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DELIBERATIVE AGENDA

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SPECIAL CITY COUNCIL WORKSESSION

MONDAY, FEBRUARY 14, 2011

CONFERENCE ROOM 12, CITY HALL

6:30 P.M.

PRESENT: Councilors Bushor, Shannon, Mulvaney-Stanak, Adrian, Wright, Kranichfeld, Paul, Kaplan, Decelles, Keogh and Mayor Kiss

ABSENT: Councilors Brennan, Berezniak, Dober and Kehoe

1. AGENDA

2. COMMUNICATION: Joseph McNeil, Esq., re: Collective Bargaining Update (oral)

On a motion by Councilors Bushor and Kranichfeld, the Council voted unanimously to go into executive session at 6:40 p.m., to discuss collective bargaining, premature disclosure of which would 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 7:15 p.m.

3. ADJOURNMENT

On a motion by Councilors Bushor and Mulvaney-Stanak, the Council voted unanimously to adjourn the Special City Council Work Session at 7:15 p.m.

Attest:

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

LOCAL CONTROL COMMISSION  
MONDAY, FEBRUARY 14, 2011  
CONTOIS AUDITORIUM, CTY HALL  
7:24 P.M.

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

ABSENT: Councilors Brennan and Kehoe

OFFICE OF THE CITY ATTORNEY: Ken Schatz

OFFICE OF THE CLERK/TREASURER: Scott Schrader and Lori Olberg

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

Commissioner Dober made a motion, seconded by Commissioner Shannon, to adopt the agenda as is. The motion passed unanimously.

2. CONSENT AGENDA

On a motion by Commissioners Dober and Shannon, the Local Control Commission voted unanimously to adopt the consent agenda, 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 1, 2010

\*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, December 1, 2010

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

2.03. SECOND CLASS STORE LIQUOR LICENSE RENEWALS (2011-2012):  
see attached list

\*waive the reading, accept the communication, place it on file and approve the 2011-2012 Second Class Store Liquor License Renewals with all standard conditions

3. SECOND CLASS STORE LIQUOR LICENSE APPLICATION (2011-2012):

Thai Phat Oriental Market, 100 North Street

Commissioner Dober made a motion, seconded by Commissioner Berezniak, to approve the 2011-2012 Second Class Liquor License Application for Thai Phat Oriental Market with conditions. The motion passed unanimously.

4. ADJOURNMENT

On a motion by Commissioners Dober and Berezniak, the Local Control Commission voted unanimously to adjourn at 7:26 p.m.

Attest:

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

ADJOURNED MEETING, CITY COUNCIL  
MONDAY, FEBRUARY 14, 2011  
7:26 P.M.

PRESENT: See above. Councilor Shannon left the meeting at 8:20 p.m.

ABSENT: See above

PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilor Adrian with no second, the agenda was amended unanimously as follows: note title change and language added to agenda item 3.02. RESOLUTION: Appointment of Acting Ward

Clerk for Ward Three/Appointment of Acting Inspectors of Election for Wards Two, Three and Four with the NOW, THEREFORE, BE IT RESOLVED clause to read as follows: “NOW, THEREFORE, BE IT RESOLVED that the Burlington City Council hereby approves the appointments of Damon Lane (P) as the Acting Ward Clerk for Ward Three; Jean Berthiaume (D) as the Acting Inspector of Election for Ward Two; Sara Jelen (D) as the Acting Inspector of Election for Ward Three; and Bill McNamara (I) as the Acting Inspector of Election for Ward Four for the March 1, 2011 Annual City Election Meeting;” add to the agenda item 3.06.01. COMMUNICATION: David E. White, AICP, Director of Planning and Zoning, re: Sustainable Communities Challenge Grant with the consent action to “waive the reading, accept the communication and place it on file.”

2. PUBLIC FORUM

City Council President Keogh opened the public forum at 7:35 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Ron Ruloff	3	Opposed Recall Resolution; BT

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

3. CONSENT AGENDA

On a motion by Councilors Adrian and Shannon, the Council voted unanimously to adopt, as amended, the consent agenda 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: Appointment of Acting Ward Clerk for Ward Three/Appointment of Acting Inspectors of Election for Wards Two, Three and Four (Councilor Keogh)

\*waive the reading and adopt the resolution

3.03. RESOLUTION: Reclassification of the Department of Public Works Water Installer (Board of Finance)

\*waive the reading and adopt the resolution

3.04. RESOLUTION: Supplemental Budget Resolution 2011-11 Appropriation Changes to Reflect Wellness Grant (Board of Finance)

\*waive the reading and adopt the resolution

3.05. RESOLUTION: Reclassification and Title Change of CEDO Housing Development Coordinator Position (Board of Finance)

\*waive the reading and adopt the resolution

3.06. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning, re: Sustainable Communities Challenge Grant

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

3.07. RESOLUTION: Authorization for Acceptance of the \$286,750 Sustainable Communities Challenge Grant Award and Execution of a Cooperative Agreement with the U.S. Department of Housing and Urban Development (Board of Finance)

\*waive the reading and adopt the resolution

3.08. COMMUNICATION: Laurie Adams, Assistant Director DPW Water Quality, re: Request to make Grant Application to the State of VT

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

3.09. RESOLUTION: Authorization to Execute Grant Application from the State of Vermont's Department of Environmental Conservation re: ARRA Stormwater Improvement Projects (Board of Finance)

\*waive the reading and adopt the resolution

3.10. COMMUNICATION: Kirsten Merriman Shapiro, Special Projects Manager, CEDO, re: Application for a Downtown grant for the Waterfront Access North Project

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

3.11. RESOLUTION: Authorization to Apply for Downtown Grant Funds (Councilor Keogh; Community Development & Revitalization Committee: Councilors Berezniak, Mulvaney-Stanak, Adrian)

\*waive the reading and adopt the resolution

3.12. RESOLUTION: Authorization to Accept Grant for Wildlife Hazard Assessment and Update of Wildlife Hazard Management Plan and to Contract for Related Services at Burlington International Airport (Board of Finance)

\*waive the reading and adopt the resolution

3.13. RESOLUTION: Authorization for Land Purchases and Relocation Services in Anticipation of AIP Grant Funds for Burlington International Airport (Board of Finance)

\*waive the reading and adopt the resolution

3.14. RESOLUTION: Authorization to Accept Grant Offer for Land Purchases and Relocation Services for Burlington International Airport (Board of Finance)

\*waive the reading and adopt the resolution

3.15. TOBACCO LICENSE RENEWALS (2011-2012): see attached list

\*waive the reading, accept the communication, place it on file and approve the 2011-2012 Tobacco License Renewals

4. TOBACCO LICENSE APPLICATION (2011-2012):

Thai Phat Oriental Market, 100 North Street

Councilor Dober made a motion, seconded by Councilor Paul to approve the 2011-2012 Tobacco License Application for Thai Phat Oriental Market. The motion passed unanimously.

5. COMMUNICATION: Bob Kiss, Mayor, re: Fire Chief/Chief Engineer Appointment

Mayor Kiss outlined the appointment process taken in selecting the Fire Chief. The Mayor recommended the appointment of Seth Lasker, a 21 year veteran of the Burlington Fire Department and asked for the support of the Council.

Councilor Adrian then made a motion, with no second, to approve the appointment of Seth Lasker as Chief Engineer at the recommendation of the Mayor. Councilor Wright spoke in support of the appointment and Councilor Decelles expressed appreciation to the firefighters in attendance. The appointment then passed unanimously and the Mayor swore the new Fire Chief into office. Chief Lasker expressed appreciation for the support of the Council, the Fire Commission and the firefighters.

6. RESOLUTION: Burlington Telecom Reorganization, Personnel Classification and Compensation (Board of Finance)

Councilor Shannon made a motion, seconded by Councilor Dober, to waive the reading and adopt the resolution. With no discussion, the motion passed unanimously.

7. RESOLUTION: Memorial Auditorium (Councilors Paul, Wright, Keogh)

Councilor Paul made a motion, seconded by Councilor Wright, to waive the reading and adopt the resolution. She explained a group of stakeholders had been meeting informally to work on recommendations for the Auditorium and the superblock. This resolution requested that David White, the City's Planning Director, work collaboratively with the stakeholders to develop a series of recommendations and alternatives for consideration. The resolution required that a report be brought back to the Council at the first meeting in July regarding the potential development of Memorial. Councilor Wright stated this issue had been discussed for years and he believed it was high time to do something with Memorial Auditorium.

Mayor Kiss stated it was the responsibility of the Administration to review and determine the use of municipal properties. He explained that Memorial Auditorium was considered an asset to the City but was it wise to invest in a building that may not have long range plans. At this time the City was examining how the Downtown TIF District would affect whether or not to replace or repair the building. He explained the process and review was already underway.

Councilor Berezniak explained he was concerned that task forces and committees were organized and individuals who wished to participate were not included. He did not want to see that happen with this item. Councilor Wright stated he did not have an issue with adding people to the group. Further, this resolution was not being put forward to take the Administration's role from them. However, he believed this was a serious matter that needed to be addressed. Councilors Shannon and Bushor both stated they felt the standing group of individuals were appropriate for the task at this time.

Councilor Dober then called the question, seconded by Councilor Decelles. The motion passed by a vote of 9 to 3 with Councilors Bushor, Keogh and Shannon voting against.

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

8. COMMUNICATION: Kenneth A. Schatz, Esq., City Attorney, re: Report from Ad Hoc Committee on the Use of Executive Sessions

8.01. COMMUNICATION: Ad Hoc Committee on the Use of Executive Sessions (Councilor Sharon Bushor/Chair, Councilors Kurt Wright and Bram Kranichfeld), re: Committee Report

- 8.02. RESOLUTION: Proposed Amendment to Appendix B, Rules and Regulations of the City Council—Majority Vote Required re Executive Sessions (Councilors Bushor, Wright, Kranichfeld: Ad Hoc Committee on Executive Sessions)

Councilor Bushor made a motion, seconded by Councilor Wright, to waive the reading and adopt the resolution and waive the readings of agenda items 8.01 and 8.02, accept them and place them both on file. Councilor Bushor explained that this amendment allowed for a Councilor, while in executive session, to request a vote to determine whether the executive session should continue. She also stated that an amendment had been given to her which requested that approval of two-thirds majority of the Council be required to go into executive session.

Following several questions and concerns from Councilor Shannon, City Attorney Schatz explained the memo which accompanied the resolution was not binding. It was a statement of the Ad Hoc Committee. The resolution itself would be the binding document. Further, Councilors were required to come to City Council meetings. Councilor Shannon stated she believed that all Councilors were required to participate in executive sessions as part of any City Council meeting. She was also concerned about the 2/3 majority amendment.

Councilor Wright argued with several comments made by Councilor Shannon, stating that the Administration would not have met their burden of proof if they could not get two-thirds of the Council to agree to hold an executive session. Councilor Wright then stated he would be proposing the amendment that Councilor Bushor referred to. Councilor Kranichfeld expressed his opinion that a Councilor's duty was to his constituents and not to the Council itself. He believed the purpose of the resolution was to encourage more robust debate as to why an executive session was needed.

Councilor Adrian stated that at the end of the day it was a matter of personal responsibility for each Councilor and could not be addressed through a resolution. Councilor Adrian said there was an actual monetary worth of disclosing information publicly. He stated that providing information to the public allowed them to inform the Council of incorrect assumptions or problems with the logic of the Council.

Councilor Bushor explained the reason to go into executive session was not to keep the public in the dark. It was to protect an employee or a union negotiation or a third party the City was doing business with and to not disrupt or harm that potential legal contract or relationship.

Councilor Wright then formally proposed to amend the resolution. The motion was then seconded by Councilor Kranichfeld. The motion was considered friendly by Councilor Bushor. Councilor Berezniak explained he did not believe a resolution was necessary as State laws were currently in place.

Councilor Decelles asked City Attorney Schatz the process involved in disseminating information following executive sessions. City Attorney Schatz stated they made every effort to inform Councilors when information could be presented to constituents following an executive session and councilors had every right to expect that. Councilor Shannon agreed with Councilor Berezniak's statements, stating that raising the bar to two-thirds was not in the interests of the City. Councilor Mulvaney-Stanak noted in the event of a change to two-thirds, a smaller number of Councilors could require that the council move out of Executive Session.

Councilor Kaplan, while expressing appreciation for the discussion and the topic, called the question, seconded by Councilor Dober. The motion passed unanimously.

A roll call was requested by Council President Keogh. The amended resolution passed by a vote of 8 to 4 with 2 Councilors absent.

Aye: Councilors Bushor, Decelles, Dober, Kaplan, Kranichfeld, Mulvaney-Stanak, Paul, Wright

Nay: Councilors Adrian, Berezniak, Shannon, Keogh

Absent: Councilors Brennan and Kehoe

## 9. COMMITTEE REPORTS

Councilor Paul reported to the Council that the Transportation, Energy and Utilities Committee met the previous week and passed the Transportation Plan.

Councilor Adrian reported to the Council the Public Safety Committee had voted unanimously to have the Public Works Department explore types of fluoride that are added to the system. The Vermont Department of Health had informed the Committee the fluoride being added was an industrial waste byproduct as opposed to a pharmaceutical grade. Additionally, the City had reduced the amount of fluoride being used following EPA recommendations.

Councilor Berezniak reported to the Council that the Community Development and Neighborhood Revitalization Committee met and discussed grant monies for pedestrian and bike traffic improvements that were being used on the waterfront, augmented by matching federal funds. He hoped to hear recommendations from the Bicycle Task Force on what can be done to improve the South Winooski Avenue corridor. He also reported on the Drop Boxes, stating that a design for the box was ready and would be presented to the Committee soon.

City Council President Keogh informed the Council that he and Councilors Wright and Bushor would be meeting to discuss City Council rules.

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

Councilor Wright announced the upcoming scheduled meeting of the Ward 4/7 NPA.

Councilor Berezniak expressed disappointment over the Council's earlier action to limit debate on the Memorial Auditorium Committee. He believed it limited transparency and kept the public from participating.

Councilor Bushor reminded residents of the value of having smoke detectors and alarms that are interconnected within a building. She also requested that residents bring non-perishable food items to the polls on March 1<sup>st</sup>. Noting there were important items on the ballot she requested that people educate themselves on the items and vote.

Councilor Kaplan, being the Council representative to Channel 17, stated she had heard from residents that every city meeting should be available to view on Channel 17. She noted the cost of producing these shows were not inexpensive and while she agreed that taping each meeting provided a sense of open government, the Administration must know that money should be set aside for that purpose.

## 11. COMMUNICATION: Mayor Kiss, re: General City Affairs

Mayor Kiss reported that he had visited every NPA to talk about issues on the March ballot. He explained there had not been a tax increase of this kind since 2004. He believed that it was very important not to lose momentum given the economy and that it should be considered an investment. Over time other resources from economic growth will support the future of the City. He explained the budget process and the meaning of asking for "up to" four cents. He reminded the community that the proposed federal budget moves the responsibility of protecting low income residents to state and local municipalities.

12. ADJOURNMENT

Without objection City Council President Keogh adjourned the Council meeting at 8:48 p.m.

Attest:

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

BOARD OF CIVIL AUTHORITY  
MONDAY, FEBRUARY 14, 2011  
8:48 p.m.

ABSENT: Councilors Shannon, Brennan and Kehoe

MAYOR KISS PRESIDING:

1. AGENDA

On a motion by Board of Civil Authority Members Keogh and Mulvaney-Stanak, the agenda was amended as follows: add to the consent agenda item 2.01. RESOLUTION: Appointment of Assistant Election Officials/Appointment of Acting Justice of Peace (Councilor Keogh) for Ward One, Glenn Mcrae (I), 131 Mansfield Avenue.

2. CONSENT AGENDA

On a motion by Board of Civil Authority Members Keogh and Mulvaney-Stanak, the consent agenda was adopted, as amended, thus taking the following action as indicated:

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

3. ADJOURNMENT

On a motion by Board of Civil Authority Members Wright and Keogh, the Board of Civil Authority voted unanimously to adjourn at 8:49 p.m.

Attest:

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