

CITY COUNCIL EXECUTIVE SESSION
CONFERENCE ROOM 12, CITY HALL
5:45 P.M. – 7:15 P.M.

- 1. AGENDA
- 2. DISCUSSION: Jonathan P.A. Leopold, Jr. CAO and Chris Burns, General Manager, BT,
re: Confidential BT Business Plan Discussion and Confidential BT Marketing
Plan Discussion

- 3. ADJOURNMENT

REGULAR MEETING, CITY COUNCIL
CONTOIS AUDITORIUM, CITY HALL
MONDAY, DECEMBER 7, 2009
7:40 P.M.

PRESENT: Councilors Caldwell, Davis, Mulvaney-Stanak, Bushor, Adrian, Shannon, Ellis, Keogh,
Kehoe, Dober, Paul, Berezniak. Mayor Kiss

ABSENT: Councilors Decelles, Kaplan

CITY ATTORNEY’S OFFICE: Ken Schatz, Richard Haesler, Jr., Gene Bergman

CLERK/TREASURER’S OFFICE: Jonathan P.A. Leopold, Jr., Ben Pacy, Lori Olberg, Sue Trainor

PRESIDENT KEOGH PRESIDING:

- 1. AGENDA

On a motion by Councilors Adrian and Dober, the City Council voted unanimously to adopt, as amended, the agenda as follows: note the correct sponsors for consent agenda item 6.03. RESOLUTION: Support for Regional Transit Authority (Councilors Paul, Keogh, Caldwell: TEUC Committee); remove from the item 12. RE-CONSIDERATION OF RESOLUTION RELATING TO TEMPORARY REMOVAL OF CHIEF ADMINISTRATIVE OFFICER (Councilors Shannon, Kehoe); remove item 13. RESOLUTION: Power of the Chief Administrative Officer (CAO) to Vote on the Board of Finance (Councilors Decelles, Dober, Adrian, Kaplan, Kehoe).

- 2. PUBLIC FORUM

President Keogh opened the public forum at 7:52 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Roger Marshall	5	Supported Buildings Ordinance
Jacob Poirier	3	Bike Thefts and Bike Racks
Tim George	Ward 7, BTAC Chair	Supported BT/TAC Resolution
Roger Kilbourn		Wait for audit of Burlington Telecom
Benjamin Weber	6	Viability of Burlington Telecom
David Grossnickle	4	Burlington Telecom Debt

David Maher

4

Burlington Telecom

There being no one further coming forward, President Keogh closed the public forum at 8:09 p.m.

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

Councilor Mulvaney-Stanak expressed her appreciation to the Legacy Project for organizing the recent Diversity Dinner which recognized the leadership of people of color in the community. She then encouraged Councilors to volunteer at the upcoming Pomerleau Holiday Party. Finally, she announced her resignation as of December 15th as the Ward 2 Councilor as she would be buying a home in another ward within a few weeks' time.

Councilor Caldwell announced an upcoming rally of those opposed to the war in Afghanistan.

Councilor Davis noted that the Bosnian community was well represented at the Diversity Dinner and spoke of their role in the community after years of living in Burlington. He also expressed his hope that the Council would work toward being civil with each other and respect the President of the Council as well as the Council rules.

Councilor Bushor informed Ward 1 residents of the upcoming NPA meeting in which proposals would be reviewed for submission for Community Development Block Grant money.

Councilor Berezniak noted the upcoming Ward 2/3 NPA meeting.

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

Mayor Kiss addressed the Council stating he continued to believe that Burlington Telecom was an incredible asset to the City. He noted the two resolutions that he had discussed at the last meeting were on the table this evening. One would authorize the Administration to move forward on the refinancing proposal at a cost of no more than \$2,500 with Piper Jaffray. The second resolution created an ad hoc committee which would include Councilors, the Administration, Burlington Telecom and external consultants and would review the ability of BT to meet new debt obligations as well as review strategic alternatives to the lease/purchase financing model.

He then explained that representatives of the Ice Factor from Montreal and Scotland were in town to discuss their involvement with and support in the Moran Project.

5. COMMITTEE REPORTS

Councilor Paul stated that the Parks, Arts and Culture Committee reviewed the expansion of the Burlington Farmers' Market, an idea supported by the vendors. The Farmers' Market was now in discussion with the Director of Parks and Recreation to make this change.

Councilor Shannon stated that the Ordinance Committee would be meeting during the week to discuss Livable Wage and Retirement. Further, the Charter Change Committee would be reviewing the Mayoral Appointment Process of Department Heads during the week.

6. CONSENT AGENDA

On a motion by Councilors Adrian and Shannon, the Council voted unanimously to adopt, as amended, the consent agenda thus taking the following actions as indicated:

6.01. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re:
Accountability List

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

6.02. RESOLUTION: Appointment of Ward Election Officers (Councilor Keogh)

*waive the reading and adopt the resolution

6.03. RESOLUTION: Support for Regional Transit Authority (Councilors Paul, Keogh, Caldwell: TEUC Committee)

*waive the reading and adopt the resolution

6.04. COMMUNICATION: Chittenden County Assistant Judges, Superior Court of Vermont, re: Invitation to Pre-Budget Meeting: Thursday, December 17, 2009, at noon

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

6.05. COMMUNICATION: Jacalyn M. Fletcher, Court Manager/designee, Vermont Environmental Court, re: Ellis & Alles 9-Unit PRD, Docket No. 230-11-09 Vtec

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

6.06. COMMUNICATION: Sanford Miller, Vermont League of Cities and Towns, re: VLCT Board Sets FY11 Dues

*waive the reading, accept the communication, place it on file and send copies to the Board of Finance members

6.07. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (**one day only**):

K2D Group, 156 Bistro, 156 St. Paul Street, Wednesday, November 25, 2009, 8:30 p.m. – 11:00 p.m., Acoustic Duo performing dinner music

*waive the reading, accept the communication, place it on file and ratify the one day only special event indoor entertainment permit application for 156 Bistro

6.08. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Special Meeting of the Board of Finance, November 13, 2009

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

6.09. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance November 16, 2009

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

6.10. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council for June 15, 2009

*waive the reading, accept the communication, place it on file and adopt the minutes at the December 14, 2009 City Council Meeting

6.11. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: City Council Minutes for June 22, 2009

*waive the reading, accept the communication, place it on file and adopt the minutes at the December 14, 2009 City Council Meeting

6.12. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council Meeting of July 13, 2009

*waive the reading, accept the communication, place it on file and adopt the minutes at the December 14, 2009 City Council Meeting

6.13. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor,

*waive the reading, accept the communication, place it on file and adopt the minutes at the December 14, 2009 City Council Meeting

Following the passage of the consent agenda, President Keogh outlined his disappointment in the conduct displayed in the previous two meetings and informed the Councilors of his expectations regarding the proper behavior of the members. He explained the proper use of Roberts' Rules of Order and outlined the misuse of some of the rules. In particular, Point of Order and Point of Information were detailed for this and future meetings.

7. ORDINANCE: BUILDINGS AND BUILDING CONSTRUCTION* ARTICLE III, ABATEMENT AND REHABILITATION OF VACANT BUILDINGS AND STRUCTURES AND DANGEROUS STRUCTURES (Public Works Commission; Public Works Department, Code Enforcement Office) (2nd reading)

Councilor Shannon made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the ordinance. Councilor Shannon noted the changes being made included increasing the definition of vacant buildings from a period of 90 days to 210 days and keeping the vacant buildings free of graffiti.

The motion passed unanimously.

8. COMMUNICATION: Michael E. Schirling, Chief of Police, Karen Vastine, Community Justice Center, Richard Haesler, Assistant City Attorney, re: Noise Ordinance Proposed Changes – Operation Workflow

Both Chief Schirling and Ms. Vastine spoke to the fact that this ordinance change modified the way the Restorative Justice Program was used with noise violations. Councilor Kehoe asked Chief Schirling if discussions with educational institutions had occurred with the possibility of withholding individual diplomas if noise violations had not been addressed. The Chief noted that while they were using a multi-faceted approach to this problem, that particular solution had not been proposed.

Councilor Dober asked about the noise ordinance in relation to car noises. Chief Schirling noted that no changes were being made in the ordinance in that regard. Councilor Mulvaney-Stanak noted her support for the changes, as it spoke more to the spirit of restorative justice. Following a question from Councilor Adrian, Karen Vastine explained that noise violations would be dealt with in group sessions and would be separate from other programs at the Community Justice Center. Councilor Bushor stated she was not as supportive of the community service hours being removed and approved of it only as a pilot program. She also suggested that the educational institutions supported this particular program financially.

Councilor Shannon made a motion, seconded by Councilor Mulvaney-Stanak, to waive the reading, accept the communication and place it on file. The motion passed unanimously.

- 8.01. RESOLUTION: Proposed Pilot Program for Amended Noise Ordinance (Councilors Shannon, Bushor, Mulvaney-Stanak: Ordinance Committee)

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

- 8.02. ORDINANCE: OFFENSES AND MISCELLANEOUS PROVISIONS Re Noise Control Ordinance (Police Department)(2nd reading)

Councilor Shannon made a motion, seconded by Councilor Mulvaney-Stanak, to waive the reading and adopt the resolution. Councilor Shannon outlined the ordinance would increase the fines from \$200 to

\$300, increase the maximum from \$400 to \$500, make the act of working through Restorative Justice voluntary with the benefit being that the fine would be waived. Councilor Bushor hoped the staffing eventually would be a shared responsibility of the City and the schools of higher education.

The motion passed unanimously.

9. RESOLUTION: City – School Cooperation and Budgeting (Councilors Bushor, Caldwell, Davis, Mulvaney-Stanak)

Councilor Bushor made a motion, seconded by Councilor Davis, to waive the reading and adopt the resolution. Councilor Bushor noted that a prior resolution had gone through the School Board budget meetings but nothing had returned to the Council as far as cost savings and, if not, why delays might be needed.

Councilor Adrian requested information on Councilor Bushor’s resolution. He noted a prior resolution had requested follow-up from the CAO and that one Councilor asking the School Board to respond was inappropriate when the Council had already voted on this through a prior resolution. Councilor Bushor agreed, however, she was concerned that the School budget has already moved far along in the process, was being presented to the public, and she was unaware of any cost-savings they might have looked at. Councilor Adrian then asked School Board Chair Fred Lane to speak to the Council. Mr. Lane spoke against the resolution. Councilor Caldwell noted that the following day the Finance Committee would be presenting the budget to the full School Board and, therefore, this resolution was timely.

At the request of Councilor Paul, CAO Leopold responded by saying that there have been several meetings with the Superintendent of Schools with little agreement over shared services. Councilor Shannon made a motion to amend the resolution by removing the first Now, Therefore Be It Resolved which was considered friendly by the maker and the seconder. Along with that, a second change was made of the date the report should be provided by the CAO on January 24, 2010. This change was not considered friendly by the maker, which was then seconded by Councilor Paul. Following further discussion, Councilor Shannon withdrew her second amendment.

A third amendment was then offered by Councilor Shannon in the second to last Be It Further Resolved “that the City Council requests that when the School Board and the Department report to the City Council regarding their budget they describe what efforts have been made to achieve the goals described in the earlier resolutions.” That amendment was considered friendly. The amended resolution then passed unanimously with the understanding that the School Board would discuss this when it made its final presentation of the budget to the City Council.

10. RESOLUTION: Release of Confidential Information (Councilors Caldwell, Davis, Mulvaney-Stanak)

Councilor Caldwell withdrew this resolution. She noted she would be seeking a legal opinion from the City Attorney’s Office on the fiduciary responsibility of the Councilors regarding the release of confidential information. Calling for a point of information, Councilor Adrian noted his concern that any councilor could avail themselves of the service of the City Attorney. The resolution was then officially withdrawn.

11. RESOLUTION: Role and Responsibility of Telecom Advisory Committee (Councilors Shannon, Decelles, Adrian, Mulvaney-Stanak, Paul: Telecom Advisory Committee)

Councilor Shannon made a motion, seconded by Councilor Paul, to waive the reading and adopt the resolution. Councilor Shannon stated that the group reviewed the role of the Telecom Advisory Committee, noted the need for non-disclosure agreements, and offered that information should be easily

available to Committee members. Councilor Bushor asked that the Council be provided the final version of the non-disclosure agreement.

Councilor Ellis noted his support of the resolution and agreed with Councilor Bushor's desire to see the final version of the agreement. Councilor Davis asked about those who may decide not to sign the non-disclosure agreement, to which Councilor Shannon responded that individual would not receive confidential information. However, they were working on developing an agreement that would be satisfactory to both sides.

Councilor Caldwell then made a motion to amend the resolution adding the following line: "Until a formal governance structure is decided upon." Councilor Davis seconded the motion. Following further discussion, Councilor Caldwell and Councilor Davis withdrew the proposed amendment. The motion passed unanimously.

- 11.01. COMMUNICATION: Joan Shannon, Chair Ad Hoc Committee on BT Governance,
re: Report to the City Council from The Ad Hoc Committee on
BT Governance

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

13. RESOLUTION: Power of the Chief Administrative Officer (CAO) to Vote on the Board
of Finance (Councilors Decelles, Dober, Adrian, Kaplan, Kehoe)

The item was removed per Councilor Dober.

The Regular Meeting of the City Council was recessed at 9:53 p.m. to convene the Board of Civil Authority Meeting.

The Regular Meeting of the City Council was reconvened at 9:55 p.m.

14. COMMUNICATION: Ken Schatz, City Attorney, re: Pending Litigation (not related to
Burlington Telecom)

Councilors Shannon and Berezniak made a motion to go into executive session at 9:55 p.m. to discuss pending litigation related to police matters, premature disclosure would place the City at a disadvantage. The motion passed unanimously. Others present were: Assistant CAO Pacy, Police Chief Schirling.

Councilor Paul left the meeting at 10:15 p.m.

Councilors Dober and Shannon made a motion to go out of executive session at 10:15 p.m. The motion passed unanimously.

Councilor Bushor then made a motion to amend the agenda, adding two resolutions: item 14.5. RESOLUTION: Authorization for VLCT to Settle Pending Claim RE: S. Royce (Councilor Shannon) and 14.6. RESOLUTION: Authorization for VLCT to Settle Pending Litigation (Councilor Shannon), seconded by Councilor Adrian. The motion passed unanimously.

- 14.5. RESOLUTION: Authorization for VLCT to Settle Pending Claim (Councilor Shannon)

Councilor Shannon made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the resolution. The motion passed by a vote of 11-0, with Councilor Paul's absence from the meeting at this time.

- 14.6. RESOLUTION: Authorization for VLCT to Settle Pending Litigation (Councilor

Councilor Shannon made a motion, seconded by Councilor Ellis, to waive the reading and adopt the resolution. The motion passed by a vote of 11-0, with Councilor Paul's absence from the meeting at this time.

15. ADJOURNMENT

On a motion by Councilors Davis and Mulvaney-Stanak, the Council voted unanimously to adjourn at 10:23 p.m.

Attest:

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

BOARD OF CIVIL AUTHORITY
MONDAY, DECEMBER 7, 2009
9:53 P.M.

PRESENT: See above

1. AGENDA

On a motion by Board of Civil Authority Members Adrian and Paul, the agenda was adopted as is.

2. CONSENT AGENDA

On a motion by Board of Civil Authority Members Adrian and Dober, the Board of Civil Authority adopted the consent agenda thus taking the following action as indicated:

2.01. COMMUNICATION: Ben Pacy, Assistant CAO for Management and Administration,
Re: Potential Primary Election Date Change

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

3. ADJOURNMENT

On a motion by Board of Civil Authority Members Adrian and Berezniak, the Board of Civil Authority voted unanimously to adjourn at 9:55 p.m.

Attest:

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