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DELIBERATIVE AGENDA

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EXPECTED EXECUTIVE SESSION  
MONDAY, NOVEMBER 8, 2010  
CONFERENCE ROOM 12, CITY HALL  
5:35 P.M.

PRESENT: Councilors Decelles, Adrian, Keogh, Wright, Paul, Kehoe, Kaplan, Bushor, Shannon, Berezniak, Mulvaney-Stanak, Kranichfeld (arrived at 5:44 p.m.)

Staff present: Rich Goodwin, Scott Schrader, Jonathan P.A. Leopold, Jr., Amber Thibeault, Chris Davis, Bill Ellis, Esq., Stephen, Terry Dorman (via phone), Mayor Kiss and Joe Reinert (both arrived at 5:46 p.m.)

A motion by Councilors Bushor and Shannon to go into executive session occurred with Councilors Paul and Adrian voting against.

1. COMMUNICATION: Ken Schatz, City Attorney, re: Update on BT (oral)

A motion by Councilors Bushor and Wright to come out of executive session occurred at 5:49 p.m.

BOARD OF CIVIL AUTHORITY  
MONDAY, NOVEMBER 8, 2010  
CONTOIS AUDITORIUM, CITY HALL  
5:50 P.M.

PRESENT: See above

MAYOR KISS PRESIDING:

1. AGENDA

On a motion by BCA Members Kranichfeld and Mulvaney-Stanak, the agenda was adopted as is.

2. CONSENT AGENDA

On a motion by BCA Members Kranichfeld and Mulvaney-Stanak, the consent agenda was adopted, thus taking the following action as indicated:

2.01. RESOLUTION: Appointment of Assistant Election Officials (Councilor Keogh)  
\*waive the reading and adopt the resolution

3. RECOUNT: Ward Three City Council Race

Mayor Kiss called the Board of Civil Authority meeting to order at 5:50 p.m. for the purpose of conducting a recount of the Ward 3 City Council Special Election. The Mayor recognized Assistant Chief Administrative Officer Scott Schrader who distributed a proposed procedure and instructions on the conduct of the recount. There being no objections, the Board, in accordance with the instructions, paired up to begin the recount. Members Mulvaney-Stanak and Kranichfeld confirmed that the ballot bag was sealed under the appropriate seal number and broke the seal. Upon completion of the recount, the votes were tallied and presented to ACAO Schrader. ACAO Schrader confirmed that all ballots were accounted for and presented the Final Tally to the Board for certification. On a motion from Board Member Kranichfeld, seconded by Board Member Mulvaney-Stanak, the Board of Civil Authority certified the election results.

ACAO Schrader announced that, based upon the certified results of the Re-count that Vince Brennan was elected as the Ward 3 City Councilor.

4. ADJOURNMENT

On a motion by BCA Members Kranichfeld and Mulvaney-Stanak, the Board of Civil Authority adjourned at 6:55 p.m.

Attest:

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

CITY COUNCIL WORKSESSION  
CONFERENCE ROOM 12, CITY HALL  
MONDAY, NOVEMBER 8, 2010

1. AGENDA

2. COMMUNICATION: Joe McNeil, Esq., re: Labor Relations (oral)

\* \* \* \* EXPECTED EXECUTIVE SESSION \* \* \* \*

3. ADJOURNMENT

This occurred in the Regular Meeting. See minutes.

Attest:

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

REGULAR MEETING, CITY COUNCIL  
MONDAY, NOVEMBER 8, 2010  
CONTOIS AUDITORIUM, CITY HALL  
7:30 P.M.

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

CITY ATTORNEY’S OFFICE: Ken Schatz

CLERK/TREASURER’S OFFICE: Scott Schrader, Jonathan P.A. Leopold, Jr. (departed at 9:33 p.m.) and Lori Olberg

PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilor Adrian, with no second, the agenda was amended unanimously as follows: add to the consent agenda item 3.11. COMMUNICATION: Chief Michael Schirling to Burlington City Council, Board of Finance, Mayor Bob Kiss, CAO Jonathan Leopold, re: New CAD/RM’s Project with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 3.12. COMMUNICATION: Daniel Shearer, Member, Electric Light Commission to Council President, re: Resignation with the consent action to “waive the reading, accept the

communication, place it on file, advertise the vacancy (will be part of 7 days 11/10/10 edition) and send a letter of appreciation to Daniel Shearer thanking him for his time served on the Electric Light Commission;” note revised version for item 8. ORDINANCE: CEMETERIES (Cemetery Commission; Councilors Shannon, Kranichfeld, Bushor: Ordinance Committee)(2<sup>nd</sup> reading); remove from the consent agenda item 3.10. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: BCDC Minutes for October 25, 2010 and place it on the Deliberative Agenda as item 9.5.

## 2. PUBLIC FORUM

President Keogh opened the public forum at 7:32 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Ann Ross	Plumber	Supported Project Labor Agreement
Ralph Montefusco	4	Supported Project Labor Agreement
Ron Ruloff	3	Expressed Thanks to Voters
David White	Director, P&Z	Master Plan for Downtown/Waterfront

There being no one further coming forward, President Keogh closed the public forum at 7:38 p.m.

## 3. CONSENT AGENDA

On a motion by Councilors Adrian and Bushor, the consent agenda was adopted, 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: Creation of a Classified Limited Service Full Time Position – Airport-Grants Administrative Assistant (Board of Finance)

\*waive the reading and adopt the resolution

3.03. RESOLUTION: Creation of a Classified Limited Service Full Time Position – Airport-Airport Office Assistant (Board of Finance)

\*waive the reading and adopt the resolution

3.04. RESOLUTION: Authorization for Adjustment of FY 2010 Cost of Living Adjustment for Non-union Employees (Board of Finance)

\*waive the reading and adopt the resolution

3.05. RESOLUTION: Appointment of Acting Ward Clerk for Ward Six (Councilors Kehoe and Paul)

\*waive the reading and adopt the resolution

3.06. COMMUNICATION: Chittenden County Metropolitan Planning Organization October 2010

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

3.07. COMMUNICATION: Michael Zizzo, re: Regarding 18 and over night ban in Burlington

\*waive the reading, accept the communication, place it on file and send copies to Lieutenant Art Cyr

and to the License Committee Members

3.08. COMMUNICATION: Bruce Seifer, Assistant Director for Economic Development, re: Comprehensive Business Materials provided by Economic Development Division

\*waive the reading, accept the communication, place it on file and note that the City of Burlington's Economic Development team will be providing a comprehensive overview of their services at the December 13, 2010 City Council meeting

3.09. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re; Board of Finance Minutes for October 25, 2010

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

3.11. COMMUNICATION: Chief Michael Schirling to Burlington City Council, Board of Finance, Mayor Bob Kiss, CAO Jonathan Leopold, re: New CAD/RM's Project

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

3.12. COMMUNICATION: Daniel Shearer, Member, Electric Light Commission to Council President, re: Resignation

\*waive the reading, accept the communication, place it on file, advertise the vacancy (will be part of 7 days 11/10/10 edition) and send a letter of appreciation to Daniel Shearer thanking him for his time served on the Electric Light Commission

**\*\*\*\*\*EXECUTIVE SESSION\*\*\*\*\***

Councilor Adrian made a motion, seconded by Councilor Mulvaney-Stanak, to move into Executive Session to discuss labor relation negotiations, premature disclosure of which could place the City at a substantial disadvantage. Additionally, a matter of pending litigation would be reviewed, again, premature disclosure could place the City at a substantial disadvantage. The Council went into Executive Session at 7:40 p.m. Councilor Adrian made a motion at 8:17 p.m. to come out of Executive Session, seconded by Councilor Bushor.

The Council resumed their schedule at 8:19 p.m. Councilors Adrian and Kranichfeld departed at 8:19 p.m.

4. PUBLIC HEARING: COMPREHENSIVE DEVELOPMENT ORDINANCE—  
Front Yard Setback Illustration #ZA 11-01

President Keogh opened the public hearing at 8:23 p.m.

4.01. COMMUNICATION: Clerk/Treasurer's Office, re: Public Hearing Notice:  
Burlington Comprehensive Development Ordinance  
ZA-11-01 Front Yard Setback Illustration

Councilor Shannon made a motion, seconded by Councilor Bushor, to move both ZA 11-01 and ZA 11-02 as a slate, consider this second reading, waive the reading and adopt the ordinances and place on file communications 4.01 and 5.01. Mr. David White, Director of Planning and Zoning, explained these two ordinances to the Council.

5. PUBLIC HEARING: COMPREHENSIVE DEVELOPMENT ORDINANCE—  
Emergency Demolition Exemption #ZA 11-02

President Keogh closed the public hearing at 8:23 p.m.

- 5.01. COMMUNICATION: Clerk/Treasurer's Office, re: Public Hearing Notice:  
Burlington Comprehensive Development Ordinance  
ZA-11-02 Emergency Demolition Exemption

See above.

6. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO to Bill Keogh, City Council  
President, re: Budgetary Impact of Moody's Recent Downgrade of  
Burlington Electric Department and Airport Credit Ratings

Councilor Bushor made a motion, seconded by Councilor Kaplan, to waive the reading, accept the communication and place it on file. CAO Leopold spoke to the Council about financing for the Airport. He explained the City was currently working with the Airport, financial advisors and legal counsel on this matter and currently the preferred approach would be to finance through the Vermont Bond Bank and preliminary talks had taken place with that entity. The alternative would be to secure bond insurance. Unfortunately, due to the financial meltdown, there was only one insurer left in the market. CAO Leopold expected that working with the Bond Bank would not result in significantly different debt service or interest costs prior to the Moody's downgrade.

The motion passed unanimously.

- 6.01. RESOLUTION: Designating Monies to the Prepaid Revenue Account for Airport  
Revenue Bonds (Board of Finance)

Councilor Wright made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the resolution. CAO Leopold explained to the Council this resolution was part of a series of steps that had been worked on over a period of time with the Airport. It would take part of the undesignated fund balance of the Airport and set aside approximately \$1 million, which was 25% of the annual debt service of the Airport. That set-aside will provide greater comfort to investors and Moody's that sufficient funds were available to pay the debt service and enhanced the ability to meet the debt service coverage requirements relative to existing bonds. This was just one of the series of the steps to develop measures to strengthen the Airport's financial position.

Councilor Dober asked if this item could be subject to an annual review which the CAO stated it could be. CAO Leopold explained, though, that this measure relieved financial pressure on the Airport to generate more revenue than needed and by not supporting the resolution, the Airport would require 25% more money each year than they actually needed for their ongoing debt service requirements. Councilor Bushor asked if this would be part of the budgetary process. The CAO explained that typically it would be part of the budgetary process and it would expire at the end of the fiscal year.

The motion passed unanimously.

Councilor Kranichfeld arrived at 8:30 p.m.

Councilor Adrian arrived at 8:31 p.m.

7. RESOLUTION: Charitable Drop Box Alternative to Panhandling (Councilors Berezniak,  
Kranichfeld, Adrian, Shannon and Kaplan)

Councilor Berezniak made a motion, seconded by Councilor Kranichfeld, to waive the reading and adopt the resolution. Councilor Berezniak asked for support of the resolution, noting it created an alternative to panhandling. Councilor Decelles commended Councilor Berezniak for making the effort although he did

not believe it was the right method. He believed the first step should be a worksession with a wide range of participants to discuss solutions.

Councilor Kranichfeld noted the number of panhandling complaints and saw this as a positive solution to the problem. It would create a positive alternative for a would-be panhandler donor to instead donate money to a charity to solve the underlying problems of homelessness or substance abuse. He stated that most of the money being collected by panhandlers was being used to purchase alcohol or drugs. In some cases, he stated, the money given to panhandlers merely supplemented their income. The charitable drop box would raise money for the charities and non-profits working to solve the underlying problems. Councilor Kranichfeld reported this initiative was not unprecedented and was being used by many municipalities across the country, including Denver, San Francisco and Miami.

Councilor Shannon explained that representatives from Denver reported they had implemented these drop boxes and it was quite successful. She stated this idea had already been discussed with the Marketplace Commission, DBDA, the Police Department and the United Way. She stated Denver had raised \$100,000 a year, with \$30,000 coming from the meters and the additional funds being provided by sponsors.

Councilor Bushor was surprised to see this item come forward in isolation of the discussion that would be occurring in January with the Police Chief and the community of social services and business owners. She stated that she had no idea how Denver related to Burlington in size and population but stated her concern that people in Burlington were pretty "tapped out". She was not as optimistic that this idea would be as successful in Burlington. She preferred it be referred to the Community Development Committee for more discussion and she wanted to touch base with the Police Chief to discuss ideas that had been suggested by the community representatives that he worked with.

Councilor Bushor then made a motion to amend the action to refer the item to the Community Development Committee for further discussion with a report back to the Council at the first meeting in January, seconded by Councilor Decelles. Following a great deal of discussion between Councilor Bushor and Council President Keogh as to the wording and intent of Councilor Bushor's request, with the Council President changing the wording to an amendment of the resolution and Councilor Shannon twice asking for a point of information as to what the amendment was attempting to accomplish, Councilor Decelles explained that the intention of the motion to amend the action was for CEDO to provide recommendations and implementation plans that the Community Development Committee could review. His opinion was that everyone understood there were a host of issues involved and they all needed to be looked at rather than just one in isolation and it was more important to come to the Council in January with recommendations on a whole host of ideas and thoughts on the topic.

Councilor Shannon requested wording for an amendment rather than a conceptual framework. She did not understand what Councilors Decelles or Bushor were looking for. City Attorney Schatz clarified that he did not believe that Councilor Bushor was asking to amend the resolution at all but simply to refer the resolution to the Community Development Committee without taking action on the proposed resolution. Councilor Bushor stated that was, in fact, her original motion.

Councilor Wright explained that the difference between the amendment and the resolution was in the directive to implement a plan. The resolution did not require that the plan be brought back to the Council for a final vote. Further, he did not believe this one solution would solve the problem of panhandling. At this time Councilor Decelles called for a point of order, reminding the Council President that the mover and the seconder needed to state if the amendment was friendly. Councilor Berezniak stated the amendment was not friendly as it was not clear enough what was being addressed. At this point Councilors Decelles and Shannon interrupted each other and the Council President with questions.

Following a question from Councilor Shannon, Councilor Bushor stated her motion was to amend the action of the resolution. She did not want to adopt the resolution but instead refer it to the Community

Development Committee for further discussion with a report back on recommendations in early January. Councilor Berezniak stated he considered that to be a friendly motion. Councilor Kranichfeld did not consider the amendment friendly.

Councilor Berezniak then made a motion to add a line in the resolution which would include coordinating with the Church Street Marketplace and the Chief of Police. Councilors Berezniak and Kaplan both questioned the actions of the Council President at this time. They both stated the motion to refer needed to be voted on prior to changing or adding language. A brief recess was called.

The Council came back into session and Councilor Kehoe asked to call the question, seconded by Councilor Dober. The motion passed unanimously. The motion then passed by a vote of 12 to 1 with Councilor Kranichfeld voting against.

After the vote, Councilors Shannon and Kaplan asked that their names be added as sponsors to this resolution.

8. ORDINANCE: CEMETERIES (Cemetery Commission; Councilors Shannon, Kranichfeld, Bushor: Ordinance Committee)(2<sup>nd</sup> reading)

Councilor Shannon made a motion, seconded by Councilor Kaplan, to waive the second reading and adopt the revised version of this ordinance. The motion passed unanimously.

8.01. COMMUNICATION: Ordinance Committee, re: Cemetery Ordinance Revisions

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

9. RESOLUTION: Authorization for Street Repaving Bonds (Board of Finance)

Councilor Wright made a motion, seconded by Councilor Paul, to waive the reading and adopt the resolution. CAO Leopold stated this resolution merely increased the dollar amount in a previous resolution by \$250,000. The motion then passed unanimously.

9.5. (was 3.10.) COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: BCDC Minutes for October 25, 2010

Councilor Adrian made a motion, seconded by Councilor Shannon, to accept the communication and place it on file. Councilor Adrian then asked CAO Leopold about the City Market item and asked for more information on the lease payment agreed to by the BCDC. He also asked for a more detailed explanation of what the Burlington Community Development Corporation officially was.

CAO Leopold stated the BCDC was a private non-profit entity and was called a related party in the financial statements. While a separate corporate entity of the City, the Board of Finance served as the ex-officio Board of Directors. He then provided a very detailed outline of the history of the city property and the Co-op's use of the property. He explained that the fee for service payments would now be made by BCDC to the City, similar to those made by UVM and Champlain College.

Councilor Adrian asked City Attorney Schatz if the Council needed to weigh in on or approve these matters involving BCDC. City Attorney Schatz stated while there were some items of BCDC that needed the approval of the Council, such as the issuance of tax-exempt bonds, this matter did not. Councilor Adrian asked where the money collected from City Market went. CAO Leopold stated the fee for service would be paid to the City and because this was a new agreement would be a net gain for the City. The balance would go as part of BCDC's income which would support the continued development activities.

With CEDO being the development staff of BCDC, the original proposal allowed them to receive reimbursement for its work.

Following questioning from Councilor Adrian about BCDC's decision making authority, City Attorney Schatz stated that minutes from all BCDC meetings were provided to the Council and it was appropriate for the Council to ask questions of any of the items. However, despite Councilor Adrian's concerns, City Attorney Schatz stated that the BCDC made a judgment call in determining the amount of money the City would receive from City Market. The current agreement provided more certainty in the amount of funds received. Councilor Adrian spoke repeatedly about the fact that a proper analysis had not been done to determine the potential amount of money lost by this new arrangement.

Councilor Paul stated the Board of Finance had the same question and explained this was a way to stabilize and anticipate the income that would be received from City Market. She suggested if there were additional questions that the General Manager of City Market could be asked to attend the next Council meeting.

CAO Leopold stated that the suggestion that the City lost \$100,000 through this new formula was unfounded. The decision had been weighed very carefully by the members of the BCDC and had been discussed for 2 years with minutes available after each meeting. In his opinion this was a better proposal than what was originally in place. Under the prior agreement, it was entirely possible that the City would not have received any money for the next ten years and, in fact, this was a very good deal for the City.

Councilor Kehoe made a motion to call the question, seconded by Councilor Dober. The motion to call the question passed unanimously. The motion to waive the reading, accept the communication and place it on file passed by a vote of 11 to 2 with Councilors Decelles and Adrian voting against.

#### 10. COMMITTEE REPORTS

Councilor Paul reported that the Transportation, Energy and Utilities Committee would be meeting to continue the discussion on the Transportation Plan.

Councilor Berezniak reported that the Community Development Committee would be meeting to discuss the Charity Drop Off Box.

#### 11. COMMUNICATION: City Councilors, re: General City Affairs

Councilor Dober noted the upcoming Veterans' Day and expressed appreciation to those who served with and for him.

Councilor Bushor informed the Council and public of the upcoming Community Coalition meetings. She explained this was a series of informational "moving off campus" workshops, with the first one having approximately 100 in attendance. Representatives from the Police Department, the Attorney's Office, Code Enforcement, Mediation, tenants' rights advocates and property owners were all part of the gathering. She believed this initiative made a difference in the community. She reported that Councilors Mulvaney-Stanak and Kranichfeld would be presenting on behalf of the Council at the upcoming meetings, but hoped in the future that other Councilors would attend.

Councilor Berezniak reported that a ribbon cutting ceremony would be taking place at the new South End entry of the bike path. He thanked the Council for supporting the resolution that funded it.

Councilor Decelles stated that Councilors had a certain level of responsibility in running an efficient and productive meeting without interjecting, points of order and points of information.

Councilor Wright stated the Burlington Bike Path Task Force had held their first meeting and thanked Mayor Kiss for kicking it off. He reported there would be a public forum on December 7<sup>th</sup> to hear the public's opinion on the bike path. He also noted the Burlington Electric Department initiative was defeated at the last election and he was upset that it had been buried in the November ballot. He believed that March would have been the appropriate time to have the item on the ballot when a more informative discussion could have taken place.

Council President Keogh stated his appreciation and congratulations for the fine work done by the Clerk/Treasurer's Office and the poll workers during the recent election. He also wished CAO Leopold a speedy recovery from his upcoming surgery.

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

Mayor Kiss recognized Scott Schrader's work in the recount prior to this meeting and the work done of the recent election. He then congratulated Vince Brennan for his election to the City Council.

13. ADJOURNMENT

Without objection, Council President Keogh adjourned the Regular Meeting of the City Council at 9:43 p.m.

Attest:

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