
DELIBERATIVE AGENDA

ADJOURNED MEETING, CITY COUNCIL

MONDAY, DECEMBER 13, 2010

CONTOIS AUDITORIUM, CITY HALL

6:00 P.M.

PRESENT: Councilors Adrian, Bushor, Berezniak, Kranichfeld, Brennan (arrived at 6:25 p.m.), Mulvaney-Stanak, Kaplan, Wright, Keogh, Shannon, Kehoe, Paul, Decelles, Dober and Mayor Kiss

CITY ATTORNEY'S OFFICE: Ken Schatz

CLERK/TREASURER'S OFFICE: Scott Schrader and Rich Goodwin

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilors Adrian and Bushor, the agenda was amended as follows: amend the action for consent agenda item 4.04. COMMUNICATION: Travis Marcotte, Executive Director, Intervale Center, re: Land Management Plan with the consent action to "waive the reading, accept the communication, place it on file and refer the plan to the Planning Commission for comments with any recommendations coming back to the Council at their first meeting in March 2011;" remove from the consent agenda item 4.09. COMMUNICATION: Jonathan P.A. Leopold, Chief Administrative Officer, re: General Fund Financial Report and Budget Projections for FY 2012 and place it on the January 10, 2011 Deliberative Agenda; add to the consent agenda item 4.10. COMMUNICATION: Department of Public Service, re: DPS Audit Report-Pages 4, 5 and 51 with the consent action to "waive the reading, accept the communication and place it on file;" add to the agenda item 4.5. COMMITTEE REPORTS; add to the agenda item 4.6. COMMUNICATION: City Councilors, re: General City Affairs; add to the agenda item 4.7. COMMUNICATION: Mayor Kiss, re: General City Affairs, add to consent agenda item 4.11 COMMUNICATION: Mayor Kiss re: A Review of the Larkin Report with the action to "waive the reading, accept the communication and place it on file."

Councilor Paul asked to amend the agenda further with amending the consent action for agenda item 4.10 to include the entire report and have it placed on the Deliberative Agenda and discussed at the next Council meeting.

Councilor Decelles concurred with Councilor Paul's sentiment on the Audit Report. The Mayor had already agreed to call a Special Meeting before January 10th for the Audit specifically and Burlington Telecom issues would be discussed. He hoped that would quell some of Councilor Paul's concerns. Councilor Wright did not support the idea that the entire report should be placed on the Deliberative Agenda but did believe that it was a mistake to only accept only a portion of the document. Councilor Dober agreed that the entire Audit Report should be accepted.

Councilor Adrian asked what the purpose was of moving agenda item 4.09 off the consent agenda. Councilor Paul explained there had been a brief, preliminary discussion of a potential tax increase and she wanted the public to know that soon and be thinking about it. Councilor Decelles noted there were only 5 members of the public in attendance and most of the Councilors were not prepared to discuss this item. Councilor Paul suggested separating the two items.

Council President Keogh asked to adopt the agenda as amended except for consent agenda items 4.09 and 4.10. The agenda then passed unanimously.

The Council then voted on consent agenda item 4.09 being removed from the consent agenda and put on deliberative. Councilor Shannon requested that discussion come after the planned discussion with the Retirement Board consultants. The motion then failed by a vote of 9 – 5 with Councilors Mulvaney-Stanak, Bushor, Keogh, Paul, Shannon voting in favor.

The vote on moving item consent agenda 4.10 to the deliberative agenda failed by 12 to 2, with Councilors Paul and Berezniak voting in favor.

Councilor Paul then asked to change the language to accept the entire report and place on the deliberative agenda on January 3rd or 10th, with a presentation if possible by Larkin Associates on the report as well as an opportunity to openly discuss the audit report with Sullivan and Powers. Councilor Wright asked for a point of information stating that the President of the Council could state “hearing no objection we will accept the entire report.”

Mayor Kiss noted that Larkin Associates was a company hired by the Public Service Department to perform an Audit on the City. He questioned whether the Council should request that Larkin Associates come from Michigan to discuss the report findings and believed it deserved more thought. Councilor Paul noted she had stated “if possible.” Council President then moved to the next item.

2. COMMUNICATION: David Driscoll, City Consultant, re: Pension Report

David Driscoll and Kai Petersen of Buck Consultants made a brief presentation to the Council. Mr. Driscoll explained the results of the valuation of June 30, 2010 which showed the plan had remarkably stable experience and demographics. He stated the Fiscal Year 2008 and 2009 returns on assets were well below expected; however, the Fiscal Year 2010 returns exceeded the 8% sought substantially. The experience of the plan over the past years had been fairly good in the sphere of things the City could control. The plan’s assets still had not recovered to a degree that would allow the City to stop absorbing losses that had been deferred for later recognition and earlier valuations with increased costs moving into FY 2012.

Councilor Dober asked if the \$8 million in asset losses was over the last three year period of time. Mr. Driscoll explained that the loss represented the difference between the return realized over the last year and what was actually received through the actuarial value of the assets. Councilor Bushor asked for clarification on unfunded past service and referenced the City’s experience in 2004. Mr. Driscoll explained the particular funding method used by BERS was the projected unit credit method which projected the benefits that an employee would earn over their career, employee by employee, and attributed the projected benefit year to year. For example, in year 20 of a 30 year career the Fund would attribute two-thirds of the projected benefit to past service and the value would then become their accrued liability; that would continue to grow as the employee worked additional years. At that point the benefit would be considered fully accrued. The difference between the accrued liability and the system’s assets constituted the unfunded accrued liability or the unfunded past service liability.

Councilor Bushor then asked additional questions about the repercussions of the action taken in 2004 to underfund the City contribution. Council President Keogh then asked if underfunding would result in running out of money in the system. Mr. Driscoll explained that the liabilities continued to grow as does the unfunded liability. Catching up at a later date becomes an even more difficult proposition. Council President Keogh asked if it was necessary to catch up. Mr. Driscoll stated it was advisable as you set yourself up for a built-in set of increases which would make the present situation worse in the future. He stated there had to be recognition and an understanding that if the City does not pay now, the City would pay it later with interest.

Councilor Paul asked if the 8% anticipated rate of return was sustainable and realistic. Mr. Driscoll replied that he believed it was. She then asked about the current standard under the Pension Protection Act. Mr. Driscoll replied the GASB Standard required that if a fund had a credible funding policy in

place for meeting the full projected benefit obligation of the system, the fund would be allowed to use something that can be defined as a rate of return for the basis for the accounting calculations. If no funding policy was in place for underfunding, the fund would be required to develop a bond index rate which was a lower rate of return on investments than the system would want.

Councilor Paul noted the term of the unfunded liability was 30 years starting in 2004. Would it be possible to have Schedule F go out to 2034 so the City could see what the projections were on that going forward? Mr. Driscoll stated it could be done but it should be noted that the projection of payroll could be different from the actual experience. The valuation only looked at current participants and treated future participation in a somewhat simplified manner.

Mayor Kiss noted that at present 90% of the retirement reserves were placed in the State's retirement system with 10% being invested by the Retirement Board. He asked Mr. Driscoll if that was seen as a good model. Mr. Driscoll noted that the portfolio structure with 10% alternative assets was a frequent occurrence in the public sector with alternative assets having the potential to be high yielding. The Mayor asked if Buck Consultants believed there was a better method that the City should follow. Mr. Driscoll stated no, there was not. The Mayor noted the City was attempting, through union negotiations, to address issues around early retirement, average final compensation and social security disability standards in order to shape the future of retirement costs. Mr. Driscoll replied that changing the benefit plan offered was the only way to affect the cost of the retirement system.

Councilor Shannon asked about the basic stability of the pension fund. She believed that using 8% as an average rate of return was a bit high. She argued a lower expectation would be more realistic. She asked if there were a formula or recommendation on how to move those variables to stabilize the pension fund and what was the definition for stabilization. Mr. Driscoll replied that stability was in the eye of the beholder. There would always be an upward or downward movement in what was projected. The volatility in contributions and the City's ability to deal with it would be what defined the type of stability the City should be looking for. After having run through the projections Buck Consultants had no problem with the notion that 8% was a good, long term. He stated that stability can be attained by changing the benefit provisions or by the way funds were invested and funds aimed for investments providing returns that were attainable with less volatility.

Councilor Wright requested information on the benefits of defined contribution versus defined benefit plans. He asked if the defined contribution plan was something that municipalities were moving toward. Mr. Driscoll explained that defined contribution plans provided stability for the sponsoring entity but the issue of dealing with the volatility and the returns on assets was left entirely to the pension plan participant. The retiree could be surprised by the downturn which might then postpone the retirement plans of the participant. Because of downturns in asset values and a desire to have more predictability in costs, some public entities were moving away from defined benefit. However, he believed much of the public sector would continue to rely on the defined benefit plan. He believed moving away from the DB Plan was not the panacea everyone thought it was. The City would still have an unfunded liability which would need to be paid off. He also noted that salaries and wages in the public sector lag that of the private sector partially because it's made up for in benefits. He cautioned the Council that it was a complicated issue that was not as clear cut as people made it out to be.

Councilor Paul then asked if any of Buck Consultants municipal and state clients seriously considering freezing their unfunded liability and converting to a 401K plan? Mr. Driscoll stated that none of his clients were.

Don Horenstein, a member of the Retirement Board since 2002, stated he was a Wharton School graduate with investment analysis background. He was concerned that the 8% rate of return being quoted was too high and considering a 3% rate of inflation, the real rate of return would be closer to 5%. Mr. Horenstein also reminded the Council of the Retirement Task Force Report from 2007 which he believed had excellent recommendations that had yet to be implemented.

Munir Kasti, a B employee representative on the Burlington Retirement System, stated the City contributed about \$2 million less than required from 2004 to 2010. He asked what that meant in terms of unfunded liability. Mr. Driscoll stated if Mr. Kasti's calculations were correct it meant there was approximately \$2 million less in funds. He noted that the earnings of the fund (losses and gains) and interest rates on those amounts would need to be taken into consideration.

Councilor Kehoe asked what the outcome would be if the City were to take up Mr. Horenstein's suggestion that a different rate of return, such as 6% as some have suggested, be used. Mr. Driscoll stated the unfunded liability would instantly become substantially larger and much larger contributions by the City would be required.

3. PUBLIC FORUM

City Council President Keogh opened the public forum at 7:30 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Doug Dunbebin	5	Supported Burlington Telecom
Ron Ruloff	3	Retirement Proposals

There being no one further coming forward, City Council President Keogh closed the public forum at 7:36 p.m.

4. CONSENT AGENDA

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

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

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

4.02. RESOLUTION: Authorization for the Board of Finance to Review and Approve a Contract Relating to the Renewal of Property, Liability and Worker's Compensation Insurance for a Period Beginning January 1, 2011 (Board of Finance)

*waive the reading and adopt the resolution

4.03. RESOLUTION: Intervale Land Management Plan (Councilors Kaplan, Kehoe, Paul: Parks, Arts & Culture Committee)

*waive the reading and adopt the resolution

4.04. COMMUNICATION: Travis Marcotte, Executive Director, Intervale Center, re: Land Management Plan

*waive the reading, accept the communication, place it on file and refer the plan to the Planning Commission for comments with any recommendations coming back to the Council at their first meeting in March 2011

4.05. COMMUNICATION: Bob Kiss, Mayor, re: Burlington Telecom

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

4.06. REPORT: Doreen Kraft, Director, BCA, re: Arts Planning Report and a Letter From the BCA Consultant, Merryn Rutledge

*waive the reading, accept the report and the communication and place them both on file

4.07. 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 as received at the December 6, 2010 City Council Meeting

4.08. 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 as received at the December 6, 2010 City Council Meeting

4.5. COMMITTEE REPORTS

Councilor Decelles requested the Impeachment and Recall of Elected Officials be removed from the Accountability List as these items died in Committee.

Councilor Dober noted the License Committee had finalized the taxi ordinance rewrite and the resolution and ordinance should be in the Council packet at the next meeting.

Councilor Bushor reminded the Council of the work previously done by the Human Resources Committee on the Sadowski Report which dealt with positions and compensation. The matter was brought before the Board of Finance where a more in-depth discussion took place on how the inequitable implementation of salary adjustments had created problems for management and recruiting and retention of employees. The HR Committee was given direction following that meeting to take up the issue of non-union and management positions in an effort to bring equity back to what has become skewed and problematic. She stated it was important to do the work on this item quickly for budget purposes.

Councilor Berezniak informed the Council the Community Development & Neighborhood Revitalization Committee would be getting a final report back from the Police Department and Marketplace on the Charity Drop Box project. He also noted that he had sent a memo to Mayor which requested that \$5,000 be found to fund the project.

Councilor Shannon noted the Ordinance Committee would be meeting to discuss wetland conservation zoning.

Councilor Kaplan asked Councilor Paul to explain the Intervale Management Plan which had been placed on the consent agenda. Councilor Paul explained the Council approved the sale of land from BED to the Intervale and with that there needed to be a land management plan. The Parks, Arts and Culture Committee passed the plan in October of 2010 with the requirement that the plan be revisited every ten years.

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

Councilor Decelles reported on a recent senior dinner at the Miller Center sponsored by Parks and Recreation with over 100 people served this year. He informed the public that the Administration had just informed the Council of a gap between the projected revenue and anticipated expenses which would require a property tax increase of approximately over 4%. Councilor Decelles questioned if the \$17 million used for Burlington Telecom were still available would the tax increase be needed.

Councilor Wright informed the Council their former colleague, Jane Knodell, won the approval from the UVM Board of Trustees to be the Provost at UVM and congratulated her on behalf of the Council.

Councilor Dober informed the public of the upcoming Ward 4/7 NPA meeting.

Councilor Berezniak informed the public the Ethan Allen Homestead would be hosting a Winter's Eve Celebration. He encouraged all to attend.

Councilor Bushor reported there would be a presentation at the Ward 1 NPA regarding the Colchester Avenue Corridor. She noted her concern that a number of parties were involved in this matter: the neighborhood, a task force comprised of UVM, businesses, and Winooski), a pilot project overseen by DPW and their Commission, as well as the TEUC Committee. These groups were all operating independently and she strongly encouraged all parties to join in discussion about the project. She reported the consultant had stated the project had fallen behind in projections for recommendations and final adoption of the recommendations. She was looking to bring everyone together to ensure there were no parallel tracks and that the project be inclusive.

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

The Mayor reported on the December 8th status hearing with the Public Service Board. He noted the City was continuing to move forward with Dorman and Fawcett. He reported on the Larkin Audit, issued by Public Service Department, and read into the record a statement his office had issued which noted the report had reached unsubstantiated conclusions and did not account for current circumstances. He urged City Councilors to review the report and the Mayor's response. The Mayor finished by stating that Burlington was a small city with big ideas and it was important to make sure the City had the staying power to address these issues.

5. COMMUNICATION: Joseph McNeil, Esq., re: Labor Negotiations (oral)

On a motion by Councilors Bushor and Shannon, the Council voted unanimously to go into executive session at 8:00 p.m. to discuss labor negotiations, premature disclosure of which could place the City at a substantial disadvantage.

On a motion by Councilors Bushor and Mulvaney-Stanak, the Council voted unanimously to go out of executive session at 9:32 p.m.

6. ADJOURNMENT

On a motion by Councilors Bushor and Mulvaney-Stanak, the City Council Meeting unanimously adjourned at 9:32 p.m.

Attest:

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