
 DELIBERATIVE AGENDA

REGULAR MEETING, CITY COUNCIL
MONDAY, FEBRUARY 7, 2011
CONTOIS AUDITORIUM, CITY HALL
7:00 P.M.

PRESENT: All Councilors were present, including Mayor Kiss

CITY ATTORNEY'S OFFICE: Ken Schatz

CLERK/TREASURER'S OFFICE: Scott Schrader

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilors Adrian and Bushor, the agenda was adopted as amended as follows: note revised version of agenda item 5. RESOLUTION: Burlington Climate Action Plan and Community Standards for Private Partnerships with the City (Councilors Mulvaney-Stanak, Brennan); add to the agenda item 5.01. COMMUNICATION: Memorandum from Jennifer Green, Community and Economic Development Office and Sandrine Thibault, Department of Planning and Zoning, re: Climate Action Plan Update; add to the agenda item 5.02. COMMUNICATION: Memorandum from Mayor Bob Kiss re: "Burlington Climate Action Plan and Community Standards for Private Partnerships with the City" Resolution. Councilor Berezniak noted that agenda item 5 should have his name as a co-sponsor.

2. 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>
Michael Morelli	Ironworkers Local 7	Supported Workforce Standards
Jill Charbonneau	President, VSLC	Supported Workforce Standards
Robert Wagner	Vermont Commons	Item 5
Cathy Voyer	Assoc. General Contractors	Opposed Workforce Standards
Tom Clavelle	Engelberth Construction	Opposed Workforce Standards
Greg Jenkins		Accountability BT/Moran Plant
Maxwell Tracy		Moran Redevelopment
Sandy Wynne	Fair Trade Committee	Hershey Chocolate Slave Labor
Traven Leyshon	High Road Vermont	Supported Workforce Standards
Amanda Calder		Opposed Lockheed Martin
Jon Turner		Opposed Lockheed Martin
David Ross		Opposed Lockheed Martin

Jay Vos	Board of Health	Opposed Lockheed Martin
Ted Auch		Opposed Lockheed Martin
Sister Miriam Ward	Pax Christi Burlington	Opposed Lockheed Martin
Marcia Mason		Opposed Lockheed Martin
Drew Krutak		Opposed Lockheed Martin
Anna Guyton	Peace and Justice Center	Opposed Lockheed Martin
Peter Lackowski	1	Opposed Lockheed Martin
Nina Parris		Opposed Lockheed Martin
William Bennington	2	Opposed Lockheed Martin
Nathan Joseph	6	Opposed Lockheed Martin
Nolan Rampy	UVM Graduate Student	Opposed Lockheed Martin
Lewis Holmes	6	Opposed Lockheed Martin
Peter Garritano		Opposed Lockheed Martin
Juliet Buck		Opposed Lockheed Martin
Kai Mikkelforlie		Opposed Lockheed Martin
Laurie Essig		Opposed Lockheed Martin
Willa Cowan	6	Opposed Lockheed Martin
Liza Cowan	6	Opposed Lockheed Martin
James Leas	South Burlington	Opposed Lockheed Martin
Matt Lash	IBEW Local 300	Supported Workforce Standards
Jimmy Ades	3	Opposed Lockheed Martin
Ben Dangl	6	Opposed Lockheed Martin
James Ramey	5	Opposed Lockheed Martin
Allen Parker	3	Opposed Lockheed Martin
Jonathan Leavitt	2	Opposed Lockheed Martin
Peggy Luhrs	3	Opposed Lockheed Martin
Adrienne Kinne		Opposed Lockheed Martin

Joanna Rankin	1	Opposed Lockheed Martin
Bruce Leonard	Assoc. Builders and Contractors	Opposed Workforce Standards
Kirk Jones	Gund Institute/UVM	Opposed Lockheed Martin
Laurie Larson	Vermont Legal Aid	Opposed Lockheed Martin
Martin Lockheed, Inc.	(Robin Lloyd)	Opposed Lockheed Martin
Joe Solomon		Opposed Lockheed Martin

With no one further coming forward and no objection from the remaining Council, City Council President Keogh closed the public forum at 9:05 p.m.

3. CONSENT AGENDA

- 3.01. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator, re: Accountability List
*waive the reading, accept the communication and place it on file
- 3.02. RESOLUTION: Reclassification of Customer Service Associate and Customer Service Support; Reorganization of Department of Public Works (Board of Finance)
*waive the reading and adopt the resolution
- 3.03. COMMUNICATION: ACAO Schrader, re: Board of Finance December 13, 2010 Minutes
*waive the reading, accept the communication and place it on file
- 3.04. COMMUNICATION: ACAO Schrader, re: Board of Finance December 27, 2010 Minutes
*waive the reading, accept the communication and place it on file
- 3.05. COMMUNICATION: Chief O’Neil’s Office, re: Burlington Fire Commission 2011 Meeting Schedule
*waive the reading, accept the communication and place it on file
- 3.06. COMMUNICATION: Thomas M. Salmon, CPA, State Auditor to Mr. Jonathan P.A. Leopold, Jr., Chief Administrative Officer, City of Burlington, re: Audit being Conducted of the City of Burlington’s TIF
*waive the reading, accept the communication and place it on file
- 3.07. COMMUNICATION: Burlington Board of Health, re: Semi-Annual Report: July 1, 2010 – December 31, 2010
*waive the reading, accept the communication and place it on file
- 3.08. COMMUNICATION: Burlington Electric Department, re: An Explanation of BED’s Two Ballot Items (Questions 3 and 4) on the March ballot
*waive the reading, accept the communication and place it on file
- 3.09. COMMUNICATION: Patricia J. Crowley, Clerk, Board of Electric Commissioners, re: Electric Commission Attendance Record
*waive the reading, accept the communication and place it on file
- 3.10. COMMUNICATION: Peter L. Potts, Chair, Burlington Planning Commission, re: Update on

Planning Commission Activities, October – December, 2010

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

3.11. COMMUNICATION: Office of the Vermont Secretary of State, re; Vol. 12, #11, December 2010, Minutes

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

4. PUBLIC HEARING: Proposed Tax Increment Financing District, Downtown Burlington

City Council President Keogh opened the public hearing at 7:25 p.m. With no one coming forward to speak, the public hearing was closed at 7:25 p.m.

4.01. COMMUNICATION: Stephanie Hainley, White + Burke, Real Estate Investment Advisors, re: Burlington TIF – City Council Packet Submission Materials List

4.02. COMMUNICATION: CEDO, re: Public Hearing Notice, Downtown Tax Increment Financing District Plan

4.03. RESOLUTION: Approving the Downtown Tax Increment Financing District Plan and Making a Finding as to the Purpose of the District (Councilors Berezniak, Mulvaney-Stanak: Community Development & Neighborhood Development Committee)

Councilor Berezniak made a motion, seconded by Councilor Kehoe, to waive the reading and adopt the resolution supporting the Downtown TIF District and to waive the readings, accept communications 4.01 and 4.02 and place them on file.

CEDO Director Larry Kupferman and Stephanie Hainley of White + Burke made their presentation to the Council to re-approve the action taken last year so as to have the TIF District start date change to April 1, 2011. Ms. Hainley explained that due to a new requirement added to the application, not to the TIF District plan, the application was held up and the start date was delayed. Once the plan was approved by the City, by statute, the TIF would start on April 1st of the year approved. Because this had not been approved by VEPSA yet, in order to maximize the full year of TIF monies the resolution needed to be reapproved by the Council. It was reiterated that no boundaries had been changed in the TIF district.

Councilor Dober stated he had thought the Council had been told the last time they voted there was a time compliance issue and also he believed the City had reached the ceiling on the amount used of the TIF. Larry Kupferman explained that the ceiling had to do with the existing TIF District (Waterfront). This project was a new and separate project and new ceilings had yet to be determined. Regarding the Waterfront, he told the Council that the Legislature approved an additional five years of capacity to incur debt.

Councilor Wright understood the TIF as an economic development tool. However, he asked about issues he had heard about with a recent Colchester TIF and a statement about risk being minimized through timely execution. He asked what risks the City needed to be aware of. Ms. Hainley explained that Colchester was further along in the process and looking at development of open land. The risk for the City would be the vehicle used, whether bonding or certificates of participation were used, were backed by the incremental difference in the baseline of value that was established versus the expected revenue from additional development. Therefore, development needed to go forward before the City could incur any debt.

The motion then passed by a vote of 13 to 1, with Councilor Adrian voting against.

5. RESOLUTION: Burlington Climate Action Plan and Community Standards for Private Partnerships with the City (Councilors Mulvaney-Stanak, Brennan)

Councilor Mulvaney-Stanak made a motion, seconded by Councilor Kranichfeld, to waive the reading and adopt the resolution. Councilor Mulvaney-Stanak, making note of the number of entities in the Burlington area who were involved in climate change issue, stated this resolution did not require termination of the agreement but instead requested that public input be provided on the details of the agreement and public involvement to take place with all options for partnership being considered.

Councilor Adrian expressed appreciation to the previous speakers and wondered if this issue would prove to be a distraction from other more pressing issues the City was facing. He then offered an amendment which stated that while the City Council had not had a chance to approve or disapprove the Lockheed Martin agreement, the City Council would formally reject the letter of cooperation. The motion was seconded by Councilor Berezniak. Councilor Mulvaney-Stanak stated the amendment was not considered friendly.

Councilor Decelles requested information from the City Attorney regarding the letter of cooperation regarding Council approval or termination. City Attorney Schatz stated the letter did not require approval as at this time there was no formal agreement and no payment of funds to Lockheed Martin. The Council could not, in effect, tear up the agreement but could express their point of view about the idea. Councilor Decelles stated his concern that discussion of this matter would become a dog and pony show and asked that the Council vote on the matter soon. Councilor Berezniak stated he would like to amend the amendment by deleting the clause that referred the resolution to CEDO. This was considered friendly by Councilor Adrian.

Councilor Dober stated he had worked with many of the engineers at Lockheed Martin and that one of the reasons climate change advances were troublesome was because of lack of funding. He believed that Lockheed Martin had research and development money that could be used to assist Burlington in their efforts. Councilor Kranichfeld, after researching Lockheed Martin, noted the frustration he felt that the City would have to partner with a private corporation in order to derive a benefit from federal tax dollars. He believed this effort was ill advised and involved a lack of public process in entering this letter of cooperation.

Councilor Kehoe explained her reason for supporting the amendment and asked that the Mayor speak with further details. Councilor Bushor felt there was a disconnect between the whereas and the action clause. She expressed her pride in the talent present in Vermont but was concerned it was naïve to believe that Burlington could affect climate change on its own. Expertise may be needed from outside Vermont and certainly money would be required. She believed the original resolution was best because it brought the issue back to the Council for action.

Councilor Kaplan noted the letter of cooperation was not created in a vacuum. She believed more information and data was required but urged that the baby not be thrown out with the bath water. The original resolution would allow all sides to be heard, which she believed must happen. She believed that Burlington deserved to at least continue the dialogue.

Councilor Shannon requested Mayor Kiss to speak. At this point he agreed to comment, noting that this was not the first time the Council had been made aware of this agreement, that copies had been sent out previously, and Channel 17 had filmed meetings where he and the Sustainability Director spoke to this issue. He believed climate change was a threat to the future and this was a conservative tactic for a radical strategy. He then read a paragraph from a recent article entitled Global Peril of Overheating.

Councilor Berezniak stated Burlington must have standards that any partner, including Lockheed Martin, rise to and that Burlington must not lower its standards to accommodate any future partner. Councilor

Adrian requested that Jennifer Green speak to the Council. City Council President Keogh requested latitude to allow Ms. Green to speak to the Council.

Ms. Green explained that Burlington developed one of the first Climate Action Plans in the country. She explained that several years ago an update of emission gas data was performed, followed by a reduction target being set of an 80% reduction below 2007 by 2050 and a short term goal of a 20% reduction by 2020. Working groups were formed to determine how to reduce the greenhouse gas emission with over 200 recommendations being generated. With the advent of energy and efficiency conservation block grant funds, Spring Hill Solutions, a small company who worked on sustainable management and greenhouse tracking was hired to work on the recommendations to ascertain what projects would be the most helpful to reach the goal of the City. The plan then was to have the final updated version of the Climate Action Plan available in April of 2011.

Councilor Bushor asked Ms. Green to speak to the availability of funds. Ms. Green responded there were a lot of good ideas with not a lot of resources. She explained that during the Reagan Administration there was little emphasis put on the public sector and the public sector was undermined. Since that time groups have had to look at the private sector to meet the funding need. The projects being reviewed were ambitious and very expensive with funding still being unmet. At this time Councilor Decelles called the question, seconded by Councilor Dober. The motion failed (two-thirds vote required) by a vote of 9 to 5 with Councilors Kaplan, Kranichfeld, Berezniak, Shannon, Adrian voting in favor. Councilor Mulvaney-Stanak then noted that additional resolve clauses would need to be removed as a result of Councilor Adrian's amendment. That was considered friendly by Councilor Adrian.

Councilor Shannon asked the Mayor what was being offered by Lockheed Martin. The Mayor stated again there was no detailed agreement with Lockheed. Councilor Kranichfeld asked City Attorney Schatz if the Mayor could decide to have a Letter of Cooperation with another party without Council approval. Again, City Attorney Schatz stated the Mayor could have such a letter and yet it had no binding effect. A potential proposal would ultimately come to the Council for review and approval. Councilor Kranichfeld then asked at what point an agreement would rise to the level where it would require Council approval. The normal guidelines related to contracts would apply, such that if a contract was over \$50,000 the Board of Finance would review, over \$100,000 would require Council approval and anything of a duration of more than a year the Council would review and approve.

Councilor Adrian then asked Ms. Green about a prior comment made by a speaker inferring the City giving Lockheed Martin funding. Ms. Green responded there was a great deal of misperception about any discussions with Lockheed Martin and there had been no talk of money on either side. Councilor Adrian asked if there were any examples of Lockheed Martin partnering with other cities. Ms. Green did not know of any examples. She then explained the concept of the Carbon War Room, a non-profit created by Sir Richard Branson. As he believed climate change was the biggest humanitarian war the world faced, his idea was to bring financiers together with municipalities to deal with climate change. Lockheed Martin's Energy Services Team was one of the financiers. Councilor Adrian asked if it was naïve to believe that Lockheed Martin would give the City a large amount of money. Ms. Green responded that when they came to Burlington they came as a team: the Lockheed Martin Energy Services Division, MIT, and the Neutral Group, an engineering firm. One potential she saw was working with the Neutral Group who had worked with DHL to reduce vehicle miles traveled. She hoped that Burlington would be able to receive technical expertise from this collaboration. She then went on to discuss the potential of a collaboration with UVM, using resources and expertise provided by the Carbon War Room participants to come up with a climate adaptation plan.

Councilor Dober called the question, seconded by Councilor Decelles. The motion passed by a vote of 13 to 1 with Councilor Adrian voting against. A roll call was requested.

Aye: Councilors Adrian, Berezniak, Kehoe, Kranichfeld, Mulvaney-Stanak, Paul, Keogh

Nay: Councilors Brennan, Bushor, Decelles, Dober, Kaplan, Shannon, Wright

The motion failed by a vote of 7 to 7.

Councilor Kaplan then called the question on the original resolution, seconded by Councilor Decelles. The motion to call the question passed by 13 to 1, with Councilor Brennan voting against. The resolution then passed by a vote of 10 to 4 with Councilors Decelles, Wright, Dober and Brennan voting against.

5.01. COMMUNICATION: Memorandum from Jennifer Green, Community and Economic Development Office and Sandrine Thibault, Department of Planning and Zoning, re: Climate Action Plan Update

5.02. COMMUNICATION: Memorandum from Mayor Bob Kiss re: "Burlington Climate Action Plan and Community Standards for Private Partnerships with the City" Resolution (per Mayor Kiss).

City Council President Keogh made a motion to waive the readings, accept the communications and place them on file pertaining to agenda items 5.01. and 5.02.

6. RESOLUTION: Community Workforce Standards for Moran Redevelopment Project
(Councilors Mulvaney-Stanak, Brennan)

Councilor Mulvaney-Stanak made a motion, seconded by Councilor Brennan, to waive the reading and adopt the resolution. Councilor Mulvaney-Stanak explained that she saw this as an opportunity to help working Vermonters and was a responsible use of the taxpayer dollars that were going into the Moran Plant. Citing concerns individuals had about this document being a PLA, she outlined the resolution was a recommendation and not a mandate. A PLA was a legally binding document and included provisions that are not in this particular resolution. She noted that many of the resolve clauses were required by HUD, the agency providing much of the funding. She reminded the Council that a resolution was passed in December of 2009 encouraging the Council to look at labor standards for the Moran project. She also addressed the benefits of apprenticeship within the trades.

Councilor Decelles and Councilor Dober both stated their reasons for not supporting the resolution. Councilor Dober remarked that the financial responsibility of the City was to build the Moran Plant in the least expensive way, with quality. Councilor Shannon reminded the Council that a study was done and the recommendation from the consultant was that the City should not move forward with a PLA; she then stated her opposition to the resolution. Councilor Berezniak explained he would support the resolution as it set out standards that should exist for projects like Moran. He did not agree with building it as cheaply as possible or on the backs of labor.

Councilor Kehoe asked that the resolution be withdrawn and rewritten. She believed the direction given within the resolution was confusing, with some lines being guidance and others being mandatory. Councilor Mulvaney-Stanak declined to withdraw the resolution. Councilor Kaplan stated her belief that implementing this resolution would put an end to the Moran Project. Councilor Kranichfeld noted his concerns with the resolution, as he agreed with other Councilors that this was not an advisory resolution.

Councilor Adrian then made a motion to suspend the rules, continue the meeting past 10:30 p.m. and conclude the meeting after the discussion on this point, accepting agenda item 7.0 and placing it on file and move into executive session, seconded by Councilor Bushor. At the advice of Asst. CAO Schrader, the consent agenda was also added by Councilor Adrian who asked to take the action items indicated. Councilor Bushor then requested that item 7 be excluded from this recent motion and place the item on the agenda of the next meeting.

The motion passed by a vote of 13 to 1, with Councilor Mulvaney-Stanak voting against.

Councilor Brennan stated the face of Burlington was changing and this resolution asked that all people be treated equally. He explained that those employers and associations who spoke to the Council in opposition, as well as construction sites at UVM, did not reflect or represent the majority of Burlington. He also remarked that having an apprentice program in place tapped into unused resources. This was an opportunity to open the door to have people recognize those resources.

Councilor Wright thought this resolution was unworkable. He then asked to call the question, seconded by Councilor Dober. The motion passed by a vote of 13 to 1, with Councilor Brennan voting against. A roll call vote was taken.

Aye: Councilors Adrian, Berezniak, Brennan, Bushor, Mulvaney-Stanak

Nay: Councilors Decelles, Dober, Kaplan Kehoe, Kranichfeld, Shannon, Wright, Keogh

The motion failed by a vote of 9 to 5.

Attorney McNeil then came forward and stated the need to go into Executive Session to discuss the employment, evaluation and retention of City employees in connection with potential reorganizational efforts at Burlington Telecom. Councilor Adrian asked why the Attorney's Office or Administration did not come forward earlier to discuss this. Attorney McNeil stated the Board of Finance was apprised earlier in the evening and the Board determined the City Council needed to be included in the discussion. Following another question from Councilor Adrian, Attorney McNeil stated the reorganization would impact city employees and the harm that could come from discussing that prematurely could cause personnel issues. The harm the City would suffer would be the employees would lose confidence in being treated fairly, dispassionately and respectfully. Attorney McNeil needed to explain to Councilor Adrian that these matters involved employees, not politicians, but individuals employed to do a service who would not expect their employer to discuss this in public before even being advised.

Councilor Wright expressed appreciation to the questions asked by Councilor Adrian, however, did not know of a clearer case than this one in which an executive session was required. This was being brought to the Council as an advance notice, being sensitive to the Council knowing in advance. Councilor Bushor read from the Vermont Statutes, General Provisions section, item 3, which stated executive sessions were required when speaking of the appointment or evaluation of public officer or public employee. Councilor Paul explained the Councilors on the Board of Finance pushed to have this on the Council agenda because they felt it was important the Council know the information as soon as the Board of Finance knew it. She also requested that people not walk out of the Executive Session. Councilor Dober then made a motion to go into executive session to discuss the hiring, employment and evaluation of City employees, the premature disclosure of which could place the City at a substantial disadvantage. The motion was seconded by Councilor Berezniak.

Councilor Decelles appreciated the questioning of Councilor Adrian. Attorney McNeil noted that he understood Councilor Decelles' concerns and highlighted the fact it was the responsibility of the counsel that discussion does not wander off topic. Councilor Berezniak made a motion, seconded by Councilor Dober, to call the question. The motion passed unanimously to call the question. The motion to go into executive session passed by a vote of 12 to 2 with Councilors Decelles and Adrian voting against.

The Council went into Executive Session at 10:55 p.m. Councilor Dober made a motion, seconded by Councilor Kehoe, to come out of Executive Session. The meeting of the City Council then adjourned at 11:10 p.m.

Attest:

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