
DELIBERATIVE AGENDA
REGULAR MEETING, CITY COUNCIL
MONDAY, NOVEMBER 14, 2011
CONTOIS AUDITORIUM, CITY HALL
7:01 P.M.

PRESENT: Mayor Kiss; City Council President Keogh; Councilors Adrian, Bushor, Berezniak, Kranichfeld, Brennan, Hartnett, Wright, Shannon, Blais, Paul, Decelles and Dober

ABSENT: Councilor Mulvaney-Stanak

CITY ATTORNEY'S OFFICE: Ken Schatz, Gene Bergman and Richard Haesler

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

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilors Shannon and Bushor the agenda was unanimously adopted, as amended, as follows: add to the consent agenda item 3.08. COMMUNICATION: Peter L. Potts, Chair, Burlington Planning Commission, re: Update on Planning Commission Activities, July – September, 2011 with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 3.09. COMMUNICATION: Bob Kiss, Mayor to The Honorable Zhang Yesui, Embassy of the People's Republic of China in the United States of America, re: Recognition of Tibetan cultural economy and Tibetan respect and protection in China with the consent action to “waive the reading, accept the communication and place it on file;” add to the consent agenda item 3.10.

COMMUNICATION: Interim CAO Schrader, re: March 6, 2012 Annual City Election and Presidential Primary Calendar with the consent action to “waive the reading, accept the communication and place it on file” and note the revised version for agenda item 5. RESOLUTION: Lessons Learned and Moving Forward from Burlington Telecom (Councilor Paul) and note the revised version for agenda item 6. RESOLUTION: Authorization to Award a Contract for the Replacement of the Memorial Auditorium Accessible Entrance Ramp (Board of Finance).

2. PUBLIC FORUM

City Council President Keogh opened the public forum at 7:31 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Timmy Goodwin	Ward 2 Resident	Pro-Skate Park
Brendan Foster	Ward 3 Resident Local Business Owner	Pro-Stake Park
Charlie Benasich	Ward 2 Resident	Pro-Skate Park
Mark Heitzsinger	Vermont Resident	Pro-Skate Park
Alex Halpern	Ward 6 Resident	Pro-Skate Park
Phil LaVigne	Ward 7 Resident	Development

Jerome O'Neil &
Mick Schirling &
Karen Vastine

Police Commission
Police Department
Community Justice Center

Police Awards

Michael Schirling, Chief of Police, stated that on October 28 the Occupy Protest began in City Hall Park. The City met daily to handle the event and had an ongoing dialogue. On Thursday, a man shot himself in the park and this brought to light problems. There were tense moments in City Hall and the Park, but successful solutions were negotiated. The camping portion had ended but the movement was not over.

Councilors Wright, Berezniak, Brennan and City Council President Keogh congratulated the Police on their awards and thanked the Police Department and the Mayor for their handling of the difficult situations that arose from the Occupy Movement.

Chief Schirling thanked the Mayor and Parks Department for their help in handling the Occupy Movement in the park.

Councilor Adrian thanked the Police Chief in helping to maintain the integrity of the caucus. He thanked the Mayor for his work with the Occupy Movement.

There being no one further coming forward and no objection from the remaining Council, City Council President Keogh closed the public forum at 7:50 p.m.

3. CONSENT AGENDA

On a motion by Councilors Shannon and Bushor the consent agenda was unanimously adopted 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: Reclassification of the Burlington Electric Department Administrator
of Customer and Energy Services Position (Board of Finance)

*waive the reading and adopt the resolution

3.03. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (one day only):

Magliano Café, 47 Maple Street, November 12, 2011, 6:30 p.m. – 10:00 p.m., Big Heavy
World Hosting an Opening Reception for a Photography Exhibit "Soundproof", Dancing

*waive the reading, accept the communication, place it on file and ratify the Special Event Indoor
Entertainment Permit Application for one day only

3.04. COMMUNICATION: Clerk/Treasurer's Office, re: Openings Burlington City Commissions/
Boards

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

3.05. COMMUNICATION: Amy Bovee, Executive Secretary and Lori Olberg, Licensing, Voting &
Records Coordinator, re: Draft Minutes, City Council, August 8, 2011

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the
November 7, 2011 City Council Meeting

3.06. COMMUNICATION: Amy Bovee, Executive Secretary and Lori Olberg, Licensing, Voting & Records Coordinator, re: Draft Minutes, City Council, September 12, 2011

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the November 7, 2011 City Council Meeting

3.07. COMMUNICATION: Bob Kiss, Mayor, re: Recognition of Captain William “Billy” Moulton Jr.

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

3.08. COMMUNICATION: Peter L. Potts, Chair, Burlington Planning Commission, re: Update on Planning Commission Activities, July – September, 2011

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

3.09. COMMUNICATION: Bob Kiss, Mayor to The Honorable Zhang Yesui, Embassy of the People’s Republic of China in the United States of America, re: Recognition of Tibetan cultural economy and Tibetan respect and protection in China

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

3.10. COMMUNICATION: Interim CAO Schrader, re: March 6, 2012 Annual City Election and Presidential Primary Calendar

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

4. DISCUSSION: Larry Kupferman, CEDO Director, re: March 6, 2012 Annual City Meeting—Downtown TIF District—Finance Public Improvements By Pledging Credit of the City

Larry Kupferman, CEDO Director, stated this would update the Council on the work on the Downtown Tax Increment Financing district. It was a work in progress and had been discussed with the Community Development and Neighborhood Revitalization Committee. There would be a request for a ballot item in March for voters to authorize borrowing within the district. There would be a two-step process with a resolution and the ballot language. This presentation was for information only and the resolution would be presented at the next meeting.

Stephanie Hainley, White and Burke, stated TIF was a long term planning and development mechanism. This TIF district would be different from the one that was already in place on the Waterfront and would focus on the downtown. The two did not overlap and were completely separate. TIF was a tool for the City to use in investing in infrastructure. This enhanced viability for more private redevelopment projects. In turn, these projects generate tax revenue that would repay the debt of the infrastructure projects. The infrastructure that would be addressed were utility upgrades, structured parking, stormwater, streetscape and transportation enhancements. Private development would not occur without this investment. This created new tax revenue and captured some state tax that would not otherwise stay in the City. This was a pro-downtown initiative and encouraged growth. The Council approved this in February and the Vermont Economic Progress Council approved it in June. The Planning Commission voted to approve the resolution and the CDNR Committee sponsored it. It aligned with the Plan BTV project on the waterfront. An example of a project could be on the TD Bank block, where Redstone had ideas about how they would redevelop that block, but had hit barriers with structured parking. This would allow the City to build public parking on that site which would maximize development potential and increase taxes that would repay that cost. Other properties were the super block property and the Hood plant property where the sewer lines intersect. None of these projects were guaranteed, and there was a process that any project would go through. The next step would be to set up the district and have the voters authorize an upper limit the City could borrow to invest in public infrastructure projects. The ballot question would ask for a

limit of \$10 million. There was a website that will be set up for education purposes, presentations at NPAs and FAQs would be distributed to help educate voters.

Councilor Berezniak inquired if all of the City goals would have to be tax generating investments. Ms. Hainley stated the way the statute was set up was that whatever investment was made to stimulate economic development needs to be repaid by development projects. As long as revenue was being generated in such a way that the debt can be paid down, other goals could be achieved.

Councilor Bushor inquired why the limit was \$10 million and how that number was chosen. Mr. Kupferman stated there was a 5 year window to incur debt and that would allow enough time to choose projects carefully. It would be possible to request more funding or more time. \$10 million fit with a 5 year plan. Councilor Bushor inquired if state statute allowed asking for more money and if all borrowing must happen within 5 years. Mr. Kupferman stated that extending borrowing past 5 years would require a change in State Statute. Some municipalities had been negotiating this. \$10 million was based on the time limit and the capacity of projects. Asking for more money would require Council and voter approval. Councilor Bushor inquired if the repayment plan would take 20 years. If more debt were incurred, would it be 20 years from when it was borrowed or 20 years from the start date. Ms. Hainley stated the time it took to pay it back would depend on the borrowing mechanism, but the new revenue would be for 20 years. She stated requesting \$10 million would not guarantee that whole amount would be used. Councilor Bushor stated residents would want to be reassured that there was no exposure to the City and it would need to be carefully explained. When another TIF district was discussed, someone provided a history on the existing TIF district. This might be helpful to use as a guideline for how much could be borrowed, how much was borrowed, and how repayment was going. Ms. Hainley stated that was a good idea and added that the district was approved in 1996 and the grand list in the district was \$44 million. It had increased by 279%. The investments worked, but seeing the application would be helpful too.

Councilor Kranichfeld inquired about the type of debt that would be issued. Mr. Kupferman stated that any municipal financing available could be used. All options would be examined and the best one will be chosen and brought to both the Council and voters. Ms. Hainley stated that it would likely be a revenue bond, as the increment coming back would be documented. Councilor Kranichfeld inquired if a revenue bond was chosen, would that mean only the revenue from this district be exposed. City Attorney Schatz stated that may not be accurate, and had not been examined fully. \$10 million was a cap and staff would come back to Council for the debt instrument. There were several options for borrowing, and it could be general obligation bond, certificate of participation or revenue bond. It would partially depend on the project. Councilor Kranichfeld inquired if the decision about the debt instrument could be made in the future. Mr. Kupferman stated that would be done for each project. The state would also look at these projects.

Councilor Dober inquired why the areas of the Downtown and Waterfront TIFs had gaps and who established these districts. Mr. Kupferman stated a TIF district could only be established in a downtown or growth center area. Burlington has a downtown designation that allows the City to apply for grants. The downtown designation included a portion of the waterfront. The district had to fit within those designations. Also, the properties that were excluded do not generate taxes, as they were municipally or federally owned. Only those that would generate revenue were included. There was a sentiment not to make the district too big and contain the properties that had value.

Councilor Berezniak requested that when the history of the Waterfront District was presented it was clear that in that project, the City was allowed to keep 100% of the increment, whereas this project would be different. Ms. Hainley inquired if a comparison between the two would help. Councilor Berezniak stated it would.

Mayor Kiss inquired how many districts had been approved at the State level. Ms. Hainley stated there were only 4 that had been approved and only a total of 6 were allowed. Mayor Kiss stated that most

municipalities look for approval with projects in mind, but Burlington had been approved with a district and not projects. The Waterfront TIF had worked well and this would allow for more development downtown. He thanked them for their work. Mr. Kupferman stated the information would be as widely available as possible. Constituents were welcome to ask questions.

- 4.01. COMMUNICATION: Larry Kupferman and Stephanie Hainley for the Burlington TIF Team: (CEDO, City Attorney's Office, Assessors' Office, Planning & Zoning, White + Burke Real Estate Investment Advisors), re: Burlington Downtown TIF – Preparation for a March Vote

Without objection, City Council President Keogh accepted the communication and placed it on file.

- 4.02. COMMUNICATION: Larry Kupferman, CEDO Director, re: Downtown Burlington TIF District: Frequently Asked Questions

Without objection, City Council President Keogh accepted the communication and placed it on file.

5. RESOLUTION: Lessons Learned and Moving Forward from Burlington Telecom (Councilor Paul)

Councilor Paul stated there were changes made to this resolution.

Councilors Paul and Blais made a motion to waive the reading and adopt the resolution.

Councilor Paul stated this was about moving forward from the events of Burlington Telecom. There was a meeting in January that allowed the public to give input and voice their concerns. Most stated that what happened with Burlington Telecom needed to never happen again. There was a need for better accounting and planning when moving forward with this type of venture. There needed to be a process for the Council and the Blue Ribbon Committee to work together to come up with guidelines. Procedures that were in place were ignored. The resolution called for all to work together to come up with better processes, given what we had learned. This would help to restore trust. The changes in the resolution came about after speaking to members of the Blue Ribbon Committee. Even though there were other hurdles, this would stimulate debate and collaborative efforts.

Councilor Kranichfeld stated this resolution was superfluous. With Burlington Telecom there was a lack of oversight and information from the Administration. There was a Board of Finance, a City Council, and a process in place to have checks on this type of profit and loss venture. If there was a problem with the Administration providing information to the Board of Finance and the Council, this would not fix it. The processes in place needed to be followed better and recommendations in the management letter needed to be implemented. Adding more layers of process was not necessary.

Councilor Decelles inquired if the resolution called for a committee to be convened specific to BT moving forward, or just for lessons learned to be implemented on future ventures. Councilor Paul stated it was intended for future ventures, but could help with BT as well. There was a process in place with the Blue Ribbon Committee to help BT moving forward. Councilor Decelles stated he supported this in theory, but was unsure what the next 'venture' would be. This would be more relevant when that was identified.

Councilor Shannon stated she did not think this was on the right track. As much as not repeating BT was important, and things had been learned, this was not it. Requiring a business plan with a marketing plan, a competitive analysis, pricing strategy, and multiyear cash flow projections were all things BT had. Over many years, there were cash flow projections, though they might not have been accurate. At some point,

these things stopped coming. Burlington Telecom had more oversight than any other department with the Public Service Department, the Public Service Board, the Burlington Telecom Advisory Board, the Community Advisory Board, City Council, and Board of Finance. Some Councilors tried to get Burlington Telecom to be a City Department because citizen advisory boards were not getting the necessary information. All of the information was free flowing at the beginning, but when information stopped flowing to advisory boards it was also withheld from the Council. She stated she did not support the resolution.

Councilor Bushor stated no one wanted to see what happened with BT occur again. There was a business model presented, but it was never validated. That might be worthwhile to require in the future, and was done with Moran. There might be some lessons that could be learned. This resolution was not ready. One item was difficult to read and needed to be clarified. There was no way to ever eliminate risk completely. There was no way anyone could have predicted the decline in the economy, a key factor in some of what happened with Telecom. This gave equal authority to the commission and the Administration. If there was an entity that was not being overseen, it should not be an arm of the City. She stated she would not support this, but perhaps elements of this could come forward in the future.

Councilor Adrian stated that this resolution would be better with more work and discussions taking place on the language, but it was presented by a party of one.

Councilor Wright stated that one member of the Blue Ribbon Committee had said they were against this. He inquired what City Council President Keogh, the third member of this group, thought. City Council President Keogh stated he was not consulted and that honesty and integrity could not be legislated. The idea of this resolution was great but was not likely to accomplish anything. He stated he would not support it.

Councilor Paul stated that it was possible to be a party of one and being part of a caucus was not necessary. She stated she gave as much notice as any other resolution received. Many councilors gave input on it in the past. The public had stated there was a desire to put something in place so this did not happen again. She stated she would be happy to see this to go back and have other people work on it, or see a different one if someone had a better idea. The public meeting was in January and it was now November. This needed to be addressed. In a few years there might be a new Council of people who did not have this experience to guide them. She stated that if this failed, she would like to see something else come forward.

Councilor Adrian stated he had not meant to refer to party designation, but that no one person could be a party on their own. When a person tried to achieve things alone, even as a member of a party, nothing gets done. Working with other Councilors in advance was more productive.

Councilor Hartnett stated that what he heard from the public during the Telecom Forum was they wanted their elected officials to be open and honest with them, not that they wanted better processes. It was odd that during the last Mayor's race, Telecom was talked about at every debate. Every time it came up, the Administration stated it was successful and it would be the future of Burlington. He stated he appreciated this resolution, but would prefer to see a resolution asking for the Administration to be open and honest with the Public. Elected officials lied to the public and the Council.

Councilor Decelles and Dober made a motion to call to question. The motion passed by a vote of 12-1.

The resolution failed by a vote of 10-3.

6. RESOLUTION: Authorization to Award a Contract for the Replacement of the Memorial Auditorium Accessible Entrance Ramp (Board of Finance)

Councilors Bushor and Wright made a motion to waive the reading and adopt the resolution.

Interim CAO Schrader stated the resolution was revised to eliminate the last portion of the resolution and all indications regarding increases and decreases to Capital Budget line items, as it was all incorporated within the Capital Budget.

Councilor Hartnett inquired if this was in regards to Memorial Auditorium. He stated he was at the Board of Finance meeting where this was approved and the fact that this was a safety hazard was noted. Memorial Auditorium lost a lot of money every year, but this was a safety hazard and not a waste of money, so long as the City owned the building. The City needed to figure out what to do with the auditorium and how to spend money on a building that lost money each year.

Councilor Wright stated those questions were asked at Board of Finance. Because of that, the Board passed this resolution. There would be work done to determine the future of Memorial Auditorium, as it did lose money each year.

Mayor Kiss stated that part of the discussion about the use of Memorial would have to do with TIF money and potential investments in that area. This money was for safety hazards, but there should be future discussions on uses for TIF and changes to the super block and Memorial Auditorium.

The motion passed unanimously.

7. COMMITTEE REPORTS (5 mins.)

Councilor Shannon stated that the Ordinance Committee would meet at the Fletcher Free Library Community Room to look at the draft of the Smoke Free Downtown Ordinance. All Councilors were welcome to contribute to the discussion.

8. COMMUNICATION: City Councilors, re: General City Affairs (oral)(10 mins.)

Councilors Wright and Adrian congratulated Senator Tim Ashe and Miro Weinberger as the two Democratic candidates going forward. He congratulated Bram Kranichfeld and Representative Lorber for running good campaigns.

Councilor Bushor stated that the off campus workshops were in process and Councilors Paul and Brennan had attended one meeting. The workshops were instrumental in giving students knowledge about the community and helping them to be better neighbors. The Ward 1 NPA met and had a great Neighborhood Night of Improvement. There were discussions on Downtown and Waterfront Planning and she thanked Planning and CEDO for attending.

Councilor Shannon commended the Democratic mayoral candidates for their campaigns and thanked the volunteers at the caucus, those who turned out, and those who organized it. It was well run and no one would have expected the result. She also thanked the Fire and Police Departments and stated it was a great community event. She thanked the Mayor and Police for how they handled the Occupy Movement.

City Council President Keogh stated the caucus was well organized and the auditorium was at 75% capacity.

9. COMMUNICATION: Mayor Kiss, re: General City Affairs (oral)(5 mins.)

Mayor Kiss stated there was a letter sent to an ambassador in D.C. in response to a request from the Tibetan community in Burlington and the failure to have autonomy in China. That letter was Burlington trying to reach out to affect the fate of the world.

There was a summary in the Council packet to recognize Billy Moulton, Jr. who was killed in 1944 in the Normandy invasion. His name was placed on the armory. There was an event to thank his family for his sacrifice. His son attended the event.

Mayor Kiss stated that Occupy Wall Street Vermont was not us against them. The City was trying to balance health and safety needs with free speech and support for those trying to build a better world. The wait and see process was changed when someone died in that encampment. The City would continue to address social justice issues, but it needed to be done in a way that protected all interests. The Police, Fire, Parks and Rec, the Mayor's Office and the Attorney's Office all did a great job and met as a team to come up with the best responses to address the challenges.

Councilor Shannon stated that Comcast offered students low cost internet service, as well as low cost computers. Telecom felt challenged by that and were able to offer a program that met Comcast's price for internet service. This was available to students who were eligible for free or reduced lunch. Burlington Telecom had a hard time meeting the hardware offer, but was able to partner with Recycle North to sell refurbished computers with Microsoft Office loaded for \$49.

10. ADJOURNMENT

On a motion by City Council President Keogh, the Adjourned City Council Meeting voted unanimously to adjourn at 8:28 p.m.

Attest:

Lori Olberg, Licensing, Voting & Records Coordinator and Amy Bovee, Executive Secretary