Mandy Davis, Program Associates, Intervale Center, re: Update on the Burlington Food Council
*waive the reading, accept the communication and place it on file
- 3.05. **COMMUNICATION**: Susan Leonard, Human Resources Director, IHRPC, re: Policy Revision, Section 6.1, Leaves
*waive the reading, accept the communication, **adopt the policy amendment** and place it on file
- 3.06. **COMMUNICATION**: Susan Leonard, Director of Human Resources to City Council President,

Bill Keogh, re: Institutions and Human Resources Policy Committee
Status at Term End 4/2009-4/2010

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

3.07. INDOOR ENTERTAINMENT PERMIT APPLICATION (2009-2010): 156 Bistro

*waive the reading, accept the communication and approve the 2009-2010 indoor entertainment permit application for 156 Bistro

3.08. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: City Council Minutes, September 21, 2009

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

3.09. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: Special Meeting, City Council Minutes, January 29, 2010

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

3.10. COMMUNICATION: Ordinance Committee, re: Ordinance Updates

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

3.11. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for March 8, 2010

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

3.12. INDOOR ENTERTAINMENT PERMIT RENEWALS (2010-2011): see attached list

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Indoor Entertainment Permit Renewals

3.13. OUTDOOR ENTERTAINMENT PERMIT RENEWALS (2010-2011): see attached list

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Outdoor Entertainment Permit Renewals

3.14. TOBACCO LICENSE RENEWALS (2010-2011): see attached list

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Tobacco License Renewals

3.15. RESOLUTION: Recognizing Big Heavy World's Contributions to Burlington's Musical Heritage (Councilor Davis & Caldwell)

*waive the reading and adopt the resolution

3.16. RESOLUTION: Maintaining A Parallel Justice Program and Parallel Justice Commission (Councilor Davis & Caldwell)

*waive the reading and adopt the resolution

4. OUTDOOR ENTERTAINMENT PERMIT APPLICATION (2010-2011):

Gallus, LLC, d/b/a Buffalo Wild Wings, 555 Shelburne Road
Councilor Davis made a motion, seconded by Councilor Dober, to approve the Outdoor Entertainment Permit for Buffalo Wild Wings. The motion passed unanimously.

5. INDOOR ENTERTAINMENT PERMIT APPLICATION (2010-2011):

Catamount Hospitality LLC, d/b/a The Farmhouse Tap & Grill, 160 Bank Street

Councilor Davis made a motion, seconded by Councilor Dober, to approve the Indoor Entertainment Permit for the Farmhouse Tap and Grill. The motion passed unanimously.

5.01. **OUTDOOR ENTERTAINMENT PERMIT APPLICATION (2010-2011):**

Catamount Hospitality LLC, d/b/a The Farmhouse Tap & Grill, 160 Bank Street

Councilor Davis made a motion, seconded by Councilor Dober, to approve the Outdoor Entertainment Permit for the Farmhouse Tap and Grill. Councilor Davis expressed his appreciation to the establishment for working with the Sub-Committee to limit the amount of noise associated with outdoor entertainment. The motion passed unanimously.

6. **TOBACCO LICENSE APPLICATION (2010-2011):**

SELY, LLC, d/b/a Phuong's Kitchen, 1130 North Avenue

Councilor Davis made a motion, seconded by Councilor Dober, to approve the Tobacco License for Phuong's Kitchen. The motion passed by a vote of 12 to 1, with Councilor Caldwell voting against.

Councilor Keogh expressed his appreciation to the License Committee for the work that was done this year to move the large number of items through the Committee.

8. **ORDINANCE:** HEALTH – Smoking in City Parks (Councilor Paul; Councilors Shannon, Berezniak, Bushor: Ordinance Committee) (2nd reading)

Councilor Shannon made a motion, seconded by Councilor Kehoe, to waive the 2nd reading and adopt the ordinance. The Ordinance Committee found consensus on a smoking ban in the parks, but more work needed to be done on the smoking ban for the Marketplace. This ordinance would prohibit smoking in specific areas in the parks: playgrounds, shelters, beaches, bleachers and athletic fields. The Parks Commission had already adopted a policy of banning smoking in most of these areas. Councilor Decelles asked for clarification on smoking at the Boathouse/Waterfront. Parks and Recreation Director Steinbach stated it had not been designated specifically in the conversations with the Ordinance Committee. Councilor Kehoe asked about smoking on the docks at the Boathouse, which Councilor Shannon stated would not be part of the ordinance.

Councilor Decelles stated that, as this was the second reading, the ordinance should be more clearly defined. Assistant City Attorney Haesler noted that the Committee vested the Director with considerable discretion in implementing the policy. He explained there will be people staying at the campground who will be habitual smokers and allowances must be made.

As a member of the Ordinance Committee, Councilor Bushor explained she never thought this ordinance would relate to Waterfront Park. The conversation at the Committee meeting centered on the larger beaches. Councilor Dober stated he believed there was too much departmental discretion allowed in the ordinance for him to support it.

The motion to accept the ordinance passed by a vote of 11 to 2, with Councilors Dober and Decelles voting against.

9. **ORDINANCE:** WASTEWATER, STORMWATER & POLLUTION CONTROL
Stormwater Management (Public Works Dept. & Commission)
(2nd reading)

Councilor Shannon made a motion, seconded by Councilor Bushor, to waive the 2nd reading and adopt the ordinance. The motion passed unanimously.

10. RESOLUTION: Appreciation of the Blue Ribbon Committee (Full City Council)

Councilor Kaplan made a motion, seconded by Councilor Decelles, to waive the reading and adopt the resolution. Council President Keogh passed the gavel to Councilor Shannon in order to express his appreciation to the Blue Ribbon Committee for the outstanding work that was done. Councilor Decelles suggested that signed copies of the resolution be sent to all members of the Blue Ribbon Committee. The motion passed unanimously.

12. RESOLUTION: Agreement for Police Services at Burlington International Airport (Board of Finance)

Councilor Davis made a motion, seconded by Councilor Adrian, to waive the reading and adopt the resolution. There was no discussion of this item. The motion passed unanimously.

13. RESOLUTION: Authorization for Execution of Contracts with Sullivan, Powers & Company and KMPG, LLP for Auditors' Contracts with City & Burlington Electric Department (Board of Finance)

Councilor Davis made a motion, seconded by Councilor Bushor, to waive the reading and adopt the resolution. There was no discussion of this item. The motion passed unanimously.

13.01. COMMUNICATION: Claire Shepard, Chief Accountant, re: Recommendation for City Auditors

There being no objection from the remaining Council, Councilor Davis made a motion to waive the reading, accept the communication and place it on file. The motion was seconded by Councilor Bushor and the motion passed unanimously.

14. RESOLUTION: Moran Negotiating Team Reports to City Council and Parks, Arts & Culture Committee (Councilors Shannon, Dober)

Councilor Shannon made a motion, seconded by Councilor Berezniak, to waive the reading and adopt the resolution. Councilor Shannon proposed an amendment to the resolution which required offering a baseline strategy to negotiations. She outlined the reason for implementing the resolution as being primarily that the Council must be actively involved in this project.

Councilor Dober proposed an amendment to the first paragraph of the resolution, which was friendly to the maker and seconder. Councilor Dober explained that he remained unconvinced that the Moran Project would enhance the local economy. Councilor Kehoe asked if Councilors could contact the counsel on the project if there were questions. City Attorney Schatz stated he wanted to encourage free and open dialogue, but if the outside counsel were to get too many calls he may come back to the Council with a request to streamline the process. Councilor Caldwell expressed her opinion that the Council had been kept up to date with the progress of the Moran Project.

Councilor Bushor noted the resolution stated that Councilors should attend Parks, Arts and Culture Committee meetings in order to be informed and this was not realistic. She stated her desire that the Parks, Arts and Culture Committee make sure the Council was informed of decisions that involved the Council. She did not want Ward 1 under-represented.

The motion then passed unanimously.

15. RESOLUTION: Authorization to Amend Contract for Architect & Engineering Services for the Moran Redevelopment Project (Board of Finance)

Councilor Davis made a motion, seconded by Councilor Decelles, to waive the reading and adopt the resolution. CEDO Director Kupferman explained that adoption of this resolution would enable Freeman, French, Freeman to move on to the next phase of the project which was developing the construction drawings so the permitting process could begin. Councilor Decelles asked where the funding for this phase would come from. CEDO Director Kupferman explained the funds would come from the Brownsfield Economic Development Incentive grant and a Section 108 Loan from Housing and Urban Development. David Weinstein explained that the BEDI funds did not require repayment if the project did not proceed. Tax increment financing funds would repay the Section 108 Loan and no General Fund monies would be used.

The motion passed unanimously.

- 15.01. COMMUNICATION: Larry Kupferman, CEDO Director, re: Moran Center Project Architectural & Engineering Services Contract Amendment

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

16. RESOLUTION: Reaffirmation of Authorization to Execute Section 108 Loan and BEDI Grant for the Moran Plant (Board of Finance)

Councilor Davis made a motion to waive the reading and adopt the resolution, seconded by Councilor Paul. Councilor Davis explained this resolution was simply reaffirming what was previously authorized by the Council in an effort to keep everyone on the Council up to date on the project. The motion passed unanimously.

- 16.01. COMMUNICATION: Larry Kupferman and David Weinstein, CEDO, re: Reaffirmation of Authorization to Execute Section 108 Loan and BEDI Grant

Councilor Davis, seconded by Councilor Paul, made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

17. RESOLUTION: Support for Google Fiber in Burlington (Councilors Shannon, Kaplan)

Councilor Kaplan made a motion to waive the reading and adopt the resolution, seconded by Councilor Shannon. This resolution supported and affirmed the City's attempt to pursue Google funding for fiber. Councilor Caldwell stated her support for exploring a potential partnership with Google, but remained committed to having Burlington Telecom remain independent and municipally-owned. Councilor Ellis remarked on the sobering facts about Google that Mr. Dunbebin had presented at the public forum. The motion passed unanimously.

18. COMMITTEE REPORTS

Councilor Davis thanked the staff of the License Committee for working so diligently throughout the yearly liquor licensing process. Their work made it easier for the applicants as well as the sub-committee members.

Councilor Berezniak noted the Community Development Committee met to research providing free WiFi downtown but had not been able to determine a solution. Funding sources were limited and he asked for more time to find money to pay for the initiative.

Councilor Bushor informed the Council that the Human Resources Committee provided a recap (in the consent portion of the agenda) of the items that had been accomplished over the past year.

Councilor Shannon reported the Ordinance Committee's progress over the past year. She noted the Committee was reviewing changing the Livable Wage Ordinance calculation from costs for a single person in an apartment to two people living in a 2 bedroom apartment. It was her hope that the next Committee would study the potential of instituting a smoking ban on the Marketplace. She also explained the Committee met to review the noise ordinance and heard testimony from Chief Schirling. His opinion was that the ordinance was not deficient but that the Department had limited capacity to enforce the ordinance.

Councilor Paul reported on the Transportation, Energy and Utilities Committee stating the Transportation Plan was finalized during the year. She also reported the Parks, Arts and Culture Committee dealt with the expansion of the Farmer's Market, the smoking ban and a review of the Moran Plant throughout the course of the year.

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

Councilor Davis thanked the Administration, Council members and staff for working with him during his time on the Council and, in particular, his constituents for providing him the opportunity to serve them.

Councilor Bushor noted the upcoming Planning Committee meeting which would be addressing the Open Government item on notification to NPAs of development items. She also thanked David Weinstein for his work for the City as he moved on to another position outside of City Hall. She then expressed her appreciation to Councilors Ellis and Davis as they leave the Council.

Councilor Shannon thanked Councilor Davis for bringing such professionalism to the Licensing Committee and wished Councilor Ellis well.

Councilor Ellis noted his appreciation to Councilor Davis for the work he had done on the Licensing Committee. He noted his pleasure in having served with all of the Councilors and expressed appreciation to all those who served on commissions for their hours of volunteer work. He also expressed appreciation and admiration to the Administration and staff for their dedication to the City.

Councilors Paul, Decelles and Council President Keogh expressed their appreciation to both of the departing Councilors.

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

Mayor Kiss reported on the 10th anniversary of the Legacy Project and Legacy vision. Additionally, the Mayor informed the Council that Burlington would be participating in the world-wide Earth Hour. The Mayor also reported the 1,000th anniversary of Yaroslavl, the Sister City of Burlington. Russian representatives of the City would be visiting Burlington in April. He then presented Councilors Ellis and Davis plaques for their contributions to the City of Burlington.

21. ADJOURNMENT

On a motion made by Council President Keogh and without objection, the Council adjourned at 9:26 p.m.

Attest:

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

