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## MEMO

**TO:** Burlington City Council

**FROM:** Ad Hoc Committee on the Use of Executive Sessions (Councilor Sharon Bushor/Chair, Councilors Kurt Wright and Bram Kranichfeld)

**RE:** Committee Report

**DATE:** February 9, 2011

The Committee has met, reviewed and considered the City Council's practice and procedure for executive sessions. State law, 1 V.S.A. Sec. 313, and City Council Rule 13 (attached), set forth the legal standards and process for executive sessions. The Committee agrees that while meeting in public is critical to the democratic process, there are exceptional circumstances that require the City Council to meet in confidential executive session, as authorized by state law.

Historically, the Burlington City Council has utilized executive sessions to discuss litigation, contract and collective bargaining negotiations "where premature general public knowledge would clearly place the City at a substantial disadvantage." Executive sessions have also been used to discuss personnel matters and real estate negotiations. The Committee recognizes that recent executive sessions regarding Burlington Telecom have been more extensive than the usual executive sessions, although there have also been a substantial amount of public meetings regarding Burlington Telecom in the last year and a half. The Committee agrees that in matters such as Burlington Telecom, the Council should hold periodic public presentations to keep the public informed.

Going forward, the Committee makes the following recommendations to improve the Council's practice and procedure for executive sessions:

- The Administration and/or City Attorney's Office should inform the City Council President and Mayor in advance of the request and reason for a proposed executive session.
- A request to go into executive session should provide as much detail as possible explaining the basis for going into executive session, including the topic and potential

- harm that would occur from public disclosure. Whenever possible such a request should be in writing.
- The Administration is asked to make every effort to share as much information as possible in public regarding the matter, before going into executive session.
- Prior to the vote to go into executive session, the City Council President should remind the Council that a majority vote is required to approve going into executive session.
- Executive sessions should be held, whenever possible, prior to the commencement of other business, although it is understood there may be circumstances when the session must be held later.
- All Councilors are encouraged to participate in executive sessions, unless a conflict of interest is present.
- The City Council President and the City Attorney's Office are encouraged to assist the Council by ensuring that the discussion in executive session is limited to the confidential matter.
- It should be clearly understood that all information disclosed or discussed in executive session must be kept confidential by all, regardless of whether a Councilor voted in favor or not of going into executive session. If there is any question about whether information may be disclosed, a request to the City Attorney's Office for clarification is the appropriate process.
- In a timely manner after the executive session, as much information as possible regarding the matter should be made public so long as the City's interests are not harmed.
- Adoption of an amendment of City Council Rule 13 providing that while in executive session a Councilor may ask for a vote to determine whether a majority of the Council supports staying in executive session, and if not the Council will go out of executive session.

We look forward to discussing these recommendations at a future meeting.

Enclosures

lb/c: KAS 2011/Ad Hoc Com. on Use of Executive Sessions -- Report to City Council