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DELIBERATIVE AGENDA

SPECIAL CITY COUNCIL WORKSESSION

MONDAY, DECEMBER 6, 2010

CONFERENCE ROOM 12, CITY HALL

6:00 P.M. – 7:00 P.M.

1. AGENDA
2. COMMUNICATION: Ken Schatz, City Attorney, re: BT and Collective Bargaining (oral) (Collective Bargaining moved to the Regular City Council Meeting, Agenda item 10.5)

* * * * EXPECTED EXECUTIVE SESSION * * * *

3. ADJOURNMENT

LOCAL CONTROL COMMISSION

MONDAY, DECEMBER 6, 2010

CONTOIS AUDITORIUM, CTY HALL

7:28 P.M.

PRESENT: Commissioners Decelles, Wright, Dober, Paul, Berezniak, Kehoe, Shannon, Keogh, Adrian, Kranichfeld, Kaplan, Bushor, Mulvaney-Stanak, Brennan and Mayor Kiss (arrived at 7:31 p.m.)

CITY ATTORNEY’S OFFICE: Ken Schatz (arrived at 7:31 p.m.), Eugene Bergman (arrived at 7:28 p.m.; departed at 8:44 p.m.) and Richard Haesler (arrived at 7:30 p.m.; departed at 7:55 p.m.)

CLERK/TREASURER’S OFFICE: Scott Schrader and Lori Olberg

PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Commissioners Dober and Berezniak, the Local Control Commission Agenda was unanimously amended as follows: add to the consent agenda item 2.04. APPLICATION FOR SPECIAL EVENT PERMIT (December 17th and 18th only): East Shore Vineyard, LLC, BCA Holiday Artist Market, Contois Auditorium, City Hall, Friday, December 17, 2010, 5 p.m. to 8 p.m.; Saturday, December 18, 2010, 10 a.m. to 6 p.m. with the consent action to “waive the reading, accept the application for special event permit, place it on file and approve this event for December 17th and 18th only.”

2. CONSENT AGENDA

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

- 2.01. COMMUNICATION: Carole Bourneuf, Executive Secretary, re: Local Control Sub-Committee/City Council License Committee Minutes, September 22, 2010

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

2.02. COMMUNICATION: Carole Bourneuf, Executive Secretary and Lori Olberg, Licensing, Voting and Records Coordinator, re: Local Control Sub-Committee/City Council License Committee Minutes, November 10, 2010

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

2.03. COMMUNICATION: Carole Bourneuf, Executive Secretary, re: Local Control Sub-Committee/City Council License Committee Minutes, November 17, 2010

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

Commissioner Dober made note regarding consent agenda item 2.03. that these minutes included a new proposal from the Police Department for the requirements for over 18 parties.

2.04. APPLICATION FOR SPECIAL EVENT PERMIT (December 17th and 18th only):

East Shore Vineyard, LLC, BCA Holiday Artist Market, Contois Auditorium, City Hall, Friday, December 17, 2010, 5 p.m. to 8 p.m.; Saturday, December 18, 2010, 10 a.m. to 6 p.m.

*waive the reading, accept the application for special event permit, place it on file and approve this event for December 17th and 18th only

3. SECOND CLASS STORE LIQUOR LICENSE APPLICATION (2010-2011):

One Love Market (formerly St. Paul Street Market), 457 St. Paul Street

Commissioner Dober made a motion, seconded by Commissioner Berezniak, to approve the Second Class Store Liquor License Application. With no discussion, the motion passed unanimously.

4. ADJOURNMENT

Council President Keogh adjourned the Local Control Commission without objection at 7:31 p.m.

Attest:

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

REGULAR MEETING, CITY COUNCIL
MONDAY, DECEMBER 6, 2010
7:31 P.M.

PRESENT: See above

Council President Keogh recognized Pack 651 from Den 3. He then recognized Eli Harrington, Director of the International Visitor Programs, Vermont Council of World Affairs. Mr. Harrington introduced the contingent from Yaroslavl, Burlington's Sister City. He reminded the Council that Yaroslavl was celebrating their millennium anniversary. The contingent was studying municipal and county governance and the representatives were introduced to the Council.

1. AGENDA

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On a motion by Councilor Adrian with no second the agenda was amended as follows: note added written material for consent agenda item 3.09. COMMUNICATION: David Berezniak, Chair, Community Development Committee, re: Preliminary Draft Report from the Burlington Police Department and the Marketplace Commission on Charity Drop Boxes with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 3.20. COMMUNICATION: Scott Schrader, Asst. Chief Administrative Officer and Eugene Bergman, Sr. Asst. City Attorney, re: March 2011 City Election Calendar with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 3.21. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance November 22, 2010 Minutes of Meeting with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 3.22. COMMUNICATION: Mayor Bob Kiss, re: Proposed Charter Change regarding the composition of the Board of Finance with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 3.23. COMMUNICATION: Mayor Bob Kiss, re: Resolution Descriptions with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 3.24. COMMUNICATION: Mayor Bob Kiss, re: Proposed Pilot Program for City Ticketing/City Hall Park with the consent action to “waive the reading, accept the communication and place it on file;” add to the agenda item 10.5. COMMUNICATION: Ken Schatz, City Attorney, re: Collective Bargaining (oral); expected Executive Session. (originally part of tonight’s Special City Council Worksession).

Councilor Bushor noted changes to consent agenda item 3.03. RESOLUTION: Authorization for Settlement of Pending Litigation (Board of Finance).

Councilor Wright asked the agenda to be further amended by adding agenda item 7.5: Oral Report on Resolutions and Ordinances from the Mayor.

The agenda was then unanimously adopted, as amended.

2. PUBLIC FORUM

President Keogh opened the public forum at 7:44 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Ron Ruloff	3	Social Problems/Crime/Candidate
Roy Feldman	SEABA/Art Hop	Appreciation for City’s Support

There being no one further coming forward, President Keogh closed the public forum at 7:48 p.m.

3. CONSENT AGENDA

On a motion by Councilors Adrian and Bushor, the consent agenda was adopted unanimously, 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. COMMUNICATION: John Vickery, City Assessor, re: City Council approval of the Stipulated Judgment to be brought before the Chittenden Superior Court. Docket No. S0065-10 CnC.

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

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- 3.03. RESOLUTION: Authorization for Settlement of Pending Litigation (Board of Finance)
*waive the reading and adopt the resolution
- 3.04. COMMUNICATION: Gene Bergman, Senior Assistant City Attorney, re: Appeal of September 13, 2010 BTA abatement of taxes-150 Shelburne St. (Margaret Murray/Bilmar Team Cleaners)
*waive the reading, accept the communication and place it on file
- 3.05. COMMUNICATION: Police Chief Michael Schirling, Karen Vastine, Community Justice Center & Richard W. Haesler, Jr., Esq., City Attorney's Office, re: Noise Ordinance Report – 12 month update
*waive the reading, accept the communication and place it on file
- 3.06. COMMUNICATION: Peter Potts, Planning Commission Chair, re: Council Resolution 3.03-Extending Residential Occupancy Limits to the RH Zone
*waive the reading, accept the communication and place it on file
- 3.07. COMMUNICATION: Clerk/Treasurer's Office, re: Updated City Council Standing Committees 2010-11
*waive the reading, accept the communication and place it on file
- 3.08. COMMUNICATION: Council President Keogh, re: Council President Memo – Nov. 24, 2010
*waive the reading, accept the communication and place it on file
- 3.09. COMMUNICATION: Michael Schirling, Burlington Police Department and Ron Redmond, Church Street Marketplace to the Community Development and Neighborhood Revitalization Members, re: Panhandling in Downtown Burlington: Changing the Culture of Giving to Panhandlers by Encouraging Citizens to Redirect their Generosity
*waive the reading, accept the communication and refer to the Board of Finance for consideration
- 3.10. COMMUNICATION: Monique Gagnon-Tremblay to Mayor Kiss, Government of Quebec, re: Thank you
*waive the reading, accept the communication and place it on file
- 3.11. COMMUNICATION: Mayor Bob Kiss, re: Lockheed Martin and Energy Efficiency Support and Development
*waive the reading, accept the communication and place it on file
- 3.12. COMMUNICATION: Elizabeth M. Gretkowski and Thomas M. Crowley, Assistant Judges, Vermont Superior Court, Chittenden Civil Division, re: Pre-Budget Meeting
*waive the reading, accept the communication and place it on file
- 3.13. COMMUNICATION: ACAO Schrader, re: Board of Finance November 15, 2010 Minutes
*waive the reading, accept the communication and place it on file
- 3.14. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council for June 28, 2010
*waive the reading, accept the communication, place it on file and adopt the minutes at the December 13, 2010 City Council Meeting

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3.15. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council for July 12, 2010

*waive the reading, accept the communication, place it on file and adopt the minutes at the December 13, 2010 City Council Meeting

3.16. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council for May 24, 2010

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the November 22, 2010 City Council Meeting

3.17. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council, June 7, 2010

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the November 22, 2010 City Council Meeting

3.18. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue Trainor, Assistant to the CAO, re: Minutes, City Council, June 14, 2010

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the November 22, 2010 City Council Meeting

3.19. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Actuarial Valuation for the Burlington Employees Retirement System for June 30, 2010

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

3.20. COMMUNICATION: Scott Schrader, Asst. Chief Administrative Officer and Eugene Bergman, Sr. Asst. City Attorney, re: March 2011 City Election Calendar

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

3.21. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance November 22, 2010 Minutes of Meeting

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

3.22. COMMUNICATION: Mayor Bob Kiss, re: Proposed Charter Change regarding the composition of the Board of Finance

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

3.23. COMMUNICATION: Mayor Bob Kiss, re: Resolution Descriptions

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

3.24. COMMUNICATION: Mayor Bob Kiss, re: Proposed Pilot Program for City Ticketing/City Hall Park

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

4. TOBACCO LICENSE APPLICATION (2010-2011):

One Love Market (formerly St. Paul Street Market), 457 St. Paul Street

Councilor Dober made a motion, seconded by Councilor Berezniak, to approve the Tobacco License Application for One Love Market. Without discussion, the motion passed unanimously.

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5. REPORT: Brian Pine, Assistant Director for Housing, CEDO, re: Fair Housing Report

Brian Pine, Assistant Director for Housing for the City of Burlington, Maura Collins of the Vermont Housing Finance Agency and Kevin Stapleton, Fair Housing Project Director at the Champlain Valley Office of Economic Opportunity, presented to the Council on the Fair Housing Report.

Mr. Pine explained to the Council that the City had succeeded in receiving HUD funding, specifically to support the City's efforts in this regard. Mr. Stapleton explained the City, as a requirement of receiving CDBG and HOME monies, signed an agreement to affirmatively secure fair housing. This required that pro-active steps be taken within the community to further the goals of HUD in terms of fair housing. This year's funding from HUD provided the ability to do the research in the report. Next year's funding would allow for the action plan to be developed that would work toward remedying fair housing issues identified in the report. Mr. Stapleton also explained that the Obama Administration had recently made changes to the enforcement of the Affirmation by having the Department of Justice follow up on this stipulation.

Maura Collins outlined some of the good work Burlington was currently doing, such as placing policies within zoning ordinances. She anticipated the action plan as being one of sharing the best practices of Burlington and using the City as a model with the rest of the region. She stated advocating for more federal resources and encouraging more college and university on-campus housing to free up housing were items the City could work on. It was also explained that the preservation of existing subsidized housing was important and what the risk to the community would be if that was not achieved.

Further discussion involved policies and practices of housing professionals and housing discrimination. The City was encouraged to send regular mailings to landlords to highlight fair housing practices, to meet with mortgage lenders and to work with the Champlain Housing Trust in educating residents that home ownership was an option. It was also noted that larger units were needed for larger families.

Councilor Bushor stated that new housing with larger units in Ward 1 met with strong opposition from residents because, being next door to UVM, these larger apartments ended up with students in them. While MOUs with local colleges which required them to build student housing had been helpful it was still a problem. Councilor Adrian reported the Council had previously had an opportunity to deal with this problem of housing in a non-discriminatory way through zoning for the University of Vermont, requiring that they build more housing and he encouraged the Council to revisit that concept. Councilor Shannon agreed with Councilor Adrian's comments and believed it was important to document within the report that the University needed to build more student housing. She was disappointed it was not already in the report, as it was a major cost driver.

Councilor Mulvaney-Stanak noted the working groups did not seem to include residents and asked what their involvement would be in the next phase of the project. Mr. Pine stated that had typically been a problem as residents tended to return to their daily lives once their housing was secured. However, he reported on the active work done by the residents of Northgate on behalf of their housing. She then asked how the refugee population was being educated on their rights to fair housing. Mr. Stapleton outlined the measures being taken at this time but noted the challenges were somewhat greater as refugees did not understand they had the legal right to report any housing-related issues.

Councilor Wright responded to Councilor Adrian and Shannon's comments stating he agreed that more could be done with the colleges, however, he noted that previous Councils had been more active in efforts to have housing built and then provided a history of actions done over the years. Councilors who had voted against the resolution Councilor Adrian had referred to did not oppose student housing being built but, rather, they did not believe that zoning was the way to accomplish that.

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Councilor Berezniak noted the report stated that 42% of those receiving subsidies in Chittenden County lived in Burlington and 50% of those were concentrated in the Old North End. He then explained that travel to employment was an issue for his constituents. He asked whether the group would be looking for solutions to that issue. Ms. Collins stated a grant recently awarded would study the region, including a regional housing needs assessment to look at the distribution of subsidized and affordable housing throughout the county based on towns. Transit oriented development models would be developed and a review of job growth versus existing housing. She noted that the suburbs were growing while Winooski and Burlington were not.

Councilor Brennan stated that discrimination still occurred and demographics in the schools were changing quickly and often. He asked if the City could do anything to determine if people were being pushed out of their units. Mr. Pine stated that ten years ago one-third of the student body at Barnes Elementary School would be gone by the end of the school year. He believed it was better now but there were still reasons people needed to move. He also explained that the map indicated that affordable housing was integrated and located throughout the City with every ward having affordable housing located in it. This was not true in all communities in Vermont and he was proud of the work done throughout the City to accomplish this.

Council President Keogh expressed appreciation to the presenters and then made a motion to waive the reading, accept the report and place it on file.

- 5.01. COMMUNICATION: Craig Bailey, VHFA and Brian Pine, CEDO, re: Housing Agencies Publish Fair Housing Report

Council President Keogh made a motion to waive the reading, accept the communication and place it on file.

6. RESOLUTION: Supplemental Budget Resolution #2011-07 General Fund Budget Amendments for Planning and Zoning, the Fire Department and Regional Programs for Centennial Field Study, the SEABA Art Hop (Board of Finance)

Councilor Paul made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the resolution. Councilor Paul explained this resolution brought forward a number of items addressed by the Board of Finance which were all changes to the FY 2011 budget. Councilor Bushor asked about the funding source for these items and was informed they came from the payment in lieu of taxes. She asked that the format in the future be written such that the funding source was easier to understand.

The motion passed unanimously.

7. COMMUNICATION: Scott Schrader, ACAO, re: Wastewater Advanced Refunding Questions

Assistant CAO Schrader read into the record the communication from CAO Leopold (agenda item 7.01). The communication responded to the comments made by both Councilors Kehoe and Paul, clarifying the actions that took place in 1988 relative to the original bonding of this project. It outlined the financial package that was put in place at the time which the Councilors had, at the previous Council meeting, questioned or misunderstood.

- 7.01. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Wastewater Advanced Refunding Questions (read into the record by ACAO Schrader)

With no discussion, Councilor Keogh stated that without objection the communication would be placed on file.

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7.5. ORAL REPORT: Resolutions and Ordinances from the Mayor.

Mayor Kiss explained that three resolutions returned to the Council were unsigned. They were not vetoed and an explanation as to his reasoning had been included. Councilor Wright then asked City Attorney Schatz if unsigned resolutions involving charter changes would still be placed on the ballot. Attorney Schatz stated they would be.

8. COMMITTEE REPORTS

Councilor Decelles reported this was the busiest year he had served on the Charter Change Committee and explained that the question calling for impeachment for City Councilors and the Mayor and the recall of the City Councilors and the Mayor had died in Committee and would not be coming forward. He believed the voters should still have the opportunity to decide on that matter and he hoped it could be dealt with again in the future.

Councilor Shannon stated the Ordinance Committee had discussed the Election Day Parking Holiday and had come to the conclusion that the needs varied from one polling place to another, thus making it difficult to codify. The upcoming meeting of the Committee would deal with the zoning ordinances recently brought forward.

Councilor Berezniak brought to the Council's attention that a preliminary draft report on the Charity Drop Box Project had been included in this meeting's packet. He also explained his opinions regarding the PLA agreement, stating that while there was no cost benefit to the City to have a PLA for the Moran Project, the consultants had reported that there was no cost to the City to have one either. He expressed his support for moving forward with a PLA. He believed that because there had never been a PLA developed in the State of Vermont and no precedent for it, the discussion had been slanted against it. He believed it would be a relatively neutral way to see how this concept would work.

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

Councilor Decelles spoke of the thousands of people who came to Church Street for the tree lighting ceremony and expressed appreciation to the Church Street Marketplace staff for their efforts.

Councilor Bushor reported that Ward 1 NPA would meet to discuss the Colchester Corridor update, the priorities of the Burlington Schools in light of the proposed State budget cuts and a roundtable discussion on Burlington Telecom.

Councilor Mulvaney-Stanak reported on the Community Forum on Public Safety Issues. She expressed appreciation to the Police Chief and service providers for the efforts in organizing and presenting the event.

Councilor Wright read into the record a letter he planned to give to the Council President and the Administration, signed by 12 of 13 Councilors, that they be prepared to provide a full presentation on Burlington Telecom in January in open session with time allowed for questions.

Councilor Berezniak reported that the ribbon cutting ceremony for the entrance to the 127 Bike Path occurred in early November.

Councilor Brennan reported he and Councilor Adrian would be participating in the Task Force with the School District to review equity issues. He noted that Vermont was one of six states that spend more money on Corrections than on Education. Councilor Brennan then explained he had not signed the letter referred to by Councilor Wright and he stated he hoped the Council could find a way to come to common ground on the understanding of executive sessions. He was concerned that information from executive

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sessions were provided to individuals outside of executive session and reminded Councilors there was a state law guiding the conduct associated with executive sessions.

Councilor Decelles stated he did walk out of an executive session held earlier in the evening at the worksession in protest, reporting he believed the information being presented should be public information. He believed that as elected officials each Councilor was responsible to their constituents only and he represented the voice of Ward 7, a group that was frustrated with executive sessions.

Councilor Paul reported on the Barnes Annual Pancake Breakfast and informed the Council that the Edmunds elevator ribbon cutting and celebration would be held in January.

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

Mayor Kiss responded to the executive session discussion. He noted there was a statement before each executive session recommending why one should be held, what protections were necessary and what the results would be if not discussed in executive session; guidance for these closed meetings was from the City Attorney and was not partisan. These matters were important to the City as a whole and the consequences of not keeping some discussions in confidence could be negative to the future of the city.

He then reported that he and Jennifer Green, the City's Sustainability Director, had recently returned from the National League of Cities and Towns Congress of Cities. They had received the Home Depot Foundation Award of Excellence for Sustainable Community Development. The Foundation highlighted the long term commitment by the City of having developed a legacy plan, a 30-year vision, and delivering on many of the promises within the plan, particularly involving housing.

10.5. COMMUNICATION: Joseph McNeil, Esq., re: Collective Bargaining (oral); expected Executive Session (originally part of tonight's Special City Council Worksession)

On a motion by Councilors Bushor and Shannon, the Regular City Council Meeting went into executive session at 9:04 p.m., premature disclosure of which would place the City at a substantial disadvantage. Present were: Joseph McNeil, Susan Leonard, Steve Goodkind and Michael Schirling.

On a motion by Councilors Wright and Decelles, the Regular City Council Meeting went out of executive session at 10:25 p.m.

11. ADJOURNMENT

Without objection the Regular City Council Meeting voted unanimously to adjourn at 10:25 p.m.

Attest:

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