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DELIBERATIVE AGENDA

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LOCAL CONTROL COMMISSION  
MONDAY, MARCH 28, 2011  
CONTOIS AUDITORIUM, CITY HALL  
7:09 P.M.

PRESENT: All members except Commissioners Mulvaney-Stanak & Brennan; Commissioner Dober via Phone; Mayor Kiss

CITY ATTORNEY'S OFFICE: Ken Schatz, Gene Bergman, Nikki Fuller (arrived at 7:44 p.m.; departed at 8:10 p.m.)

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

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Commissioner Berezniak, the agenda was adopted as is.

2. CONSENT AGENDA

On a motion by Commissioner Berezniak, the consent agenda was adopted thus taking the following action as indicated:

- 2.01. COMMUNICATION: Carole Bourneuf, Executive Secretary, re: Local Control Sub-Committee/City Council License Committee Minutes, March 16, 2011

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

3. ADJOURNMENT

On a motion by Commissioners Berezniak and Bushor, the Local Control Commission voted unanimously to adjourn at 7:09 p.m.

Attest:

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

ADJOURNED MEETING, CITY COUNCIL  
MONDAY, MARCH 28, 2011  
7:09 P.M.

PRESENT: See above

1. AGENDA

On a motion by Councilor Adrian, with no second, the agenda was amended as follows: note that consent agenda item 3.05. RESOLUTION: License Agreement with Chittenden County Transportation Authority to Place Three Bus Shelters and Bike Racks on a Portion of the Public Rights-of-way on Cherry and St. Paul Streets (License Committee: Councilors Dober, Berezniak, Mulvaney-Stanak), line 91, should read as follows "locations described above in subsections **28**-30 and as indicated in and pursuant to its License....;"add to the agenda item 7.5. RESOLUTION: Settlement Agreement re: Workers Compensation Claim (Board of Finance); remove agenda item 9. COMMUNICATION: City of Burlington, Vermont, Telecom Fund, re: Audit Report, June 30, 2010 (**material was part of the 3/7/11**

**City Council Packet**); add to the agenda item 9.5. COMMUNICATION: City Charter Inquiry (per Councilor Adrian). The motion passed unanimously.

2. PUBLIC FORUM

City Council President Keogh opened the public forum at 7:40 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Andy Montroll	6	Merger of MPO/RPC
Winston LaCasse, Jr.		Classism and Bullying/Ward 7
Ron Ruloff		Recall Ordinance
Bill Ward, Code Director		Rental Amnesty Update
Joseph Frank		Smoking Ban on Church Street

There being no one further coming forward, City Council President Keogh closed the public forum at 8:03 p.m.

3. 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:

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: Authorization to Enter into License Agreement to Maintain Tables and Chairs on a Portion of the City's Right-of-way with Big Fatty's BBQ (Councilors Dober, Berenziak, Mulvaney-Stanak: License Committee)

\*waive the reading and adopt the resolution

3.03. RESOLUTION: Authorization to Enter into License Agreement to Maintain Tables and Chairs on a Portion of the City's Right-of-way with Saint Nicholas, LLC d/b/a Sky Burgers (Councilors Dober, Berezniak, Mulvaney-Stanak: License Committee)

\*waive the reading and adopt the resolution

3.04. RESOLUTION: Authorization to Enter into License Agreement to Maintain Tables and Chairs on a Portion of the City's Right-of-way with Zabby's Stone Soup (Councilors Dober, Berezniak, Mulvaney-Stanak: License Committee)

\*waive the reading and adopt the resolution

3.05. RESOLUTION: License Agreement with Chittenden County Transportation Authority To Place Three Bus Shelters and Bike Racks on a Portion of the Public Rights-of-way on Cherry and St. Paul Streets (Councilors Dober, Berezniak, Mulvaney-Stanak: License Committee)

\*waive the reading and adopt the resolution

- 3.06. RESOLUTION: Review of School Crossing Guard Program (Councilor Paul)  
\*waive the reading and adopt the resolution
- 3.07. RESOLUTION: Election Day Parking (Councilors Shannon, Kranichfeld, Bushor:  
Ordinance Committee)  
\*waive the reading and adopt the resolution
- 3.08. RESOLUTION: Reclassification of the Department of Public Works Traffic Maintenance  
Worker (Board of Finance)  
\*waive the reading and adopt the resolution
- 3.09. RESOLUTION: Adopting the Chittenden County Multi-Jurisdictional All-Hazards  
Mitigation Plan and Annex 3, the City of Burlington All-Hazards  
Mitigation Plan (Councilor Bushor)  
\*waive the reading and adopt the resolution
- 3.10. COMMUNICATION: Patricia J. Crowley, Clerk/Burlington Electric Commission, re: McNeil  
Station Ash Recycling Contract  
\*waive the reading, accept the communication and place it on file
- 3.11. COMMUNICATION: John Irving, BED Manager of Generation, re: Approval of Contract for  
Beneficial Utilization of Wood Ash from the McNeil Generating Station  
\*waive the reading, accept the communication and place it on file
- 3.12. RESOLUTION: Authorization of Agreement to Provide Wood Ash Recycling Services  
Between Burlington Electric Department and Resource Management,  
Inc. (Board of Finance)  
\*waive the reading and adopt the resolution
- 3.13. COMMUNICATION: Sue Trainor, Assistant to the CAO, re: Correction to Wellness Budget  
Resolution  
\*waive the reading, accept the communication and place it on file
- 3.14. RESOLUTION: Corrected Supplemental Budget Resolution #2011-11 Appropriation  
Changes to Reflect Wellness Grant (Board of Finance)  
\*waive the reading and adopt the resolution
- 3.15. COMMUNICATION: Chittenden County Regional Planning Commission and Chittenden  
County Metropolitan Planning Organization, re: Proposed Merger of  
CCMPO & CCRPC – Authorize Approval of Merger and Bylaws  
\*waive the reading, accept the communication and place it on file
- 3.16. COMMUNICATION: CCRPC and CCMPO, re: Resolution of the City of Burlington in support  
of the merger of the Chittenden County Regional Planning Commission  
and the Chittenden County Metropolitan Planning Organization  
\*waive the reading, accept the communication and place it on file
- 3.17. COMMUNICATION: CCRPC and CCMPO, re: Draft Joint By-laws 03/17/2011  
\*waive the reading, accept the communication and place it on file
- 3.18. COMMUNICATION: CCRPC and CCMPO, re: Current committee structure and merged  
organizational chart  
\*waive the reading, accept the communication and place it on file

3.19. COMMUNICATION: Ann McLaughlin, re: Church Street-Downtown Concerns

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

3.20. COMMUNICATION: Chief Michael Schirling, BPD, re: City Council-Downtown Concerns Response

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

3.21. COMMUNICATION: Dave Hartnett, Member, Parks and Recreation Commission, re: Resignation

\*waive the reading, accept the communication, place it on file, advertise the vacancy and send a letter of appreciation to Dave Hartnett thanking him for his time served on the Parks and Recreation Commission

3.22. COMMUNICATION: Carole Bourneuf, Executive Secretary, re: Board of Finance December 6, 2010 Minutes of Meeting

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

3.23. COMMUNICATION: Carole Bourneuf, Executive Secretary, re: Board of Finance, January 31, 2011 Minutes of Meeting

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

3.24. COMMUNICATION: Rob Meehan, Director, Chittenden Emergency Food Shelf, re: Thank you

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

4. PUBLIC HEARING: Re-adoption and Amendment of the City of Burlington's 2006 Municipal Development Plan

David White, Director of Planning and Zoning, addressed the Council stating this was the final public hearing of the adoption of the City-wide Transportation Plan. This was a three year process which included review by the Planning Commission, Public Works Commission and the Transportation, Energy and Utilities Committee.

Councilor Decelles noted that in the plans North Avenue was designated a complete street. He asked how the street would be affected by that status. Director White stated a complete street tries to accommodate all modes of transportation and a review would include determining the street's ability to serve multiple modes. For instance, could travel lanes be narrowed to accommodate cyclists. Councilor Keogh asked what role the Council would play in the review. Director White noted that Councilor Bushor was currently involved in the Colchester Avenue project and Councilors could be involved as they wished. Ultimately, capital improvements would require City Council votes.

Councilor Wright asked Director White of the likelihood that a lane would be eliminated in the New North End. Director White stated that that would be an option to be evaluated and he could not say what the final outcome would be. Councilor Wright informed the Director White that he would anticipate significant opposition from the New North End.

Councilor Bushor noted her opposition to the pilot program which involved selling non-residential permits for daily parking in the neighborhood.

City Council President Keogh opened the public hearing at 7:25 p.m. There being no one coming forward, City Council President Keogh closed the public hearing at 7:25 p.m.

4.01. RESOLUTION: Amendment and Re-Adoption of the 2006 Burlington Municipal Development Plan (TEU Committee: Councilors Paul, Wright & Brennan)

Councilor Paul made a motion to waive the readings and adopt the resolution and accept communications 4.02 and 4.03 and place them on file. The motion was seconded by Councilor Berezniak. Councilor Paul explained this was an initial five year plan focusing on maintenance as well as funded capital projects including the Waterfront, Marketplace improvements, Downtown Transit Center, South End Transit Center and Champlain Parkway. Scoping and further funding that still needed to be addressed included Shelburne Street roundabout, Route 27, Queen City Park Bridge, Cliff Street sidewalk.

The resolution passed unanimously. The communications were placed on file.

- 4.02. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning,  
re: Proposed Municipal Development Plan Amendment:  
**MDP-10-01 Burlington Transportation Plan**

See above.

- 4.03. COMMUNICATION: Clerk/Treasurer's Office, re: Public Hearing Notice

See above.

5. PUBLIC HEARINGS: COMPREHENSIVE DEVELOPMENT ORDINANCES: ZA-11-06  
and ZA 11-07

David White, Director of Planning and Zoning, explained two zoning amendments being proposed. One amendment involved expanding the Enterprise Light Manufacturing District along Pine Street to include a property at 43 Birch Cliff Parkway. The other amendment involved rezoning a strip of land owned by the School District next to Lake Champlain Chocolates. The second amendment dealt with an exemption to setbacks.

City Council President Keogh opened the public hearings at 7:32 p.m.

John Killacky, Director of the Flynn Center, spoke to explain the Flynn's request to enclose the loading dock at the back of the theatre. He noted the safety issues for crew and energy loss associated with moving items from trucks into the theatre

Kevin Warden of Engineering Ventures spoke on behalf of Lake Champlain Chocolates.

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

- 5.01. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE – Expansion of  
the boundary of the Enterprise-Light Manufacturing (E-LM) Zoning  
District 25 feet to the south of 750 Pine Street and to the east to include  
the property at 43 Birchcliff Parkway ZA-11-06 (Planning & Zoning  
Department, Planning Commission)

Councilor Shannon made a motion, seconded by Councilor Kehoe, to waive the readings of both agenda items 5.01 and 5.02, suspend the rules and place them in all stages of passage.

- 5.02. ORDINANCE: COMPREHENSIVE DEVELOPMENT ORDINANCE – Downtown  
Mixed Use Residential District Setback ZA 11-07 (Planning & Zoning  
Department, Planning Commission)

See above.

- 5.03. COMMUNICATION: David E. White, AICP, Director of Planning & Zoning, re: Proposed Zoning Amendments

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

- 5.04. COMMUNICATION: Clerk/Treasurer's Office, re: Public Hearing Notice

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

6. ORDINANCE: PERSONNEL - Retirement System – Return Service (Human Resources Department)(1<sup>st</sup> reading)

Councilor Bushor made a motion, seconded by Councilor Wright, to waive the reading, consider this first reading and refer it to the Ordinance Committee. City Attorney Schatz explained that while the Retirement Ordinance itself was being reviewed, it was determined that this item in particular needed to be pushed ahead in priority. The motion passed unanimously.

- 6.01. COMMUNICATION: Retirement Board, re: Recommended ordinance changes regarding accrual rates for employees rehired on or after January 1, 2006

Councilor Bushor made a motion, seconded by Councilor Wright, to waive the reading, accept the communication and place it on file. The motion passed unanimously.

7. RESOLUTION: Enhancements to the FY 2012 Budget Process (Councilors Paul, Shannon and Kaplan)

Councilor Kaplan made a motion, seconded by Councilor Paul, to refer this to the Board of Finance. The motion passed unanimously.

- 7.5 RESOLUTION: Settlement Agreement re: Workers Compensation Claim (Board of Finance)

Councilor Bushor made a motion, seconded by Councilor Paul, to waive the reading and adopt the resolution. City Attorney Schatz noted this was in reference to a worker's compensation claim being handled by VLCT. This resolution only pertained to a reference made to age discrimination. The motion passed unanimously.

8. AUDIT ADVISORY COMMITTEE APPOINTMENTS

Councilor Paul nominated Paul Birnholz, Marcia Merrill, Kimberly Pinkham and Michael Seaver to the Audit Advisory Committee. She noted there remained one more seat to be filled on the Committee. She also asked that they be voted on as a slate. Councilor Decelles seconded the motion. The motion passed unanimously.

- 9.5. COMMUNICATION: City Charter Inquiry

Councilor Adrian explained to the Council that as it currently stood the Charter Change approved by the voters and being voted on by the Legislature would not retroactively change the structure of the Board of Finance. He stated he had been assured by City Attorney Schatz that an amendment would be added to the resolution so that, upon passage, the Board of Finance would be reconfigured. Councilor Wright stated that signatures were gathered and moved forward to the committee in order to avoid delay. City Attorney Schatz stated that they will work with the Legislative Council and the Committee to ensure that

there was appropriate language. Upon approval from the Governor, the composition would change immediately. Councilor Adrian inquired if the language inserted would change the Charter and retroactively change the composition of the Board of Finance. City Attorney Schatz stated that it would be an immediate prospective change. At the next Council meeting, the Council would be in a position to appoint the third City Councilor. It would be a change in one position.

10. COMMITTEE REPORTS

Councilor Kaplan stated the Parks Arts and Culture Committee met three weeks ago and discussed the Moran Plant in regards to tenant negotiations and the Moran Skate Park.

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

Councilor Shannon expressed her appreciation to Councilors Kehoe and Kaplan upon their departure from the City Council.

Councilors Bushor noted the passing of Marty Wilkens, an involved citizen of Burlington. She also expressed appreciation to Councilor Kaplan for her work on the Human Resources Committee.

Councilor Wright also spoke of Marty Wilkens. He also expressed his thoughts and heartfelt appreciation to the departing Councilors.

Councilor Keogh noted the tumultuous two years the departing Councilors worked through and thanked them for all their work during that time.

Councilor Kehoe thanked her fellow Councilors for their work and stated she had enjoyed her time working with them. She stated she would like to see Councilors working together more in the future.

Councilor Paul gave her regards to both of the departing Councilors.

Councilor Kaplan stated that despite the challenges of the position she had enjoyed her time on the Council and had appreciated the honor.

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

Mayor Kiss gave his regards to the departing Councilors.

13. ADJOURNMENT

On a motion by Councilors Kehoe and Kaplan, the City Council voted unanimously to adjourn at 8:44 p.m.

Attest:

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