
DELIBERATIVE AGENDA

LOCAL CONTROL COMMISSION
CONTOIS AUDITORIUM, CITY HALL
MONDAY, SEPTEMBER 27, 2010
7:02 P.M.

PRESENT: Commissioner Mulvaney-Stanak, Bushor, Kaplan, Adrian, Shannon, Keogh, Decelles, Wright, Berezniak, Paul (arrived at 7:35 p.m.), Dober (arrived at 7:39 p.m.; departed at 8:43 p.m.), Mayor Kiss (arrived at 7:05 p.m.); Commissioner Kranichfeld via phone

ABSENT: Commissioner Kehoe

CITY ATTORNEY'S OFFICE: Ken Schatz and Richard Haesler (arrived at 7:29 p.m.; departed at 8:54 p.m.)

CLERK/TREASURER'S OFFICE: Jonathan Leopold, Scott Schrader and Lori Olberg

PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Commissioners Berezniak and Decelles, the agenda was adopted as is.

2. CONSENT AGENDA

On a motion by Commissioners Berezniak and Shannon, the consent agenda was adopted, thus taking the following actions as indicated:

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

Manhattan Pizza

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Restaurant Liquor License Renewal for Manhattan Pizza with all standard conditions along with special conditions to include: proper hood cleaning; all contractor work to be completed by 11/1/10 and cages need to be mounted around all smoke detectors

2.02. OUTSIDE CONSUMPTION PERMIT RENEWAL (2010-2011):

Manhattan Pizza

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Outside Consumption Permit Renewal for Manhattan Pizza with all standard conditions along with special conditions to include: proper hood cleaning; all contractor work to be completed by 11/1/10 and cages need to be mounted around all smoke detectors

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

JRS Corp., d/b/a Akes' Place, 134 Church Street

Commissioner Berezniak made a motion, seconded by Commissioner Mulvaney-Stanak, to approve the First Class Cabaret Liquor License Application for Akes' Place. Commissioner Kaplan reminded the Local Control Commission of noise complaints from downtown bars and that establishments should be

informed these licenses were a privilege and not a right. Commissioner Bushor noted it had been some time since the rules on outdoor consumption had been reviewed. Commissioner Mulvaney-Stanak stated a meeting had been scheduled already and Commissioners were invited to attend to speak to this issue. The motion then passed unanimously.

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

JRS Corp., d/b/a Akes' Place, 134 Church Street

Commissioner Berezniak made a motion, seconded by Commissioner Mulvaney-Stanak, to approve the Outside Consumption Permit Application for Akes' Place. The motion passed unanimously.

4. ADJOURNMENT

On a motion by Commissioner Berezniak with no second, the Local Control Commission adjourned at 7:08 p.m.

Attest:

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

REGULAR MEETING, CITY COUNCIL
MONDAY, SEPTEMBER 27, 2010
7:08 P.M.

PRESENT: See above

ABSENT: See above

PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilors Adrian and Bushor, the agenda was amended and approved unanimously as follows: note correct title for consent agenda item 3.12. RESOLUTION: Supplemental Budget Resolution 2011-06 Authorization for Acceptance and Appropriation of 2010 Justice Assistance Grant (JAG) Funding for Crime Prevention Programs (Board of Finance); remove from the consent agenda item 3.29. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for September 13, 2010; add to the agenda item 3.5. INDOOR ENTERTAINMENT PERMIT APPLICATION (2010-2011): JRS Corp., d/b/a Akes' Place, 134 Church Street; add Councilor Adrian as a co-sponsor to agenda item 7. RESOLUTION: November 2, 2010 Ballot Question on Legalization of Cannabis and Hemp Products (Councilor Mulvaney-Stanak) and remove from the agenda item 10. REPORT: Jonathan P.A. Leopold, Jr., Chief Administrator Officer, re: FY2010 Revenues & Expenses (oral) (15 mins.).

2. PUBLIC FORUM

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

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Helen Hossley	7	Supported Voting at Miller Center
Ken Lawless	3	Celebrating the Cows Coming to VT

Richard Kemp	5	Supported Resolution on Cannabis
Jason Lorber	3	Supported Resolution on Cannabis
Greg Jenkins		Supported Resolution on Cannabis/ Supported Livable Wage for Councilors
Jay Vos	5	Let Voters Decide on Resolution on Cannabis
Samuel Pelletier	UVM Student	Supported Resolution on Cannabis
Ben Dangi	6	Supported Resolution on Cannabis
Dennis Steele	Gubernatorial Candidate	Supported Resolution on Cannabis
Peter Garritano	Lt. Governor Candidate	Supported Resolution on Cannabis
Jennifer Green	Legacy Project Coordinator	Move the Comprehensive Transportation Plan Soon
Lani Ravin	UVM	Concerned With Flood Map
Martha Lang		Opposed Colchester Avenue Redesign
Joe Golden		Supported Resolution on Cannabis
Jonathan Leavitt		Supported Resolution on Cannabis

There being no one further coming forward, President Keogh closed the public forum at 8:08 p.m.

3. CONSENT AGENDA

On a motion by Councilors Adrian and Kaplan, the consent agenda was adopted unanimously, as amended, thus taking the following actions as indicated.

Councilor Shannon made a motion to amend the consent agenda items 3.02. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE—Front Yard Setback Illustration #ZA 11-01 (Planning Commission)(1st reading); 3.03. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE—Emergency Demolition Exemption #ZA 11-02 (Planning Commission)(1st reading) with the action to “waive the readings, suspend the rules and place the ordinances in all stages of passage;” and amend the consent agenda item 3.04. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning, re: Proposed Zoning Amendments: ZA-11-01 Front Yard Setback Illustration and ZA-11-02 Emergency Demolition Exemption with the action to “waive the reading, accept the communication and place it on file.”

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. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE—Front Yard Setback Illustration #ZA 11-01 (Planning Commission)(1st reading)

*waive the reading, suspend the rules and place in all stages of passage

- 3.03. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE—Emergency Demolition Exemption #ZA 11-02 (Planning Commission)(1st reading)
*waive the reading, suspend the rules and place in all stages of passage
- 3.04. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning, re: Proposed Zoning Amendments: ZA-11-01 Front Yard Setback Illustration and ZA-11-02 Emergency Demolition Exemption
*waive the reading, accept the communication and place it on file
- 3.05. RESOLUTION: Approval of Agreement Between Georgia Mountain Community Wind, LLC and Burlington Electric Department (Board of Finance)
*waive the reading and adopt the resolution
- 3.06. RESOLUTION: Authorization to Execute the 2010 Tiger Grant Agreement for the Waterfront Access North Project (Board of Finance)
*waive the reading and adopt the resolution
- 3.07. COMMUNICATION: Kirsten Merriman Shapiro, CEDO, Special Projects Manager, re: Authorization to Execute the 2010 TIGER grant agreement for the Waterfront Access North Project
*waive the reading, accept the communication and place it on file
- 3.08. RESOLUTION: Authorization for Land Purchases and Relocation Services in Anticipation of AIP Grant Funds for Burlington International Airport (Board of Finance)
*waive the reading and adopt the resolution
- 3.09. RESOLUTION: Ratification of Acceptance of Grant Offer for Continuation of Construction of Taxiway “J” Connection to Runway 33 at Burlington International Airport (Board of Finance)
*waive the reading and adopt the resolution
- 3.10. RESOLUTION: Authorization to Contract for Services Associated with Escalator Replacement Project at Burlington International Airport (Board of Finance)
*waive the reading and adopt the resolution
- 3.11. RESOLUTION: Authorization to Lease Business at Burlington International Airport (Board of Finance)
*waive the reading and adopt the resolution
- 3.12. RESOLUTION: Supplemental Budget Resolution #2010-11-06 Authorization for Acceptance and Appropriation of 2010 Justice Assistance Grant (JAG) Funding for Crime Prevention Programs (Board of Finance)
*waive the reading and adopt the resolution
- 3.13. RESOLUTION: Authorization to Enter into License Agreement to Maintain Bike Racks On a Portion of the City’s Right-of-way with Courtyard Burlington Harbor Hotel (Councilors Dober, Berezniak, Mulvaney-Stanak: License Committee)
*waive the reading and adopt the resolution
- 3.14. RESOLUTION: License Agreement with Chittenden County Transportation Authority to

Place Two Bus Shelters and Bike Racks On a Portion of the Public Rights-of-way on Shelburne Road (Councilors Dober, Berezniak, Mulvaney-Stanak: License Committee)

*waive the reading and adopt the resolution

3.15. RESOLUTION: Authorization to Enter into License Agreement to Maintain Outdoor Furniture On a Portion of the City's Right-of-way with Sam's Unfinished Furniture (Councilors Dober, Berezniak, Mulvaney-Stanak: License Committee)

*waive the reading and adopt the resolution

3.16. RESOLUTION: Authorization to Enter into License Agreement with ICV Construction, Inc. to Erect Construction Barriers On a Portion of the City's Right-of-Way (Councilors Dober, Berezniak, Mulvaney-Stanak: License Committee)

*waive the reading and adopt the resolution

3.17. INDOOR ENTERTAINMENT PERMIT RENEWAL (2010-2011): Manhattan Pizza

*waive the reading, accept the communication, place it on file and approve the 2010-2011 Indoor Entertainment Permit Renewal for Manhattan Pizza with all standard conditions along with special conditions to include: proper hood cleaning; all contractor work to be completed by 11/1/10 and cages need to be mounted around all smoke detectors

3.18. 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 as received at the September 13, 2010 City Council Meeting

3.19. 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 as received at the September 13, 2010 City Council Meeting

3.20. 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 as received at the September 13, 2010 City Council Meeting

3.21. 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 as received at the September 13, 2010 City Council Meeting

3.22. COMMUNICATION: Steven Offenhartz, Alternate Member, Design Advisory Board, re: Resignation

*waive the reading, accept the communication, place it on file and advertise the vacancy (already did) and send a congratulatory letter (already did) to Steven Offenhartz on his DAB appointment as a Full Member

3.23. COMMUNICATION: Lieutenant Art Cyr, Burlington Police Department, re: 18 plus permits change in policy

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

- 3.24. COMMUNICATION: Harris Roen, Member, Conservation Board, re: Resignation
*waive the reading, accept the communication, place it on file and advertise the vacancy (already did) and send a congratulatory letter (already did) to Harris Roen on his Planning Commission appointment
- 3.25. COMMUNICATION: Marc D. Landry, Chair, CCMPO to Brian Searles, Director of Aviation,
re: Thank you for the Tour
*waive the reading, accept the communication and place it on file
- 3.26. COMMUNICATION: Diane Noyes, Ward Seven, Ward Clerk, re: Opposition to Moving Ward
7 Polling Place back to Hunt Middle School (9/13/10 Public Forum
Handout)
*waive the reading, accept the communication and place it on file
- 3.27. COMMUNICATION: Helen Hossley, Ward Seven, Resident, re: Opposition to the City Paying
for the Fit Up at the Miller Center for a private entity, Y (9/13/10 Public
Forum Handout)
*waive the reading, accept the communication and place it on file
- 3.28. COMMUNICATION: University of Vermont Transportation Research Center, re: Estimating
Tourism Expenditures for the Burlington Waterfront Path and the Island
Line Trail (9/13/10 Public Forum Handout)
*waive the reading, accept the communication and place it on file

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

JRS Corp., d/b/a Akes Place, 134 Church Street

Councilor Berezniak made a motion, seconded by Councilor Shannon, to approve the Indoor Entertainment Permit Application for Akes' Place. The motion passed unanimously.

4. PUBLIC HEARING: Burlington Municipal Development Plan – 2010 Transportation Plan

Sandrine Thibault spoke briefly, reminding the Council that the first hearing was already held on this item and a brief summary of the plan was provided. Councilor Shannon made a motion to refer this item to the Transportation, Energy and Utilities Committee to provide the opportunity for community involvement. The motion was seconded by Councilor Wright.

President Keogh opened the public hearing at 7:17 p.m. There being no one coming forward, President Keogh closed the public hearing at 7:17 p.m.

The Mayor noted that the referral to the TEUC was redundant. President Keogh stated the TEUC was not concerned about the substance of the policy but the process involved. Additionally the business community wanted another look at the policy. Councilor Mulvaney-Stanak noted the plan had been worked on for over three years, there had been a lot of community involvement and asked for a time certain date for return so as not to hold up the process. Council President Keogh stated this plan would be acted on as soon as possible and not to consider the referral as a place the Plan would remain stagnant. The motion to refer the plan to the Transportation, Energy and Utilities Committee passed unanimously.

4.01. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning,
Re: Proposed Municipal Development Plan Amendment:
MDP-10-01 Burlington Transportation Plan

4.02. COMMUNICATION: DPW, P& Z, CEDO, re: Moving Forward Together:

Transportation Plan for the City of Burlington

- 4.03. COMMUNICATION: Clerk/Treasurer's Office, re: Public Hearing Notice
Burlington Municipal Development Plan – 2010 Transportation
Plan

Council President Keogh made a motion regarding agenda items 4.01. through 4.03., with it being to waive the readings, accept the communications and placing them on file.

5. PUBLIC HEARING: Consolidated Annual Performance & Evaluation Report

Councilor Mulvaney-Stanak made a motion, seconded by Councilor Kaplan, to accept the report and place it on file. Margaret Bozik presented information to the Council about the report.

Councilor Bushor spoke to Ms. Bozik about the commercial vacancy rate and the lack of affordable rental properties that were recorded in the report. Councilor Adrian questioned Ms. Bozik on how the priorities noted in the report were determined. Ms. Bozik explained the priorities were part of a five-year consolidated plan developed through public participation and approved by the City Council in 2008.

President Keogh opened the public hearing at 7:27 p.m. With no one coming forward, President Keogh closed the public hearing at 7:27 p.m.

- 5.01. COMMUNICATION: Margaret Bozik, Assistant Director for Community
Development, CEDO, re: CAPER

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

6. PUBLIC HEARING: Burlington Comprehensive Development Ordinance #ZA 10-08

Councilor Shannon made a motion, seconded by Councilor Bushor, to waive the reading and adopt the ordinance (agenda item 6.01.). Sandrine Thibault informed the Council this ordinance was related to the National Flood Insurance Program which enabled property owners to purchase flood insurance at reduced rates. Participating communities must establish flood management programs for the area. The City was contacted by the State with changes they said needed to be made to comply with the federal program. These changes had been reviewed by the Planning Commission and the Ordinance Committee prior to being sent to Council.

President Keogh opened the public hearing at 7:30 p.m. There being no one coming forward, President Keogh closed the public hearing at 7:30 p.m. Councilor Shannon made a motion, seconded by Councilor Bushor, to waive the reading, accept the communication and place it on file (agenda item 6.02.).

- 6.01. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE—Amendment
Related to Special Flood Hazard Area Regulations #ZA 10-08

- 6.02. COMMUNICATION: Clerk/Treasurer's Office, re: Public Hearing Notice Burlington
Comprehensive Development Ordinance

The motion for both agenda items passed unanimously.

7. RESOLUTION: November 2, 2010 Ballot Question on Legalization of Cannabis and
Hemp Products (Councilor Mulvaney-Stanak and Adrian)

Councilor Mulvaney-Stanak made a motion to waive the reading and adopt the resolution, as amended, seconded by Councilor Bushor. Councilor Mulvaney-Stanak explained to the Council that while there

were not enough signatures to place the question on the November ballot by petition, at this time there were 1,200 signatures, a significant number for a local question. She was advised that this item could be placed on the ballot by a vote of the City Council. She saw her role as facilitating people's access to democracy, saw it as the role of the Council to allow residents to have this discussion and asked for the support of the Council.

Councilor Adrian spoke in support of the resolution, stating the amount of resources being spent by the police and criminal system to deal with cannabis. Councilor Paul called a point of order, stating the discussion was to be about putting this item on the ballot and not on the merits of cannabis or hemp. Council President Keogh agreed and Councilor Adrian was reminded of such. Councilor Adrian stated his comments were appropriate and found it inappropriate that Councilor Paul cut him off.

Councilor Decelles stated in his view there was a clear procedure for placing items on a ballot and this would set a precedent. He explained that 1,653 signatures were required and that had not yet been achieved. Councilor Wright asked City Attorney Schatz if these signatures would still be valid if this matter was placed on the ballot in March. City Attorney Schatz stated there was no specific deadline, however, at some point they would be considered stale. Councilor Wright explained his experience with the Instant Runoff Voting question and the amount of work and effort it took to have that ready for the election. He did not feel the Council should step in to finish the project for anyone. He also believed this question was being proposed to increase voter turnout of young people and he did not believe this was the way to do that.

Councilor Berezniak supported the resolution, explaining that he supported Voters' rights to make the decision on this matter. Councilor Kaplan asked about the costs associated with the City having a separate ballot item during a State-wide Election, to which Assistant CAO Schrader responded that in the past the cost was \$8,000 for programming and printing.

Councilor Shannon explained that a petition format was not the preferred and only way to get an item on the ballot and, in fact, was used primarily when a Council was resistant to an item being put on the ballot. The Council was indeed allowed to place this item on the ballot. Councilor Bushor, noting her support, stated this was an advisory, non-binding question and she saw no problem with the Council voting to support this. Councilor Bushor noted that due to the cost she would rather this item be put before the voters in March but would support the placement in November.

President Keogh requested the vote be done by roll call.

Councilor Decelles expressed frustration that the Council was discussing this matter when it was clear that the numbers required to be placed on the ballot were not reached. Councilor Adrian asked if a City question could be added to the State ballot. Assistant CAO Schrader stated the State ballots had already been received. He also stated that there was now the potential of having multiple ballots required in each ward.

Councilor Decelles called the question at this time, seconded by Councilor Paul. The motion passed unanimously. The vote was as follows:

Ayes: Councilors Adrian, Berezniak, Bushor, Kranichfeld, Mulvaney-Stanak, Shannon

Nayes: Councilors Decelles, Dober, Kaplan, Paul, Wright, Keogh

The resolution failed by a vote of 6 in favor, 6 opposed and one absent (Kehoe).

8. COMMUNICATION: Michael Schirling, Chief of Police, Karen Vastine, Community Justice Center, Richard Haesler, Assistant City Attorney, re: Update on Pilot Project – Civil Ticketing

Councilor Shannon made a motion, seconded by Councilor Berezniak, to waive the reading, accept the communication and place it on file. Police Chief Schirling reported to the City Council on the pilot program, stating that due to the Challenges for Change and the way the Courts were now operating, municipal tickets were essentially dying on the vine. There was no substantive recourse if the tickets were not paid; therefore, the pilot program would be discontinued.

9. REPORT: Sharon Bushor, Ward One Councilor, re: Ambassador's Report

Councilor Bushor expressed her thanks and appreciation to the Council members who supported her going to Russia as an ambassador. She shared with the Council experiences she had while at the 1,000th anniversary of Burlington's sister city, Yaroslavl.

11. COMMITTEE REPORTS

Councilor Paul informed the Council that the TEUC would be meeting to discuss the Transportation Plan. She also stated that although she was not on the Audit Task Force she could report on the progress so far. The Task Force was made up of 5 auditors who had been discussing many issues such as the small number of bids received historically for auditing services and the possibility of separately auditing the enterprise funds.

Councilor Decelles informed the Council of the upcoming Charter Change Committee meeting. The Committee would be discussing the 50% requirement to elect a Mayor and revisiting the charter change that had been referred back to Committee on the question of whether the CAO could be a voting member of the Board of Finance. He extended an invitation to other Council members to attend the Charter Change Committee meeting.

Councilor Kaplan informed the Council the Parks, Arts and Culture Committee would be provided an update on the Moran Project.

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

Councilor Decelles addressed comments made about the Ward 7 polling place. He noted that he and Councilor Dober were both concerned about voting accessibility and safety and believed, after listening to a number of voters in the Ward, that it was best to move the polling location back to Hunt Middle School.

Councilor Wright expressed his concern about the traffic congestion and safety concerns at St. Mark's.

Councilor Bushor reported to the Council that Ward 1 residents from East Avenue were attempting to deal proactively with the influx of students from UVM. In particular, trespassing and trash were increasing for these residents with UVM's use of Trinity Campus. She noted that the start of this academic year was better than last year but was still a problem.

She also explained that a splintering of oversight was occurring with the Colchester Avenue project. She found that DPW was moving forward with a plan on Colchester Avenue that other groups of participants were unaware of. She encouraged DPW, the TEUC and the Colchester Avenue Corridor Task Force to work cooperatively so that appropriate individuals could weigh in on decisions.

Councilor Kaplan, regarding voting at St. Mark's, stated she had spoken with the School Superintendent who was aware of the issues related to voting that Councilor Wright spoke of.

Councilor Berezniak informed the Council that solutions to safety issues on Decatur Street would soon be put in place, with speed bumps being installed.

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

Mayor Kiss spoke briefly about being part of a delegation from the United States to celebrate the 1,000th anniversary of Yaroslavl. He explained the impact our relationship with the sister city had, noting that 12 people had graduated with MBA's from UVM as a result of the connection with this sister city and the ongoing relationships with the Library and the Mayor's Offices of the two cities.

He explained to the Council a relationship between the City of Burlington and Lockheed Martin that had recently been recognized by national organizations. The work being done together by the two organizations related to climate change solutions and came about as a result of work done by the Legacy Project and the Sustainability Action Plan.

The Mayor discussed the groundbreaking of the expansion of the Community Health Center, a project funded by federal funds. The service capacity would now expand from 13,000 people to 20,000 people. He believed this met the desire of Burlington to help meet the human needs of its residents.

The Mayor then informed the Council of the recent decision by the Maritime Museum to withdraw as one of the members of the Moran Project. He continued to express support for the project. He then read from a letter from the Ice Factor continuing to state their commitment to the project.

14. ADJOURNMENT

Council President Keogh, without objection, then adjourned the Regular City Council Meeting at 9:38 p.m.

Attest:

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