

DELIBERATIVE AGENDA

CITY COUNCIL WORKSESSION
CONFERENCE ROOM 12, CITY HALL
MONDAY, JUNE 14, 2010
6:00 P.M. – 7:00 P.M.

- 1. AGENDA
- 2. DISCUSSION: Jonathan P.A. Leopold, Jr., CAO, re: FY2011 Budget
- 3. ADJOURNMENT

LOCAL CONTROL COMMISSION
CONTOIS AUDITORIUM, CITY HALL
MONDAY, JUNE 14, 2010
7:22 P.M.

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

CITY ATTORNEY’S OFFICE: Ken Schatz, Gene Bergman (arrived at 7:32 p.m.) and Richard Haesler (departed at 8:25 p.m.)

CLERK/TREASURER’S OFFICE: Jonathan P.A. Leopold, Jr. and Lori Olberg

PRESIDENT KEOGH PRESIDING:

- 1. AGENDA

There were no changes to the agenda.

- 2. CONSENT AGENDA

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

2.01. 1ST CLASS CABARET LIQUOR LICENSE RENEWAL (2010-2011): T. Rugg’s Tavern
*waive the reading, accept the communication, place it on file and approve the 2010-2011 1st Class Cabaret Liquor License Renewal for T. Rugg’s Tavern with all standard conditions, along with special conditions

2.02. OUTSIDE CONSUMPTION PERMIT RENEWAL (2010-2011): T. Rugg’s Tavern
*waive the reading, accept the communication, place it on file and approve the 2010-2011 Outside Consumption Permit Renewal for T. Rugg’s Tavern with special conditions

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

Patra Café (formerly The Sapa), 9 Center Street

Commissioner Dober made a motion, seconded by Commissioner Berezniak, to approve the First Class Restaurant Liquor License Application for Patra Café. The motion passed unanimously.

- 4. SECOND CLASS STORE LIQUOR LICENSE APPLICATION (2010-2011):

VT BBB Retail Store (formerly Rooney’s Café), 173 College Street

Commissioner Dober made a motion, seconded by Commissioner Berezniak, to approve the Second Class Store Liquor License Application for VT BBB Retail Store. The motion passed unanimously.

5. ADJOURNMENT

On a motion by Commissioners Dober and Berezniak, the Local Control Commission voted unanimously to adjourn at 7:24 p.m.

Attest:

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

REGULAR MEETING, CITY COUNCIL
MONDAY, JUNE 14, 2010
7:24 P.M

PRESENT: See above

PRESIDENT KEOGH PRESIDING:

1. AGENDA

Councilor Adrian made the following amendments to the agenda: note the revised version of consent agenda item 3.07. RESOLUTION: Authorization to Enter Into Guaranteed Maximum Price Contract for Construction Services Associated with the Expansion of the Parking Structure at Burlington International Airport with the consent action to “waive the reading and adopt the resolution;” add to the consent agenda item 3.13. COMMUNICATION: Sarah Cohen, Member of the Library Commission re: Resignation with the consent action to “waive the reading, accept the communication and place it on file, advertise the vacancy in Sunday’s Burlington Free Press plus the website and send a letter of appreciation thanking Sarah Cohen for her time served on the Library Commission;” add to the consent agenda item 3.14. COMMUNICATION: Openings for City Commissions and Boards (was advertised in Sun’s BFP and on our website) with the consent action to “waive the reading, accept the communication and place it on file;” re-number item 8 to 4.1; re-number item 9 to 4.2; re-number item 10 to 4.3; note Assistant City Attorney Fuller’s memorandum that pertains to item 4.2 and 4.3 regarding Miguels; add to the agenda item 4.5. RESOLUTION: Approving Issuance of Grant Anticipation Notes for Certain Airport Improvements Projects (Board of Finance); add agenda item 4.5.01. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Pre-approval of Low Bid for \$12 million Airport Financing; add item 5.02. COMMUNICATION: Mari Steinbach, Director, Burlington Parks and Recreation, re: Burlington Kids per Councilor Decelles; note revised version of item 7. RESOLUTION: Opposing Arizona State Law SB 1070 and Affirming Burlington as a City of Immigrants (Mulvaney-Stanak, Kaplan, Bushor, Paul, Caldwell); note amended version for item 7. RESOLUTION: Opposing Arizona State Law SB 1070 and Affirming Burlington as a City of Immigrants; add item 7.01. COMMUNICATION: Salvadore Rezza, Puente Movement, Phoenix, Arizona, re: Prevention of SB 1070 (Mulvaney-Stanak); note item 7.5. RESOLUTION: Audit Letter per Councilor Paul will stay on the consent agenda as item 3.04. “with the last Be It Resolved Clause being stricken and the resolution action will be to refer it to the Board of Finance;” add item 13.5. EXECUTIVE SESSION.

Councilor Decelles requested information on item 5. Councilor Decelles then further amended the agenda by removing item 5. RESOLUTION: Burlington Kids Program (Councilors Paul, Decelles, Kaplan, Adrian). The co-sponsors of the resolution found the action agreeable.

The agenda, as amended, passed unanimously.

2. PUBLIC FORUM

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Coral Bisbee	Hinesburg	Supported Arizona Boycott
Sara Osaba	Vermont Multicultural Alliance for Democracy	Supported Arizona Boycott
Meaghan Emery	South Burlington Councilor	Opposed the F-35
Leslie Holman	Immigration Attorney	Supported Arizona Boycott
James Leas	South Burlington	Opposed the F-35
Jonathan Leavitt		Supported Arizona Boycott
Natalia Fajardo		Supported Arizona Boycott
Sarah Weintraub	VT Workers Center	Supported Arizona Boycott
Matt Kimball	VT Worker's Center	Supported Arizona Boycott
Faried Munarsyah	VT Worker's Center	Supported Arizona Boycott
Amanda Calder		Supported Arizona Boycott
Ashley Smith		Supported Arizona Boycott
Paul Fleckenstein		Supported Arizona Boycott
Robert Appel	Human Rights Commission	Supported Arizona Boycott
Lluvia Mulvaney-Stanak	2	Supported Arizona Boycott
Devon Ayers	2	Supported Arizona Boycott
Brendan O'Neill	Underhill	Supported Arizona Boycott
Alie Beddoe		Supported Arizona Boycott
Martha Caswell		Supported Arizona Boycott

With no one further coming forward, President Keogh closed the public forum at 8:17 p.m.

3. CONSENT AGENDA

On a motion by Councilors Adrian and Shannon, 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: Bicycle Provisions (Councilor Paul)

*waive the reading and adopt the resolution

3.03. ORDINANCE: Bicycle Provisions (Councilor Paul)

*consider 1st reading and refer to the Ordinance Committee

3.04. RESOLUTION: Audit Management Letter (Councilor Paul)

*waive the reading, strike the last be it further resolved clause and refer to the Board of Finance

3.05. COMMUNICATION: Steve Goodkind, DPW Director and Laurie Adams, Assistant Director
DPW Water Quality, re: Request to Award a contract for Sewer Line
Repairs

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

3.06. RESOLUTION: Authorization to Award a Contract for the Relining of the Delineated
Sewer Lines on Colchester Avenue and Battery Street (Board of Finance)

*waive the reading and adopt the resolution

3.07. RESOLUTION: Authorization to Enter into Guaranteed Maximum Price Contract for
Construction Services Associated with Expansion of Parking Structure
at Burlington International Airport (Board of Finance)

*waive the reading and adopt the resolution

3.08. RESOLUTION: Establishing Pay Level for Assistant CAO for Management &
Administration (Board of Finance)

*waive the reading and adopt the resolution

3.09. REPORT: Steve McIntyre, Acting Chair, TAC, re: Report to the City Council For
the Year ending April 30, 2010

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

3.10. INDOOR ENTERTAINMENT PERMIT RENEWAL (2010-2011): T. Rugg's Tavern

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Indoor
Entertainment Permit Renewal for T. Rugg's Tavern with special conditions

3.11. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue
Trainor, Assistant to the CAO, re: Minutes, City Council for December
7, 2009

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the
June 7, 2010 City Council Meeting

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

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the
June 7, 2010 City Council Meeting

3.13. COMMUNICATION: Sarah Cohen, Member, Library Commission, re: Resignation

*waive the reading, accept the communication, place it on file, advertise the vacancy (will be advertised
in Sunday's BFP and is on our website) and send a letter of appreciation thanking Sarah Cohen for her
time served on the Library Commission

3.14. COMMUNICATION: Clerk/Treasurer's Office, re: Openings: Burlington City
Commissions/Boards (will be advertised in Sun's BFP and is on our

website)

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

4. RESOLUTION: Water Fountains for Burlington (Councilors Kaplan, Berezniak, Caldwell)

Councilor Kaplan made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the resolution. Councilor Kaplan explained that her intention was to have water sources available for residents both in the downtown area and on the bike path. Councilor Shannon stated her motivation for supporting the resolution was to impact the unnecessary purchase of bottled water. Councilor Kehoe added an amendment stating that the Burlington City Council wished to discourage the use of bottled water as it was inimical to our environment. This was considered friendly by Councilor Kaplan. The motion then passed by a vote of 11 to 2 with Councilors Dober and Decelles voting against.

4.1. (was 8.) INDOOR ENTERTAINMENT PERMIT APPLICATION (2010-2011):

Patra Café (formerly The Sapa), 9 Center Street

Councilor Dober made a motion, seconded by Councilor Berezniak, to approve the Indoor Entertainment Permit Application for Patra Café. The motion passed unanimously.

4.2. (was 9.) INDOOR ENTERTAINMENT PERMIT APPLICATION (2010-2011):

Hen Zen Inc., d/b/a Miguels on Main, 30 Main Street, Suite 110

Councilor Dober made a motion, seconded by Councilor Berezniak, to approve the Indoor Entertainment Permit Application for Miguels on Main. The motion passed unanimously.

4.3. (was 10.) OUTDOOR ENTERTAINMENT PERMIT APPLICATION (2010-2011):

Hen Zen Inc., d/b/a Miguels on Main, 30 Main Street, Suite 110

Councilor Dober made a motion, seconded by Councilor Berezniak, to approve the Outdoor Entertainment Permit Application for Miguels on Main. The motion passed unanimously.

Note Assistant City Attorney Fuller's memorandum that pertained to items 4.2 and 4.3:

COMMUNICATION: Proposed Conditions for Miguels on Main's Restaurant Indoor and Outdoor Entertainment Applications.

- 4.5. RESOLUTION: Approving the Issuance of Grant Anticipation Notes for the Costs of Certain Airport Improvement Projects (Board of Finance).

Councilor Paul made a motion, seconded by Councilor Decelles, to waive the reading and adopt the resolution. CAO Leopold explained the purpose of the resolution was to provide a grant anticipation note and a line of credit for the Airport which would provide cash against the Airport's current receivables for Airport improvement project grants awarded by the FAA. The delay between the expenditure of funds for the grants and the reimbursement from the FAA was anywhere from six months to one year. This resolution allowed for the liquidity that Moody's was looking for. The motion passed unanimously.

4.5.01. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Pre-approval of Low Bid for \$12 million Airport Financing.

Council President Keogh made a motion to waive the reading, accept the communication and place it on file.

5.01. COMMUNICATIONS: Letters regarding the City Kids Program/Susan Carter

Councilor Decelles made a motion, seconded by Councilor Dober, to accept the communication and place it on file. The motion passed unanimously.

5.02. COMMUNICATION: Mari Steinbach, Director, Department of Parks and Recreation, re:
Burlington Kids

Councilor Decelles made a motion, seconded by Councilor Dober, to accept the communication and place it on file. The motion passed unanimously.

6. RESOLUTION: Support for the Vermont Air National Guard's Effort to Win Assignment of the F-35 Fighter Jet (Councilors Wright, Dober, Decelles)

Councilor Dober made a motion, seconded by Councilor Decelles, to waive the reading and adopt the resolution. Councilor Dober provided detail to the Council of the exemplary performance of the Vermont National Guard and the honor bestowed on this group by having Vermont be on the shortlist for the assignment of the F-35. Councilor Caldwell noted her debt of gratitude to those who serve for the country. However, she could not support the resolution and offered an amendment to the resolution, seconded by Councilor Mulvaney-Stanak. She noted this was a strike-all amendment. The amendment addressed the costs associated with the fighter jets and the uses Burlington and Vermont could find for those funds and called for the Strike Fighter Program be put on hold.

Councilor Dober did not find the amendment friendly. Additionally, Councilor Decelles did not find the amendment friendly and asked City Attorney Schatz for a point of information regarding the strike-all amendment. Following an explanation, Council President Keogh determined this amendment was not germane to the resolution and therefore was out of order.

Councilor Wright detailed the work done in the Legislature on this matter, outlining that the State supported the assignment of the F-35's to Burlington. Councilor Decelles believed this matter was timely and he supported it. Councilor Bushor stated she was not yet ready to act on this matter as Burlington was engaged in a process with South Burlington and Winooski. The impact on the environment and the noise were not yet determined. She noted that the Air National Guard had committed to a process as well and she did not believe that now was the time to consider this resolution.

Councilor Adrian made a motion to postpone action on this resolution until after the completion of the environmental impact statement. This was seconded by Councilor Kaplan. Following comments from Councilor Adrian, Councilor Dober called a point of order and asked to remove the resolution from the agenda. Council President Keogh noted the current proposal on the floor was to postpone action. Councilor Kehoe supported the motion to postpone until all the facts were in on the environmental impact. Councilor Wright then called the question, seconded by Councilor Decelles. The motion passed by a vote of 13 to 1 with Councilor Caldwell voting against.

The motion to postpone then passed by a vote of 13 to 1 with Councilor Caldwell voting against.

7. RESOLUTION: Opposing Arizona State Law SB 1070 and Affirming Burlington as a City of Immigrants (Councilors Mulvaney-Stanak, Caldwell, Kaplan, Bushor, Paul)

Councilor Mulvaney-Stanak made a motion, seconded by Councilor Caldwell, to waive the reading and adopt the resolution. Councilor Mulvaney-Stanak expressed her commitment to this issue which had increased after hearing the testimony at the Public Forum. She explained that 25% of the children in Burlington schools were of color and 5,000 refugees had resettled in Burlington. She believed it was important to state for the Burlington residents the City's opposition to this law. She noted the racial

profiling that was implicit in the Arizona law and also asked the Congressional Delegation and the President to work for real immigration reform. Further, the resolution asked that the City refrain from doing business with Arizona based companies until the Arizona law was repealed.

Councilor Kaplan expressed her views as being very personal as she was a first generation American. She asked her fellow Councilors to support the resolution. Councilor Kehoe, noting her original opposition to the resolution, stated her appreciation to those who were in attendance in support of the resolution and expressed her personal reasons for now voting in favor of the resolution.

Councilor Berezniak noted his reasons for not supporting an economic boycott of the State of Arizona. He thought it was not the City's role to do so. Councilor Decelles, agreeing with Councilor Berezniak, thought it was more appropriate for businesses and associations to express their concern rather than the City and that there could be businesses in Arizona who also opposed the Arizona law that might be affected by this boycott. Councilor Kranichfeld stated his support for the resolution and appreciated the sponsors' recognition of the Burlington Police Department in not profiling the City's residents. Councilor Paul supported the resolution, stating her belief the law was retrogressive and un-American.

Councilor Adrian then made a motion to amend the resolution removing the language calling for a boycott, seconded by Councilor Dober. This motion to amend was not considered friendly by the maker of the resolution. Councilor Adrian stated constituents could decide to boycott Arizona, but it was not the place of the Burlington City Council to do so. Councilor Caldwell noted that the City Council made decisions often about where money should be spent and where the Council placed their values, using the Green Purchasing Policy as an example. She then asked that a roll call be taken.

Councilor Bushor noted her lack of support for the amendment, outlining her reasons for the action of a boycott being necessary. In particular, she noted this law as a human rights issue and one that the City should work to change. Councilor Wright stated his support of the amendment while also believing that immigration reform needed to be worked on. Councilor Berezniak again stated he supported the resolution but not the boycott. At this point Councilor Paul called the question, seconded by Councilor Kehoe. The motion passed unanimously. The amendment failed by a vote of 9 to 5 with the following vote:

Ayes: Adrian, Berezniak, Decelles, Dober and Wright

Nays: Bushor, Caldwell, Kaplan, Kehoe, Kranichfeld, Mulvaney-Stanak, Paul, Shannon and Keogh

Councilor Shannon noted her concern about the boycott, noting that even Hispanic leaders in Arizona were not in agreement about that action. She concurred with prior speakers who noted immigration reform was ultimately the solution. Councilor Shannon then made several small amendments to the resolution which were friendly both to the maker and seconder of the resolution. The Mayor then offered his views on the resolution. Councilor Wright then made a motion to call the question, seconded by Councilor Decelles. The motion passed by a vote of 13 to 1, with Councilor Caldwell voting against and she requested a roll call.

Ayes: Adrian, Bushor, Caldwell, Kaplan, Kehoe, Kranichfeld, Mulvaney-Stanak, Paul, Shannon and Keogh

Nays: Berezniak, Decelles, Dober and Wright

The resolution passed by a vote of 10 in favor and 5 opposed.

7.01. COMMUNICATION: Salvador Reza, Puente Movement, Phoenix, Arizona, re: Prevention of SB 1070

The Council moved to accept the communication, waive the reading and place the communication on file.

11. COMMITTEE REPORTS

Councilor Adrian stated the Public Safety Committee met regarding the Challenges for Change. The Committee was still attempting to determine the impact of the Challenges for Change for Burlington. It was determined, however, that a number of other groups were working on this issue as well and the Committee hoped to be able to work with those groups. It was anticipated that the Committee would meet again in July and have more to bring to the Council.

Councilor Decelles noted the upcoming Charter Change Committee meeting which will review what other municipalities do with the several issues before this Committee. The 50% Matters resolution will also be discussed.

Councilor Shannon informed residents of the upcoming Ordinance Committee meeting which would reinforce a pedestrian right of way in the downtown area.

Councilor Dober outlined the upcoming License Committee agenda which included taxi regulations.

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

Councilor Shannon made a brief statement to the License Committee that a license to dance should not be needed. Councilor Dober announced that the Ward 4/7 NPA meeting would be held the following day.

13. COMMUNICATION: Mayor Kiss, re: General City Affairs (oral)(5 mins.)

The US Conference of Mayors made recommendations about the Mayors' Climate Protection Award. Burlington was one of five small cities that were recommended for honorable mention. Last week the last of the informational meetings were held on the Champlain Parkway. The Department of Public Works had purchased the first Compressed Natural Gas truck which will be used for recycling. Mayor Kiss spoke of the advances being made in the education being provided at the Burlington schools.

14. ADJOURNMENT

On a motion by Councilors Shannon and Kehoe, the Council voted unanimously to go into Executive Session at 9:50 p.m. to discuss a matter of litigation premature disclosure would place the City at a substantial disadvantage. Joseph McNeil, Esq. was also present in the Executive Session.

On a motion by Councilors Dober and Berezniak, the Council came out of Executive Session at 10:57 p.m. The Regular Meeting of the City Council adjourned at 10:57 p.m.

Attest:

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