
DELIBERATIVE AGENDA

LOCAL CONTROL COMMISSION
CONTOIS AUDITORIUM, CITY HALL
MONDAY, AUGUST 9, 2010
7:08 P.M.

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

ABSENT: Commissioners Caldwell and Shannon

CITY ATTORNEY'S OFFICE: Ken Schatz, Gene Bergman and Richard Haesler

CLERK/TREASURER'S OFFICE: Jonathan P.A. Leopold, Jr., Scott Schrader and Sue Trainor

PRESIDENT KEOGH PRESIDING:

1. AGENDA

Commissioner Dober made a motion, seconded by Commissioner Berezniak, to adopt the agenda. The motion passed unanimously.

2. CONSENT AGENDA

On a motion by Commissioners Dober and Berezniak, the Local Control Commission adopted the consent agenda, thus taking the following actions as indicated:

2.01. COMMUNICATION: Jessica Frank, Executive Secretary, re: Local Control Sub-committee/City Council License Committee Minutes for April 22, 2010

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

2.02. COMMUNICATION: Jessica Frank, Executive Secretary, re: Local Control Sub-committee/City Council License Committee Minutes for July 7, 2010

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

2.03. APPLICATION FOR SPECIAL EVENT PERMIT (**August 13-15, 2010**):

Saxtons River Distillery, LLC, at Waterfront Park—part of the Lake Champlain Maritime Museum Event, August 13 through 15, 2010, 10 a.m. to 6:30 p.m.

*waive the reading, accept the communication, place it on file and approve the Application for Special Event Permit for Saxtons River Distillery, LLC for three days only

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

Third Place Inc., d/b/a American Flatbread, 115 St. Paul Street

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

4. STIPULATED PROPOSED FINDINGS, CONCLUSIONS OF LAW & ORDER:

JD Mikes LLC, d/b/a Mr. Mike's Pizza, 206 Main Street

Commissioner Dober informed the Commission of the hearing with Mr. Mike's Pizza which resulted in a three day suspension. He then made a motion to approve and adopt the proposed stipulated findings subject to technical additions, seconded by Commissioner Berezniak. The motion passed unanimously.

4.01. FIRST CLASS RESTAURANT LIQUOR LICENSE RENEWAL (2010-2011):

JD Mikes LLC, d/b/a Mr. Mike's Pizza, 206 Main Street

Commissioner Dober made a motion, seconded by Commissioner Berezniak, to approve the First Class Restaurant Liquor License Renewal for Mr. Mike's Pizza. The motion passed unanimously.

5. ADJOURNMENT

On a motion by Commissioners Dober and Berezniak, the Local Control Commission voted unanimously to adjourn at 7:12 p.m.

Attest:

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

REGULAR MEETING, CITY COUNCIL
MONDAY, AUGUST 9, 2010
7:13 P.M.

PRESENT: See above; Councilor Shannon (via phone at 7:13 p.m.)

ABSENT: Councilor Caldwell

PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilor Adrian, with no second, the Council voted unanimously to amend the agenda as follows: add to the agenda item 1.5. COMMUNICATION: Ken Schatz, City Attorney, re: City Council Quorum and Voting Majority; remove from the consent agenda item 3.04. RESOLUTION: Honoring The Memory of Lieutenant Steven N. "Vinny" Costello (Full City Council) and place it on the DELIBERATIVE agenda as item 1.6 (per Councilor Bushor); add to the consent agenda item 3.07.01. COMMUNICATION: Patrick Buteau, Asst. Director, DPW, re: College St. Garage phase II Bid Tabulation and Request to Award with the consent action to "waive the reading, accept the communication, place it on file and award the project to the low bidder, Summit Catamount, LLC in the amount of \$434,984.00;" add to the consent agenda item 3.51. COMMUNICATION: David Cain, Member, Planning Commission, re: Resignation with the consent action to "waive the reading, accept the communication, place it on file, advertise the vacancy and send a letter of appreciation to David Cain thanking him for his time served on the Planning Commission;" remove from the consent agenda item 3.23. COMMUNICATION: Erin Demers, Project Manager, re: Lower Church Street and St. Paul Street Improvements STP 5000 (16) Bid Results and Contract Award and place it on the DELIBERATIVE agenda as item 12.5; remove from the consent agenda item 3.24. RESOLUTION: Authorization to Execute Church Street Marketplace Project – Side Street Project Phase 1 Contract for Construction (Board of Finance) and place it on the DELIBERATIVE agenda as item 12.5.01; note title change and written material; remove from the agenda items 12.5 COMMUNICATION: Erin Demers, Project Manager, re: Lower Church Street and St. Paul Improvements STP 5000 (16) Bid Results and Contract Award and 12.5.01. RESOLUTION: Authorization to Execute Church Street Marketplace Project – Side Street Project Phase 1 Contract for Construction (Board of Finance); add to the agenda item 12.6.

RESOLUTION: Supplemental Budget Resolution #2011-04 Appropriation of Funds to Conduct an Engineering Study of Centennial Field (Board of Finance); remove from the consent agenda item 3.19. RESOLUTION: Authorization of Assistant Chief Administrative Officers to be Delegated Authority By Chief Administrative Officer (Board of Finance) and place it on the DELIBERATIVE agenda as item 12.7; remove from the consent agenda item 3.22. RESOLUTION: Supplemental Budget Resolution #2010-12 General Fund Accounts Amendments for Step Increase and Cost of Living Adjustments (Board of Finance) and place it on the DELIBERATIVE agenda as item 12.8; remove from the consent agenda item 3.06. RESOLUTION: Authorization for a Cost of Living Adjustment for Non-union Employees (Board of Finance) and place it on the DELIBERATIVE agenda as item 12.9; remove from the consent agenda item 3.21. RESOLUTION: Champlain College’s Proposal to Acquire or Lease Property at 175 Lakeside Avenue (Councilors Paul; Berezniak, Adrian, Mulvaney-Stanak: Community Development & Neighborhood Revitalization Committee) and place on Deliberative Agenda as 12.10. Item #11 Creation of a Pilot Program re Maintaining a Pedestrian Right of Way In the Inner City Fire District (Councilors Shannon, Bushor, Kranichfeld: Ordinance Committee) has been revised with additional lines added to the resolution; add Communication: Expected Executive Session re: Burlington Telecom (Mayor’s Office). Supplemental Budget for Burlington Telecom was revised by Councilor Wright.

1.5. COMMUNICATION: Ken Schatz, City Attorney, re: City Council Quorum and Voting Majority

Councilor Adrian made a motion, seconded by Councilor Kranichfeld, to waive the reading, accept the communication and place it on file. Councilor Adrian then amended his resolution asking that the City Attorney’s Office prepare and return a memorandum on the law regarding a voting majority by the September 13th meeting. Councilor Wright seconded the amendment. Councilor Wright then asked for clarification from the City Attorney on the number of Councilors required to pass a resolution. Councilor Kranichfeld asked for further research on State versus City law. Mayor Kiss asked that the Council be careful not to erode any powers that the City of Burlington has been able to establish in its own right and distinct from other municipalities. The motion then passed unanimously.

1.6. RESOLUTION: Honoring The Memory of Lieutenant Steven N. “Vinny” Costello (Full City Council)

Councilor Adrian made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the resolution. The resolution was then read into the record with the action being to send a copy of the resolution to Lt. Costello’s family. A moment of silence followed. Fire Chief O’Neil spoke briefly to the Council members, expressing his thanks from the Fire Department. Derek Libby, President of the Fire Union, expressed appreciation to the Council and the Mayor’s Office for their support. The motion then passed unanimously.

2. PUBLIC FORUM

President Keogh opened the public forum at 7:26 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Frank Gonzalez	John Dewey Committee	Parade and Celebration
Andrew Strauss		Alternate for DRB

There being no one further coming forward, President Keogh closed the public forum at 7:39 p.m.

3. CONSENT AGENDA

On a motion by Councilors Adrian and Dober, 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: Mari Steinbach, Director, Department of Parks and Recreation, re:
Cemetery Ordinance Revisions
*waive the reading, accept the communication, place it on file and send a copy to the Ordinance Committee
- 3.03. ORDINANCE: CEMETERIES (Cemetery Commission)
*consider this first reading and refer to the Ordinance Committee
- 3.05. RESOLUTION: Authorization to Enter into License Agreement to Maintain Tables and
Chairs on a Portion of the City's Right-of-way with Manhattan Pizza
(License Committee: Dober, Berezniak, Mulvaney-Stanak)
*waive the reading and adopt the resolution
- 3.07. COMMUNICATION: Patrick Buteau, Asst. Director, Parking & Fleet Services, DPW, re:
Award of College Street Parking Garage Phase II Repairs
*waive the reading, accept the communication and place it on file
- 3.07.01.COMMUNICATION: Patrick Buteau, Asst. Director, DPW, re: College St. Garage phase II Bid
Tabulation and Request to Award
*waive the reading, accept the communication, place it on file and award the project to the low bidder,
Summit Catamount, LLC in the amount of \$434,984.00
- 3.08. RESOLUTION: Award of College Street (Hilton) Parking Garage Phase II Repairs
(Board of Finance)
*waive the reading and adopt the resolution
- 3.09. RESOLUTION: Recategorization of the Community Development Specialist for VISTA
Position from Regular Full Time to Limited Service Part Time (Board of
Finance)
*waive the reading and adopt the resolution
- 3.10. RESOLUTION: Procurement of Road Salt for Fiscal Year 2011 (Board of Finance)
*waive the reading and adopt the resolution
- 3.11. RESOLUTION: Appointment of Inspectors of Election for Wards Two and Six
(Councilors Paul, Berezniak and Kranichfeld)
*waive the reading and adopt the resolution
- 3.12. RESOLUTION: Approving Collection of Attorneys Fees for the Preparation for and
Conduct of Tax Sales (Board of Finance)
*waive the reading and adopt the resolution
- 3.13. COMMUNICATION: Bob Kiss, Mayor to Charlie Baker, Executive Director, CCRPC, re:
Letter of Commitment – HUD Sustainable Communities Regional
Planning Grant
*waive the reading, accept the communication and place it on file

3.14. RESOLUTION: Authorization to Submit Letter of Commitment to Join Regional Consortium of Municipalities & Planning Organizations re Application for HUD Sustainable Communities Regional Planning Grant (Councilors Berezniak, Adrian, Mulvaney-Stanak: Community Development & Neighborhood Revitalization Committee)

*waive the reading and adopt the resolution

3.15. RESOLUTION: Creation of a Classified Limited Service Full Time Position – Burlington Parks and Recreation – Waterfront Coordinator (Board of Finance)

*waive the reading and adopt the resolution

3.16. RESOLUTION: Authorization to Purchase Replacement for the 1994 Sludge Tanker Truck (Board of Finance)

*waive the reading and adopt the resolution

3.17. RESOLUTION: Authorization of Burlington Electric Department for Renewal of Contract for Property/Boiler and Machinery Insurance (Board of Finance)

*waive the reading and adopt the resolution

3.18. RESOLUTION: Authorization for Land Purchase and Relocation Services in Anticipation of AIP Grant Funds for Burlington International Airport (Board of Finance)

*waive the reading and adopt the resolution

3.20. RESOLUTION: Reclassification of CEDO Lead Program Coordinator Position (Board of Finance)

*waive the reading and adopt the resolution

3.25. COMMUNICATION: Mari Steinbach, Director, Department of Parks and Recreation, re: Equipment Purchase – “D” Dock

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

3.26. RESOLUTION: Authorization for Execution of Contract with the Dock Doctors re: Replacement of “D” Dock (Board of Finance)

*waive the reading and adopt the resolution

3.27. COMMUNICATION: Mari Steinbach, Director, Department of Parks and Recreation, re: Equipment Purchase – Harbormaster Boat

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

3.28. RESOLUTION: Authorization for Execution of Contract with Workskiff for the Purchase of a “Harbormaster” Boat (Board of Finance)

*waive the reading and adopt the resolution

3.29. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator & Sue Trainor, Assistant to the CAO, re: Minutes, City Council for February 8, 2010

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the July 12, 2010 City Council Meeting

3.30. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator & Sue Trainor, Assistant to the CAO, re: Minutes, City Council for February 11, 2010

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the July 12, 2010 City Council Meeting

- 3.31. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator & Sue Trainor, Assistant to the CAO, re: Minutes, City Council for March 8, 2010
*waive the reading, accept the communication, place it on file and adopt the minutes at the September 13, 2010 City Council Meeting
- 3.32. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator & Sue Trainor, Assistant to the CAO, re: Minutes, City Council for March 22, 2010
*waive the reading, accept the communication, place it on file and adopt the minutes at the September 13, 2010 City Council Meeting
- 3.33. COMMUNICATION: Mark L. Boucher, South Burlington City Council, Chair to Mr. William Keogh, Burlington City Council President, re: Inter-staff cooperation to abate airport noise
*waive the reading, accept the communication, place it on file and send copies to the Airport Commission Members
- 3.34. COMMUNICATION: Sanford Miller, President VLCT Board of Directors, VLCT, re: Voting Delegates at the VLCT Annual Business Meeting
*waive the reading, accept the communication, place it on file and designate Mayor Bob Kiss at the Voting Delegate at the 2010 Annual Business Meeting
- 3.35. COMMUNICATION: Larry Kupferman, CEDO Director, re: Moran Center Project: Blue Ribbon Committee Report Synopsis & Implementation Plan
*waive the reading, accept the communication and place it on file
- 3.36. COMMUNICATION: Ute Regan, 46 Chittenden Drive, re: Ownership of Chittenden Drive
*waive the reading, accept the communication and place it on file
- 3.37. COMMUNICATION: Robyn Miller, Member, Cemetery Commission, re: Resignation
*waive the reading, accept the communication, place it on file, advertise the vacancy and send a letter of appreciation to Robyn Miller thanking for her time served on the Cemetery Commission
- 3.38. COMMUNICATION: Holly Sullivan, Executive Director, Champlain Senior Center to Mayor Bob Kiss, re: Thank you for FY 2010 – 2011 Funding
*waive the reading, accept the communication and place it on file
- 3.39. COMMUNICATION: Mari Steinbach, Director, Department of Parks and Recreation, re: City Council Parks Passes
*waive the reading, accept the communication and place it on file
- 3.40. REPORT: Fletcher Free Library 2010 Commissioner's Report
*waive the reading, accept the report and place it on file
- 3.41. COMMUNICATION: Patricia J. Crowley, Clerk/Burlington Electric Commission, re: Generation Interconnection Agreement (Leunigs)
*waive the reading, accept the communication and place it on file
- 3.42. COMMUNICATION: Steven Goodkind, DPW Director, re: Permit to Remove Dead Bodies
*waive the reading, accept the communication and place it on file
- 3.43. REPORT: Chittenden County Metropolitan Planning Organization Update for the Burlington City Council June 2010
*waive the reading, accept the report and place it on file

3.44. COMMUNICATION: Felicia Martineau, Property Valuation and Review Division, State of Vermont Department of Taxes to Edward Lamos, 137 Bluebird Drive, Colchester, VT 05446, re: Edward Lamos v. City of Burlington (PVR 2008-185)

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

3.45. COMMUNICATION: Felicia Martineau, Property Valuation and Review Division, State of Vermont Department of Taxes to Catherine Gattone, Docket Clerk, Vermont Supreme Court, re: Edward Lamos v. City of Burlington (PVR 2008-185)

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

3.46. COMMUNICATION: Carol Weston, PE, Department of Public Works, re: Champlain Parkway Public Process Update

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

3.47. UMBRELLA ENTERTAINMENT PERMIT APPLICATION (**two days only**):

South End Arts and Business Association, September 10, 2010, 6 p.m. – 11 p.m. and September 11, 2010, 9 a.m. – 11 p.m., Parking Lot behind the Maltex Building and Various Entities around the South End, Various Types of Music, Dancing

*waive the reading, accept the communication, place it on file and approve the Umbrella Entertainment Permit Application for two days only

3.48. COMMUNICATION: Doreen Kraft, Executive Director, Burlington City Arts, re: Resolution Requesting City-wide Arts Plan including request for South End Arts District

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

3.49. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for August 2, 2010

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

3.50. RESOLUTION: Supplemental Budget Resolution #2011-13 Burlington Telecom Reorganization (Board of Finance)

*waive the reading and adopt the resolution

3.51. COMMUNICATION: David Cain, Member, Planning Commission, re: Resignation

*waive the reading, accept the communication, place it on file, advertise the vacancy and send a letter of appreciation to David Cain thanking him for his time served on the Planning Commission

4. PUBLIC HEARING: COMPREHENSIVE DEVELOPMENT ORDINANCE:
ZA-10-07b Pine and Flynn NMU Shared Use Parking District

President Keogh opened the public hearing at 8:43 p.m. With no one coming forward, President Keogh closed the public hearing at 8:43 p.m.

4.01. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE—
Pine and Flynn NMU Shared Use Parking District #ZA 10-07b
(Planning & Zoning Dept. & Ordinance Committee)(1st reading:
Proposed action: to suspend the rules and place in all stages of
Passage)

David White, Director of Planning and Zoning, explained that this ordinance was written to be consistent with the rest of the current ordinance. Councilor Kranichfeld then made a motion to suspend the rules, adopt the ordinance, and place the ordinance in all stages of passage. The motion passed unanimously.

- 4.02. COMMUNICATION: Public Hearing Notice-Burlington Comprehensive Development Ordinance: ZA-10-07b Pine and Flynn NMU Shared Use Parking District

Council President Keogh waived the reading, accept the communication and place it on file.

5. PUBLIC HEARING: MDP-10-01 Transportation Plan

David White, Director of Planning and Zoning, outlined the creation of the comprehensive transportation plan for the City. It began in 2007 with an extensive public process involving the Legacy Project, the Public Works Department and Commission and the Planning Department/Commission. At this time, Councilor Dober asked for a point of information, noting he did not have any information in his packet on this item and he proposed that discussion on this item be deferred. Mr. White stated it was provided to the Council in early June and was on the City's website. Councilor Bushor stated she concurred with Councilor Dober, however, this meeting was warned as a public hearing and she suggested Mr. White continue outlining the plan. Council President Keogh agreed with Councilor Bushor. Mr. White explained that transportation choice was important to creating both a strong economy and a healthy community; he then elaborated on a number of the recommendations and measures of success included in the revised transportation plan.

President Keogh opened the public hearing at 7:55 p.m. With no one coming forward, President Keogh closed the public hearing at 7:55 p.m.

6. PRESENTATION: David E. White, AICP, Director of Planning and Zoning, re: Downtown and Waterfront Master Plan

David White, Director of Planning and Zoning, then outlined the history of the evolution of the downtown, with the Church Street Marketplace, and the urban waterfront. He explained the economic benefits to the City of these two locations. He then stated the reasons for establishing a clear and unified vision and foundation for the future development of these areas. Mr. White described the work to be done over the next three fiscal years and the dollars associated with each task. These dollars would be partially funded by the grants and partnerships with other organizations and funding agencies.

- 6.01. RESOLUTION: Supplemental Budget Resolution #2011-02 HUD Grant & Budget Amendment for Downtown Planning Activities (Board of Finance)

Councilor Wright made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the resolution and accept the two communications (items 6.02 and 6.03). The motion passed unanimously.

- 6.02. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning, re: Downtown and Waterfront Master Plan, HUD Community Challenge Planning Grant

- 6.03. COMMUNICATION: City of Burlington Downtown & Waterfront Plan Study Area

See above.

7. PRESENTATION: Ed Antczak, CEDO, Stephanie Hainley and David G. White of White + Burke Real Estate Investment Advisors, Inc., re: Downtown TIF District Plan

David G. White was not present for this presentation. City Assessor Vickery and Assistant City Attorney Haesler were present for any questions. Stephanie Hainley reminded the Council that the concept of the Downtown TIF District was outlined to the Council at the June 7th Council meeting. She re-emphasized that this did not obligate the Council to incur debt but allowed another funding instrument if needed.

7.01. PUBLIC HEARING: Downtown TIF District Plan

President Keogh opened the public forum at 8:19 p.m. With no one coming forward, President Keogh closed the public forum at 8:19 p.m.

7.02. RESOLUTION: Approving the Downtown Tax Increment Financing District Plan and Making a Finding as to the Purpose of the District (Councilors Adrian, Berezniak, Mulvaney-Stanak: Community Development & Neighborhood Revitalization Committee)

Councilor Kehoe made a motion, seconded by Councilor Berezniak, to waive the reading and adopt the resolution. Councilor Decelles then offered an amendment striking the lines which state that development would not occur without the TIF District in place, seconded by Councilor Dober. The amendment was not considered to be friendly.

Councilor Dober asked for an interpretation of the two lines. Assistant City Attorney Haesler noted that the same issue was brought up by Councilor Adrian in June. The language was a requirement for the establishment of a TIF District. Councilor Decelles stated his interpretation was that but for government, the private sector would not or could not do anything. Councilor Berezniak explained the language was critical to establishing the District. Mayor Kiss stated it was not in the resolution as an editorial comment but rather as a requirement in establishing the District. Councilor Adrian noted his lack of support for the amendment, as he believed that government supported business all the time.

The motion to amend the resolution failed by a vote of 11 to 2 with Councilors Wright and Decelles voting in favor. The resolution then passed unanimously.

7.03. COMMUNICATION: Proposed Tax Increment Financing District Downtown Burlington

Councilor Kehoe made a motion, seconded by Councilor Berezniak, to accept the communication and place it on file.

8. APPOINTMENT: Development Review Board (Alternate)(Term expires 6/30/11)

Councilor Berezniak nominated Andrew Strauss to be the Development Review Board Alternate.

Councilor Bushor nominated Philip Merrick.

Andrew Strauss was appointed to the Development Review Board as an Alternate by a vote of 11 to 2.

9. INDOOR ENTERTAINMENT PERMIT RENEWAL (2010-2011):

JD Mikes LLC, d/b/a Mr. Mike's Pizza, 206 Main Street

Councilor Dober made a motion, seconded by Councilor Berezniak, to approve the Indoor Entertainment Permit Renewal for Mr. Mike's Pizza. The motion passed unanimously.

10. ORDINANCE: OFFENSES AND MISCELLANEOUS PROVISIONS Re Fletcher Free

Library Ordinance (Fletcher Free Library & Ordinance Committee)
(2nd reading)

Councilor Kranichfeld made a motion to waive the 2nd reading and adopt the ordinance as presented, seconded by Councilor Kaplan. He noted a loophole currently existed in the ordinance which allowed repeated misbehavior to occur prior to a ticket being issued. Councilor Bushor explained there was a great deal of discussion about this issue at the Ordinance Committee and noted the second and third violation required the offender to work with the Restorative Justice Program. The goal was to ensure the Library could be used by all but also to provide more authority to the staff of the Library to deal with those who are misbehaving. Councilor Mulvaney-Stanak stated her concern about the No Trespass language in the resolution which would prevent individuals from using the Library, especially during these economic times.

Robert Resnik, Co-Director of the Library, discussed the variety of issues that the staff of the Library encountered with patrons and expressed appreciation to the Council for working on this issue. He stated it was the goal of the Library to remain accessible to all. Assistant City Attorney Haesler followed up with additional information on the trespass enforcement.

The motion then passed unanimously.

11. RESOLUTION: Creation of a Pilot Program re Maintaining a Pedestrian Right of Way In the Inner City Fire District (Councilors Shannon, Bushor, Kranichfeld: Ordinance Committee)

Councilor Kranichfeld made a motion, seconded by Councilor Bushor, to waive the reading and adopt the resolution. Both Councilors Kranichfeld and Bushor spoke to the resolution, explaining the Committee's belief the City could do more to educate the public on the existing ordinance which dealt with the pedestrian right of way. Councilor Bushor noted that with the recent discussions by the Council, behaviors had improved. Therefore, her hope was that continued education would alleviate the problem of sidewalks being blocked. Councilor Bushor then asked to amend the resolution such that a response from DPW would return to the Council by September 13th. The amendment was considered friendly.

Councilor Mulvaney-Stanak expressed her appreciation to the Committee for not supporting the ordinance that was forwarded to them and, rather, providing this concept of an educational pilot program. She noted the comments and attendance at the committee meeting was lively and encouraging. Because other proposals were presented to the Ordinance Committee, Councilor Mulvaney-Stanak asked if the other suggestions would be considered. Councilor Kranichfeld stated there would be no further ideas from the Committee on this matter. Councilor Mulvaney-Stanak stated it would be important to consider these suggestions especially with the work being done on the City's master plan and transportation plan.

The resolution then passed unanimously.

12. RESOLUTION: Approval of Power Purchase Agreement with H.Q. Energy Services (U.S.) Inc. (Board of Finance)

Councilor Wright made a motion, seconded by Councilor Decelles, to waive the reading and adopt the resolution. Councilor Wright noted the importance of the vote on this issue, stating it would ensure stability for the ratepayers over the next decade. Barbara Grimes, General Manager, and Ken Nolan, Director of Power Resources, made a brief presentation to the Council. A history of the Hydro Quebec controversy and the alternative options for energy were detailed by Ms. Grimes. It was also noted that the vote on the Commission to move forward with this agreement was not unanimous. Mr. Nolan explained that this agreement cost 30% less than other alternatives they researched. It also provides a valuable mix of energy resources.

Councilor Dober asked about the \$36 million bond that was approved several years ago and rate increases recently imposed. He wanted to know if the City was in line to see the rates decline and if the \$36 million bond would help to reduce the need for outside resources. Ms. Grimes stated she never stated rates would be reduced and then explained the projects that were moving forward as a result of the rate increase and bond. Because this proposed agreement would be a long term, 25+ year contract, it would stabilize the rates for the ratepayers.

Councilor Wright informed the Council that the Board of Finance passed this resolution by a 3 to 2 vote, with the Mayor and the CAO voting against. He then asked General Manager Grimes if a positive vote and a resolution signed by the Mayor needed to be in place in order to go to the voters in March which she agreed with. He also noted this item was time sensitive and needed to be dealt with immediately. Councilor Wright then asked the Mayor to respond to his question of whether he would act on this resolution the following day.

The Mayor expressed his opinion that Hydro Quebec was not environmentally-benign and in prior years this agreement was not agreed to by the Council. Additionally, with this 26 year agreement he was concerned that other environmental, renewable and conservation options would not be considered. He explained that while the Vermont Legislature had deemed Hydro Quebec as renewable, other New England states did not and he was concerned HQ would use Vermont's label of renewable to sell their power to other groups. In response to Councilor Wright, the Mayor stated he was not convinced the Council would vote in support of Hydro Quebec, however, he was aware a signature was required quickly and he wanted to hear the discussion of the Council on the issue.

Councilor Wright disagreed with the Mayor stating BED and the State were both interested in finding other renewable options. He again asked for the Mayor's response on whether he would sign off on the resolution. Councilor Kranichfeld stated his support of the resolution, noting it was the responsible way to manage the energy policy and to stabilize rates for residents. Mr. Nolan, in responding to a question from Councilor Berezniak, explained that Vermont would share the value in other sales as a result of entering the contract, however, it remained to be seen if Burlington would receive any of the funds. Mr. Nolan stated that BED was committed to using the power but the power could be resold to another entity.

Councilor Adrian then asked the CAO to explain why he did not support the Hydro Quebec agreement. The CAO's primary concern was with the environmental impact of Hydro Quebec. However, he also noted that while the deal may appear to be financially sound today, it may not continue to be that way years down the road. The Councilor then asked if he had consulted with the Mayor prior to the vote at the Board of Finance to which the CAO replied that he had not.

Councilor Mulvaney-Stanak asked Mr. Nolan to explain the timeframe for the various energy proposals being suggested for the future. She then asked if the rates were going to be consistent for the ratepayers. Mr. Nolan stated the contract did have indexes and formulas on how to calculate the pricing going forward. He noted the City is giving up the possible reduction in prices, however, if prices were to increase during the contract the rates would not increase. Ms. Mulvaney-Stanak stated the Council had an obligation to understand all of the implications of this vote, noting that the Cree Indians in Quebec would suffer the impact of this dam for decades.

Councilor Bushor noted that a Councilor had stated Burlington was in an "energy crisis", commenting that she did not have that impression from BED and asked the General Manager to comment. Ms. Grimes stated she did not feel the City was in the middle of a crisis at this point but a hurricane or an increase in oil prices would impact the City negatively. Councilor Bushor then explained her position on the environmental impact associated with the Hydro Quebec project. She noted that the Chair of the BED Commission had stated that in five years, when the power comes online, there could be other alternatives available to the City. Councilor Berezniak stated this was an important issue and one that the voters should decide.

Councilor Wright then explained that he now had a petition signed by ten City Councilors in the event the Mayor would not sign the resolution. City Attorney Schatz, answering a question from Councilor Wright, explained that when a resolution goes to the Mayor, under the authority of the City Charter, the Mayor does not have an obligation to sign or veto a resolution. At a minimum, the Mayor has two weeks to decide whether to sign a resolution. Under the City Charter, a Special Meeting can be called by petition and authorized by the CAO. If the Mayor decided to veto the resolution, a Special Meeting could be called and a vote of 2/3rds of the majority of the whole number of the Council would be needed to override the vote. Councilor Wright then stated again his intent to call a Special Meeting if the Mayor chose to veto the resolution.

Councilor Decelles noted that the City could help the environment by keeping their Council Meetings to two hours rather than eight. He then asked the Mayor if he would sign the resolution if the Council passed the item. The Mayor stated once again he was waiting for the Council to make their own decision as was their right and responsibility. He believed it was pre-emptive to ask him of his intent.

Councilor Berezniak asked to call the question, seconded by Councilor Kehoe. The motion passed unanimously.

Councilor Wright asked for a roll call. The vote was as follows:

Ayes: Councilors Adrian, Berezniak, Decelles, Dober, Kaplan, Kehoe, Kranichfeld, Paul, Shannon, Wright and Keogh

Nays: Councilors Bushor and Mulvaney-Stanak

Absent: Councilor Caldwell

The resolution passed by a vote of 11 to 2.

The Mayor then explained that based on the fact that this item would go to the voters he would sign the resolution. General Manager Grimes then apologized to the Administration and the Council for the need to decide this matter on such short notice. She stated that BED was being pressed by the majority owners of the contract.

12.01. COMMUNICATION: William F. Ellis, Esq., Law Offices McNeil, Leddy & Sheahan,
re: Burlington Electric Department Contract with HQUS

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

Items 12.5 and 12.5.01 were removed.

12.6. RESOLUTION: Supplemental Budget Resolution #2011-04 Appropriation of Funds to Conduct an Engineering Study of Centennial Field (Board of Finance)

Councilor Wright made a motion, seconded by Councilor Dober, to waive the reading and adopt the resolution. This resolution was the first action of the group reviewing options for improving Centennial Field. He noted the engineering study would cost \$50,000. UVM and private donors would be providing funds and this resolution asked the City to pay \$15,000. Both Councilors Mulvaney-Stanak and Kaplan had questions regarding the use of City funds for this private venture. Councilor Wright agreed that the Council should be cautious about how taxpayer money was used but the baseball enterprise provided a great benefit to the City. Mayor Kiss stated his support in keeping the Vermont Lake Monsters in Burlington at Centennial Field and believed the investment was worth it. The motion passed unanimously.

12.7. (was 3.19.) RESOLUTION: Authorization of Assistant Chief Administrative Officers to be

Delegated Authority By Chief Administrative Officer (Board of Finance)

Councilor Bushor made a motion, seconded by Councilor Kaplan, to waive the reading and adopt the resolution. Councilor Kaplan asked for clarification as to why this resolution was required. City Attorney Schatz noted that while it was in the Charter, this resolution was put forward by the City Attorney's Office to clarify the authorization. Responding to further questions, City Attorney Schatz noted there was no time frame to the authorization but, because it was limited to the two individuals, it would be limited by the duration of the officials within their offices. Further, the designee would have the authority to vote at the Board of Finance. Councilor Adrian questioned the need for the resolution. Councilor Shannon noted her concern that a vote could be delegated. Following a question from Councilor Paul, CAO Leopold explained that traditionally the Assistant CAO was given signatory authority on financial transactions. Because of the number of documents required to be signed by the CAO, for example liquor licenses and election documents, it was determined that the resolution would further clarify the authorization. Further, he noted the Assistant CAO may sit in his absence on the Board of Finance but it had happened rarely and the Assistant CAO did not vote on his behalf.

A vote was taken with the result being questioned by Councilor Adrian. With the result being questionable, a roll call was then requested by Councilor Adrian.

Ayes: Councilors Bushor, Dober, Kranichfeld, Mulvaney-Stanak, Paul, Wright and Keogh
Nays: Councilors Adrian, Berezniak, Decelles, Kaplan, Kehoe and Shannon
Absent: Councilor Caldwell

The resolution passed by a vote of 7 to 6.

12.8. (was 3.22.) RESOLUTION: Supplemental Budget Resolution #2010-12 General Fund Accounts
Amendments for Step Increase and Cost of Living Adjustments
(Board of Finance)

Councilor Wright made a motion, seconded by Councilor Paul, to waive the reading and adopt the resolution. Councilor Adrian asked for clarification on this resolution from the CAO. He explained that this resolution related to last year's budget and reassigned funds to departments. He then explained in greater detail, at Councilor Adrian's request, how the budgeting of salaries occurred, noting this had been the practice for the previous 25 years. The motion passed by a vote of 12 to 1, with Councilor Adrian voting against.

12.9. (was 3.06.) RESOLUTION: Authorization for a Cost of Living Adjustment for Non-union
Employees (Board of Finance)

Councilor Wright made a motion, seconded by Councilor Paul, to waive the reading and adopt the resolution. CAO Leopold explained this resolution authorized the cost of living adjustment to be paid to the non-union employees. Councilor Adrian asked why the decision was being based on IBEW's union agreement. CAO Leopold stated it was the only union the City had a tentative agreement with. When asked by the Councilor Adrian again why the City should not wait to increase non-union wages, the CAO expressed the opinion that it would further exacerbate the salary compression issue. City Attorney Schatz reminded the Council that the resolution needed to be amended to reflect a 2% increase. Councilor Kehoe made a motion, seconded by Councilor Paul, to amend the resolution. The amendment was considered friendly.

The amended resolution then passed by a vote of 12 in favor and 1 opposed, with Councilor Adrian voting against.

12.10. (was 3.21.) RESOLUTION: Champlain College's Proposal to Acquire or Lease Property at

175 Lakeside Avenue (Councilors Paul; Berezniak, Adrian,
Mulvaney-Stanak: Community Development & Neighborhood
Revitalization Committee)

Councilor Berezniak made a motion, seconded by Councilor Paul, to waive the reading and adopt the resolution. Councilor Bushor explained this item had been on the consent agenda and she had asked to pull it off in order to highlight it. This decision deviated from the normal proceedings requiring the Council's approval of Champlain College's lease or purchase of property outside of the Memorandum of Understanding. She believed this item should not be on the consent agenda as it was going against what the community agreed to in 1994 and she wanted to be sure it was made public.

The resolution then passed unanimously.

13. COMMITTEE REPORTS

Councilor Paul stated there would be a TEUC meeting during the week to discuss paving. Councilor Kaplan stated the Parks, Arts and Culture Committee would be meeting to discuss a grant to celebrate the War of 1812. Councilor Dober stated there would be a Taxi Ordinance Committee meeting during the upcoming week.

Councilor Dober noted that the Clean Energy Assessment District had been put on hold due to an issue with banks not wanting to be secondary to the financing proposal. They were now looking for the Legislature to help with the issue and it could take some time.

Councilor Decelles informed the Council the Charter Change Committee would be discussing the 50% voting threshold. He reported that by the next meeting in September an update will be provided on all questions brought before them.

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

Councilor Kaplan reminded residents of the upcoming Primary Election and reminded Ward 4 residents they would be voting at St. Mark's.

Councilor Wright spoke to the Council about the need for a charter change allowing the Council to respond to a Mayoral veto.

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

Mayor Kiss informed the Council of the 1,000th anniversary of Yaroslval, Burlington's sister city, and named the delegation that would be attending from Burlington. He informed the public that BED would begin the process of removing power lines near the waterfront.

Councilor Dober made a motion to suspend the rules and continue the meeting past 10:30 p.m. The motion was seconded by Councilor Berezniak. The motion passed by a vote of 11 with 2, with Councilors Kehoe and Kaplan voting against.

Mayor Kiss then notified the Council that CEDO provided a grant to Terry Precision Bicycles to help the company move from Rochester, New York to Burlington. He discussed the importance of having funds available through CEDO to bring business to Burlington. He also noted that Burlington's unemployment rate was one of the lowest rates in New England.

16. ADJOURNMENT

Councilor President Keogh recessed the Regular Meeting of the City Council at 10:34 p.m.

Attest:

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

BOARD OF CIVIL AUTHORITY
MONDAY, AUGUST 9, 2010
10:35 P.M.

PRESENT: See above.

MAYOR KISS PRESIDING:

1. AGENDA

There were no changes to the agenda. Councilor Paul made a motion, seconded by Councilor Kranichfeld to adopt the agenda. The motion passed unanimously.

2. RESOLUTION: Appointment of Acting Justice of the Peace (Councilor Keogh)

Councilor Keogh made a motion, seconded by Councilor Kranichfeld to waive the reading and adopt the resolution. The motion passed unanimously.

3. ADJOURNMENT

On a motion by Councilors Adrian and Kranichfeld, the Board of Civil Authority voted unanimously to adjourn at 10:36 p.m.

Attest:

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

CITY COUNCIL WITH MAYOR PRESIDING
MONDAY, AUGUST 9, 2010
10:36 P.M.

1. AGENDA

There were no changes to the agenda. Councilor Kaplan made a motion, seconded by Councilor Bushor, to adopt the agenda.

2. CONSENT AGENDA

On a motion by Councilors Bushor and Mulvaney-Stanak, the City Council With Mayor Presiding voted unanimously to adopt the consent agenda thus taking the following actions as indicated:

2.01. COMMUNICATION: Clerk/Treasurer's Office, re: Openings Burlington City
Commissions/Boards

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

3. APPOINTMENT: Design Advisory Board (Term expires 6/30/13)

Councilor Adrian nominated Ed Pais.

Ed Pais was appointed to the Design Advisory Board.

4. APPOINTMENT: Library Commission (Term expires 6/30/13)

Councilor Kehoe nominated Mary Ellen Manock.

Mary Ellen Manock was appointed to the Library Commission.

5. ADJOURNMENT

On a motion by Councilors Kaplan and Mulvaney-Stanak, the City Council With Mayor Presiding voted unanimously to adjourn at 10:38 p.m.

Attest:

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

RE-CONVENED REGULAR MEETING, CITY COUNCIL
MONDAY, AUGUST 9, 2010
10:38 P.M.

EXECUTIVE SESSION

Councilor Kaplan made a motion, seconded by Councilor Bushor, to go into Executive Session to discuss a matter of personnel and contract negotiations related to Burlington Telecom, premature public disclosure of which could place the City at a substantial disadvantage. The motion passed unanimously.

Councilor Dober made a motion, seconded by Councilor Bushor, to come out of Executive Session at 11:12 p.m. The motion passed unanimously.

ADJOURNMENT

On a motion by Councilors Dober and Berezniak, the City Council voted unanimously to adjourn at 11:12 p.m.

Attest:

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