
DELIBERATIVE AGENDA

LOCAL CONTROL COMMISSION
CONTOIS AUDITORIUM, CITY HALL
MONDAY, SEPTEMBER 13, 2010
7:03 P.M.

PRESENT: Commissioners Mulvaney-Stanak, Kaplan, Kranichfeld, Adrian (arrived at 7:04 p.m.), Shannon, Kehoe (arrived at 7:05 p.m.), Berezniak, Paul, Dober, Wright (departed at 11:08 p.m.), Decelles; Council President Keogh was Acting Mayor in the absence of Mayor Kiss

ABSENT: Commissioner Bushor

CITY ATTORNEY'S OFFICE: Ken Schatz, Gene Bergman and Richard Haesler (arrived at 7:55 p.m.; departed at 11:18 p.m.)

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

CAO Leopold asked for nominations for a temporary Council President as the Mayor was out of town and Council President Keogh was Acting Mayor. Councilor Kaplan nominated Councilor Shannon. There being no other nominations, Councilor Shannon was elected unanimously to Acting President of the Council.

ACTING COUNCIL PRESIDENT SHANNON PRESIDING:

1. AGENDA

On a motion by Commissioners Dober and Mulvaney-Stanak, the Local Control Commission agenda was unanimously adopted as is.

2. CONSENT AGENDA

On a motion by Commissioners Dober and Mulvaney-Stanak, the Local Control Commission voted unanimously to adopt 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 August 4, 2010

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

2.02. FIRST CLASS CABARET LIQUOR LICENSE RENEWALS (2010-2011):

Rasputin's
What Ales You

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Cabaret Liquor License Renewals for Rasputin's and What Ales You

2.03. FIRST CLASS RESTAURANT LIQUOR LICENSE RENEWALS (2010-2011):

Bangkok Bistro
Das Bierhaus

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Restaurant Liquor License Renewals for Bangkok Bistro and Das Bierhaus

2.04. OUTSIDE CONSUMPTION PERMIT RENEWALS (2010-2011):

Bangkok Bistro and Das Bierhaus

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Outside Consumption Permit Renewals for Bangkok Bistro and Das Bierhaus

2.05. EXPANSION OF OUTSIDE CONSUMPTION PERMIT (one day only):

American Flatbread, 115 St. Paul Street, Thursday, September 23, 2010, 5:00 p.m. – 11:00 p.m., Oktoberfest

*waive the reading, accept the communication, place it on file and approve the expansion of the outside consumption permit for American Flatbread, Thursday, September 23, 2010, 5:00 p.m. – 11:00 p.m.

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

Sky Burgers, 161 Church Street

Commissioner Dober made a motion, seconded by Commissioner Mulvaney-Stanak to approve the Outside Consumption Permit Application for Sky Burgers. The motion passed unanimously.

4. ADJOURNMENT

On a motion by Commissioners Dober and Mulvaney-Stanak, the Local Control Commission voted unanimously to adjourn at 7:07 p.m.

Attest:

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

REGULAR MEETING, CITY COUNCIL
MONDAY, SEPTEMBER 13, 2010
7:07 P.M.

PRESENT: See above

ACTING COUNCIL PRESIDENT SHANNON PRESIDING:

1. AGENDA

On a motion by Councilors Adrian and Decelles, the Council voted unanimously to amend the agenda as follows: note new language for consent agenda item 3.02. RESOLUTION: Extending Contract for Service Installation and Repair Work from Eustis Cable Enterprises, Ltd. (Board of Finance): Page One, Line 29: remove “feels that re-bidding this contract at this time will jeopardize the current rates and the integrity of our current installation methods and...” Now reads as follows: WHEREAS, Burlington Telecom is recommending to the City Council; add to the consent agenda item 3.15.01.

COMMUNICATION: Kirsten Merriman Shapiro, Special Projects Manager, CEDO, re: Moran Center Project Development Services Contract Amendment with the consent action to “waive the reading, accept the communication and place it on file;” amend the action for consent agenda item 3.23.

COMMUNICATION: Richard H. Cate, Vice President for Finance and Administration and University

Treasurer, UVM, re: City of Burlington and University of Vermont Memorandum of Agreement Re: 2009 Zoning Amendments to “waive the reading, accept the communication, place it on file and invite Mr. Cate to a subsequent City Council Meeting: either the September 27 or October 4, 2010 City Council Meeting.” note **revised** version for consent agenda item 3.38. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for July 19, 2010; add to the consent agenda item 3.42. COMMUNICATION: Peter L. Potts, Chairman, Burlington Planning Commission, re: Circumferential Highway – Final EIS Comments with the consent action to “waive the reading, accept the communication and place it on file;” add to the agenda item 11.01. COMMUNICATION: Kirsten Merriman Shapiro, Special Projects Manager, CEDO, re: Moran Center Project: Nomination to the National Register of Historic Places; note **revised (2nd)** version for consent agenda item 3.11. RESOLUTION: Amended Approval of Refinancing Certain Tax-Exempt Airport Facility Revenue Bonds by Burlington Community Development Corporation for Refunding and Financing of Some Costs of Certain Airport Facilities (Board of Finance); remove from the consent agenda item 3.11. and place it on the DELIBERATIVE agenda as item 11.5; add to the agenda item 11.05.01. RESOLUTION: Amended Approval of Refinancing Certain Tax-Exempt Airport Facility Revenue Bonds by Burlington Community Development Corporation for Refunding and Financing of Some Costs of Certain Airport Facilities (Board of Finance) with the action to “waive the reading and accept the resolution and place it on file”; remove from the consent agenda item 3.12. COMMUNICATION: Steve Goodkind PE and Carol Weston PE, Department of Public Works, re: Champlain Parkway Design Contract Amendment and place it on the DELIBERATIVE agenda as item 11.6 (per Councilor Adrian); remove from the consent agenda item 3.13. RESOLUTION: Authorization to Amend Champlain Parkway Design Contract (Board of Finance) and place it on the DELIBERATIVE agenda as item 11.6.01 (per Councilor Adrian).

Councilor Adrian moved agenda item 10. COMMUNICATION: Ken Schatz, City Attorney, and Gene Bergman, Senior Assistant City Attorney, re: What Constitutes a Legal Majority Needed to Take a Valid Action and placed it on the Deliberative Agenda as item 3.5.

Following a point of information from Councilor Decelles, Councilor Decelles made a motion to recess the Regular Meeting of the City Council and convene the Board of Abatement for Taxes. The motion was seconded by Councilor Paul and the meeting was recessed at 7:14 p.m.

2. PUBLIC FORUM

Acting Council President Shannon opened the public forum at 8:33 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Helen Hossley	7	Opposed item 5
Diane Noyes, Ward Clerk	7	Opposed Voting at Hunt School
Ben Bosher		Supported Bike Path Task Force
Lisa Aultman-Hall	6	Supported Bike Path Task Force
Jon Griessen	2	Supported Bike Path Task Force

There being no one further coming forward, Acting Council President Shannon closed the public forum at 8:49 p.m.

3. CONSENT AGENDA

On a motion 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. RESOLUTION: Extending Contract for Service Installation and Repair Work from
Eustis Cable Enterprises, Ltd. (Board of Finance)
*waive the reading and adopt the resolution
- 3.03. RESOLUTION: Authorization to Enter into License Agreement to Maintain Tables and
Chairs on a Portion of the City's Right-of-way with Shalimar of India
(Councilors Dober, Berezniak, Mulvaney-Stanak: License Committee)
*waive the reading and adopt the resolution
- 3.04. RESOLUTION: Authorization to Accept Grant for AIP Project Land Purchases for
Burlington International Airport (Board of Finance)
*waive the reading and adopt the resolution
- 3.05. RESOLUTION: Authorization to Contract for Second Floor Accessibility Upgrade
Project at Burlington International Airport (Board of Finance)
*waive the reading and adopt the resolution'
- 3.06. RESOLUTION: Authorization for Land Purchase in Anticipation of AIP Grant Funds
for Burlington International Airport (Board of Finance)
*waive the reading and adopt the resolution
- 3.07. RESOLUTION: Authorization to Lease Land at Burlington International Airport (Board
of Finance)
*waive the reading and adopt the resolution
- 3.08. RESOLUTION: Authorization for Land Purchases in Anticipation of AIP Grant Funds
for Burlington International Airport (Board of Finance)
*waive the reading and adopt the resolution
- 3.09. RESOLUTION: Authorization to Lease Space at Burlington International Airport (Board
of Finance)
*waive the reading and adopt the resolution
- 3.10. RESOLUTION: Authorization for Contract Amendments Associated with an American
Recovery and Reinvestment Act Grant (AIP-75) for Taxiway "C"
Construction at Burlington International Airport (Board of Finance)
*waive the reading and adopt the resolution
- 3.11.05. RESOLUTION: Amended Approval of Refinancing Certain Tax-Exempt Airport Facility
Revenue Bonds by Burlington Community Development Corporation for
Refunding and Financing of Some Costs of Certain Airport Facilities
(Board of Finance)
*waive the reading and adopt the resolution
- 3.12. COMMUNICATION: Steve Goodkind PE and Carol Weston PE, Department of Public Works,
re: Champlain Parkway Design Contract Amendment
*waive the reading, accept the communication and place it on file

3.13. RESOLUTION: Authorization to Amend Champlain Parkway Design Contract (Board of Finance)

*waive the reading and adopt the resolution

3.14. RESOLUTION: Appointment of Inspectors of Election for Wards Three and Five (Councilors Mulvaney-Stanak, Keogh)

*waive the reading and adopt the resolution

3.15. RESOLUTION: Authorization to Amend Contract for Development Services for the Moran Redevelopment Project (Board of Finance)

*waive the reading and adopt the resolution

3.15.01. COMMUNICATION: Kirsten Merriman Shapiro, Special Projects Manager, CEDO, re: Moran Center Project Development Services Contract Amendment

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

3.16. COMMUNICATION: Marina Collins, Retirement Administrator, re: Retirement Board Attendance Record

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

3.17. COMMUNICATION: Byron T. Murray to Mayor Kiss, re: Thank you: Sister City in Israel: Arad

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

3.18. COMMUNICATION: Steven E. Jeffrey, Executive Director, VLCT, re: Draft 2011 VLCT Municipal Policy

*waive the reading, accept the communication, place it on file and send a copy to the Mayor's Office for possible comments or recommendations that would be submitted to VLCT

3.19. COMMUNICATION: Steven E. Jeffrey, Executive Director, VLCT, re: Candidate Forum Tool Kit

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

3.20. COMMUNICATION: Felicia Martineau, Property Valuation and Review Division, State of Vermont, Department of Taxes to Court Reporters Associates, re: Edward Lamos v. City of Burlington (PVR 2008-185) Supreme Court #2010-288

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

3.21. COMMUNICATION: Marcia L. Mason, Ward Five Inspector of Elections, re: Resignation

*waive the reading, accept the communication, place it on file and send Marcia L. Mason a letter of appreciation thanking her for her years of service as an Inspector of Elections

3.22. COMMUNICATION: Bob Bolyard, Ward Three Inspector of Elections, re: Resignation

*waive the reading, accept the communication, place it on file and send a letter of appreciation to Bob Bolyard thanking him for his time served as an Inspector of Elections

3.23. COMMUNICATION: Richard H. Cate, Vice President for Finance and Administration and University Treasurer, UVM, re: City of Burlington and University of Vermont Memorandum of Agreement Re: 2009 Zoning Amendments

*waive the reading, accept the communication, place it on file and invite Mr. Cate to a subsequent City Council Meeting: either September 27, 2010 or October 4, 2010 City Council Meeting

- 3.24. COMMUNICATION: Sandra O’Flaherty, Member, Design Advisory Board, re: Resignation
*waive the reading, accept the communication, place it on file, advertise the vacancy (already did) and send Sandra O’Flaherty a letter of appreciation thanking her for her time served on the Design Advisory Board
- 3.25. COMMUNICATION: Gabrielle Hart, Resident of Canada to Mayor Kiss, re: Her Visit to Burlington was the highlight of her trip
*waive the reading, accept the communication and place it on file
- 3.26. COMMUNICATION: Council President Bill Keogh, re: Council President Memo – September 7, 2010
*waive the reading, accept the communication and place it on file
- 3.27. COMMUNICATION: Brian R. Searles, Director of Aviation to Mayor Kiss, re: Delay of Report
*waive the reading, accept the communication and place it on file
- 3.28. COMMUNICATION: Donal Dugan, DPW Commissioner to Mr. Council President Keogh, Ward 5, re: Delay of Report
*waive the reading, accept the communication and place it on file
- 3.29. COMMUNICATION: Joan Shannon, Chair, City Council Ordinance Committee, re: ZA #09-11 (Fuel Station Off-Street Parking) Report on Committee Deliberations
*waive the reading, accept the communication and place it on file
- 3.30. 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 as received at the August 9, 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 22, 2010
*waive the reading, accept the communication, place it on file and adopt the minutes as received at the August 9, 2010 City Council Meeting
- 3.32. INDOOR ENTERTAINMENT PERMIT RENEWALS (2010-2011): Das Bierhaus
Rasputin’s
What Ales You
*waive the reading, accept the communication, place it on file and approve the 2010-2011 Indoor Entertainment Permit Renewals for Das Bierhaus, Rasputin’s and What Ales You
- 3.33. OUTDOOR ENTERTAINMENT PERMIT RENEWAL (2010-2011): Das Bierhaus
*waive the reading, accept the communication, place it on file and approve the 2010-2011 Outdoor Entertainment Permit Renewal for Das Bierhaus
- 3.34. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council, Organization Day, April 5, 2010
*waive the reading, accept the communication, place it on file and adopt the minutes at the September 27, 2010 City Council Meeting
- 3.35. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator, re: Minutes, City Council Worksession, April 7, 2010
*waive the reading, accept the communication, place it on file and adopt the minutes at the September 27, 2010 City Council Meeting

3.36. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council, April 26, 2010
*waive the reading, accept the communication, place it on file and adopt the minutes at the September 27, 2010 City Council Meeting

3.37. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council for May 10, 2010
*waive the reading, accept the communication, place it on file and adopt the minutes at the September 27, 2010 City Council Meeting

3.38. COMMUNICATION: Jonathan P.A. Leopold, Jr. CAO, re: Board of Finance Minutes for July 19, 2010
*waive the reading, accept the communication and place it on file

3.39. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for August 9, 2010
*waive the reading, accept the communication and place it on file

3.40. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for August 30, 2010
*waive the reading, accept the communication and place it on file

3.41. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, BCDC Minutes for July 12, 2010
*waive the reading, accept the communication and place it on file

3.42. COMMUNICATION: Peter L. Potts, Chairman, Burlington Planning Commission, re: Circumferential Highway – Final EIS Comments
*waive the reading, accept the communication and place it on file

3.5.(was 10.) COMMUNICATION: Ken Schatz, City Attorney and Gene Bergman, Senior Assistant City Attorney, re: What Constitutes a Legal Majority Needed to Take a Valid Action

City Attorney Schatz provided a brief summary of his legal opinion on the question, recommending the Council itself decide whether to keep the longstanding practice of the Council which was the majority of those present to vote would constitute the valid majority to take action per the City Charter or to go with State Statute. The City Attorney recommended, however, that the Council adopt and express a Council rule that clarified what they decided.

Councilor Kehoe made a motion to forward this issue to the Charter Change Committee. She also requested that the matter be reviewed by the Secretary of State. City Attorney Schatz ultimately stated that his office would be happy to contact the Secretary of State's Office but stated that office had no enforcement role. He noted it may be more appropriate to send it to the Attorney General's Office because, if pursued, would be an issue that would have to be decided by a court. Acting Council President Shannon requested that City Attorney Schatz follow up with the Secretary of State's Office on behalf of the Council.

Following a point of order from Councilor Decelles, it was determined the question could be forwarded to the Charter Change Committee with a recommendation that a decision be returned to the Council at the first meeting in October. Councilor Wright seconded the motion. The motion passed unanimously.

4. RESOLUTION: Agreements for Purchase of Fire Trucks (Board of Finance)

Councilor Kehoe made a motion, seconded by Councilor Wright, to waive the reading and adopt the resolution. The motion passed unanimously without comment.

5. RESOLUTION: YMCA Preschool Program in Miller Center (Councilors Adrian, Kranichfeld, Dober)

Councilors Kehoe and Paul recused themselves from voting on this matter as they currently hold position on the Board of the YMCA. Councilor Adrian made a motion, seconded by Councilor Dober, to waive the reading and adopt the resolution with the amendments stated into the record, referring the matter to the Board of Finance, Parks and Recreation, and Wards 4 and 7 NPA and proposing a budget amendment to the FY 11 Budget allocating money to refurbish the Miller Center to meet the needs of the YMCA with the determined numbers to be returned to the City Council. Councilor Kranichfeld stated his support of additional daycare in Burlington. Councilor Decelles noted questions from his Ward revolved around the YMCA paying for the fit-up of the space. Councilor Mulvaney-Stanak stated that she would prefer to see the financial demographics of the users of the childcare center. She also asked if this need was emergent, as it would be better dealt with as part of the entire budgeting process.

Councilor Kaplan explained the space the YMCA would use at the Miller Center was basically a shell and not being used at this time. She outlined that the Parks Department had been negotiating with the YMCA for quite some time over the use of the Miller Center.

At Councilor Dober's request, Mari Steinbach, Director of Parks and Recreation, explained money was received from HUD for Miller Center improvements. Negotiations had been ongoing with the potential tenants understanding the City would accept the responsibility for the rough fit-up of the facility.

The amended resolution then passed unanimously.

6. RESOLUTION: Creation of Burlington Bike Path Task Force (Councilors Wright, Dober, Decelles, Keogh, Bushor, Paul, Mulvaney-Stanak, Kaplan)

Councilor Wright made a motion, seconded by Councilor Dober, to waive the reading and adopt the resolution. Kelly Devine from the Burlington Business Association, Chapin Spencer from Local Motion, Steve Allen, former Chair of the Burlington Parks and Recreation Commission, and Mari Steinbach, Director of Parks and Recreation, spoke to the Council about the rehabilitation of the Bike Path, the Task Force's goal of identifying funding sources and the ways in which the Bike Path touched so many areas of Burlington, including the economic vitality of the City as well as the physical vitality of its residents and visitors.

Councilor Adrian then made a motion to amend the resolution, directing the Parks and Recreation Commission to be responsible for the Task Force and that the entire network be given equal significance rather than the Waterfront being noted specifically in the resolution. The amendment also required that the Parks and Recreation Commission report every three months on the work of the Task Force to the City Council with a final report back within one year of the adoption of this resolution. Only parts of the amendment were considered friendly by Councilor Wright and debate ensued on the network versus waterfront bike path language in the resolution. Councilor Kranichfeld then seconded the amendment that was not considered friendly to the maker of the resolution.

Councilor Paul stated that Councilor Wright had made compromises to accept two amendments to the resolution and asked that the maker and seconder of the third amendment consider participating in the spirit of compromise. Councilor Decelles requested that Councilors Berezniak and Kranichfeld explain their need to revise this resolution, considering the Task Force would address the entire system. Councilor Berezniak stated it was important to many people that the Task Force review the entire network.

Councilor Decelles then called the question, seconded by Councilor Kaplan, on the amendment. The vote to call the question passed by a vote of 9 to 1 with Councilor Kranichfeld voting against. The motion to amend the language of the resolution, removing the Waterfront bike path language, failed.

Councilor Paul then called the question on the amended resolution. The motion to approve the amended resolution passed with Councilors Kranichfeld, Berezniak and Adrian voting against.

7. RESOLUTION: March 1, 2011 Annual City Meeting—Proposed Charter Change Re: Composition of Bd. of Finance (Councilors Decelles, Kehoe, Shannon: Charter Change Committee)

Councilor Decelles made a motion, seconded by Councilor Kehoe, to waive the reading and the resolution. Councilor Decelles explained the Committee's decision to remove the CAO as a voting member of the Board of Finance and instead place an individual with financial background on the Board. The Committee decided the CAO should be a non-voting member of the Board and could sit in the absence of the Mayor.

Councilor Paul asked about the voting rights of the Administration versus Council members and Councilor Mulvaney-Stanak noted that the language in the resolution provided the individual with financial expertise with longer terms than Council members and was not elected or accountable. She believed that Councilors needed to be more engaged in the process rather than adding an extra individual to the mix. Councilor Decelles explained that the resolution provided limits to the length of time an individual/resident could serve with three year terms and a term limit of two terms.

Councilor Wright explained the history of the Board of Finance, stating that precedent had been that a member of each party was elected to the Board. This past year one of the parties apparently felt slighted that no representative of their party was placed on the Board. He believed that adding a fourth Councilor would alleviate this problem in the future. He was concerned about this resolution and agreed with Councilor Mulvaney-Stanak's comments. Councilor Berezniak also disagreed with the resolution, stating he appreciated seeing how the CAO voted and whether he was in agreement with the Mayor on an issue.

At 10:30 p.m. Councilor Shannon made a motion to suspend the rules and extend the meeting. Councilor Kranichfeld seconded the motion. The motion passed unanimously.

Councilor Kranichfeld agreed with previous comments on the installation of a citizen voting on the Board of Finance, noting the potential for a highly politicized position and lack of accountability. Councilor Dober stated his opinion that adding a fourth Councilor would be a much better solution and that each party should be represented on the Board. Councilor Kehoe stated her opinion that having a citizen with financial expertise without a political agenda provided a check and balance for the Board.

Councilor Wright stated he did not want to represent that all political parties could be represented on the Board under a fourth Councilor scenario, as it did not happen this year, but that there would be more likelihood of it happening. Following a question from Councilor Wright, City Attorney Schatz stated he didn't know of any municipality that had a citizen member on their Board of Finance. Councilor Kehoe explained the variety of options that were in place throughout Vermont including Selectboards and City Managers.

At this time, Councilor Berezniak made a motion, seconded by Councilor Kaplan, to refer this resolution back to Committee to consider comments made at the Council meeting. Councilor Shannon expressed her frustration and anger with the motion to refer. Councilor Kaplan acknowledged the work done by the Committee, however, the discussion at the Council level illustrated the fact that Councilors were not comfortable with the change being proposed. She suggested the Committee could reflect on what was said and contact each Councilor for their opinions. Councilor Kaplan stated she was not willing to have this motion pass or fail because the Committee was not willing to take that extra step.

Acting Council President Shannon passed the gavel to Councilor Adrian so that she could speak to this resolution. The Acting, Acting City Council President, Councilor Adrian, stated he would entertain a motion from Councilor Berezniak to withdraw his motion to refer and a motion to postpone to a date certain for a full Council discussion. Councilor Berezniak was not willing to have his motion deferred.

At this time Councilor Wright called the question on whether to refer the resolution to the Charter Change Committee, seconded by Councilor Kranichfeld. The vote to call the question was 11 to 1 with Councilor Decelles voting against. The motion then failed by a vote of 8 to 2 with Councilors Berezniak and Paul voting in favor.

Councilor Shannon then made a motion to postpone discussion of the resolution to the October 4th City Council meeting in order to have a full discussion of the matter. Councilor Kaplan seconded the motion. The motion passed by a vote of 7 to 3, with Councilors Decelles, Dober, and Berezniak voting against.

8. RESOLUTION: Supplemental Budget Resolution #2011-05 Burlington Telecom Reorganization, Personnel Classification and Compensation (Board of Finance)

Councilor Paul made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the resolution. This resolution was created from recommendations of Dorman and Fawcett. Stephen Baraclough from Dorman and Fawcett was available for questions. There were no questions from the Councilors. The motion passed unanimously.

9. ORDINANCE: Bicycle Provisions (Councilors Shannon, Kranichfeld, Bushor: Ordinance Committee; Councilor Paul)(2nd reading)

Councilor Kranichfeld made a motion, seconded by Councilor Berezniak, to waive the 2nd reading and adopt the ordinance as presented to the Council. Will Flender from the Bike/Walk Council and Jason Van Derisch from Local Motion were present to answer questions from the Councilors. It was noted that these ordinance changes had support from the Police Chief and was part of the Safe Streets Collaborative to improve relations between bicyclists and motorists and hopefully would be used throughout the County.

Councilor Mulvaney-Stanak requested that, due to new regulations being proposed, more bike racks be made available for individuals to affix their bicycles to. She also questioned why restorative justice was not used within the ordinance. Councilor Kranichfeld stated fines under this ordinance did not rise to the level of restorative justice and would be an inefficient use of the resource. The ordinance passed unanimously. However, Councilors Dober, Wright and Decelles were not present to vote.

11. RESOLUTION: Authorization to Submit Nomination of the Moran Municipal Generating Station to the National Register of Historic Places (Councilors Adrian, Mulvaney-Stanak: Community Development Committee; Kaplan, Kehoe, Paul: Parks, Arts & Culture Committee)

Councilor Kaplan made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the resolution. Councilor Paul informed the Council that the Board of Finance had approved the resolution earlier in the evening. Kirsten Merriman-Shapiro responded to several Councilors' requests for information on this designation, outlining the lengthy process involved prior to this resolution and the anticipated entities that will have a part in this designation in the future months. Further, this designation did not require that the anticipated tax credits be used. The resolution then passed by a vote of 8 to 1 with Councilor Dober voting against and Councilor Wright absent.

- 11.01. COMMUNICATION: Kirsten Merriman Shapiro, Special Projects Manager, CEDO, re: Moran Center Project: Nomination to the National Register of Historic Places

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

11.5. (was 3.11.) RESOLUTION: Amended Approval of Refinancing Certain Tax-Exempt Airport Facility Revenue Bonds by Burlington Community Development Corporation for Refunding and Financing of Some Costs of Certain Airport Facilities (Board of Finance)

Councilor Paul made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the resolution. Councilor Paul noted this refinancing structure was in the best interests of the City and was approved unanimously by the Board of Finance. CAO Leopold explained this was for the refinancing of the Aviation Support Facility at the Industrial Park at the Airport and would result in a lower interest rate. The motion passed unanimously by the 9 voting members present.

11.5.01. RESOLUTION: Amended Approval of Refinancing Certain Tax-Exempt Airport Facility Revenue Bonds by Burlington Community Development Corporation for Refunding and Financing of Some Costs of Certain Airport Facilities (Board of Finance)

Councilor Paul made a motion, seconded by Councilor Dober, to waive the reading and adopt the resolution. This resolution, in effect, confirmed that the City approved the transactions that BCDC was entering into, especially in relation to the relationship between BCDC and the City. The motion passed unanimously.

11.6. RESOLUTION: Authorization to Amend Champlain Parkway Design Contract (Board of Finance)

Councilor Kehoe made a motion, seconded by Councilor Adrian, to waive the reading and adopt the resolution. Councilor Adrian asked Steve Goodkind, Public Works Director, to explain the history of the Champlain Parkway from 2006. Mr. Goodkind reported that the City had paid the 2% of the total costs of the project and the rest was reimbursable from the State. In response to Councilor Adrian's question, Director Goodkind stated the City's share had always been budgeted, but the 98% that was to be paid by, or passed through, the State was slow to be returned to the City and there was a large outstanding amount of money still to be returned from the State. The motion then passed unanimously.

12. COMMITTEE REPORTS

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

14. COMMUNICATION: Acting Mayor Keogh, re: General City Affairs

There were no comments regarding agenda items 12 through 14.

15. ADJOURNMENT

On a motion by Councilors Decelles and Kaplan, the Regular City Council Meeting was adjourned at 11:38 p.m.

Attest:

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

BOARD OF CIVIL AUTHORITY

MONDAY, SEPTEMBER 13, 2010

11:38 P.M.

PRESENT: Councilors Decelles, Dober, Berezniak, Paul, Kehoe, Shannon, Adrian, Kaplan, Kranichfeld, and Mulvaney-Stanak

ACTING MAYOR KEOGH PRESIDING:

1. AGENDA

On a motion by Board of Civil Authority Members Dober and Decelles the agenda was adopted as is.

2. RESOLUTION: Designation of Polling Place for Ward 7 (Councilors Dober, Decelles)

Councilor Dober made a motion, seconded by Councilor Decelles, to waive the reading and adopt the resolution. Councilor Dober discussed the issues associated with voting at the Miller Center. Councilor Dober also performed an online and door-to-door survey of his ward about this issue, with 80% of the individuals requesting the voting be returned to Hunt Middle School. The motion passed unanimously.

3. ADJOURNMENT

Without objection, Acting Mayor Keogh adjourned the meeting of the Board of Civil Authority at 11:42 p.m.

Attest:

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

CITY COUNCIL WITH MAYOR PRESIDING

MONDAY, SEPTEMBER 13, 2010

11:42 P.M.

PRESENT: See the Board of Civil Authority attendance

ACTING MAYOR KEOGH PRESIDING:

1. AGENDA

The agenda was adopted as is per Acting Mayor Keogh.

2. CONSENT AGENDA

On a motion by Councilors Paul and Dober, the consent agenda was adopted 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 6/30/11)

Councilor Paul nominated Stephen Offenhartz.

4. APPOINTMENT: Planning Commission (Term expires 6/30/11)

Councilor Shannon nominated Harris Roen.

Councilor Dober nominated Jeremy Farkas.

Harris Roen was appointed to the Planning Commission.

5. ADJOURNMENT

The meeting of the City Council with Mayor Presiding was adjourned at 11:44 p.m. by Acting Mayor Keogh.

Attest:

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

BOARD OF ABATEMENT OF TAXES
MONDAY, SEPTEMBER 13, 2010
7:14 P.M.

PRESENT: See above; also City Assessor Vickery

ACTING MAYOR KEOGH PRESIDING:

1. AGENDA

Councilor Shannon made a motion to amend the agenda to remove agenda items 2.03 and 2.23 from the consent agenda and place them on the Deliberative agenda as agenda items 5 and 6. With no second and at the request of the Acting Mayor, the agenda was adopted as amended.

2. CONSENT AGENDA

On a motion by Councilors Decelles and Kranichfeld, the Board of Abatement of Taxes voted unanimously to adopt the consent agenda 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

2.02. REQUEST FOR ABATEMENT OF TAXES: Howard Seaver
95 St. Paul Street, Suite 405
PPP077927

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

2.04. REQUEST FOR ABATEMENT OF TAXES: After Hours/Men's Wearhouse, Inc.
Not in Burlington
PPP256462

*waive the reading and abate \$1909.23 Taxes, Penalties & Interest

2.05. REQUEST FOR ABATEMENT OF TAXES: It's Yours
138 Church Street

PPP256439

*waive the reading and abate \$2002.35 Taxes, Penalties & Interest

2.06. REQUEST FOR ABATEMENT OF TAXES: Elizabeth Peter Collins
25 Lake Forest Drive
056-3-002-025

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

2.07. REQUEST FOR ABATEMENT OF TAXES: A & R Development LLC
189-191 So. Champlain Street
049-1-042-000

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

2.08. REQUEST FOR ABATEMENT OF TAXES: Vermont Business Magazine
2 Church Street
PPP223170

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

2.09. REQUEST FOR ABATEMENT OF TAXES: Theresa Ingram, Jean Ingram
16 Bittersweet Lane
057-3-052-000

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

2.10. REQUEST FOR ABATEMENT OF TAXES: Estate of Silas E. Tracy
Near Tracy Drive
027-3-088-000

*waive the reading and abate \$1460.57 Taxes, Penalties & Interest

2.11. REQUEST FOR ABATEMENT OF TAXES: Estate of Wilfred Florence
Near Staniford Road
028-1-090-000

*waive the reading and abate \$6460.01 Taxes, Penalties & Interest

2.12. REQUEST FOR ABATEMENT OF TAXES: Dennis & Jennifer Morehouse
Vacant rear lot of 161-163 North St.
044-1-351-000

*waive the reading and abate \$44,984.11 Taxes, Penalties & Interest; have owner pay agreed amount of \$1,377.79

2.13. REQUEST FOR ABATEMENT OF TAXES: Estate of Elmere Davis
Near Nash Place
046-1-043-000

*waive the reading and abate \$2676.72 Taxes, Penalties & Interest

2.14. REQUEST FOR ABATEMENT OF TAXES: Estate of Elmere Davis
Near Nash Place
046-1-053-000

*waive the reading and abate \$12740.85 Taxes, Penalties & Interest

2.15. REQUEST FOR ABATEMENT OF TAXES: Estate of William Bashaw
Near Maple Street
049-2-006-000

*waive the reading and abate \$7619.62 Taxes, Penalties & Interest

- 2.16. REQUEST FOR ABATEMENT OF TAXES: Estate of Julia Hynes
Near Spruce Street
049-4-137-000
*waive the reading and abate \$12944.38 Taxes, Penalties & Interest
- 2.17. REQUEST FOR ABATEMENT OF TAXES: Anna L. Farnsworth
Alfred Terrace (roadway)
058-1-013-000
*waive the reading and abate \$6856.83 Taxes, Penalties & Interest
- 2.18. REQUEST FOR ABATEMENT OF TAXES: Estate of Anna R. Thibault
Near Pine Street
060-1-004-000
*waive the reading and abate \$5087.56 Taxes, Penalties & Interest
- 2.19. REQUEST FOR ABATEMENT OF TAXES: Intervale Automotive Services
40 Intervale Road
PPP256525
*waive the reading and abate \$594.80 Taxes, Penalties & Interest
- 2.20. REQUEST FOR ABATEMENT OF TAXES: Shawn & Erika Leblanc
167 Curtis Avenue
027-1-037-000
*waive the reading and deny the request for abatement of taxes
- 2.21. REQUEST FOR ABATEMENT OF TAXES: Various Uncollectible Bus Pers Prop
Various
Various
*waive the reading and abate \$181,253.92 Taxes, Penalties & Interest
- 2.22. REQUEST FOR ABATEMENT OF TAXES: Lake Champlain Chocolates
444 Pine Street
PPP033069
*waive the reading and deny the request for abatement of taxes
- 2.24. REQUEST FOR ABATEMENT OF TAXES: Marie Aube Smith, Trustee
272 Plattsburgh Avenue
024-1-046-000
*waive the reading and deny the request for abatement of taxes
- 2.25. REQUEST FOR ABATEMENT OF TAXES: Frances E. Politi
10 Crescent Beach Drive
032-1-033-000
*waive the reading and abate \$45.91 Penalty
- 2.26. REQUEST FOR ABATEMENT OF TAXES: Rich Frog Industries
1 Mill Street
PPP183034
*waive the reading and deny the request for abatement of taxes
3. REQUEST FOR ABATEMENT OF TAXES: Bilmar Team Cleaners/Margaret Murray
150 Shelburne Street
054-2-028-000

Mr. Richard Brock and Thomas Rock were present on behalf of Margaret Murray who was also present. Councilor Kranichfeld explained the abatement decision on this item. Senior Assistant City Attorney Bergman noted the variety of issues related to the site and noted the collectability of the taxes. Attorney Brock, representing Ms. Murray, outlined his client's position regarding the unknown environmental liability and unknown marketability of the property. City Assessor Vickery reminded the Council that any costs of cleanup, following a \$10,000 deductible, would be covered by the Petroleum Cleanup Fund.

Councilors Shannon, Berezniak, Adrian, Wright and Paul asked Ms. Murray a number of questions regarding the property. Councilor Kehoe asked clarifying questions about the statutes regarding abatement of taxes.

Councilor Kranichfeld made a motion to abate the appellant's taxes in the amount recommended of \$16,112, seconded by Councilor Decelles. Councilor Berezniak made a motion to amend the amount of abatement, reducing the amount by 50% of the total amount of \$112,000, waiving penalties and interest.

Following a recess, Councilor Wright proposed an amendment to abate interest and penalties. Acting Mayor Keogh expressed confusion as to whether a motion was on the floor, to which Councilor Berezniak made a motion to waive the interest and penalties of the property up to Tax Year 2010, seconded by Councilor Kehoe. Following a question from Senior Assistant City Attorney Bergman, who noted Councilor Kranichfeld had a motion on the floor already, Acting Mayor Keogh stated the motion from Councilor Berezniak was an amendment. Following Councilor Decelles point of order, a motion was made to amend Councilor Kranichfeld's original motion. Councilor Decelles noted the number provided was approximately \$54,000 and he did not feel it was appropriate to vote for approximate numbers. Councilor Kehoe and Shannon stated they were voting for a concept (penalties and interest) and it was a matter of fairness.

City Assessor Vickery was concerned about the concept of abating penalties and interest. Rather, he offered the idea of developing an agreement with the appellant, as interest and penalties would continue to accrue even following this decision.

Councilor Kaplan then called the question, seconded by Councilor Kehoe. The motion to call the question passed by a vote of 11 to 1 with Councilor Shannon voting against.

Clarifying the motion, Senior Assistant City Attorney Bergman suggested the wording to be to abate the interest and penalties for all the years in question up to and including the tax year 2010. The amendment failed by a vote of 9 to 3 with Councilors Wright, Berezniak and Kehoe voting in favor of the abatement.

Councilor Kranichfeld then made a motion to call the question, seconded by Councilor Kehoe. The motion to call the question passed by a vote of 11 to 1 with Councilor Shannon voting against. Councilor Kranichfeld then reminded the Council what the original motion was. The motion then passed unanimously.

4. REQUEST FOR ABATEMENT OF TAXES: Christopher Whitaker
322 South Winooski Avenue
049-4-136-000

Mr. Whitaker presented his position on the abatement of his taxes. City Assessor Vickery explained the City's position on the money that was received by Mr. Whitaker's mortgage company for unpaid taxes. Councilor Shannon then made a motion to abate all interest and penalties due and require payment of the actual taxes. The motion was seconded by Councilor Kehoe. The motion to abate failed by a vote of 7 to 5, with Councilors Shannon, Kehoe, Berezniak, Paul, Kaplan voting in favor.

5. (was 2.03) REQUEST FOR ABATEMENT OF TAXES: Lindol M. Atkins, Jr.
45 Murray Street

044-1-387-000

Councilor Shannon made a motion, seconded by Councilor Kaplan, to abate the taxes. Councilor Shannon disagreed with the Committee's recommendation and outlined her reasons. City Assessor Vickery agreed with Councilor Shannon's opinion in this matter. Councilor Decelles noted his concern with making exceptions to the Committee's recommendation and stated there was no error on the part of the City that would require abatement. The motion to abate the taxes passed by a vote of 7 to 5, with Councilors Mulvaney-Stanak, Kaplan, Shannon, Berezniak, Paul, Dober, Kehoe voting in favor.

6. (was 2.23) REQUEST FOR ABATEMENT OF TAXES:Kalsang GGT
28 Pomeroy Street
045-1-141-000

Councilor Kranichfeld made a motion to deny abatement of taxes, seconded by Councilor Decelles. Councilor Kranichfeld noted there was no error made by the City and he did not believe the taxes should be abated. Councilor Shannon disagreed with the Committee's recommendation, stating the resident had set up a direct deposit which did not take place. Councilor Dober disagreed with Councilor Shannon, stating that the resident did not perform the follow up required of any taxpayer to ensure the taxes were paid by direct deposit. The vote to deny abatement of taxes passed by a vote of 10 to 2, with Councilors Shannon and Keogh voting in favor of the abatement.

Councilor Wright called a point of order, asking that the Board of Abatement of Taxes recess in order to hold the Public Forum of the City Council. The Acting Mayor agreed and the Board recessed at 8:33 p.m. The Board of Abatement of Taxes re-convened at 8:49 p.m.

5. ADJOURNMENT

On a motion by Councilors Mulvaney-Stanak and Paul, the Board of Abatement of Taxes voted unanimously to adjourn at 9:10 p.m.

Attest:

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