
DELIBERATIVE AGENDA
LOCAL CONTROL COMMISSION
MONDAY, DECEMBER 19, 2011
CONTOIS AUDITORIUM, CITY HALL
7:03P.M.

PRESENT: Mayor Kiss, City Council President Keogh, Commissioners Adrian (arrived at 7:24 p.m.), Bushor, Berezniak, Kranichfeld (arrived at 7:04 pm.), Mulvaney-Stanak, Hartnett (arrived at 7:15 p.m.), Wright, Blais, Decelles and Shannon (arrived 7:15 p.m.); Dober and Paul (via phone)

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

CLERK/TREASURER'S OFFICE: Scott Schrader, Rich Goodwin (arrived at 7:50 p.m.) and Lori Olberg

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Commissioners Berezniak and Blais the agenda was adopted as is.

2. CONSENT AGENDA

On a motion by Commissioners Berezniak and Blais the consent agenda was unanimously adopted, thus taking the following actions as indicated:

2.01. EXPANSION OF LIQUOR LICENSE FOR LEUNIG'S BISTRO:

*waive the reading, accept the communication, place it on file and approve the expansion of the liquor license for Leunig's Bistro

2.02. REQUEST FOR EDUCATIONAL SAMPLING EVENT PERMIT APPLICATION (1):

Southern Wine and Spirits of NE/Mathieu Bessette, at the Hilton Hotel, 60 Battery Street, Monday, January 23, 2012, 3 p.m. to 7:00 p.m., 150 people, Irish Spirits Educational Event

*waive the reading, accept the communication, place it on file and approve the Request for Educational Sampling Event Permit Application for one day only

2.03. OUTSIDE CONSUMPTION PERMIT APPLICATION (two days only):

Courtyard Burlington Harbor in the Garden Terrace, Ice Bar Event in conjunction with the Burlington Winter Carnival, Friday, February 2, 2012 and Saturday, February 3, 2012, 6 p.m. to 9 p.m. each day, Ticketed Event

*waive the reading, accept the communication, place it on file and approve the Outside Consumption Permit Application for the Courtyard Burlington Harbor for two days only

3. ADJOURNMENT

Without objection, City Council President Keogh adjourned the Local Control Commission at 7:05 p.m.

Attest:

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

ADJOURNED MEETING, CITY COUNCIL
MONDAY, DECEMBER 19, 2011
7:05 P.M.

PRESENT: see above

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilors Kranichfeld and Bushor, the agenda was unanimously adopted as amended as follows: remove from the agenda item 6. RESOLUTION: March 6, 2012 Annual City Meeting—Advisory Referendum Re Voting Rights of Non-Citizens (Councilors Brennan, Mulvaney-Stanak); note the **proposed amendment** for agenda item 8. RESOLUTION: March 6, 2012 Annual City Meeting—Advisory Referendum Urging Congress to Propose an Amendment to the Constitution for the States' Consideration Providing that Corporations are not Persons Under the Laws of the United States of Its Jurisdictional Subdivisions (Councilors Adrian, Bushor, Berezniak, Kranichfeld, Shannon, Mulvaney-Stanak, Brennan, Paul); remove Councilor Kranichfeld as a co-sponsor for agenda item 10. HEALTH—Smoking in outdoor places prohibited (Councilors Shannon, Bushor, Kranichfeld: Ordinance Committee)(1st reading) and note **written** material for agenda item 11. COMMUNICATION: Mayor Bob Kiss, re: Skate Park Funding Options.

City Attorney Schatz requested adding an Executive Session to the agenda re: pending litigations with the Airport and Burlington Telecom. Councilor Bushor requested making these items 14.5.

Assistant City Attorney Haesler requested that the Board of Tax Abatement be moved to earlier in the night. Councilors Bushor and Mulvaney-Stanak made a motion to recess after item 5.5 to take up the Board of Tax Abatement. The motion passed unanimously.

2. PUBLIC FORUM

City Council President Keogh opened the public forum at 7:43 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Everett Engles/Ron Ruloff	Burlington/Ward 3 Resident	Food Shelf Issues
Bob Conlon	Co-owner of Leunig's	Against Smoking Ordinance
Jeff Nick	Marketplace Commission	In Favor of Smoking Ordinance
Daniel Smith	Marketplace Commission	In Favor of Smoking Ordinance
Jared Wood	DPW Commissioner/ Ward 1 Resident	Colchester Ave Corridor/ Against Smoking Ordinance
James Marc Leas	S. Burlington Election	Advisory Referendum
Eli Lesser-Goldsmith	Marketplace Commission	In Favor of Smoking Ordinance
Phil Merrick	Ward 1 Resident	Smoking in City Hall Park
Brian Cina	Ward 2 Resident	Corporate Personhood

Mariah Sanderson	Burlington Partnership for a Healthy Community	In Favor of Smoking Ordinance
William Robb	Ward 2 Resident	Against Smoking Ordinance
Jodi Whalen	Ward 1 Resident/Local Business Owner	Smoking in City Hall Park
Jenny Davis	Ward 4 Resident/CEDO Employee	Smoking Ordinance Process
Jean Hopkins	Ward 1 Resident	Amending Constitution
Kevin Ryan	Burlington Resident	Against Smoking Ordinance
Larry Walters	Ward 4 Resident	In Favor of Smoking Ordinance
Robin Lloyd	Ward 6 Resident	Corporate Personhood
Mark Porter	Ward 1 Resident	Against Smoking Ordinance & Non-Resident Voting
Carolyn Hanson	Ward 6 Resident	In Favor of Smoking Ordinance
David Casey	Board of Health Member/ Ward 6 Resident	In Favor of Smoking Ordinance

There being no one further coming forward and no objection from the remaining Council, City Council President Keogh closed the public forum at 8:30 p.m.

3. CONSENT AGENDA

On a motion by Councilors Kranichfeld 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 Submit Application to the Downtown Transportation
Improvement Fund for Lighting Improvements to the Church Street
Marketplace (Councilor Shannon)

*waive the reading and adopt the resolution

3.03. RESOLUTION: Authorization to Execute Supplemental Agreement No. 1 to TSA Lease
No. LVT04752 Related to Office Rental Space at Burlington
International Airport (Board of Finance)

*waive the reading and adopt the resolution

3.04. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance September 19,
2011 Minutes

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

3.05. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance September 26,
2011 Minutes

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

- 3.06. COMMUNICATION: Mary O'Neil, AICP, Coordinator, Certified Local Government Program, Re: Pine Street Historic District nomination to the National Register of Historic Places
*waive the reading, accept the communication and place it on file
- 3.07. COMMUNICATION: Ross A. Feldmann, Chair, Board of Tax Appeals, re: Resignation
*waive the reading, accept the communication, place it on file, advertise the vacancy (already did) and send a letter of appreciation to Ross A. Feldmann thanking him for his time served on the Board of Tax Appeals
- 3.08. COMMUNICATION: William E. Johnson, Director, Property Valuation and Review, State of Vermont, Department of Taxes, re: Division of Property Valuation and Review Certified Equalized Education Property Value (Effective 1/1/2012)
*waive the reading, accept the communication and place it on file
- 3.09. COMMUNICATION: Douglas Johnston, President, Vermont Association of Chiefs of Police and Springfield Police Chief, re: Luncheon
*waive the reading, accept the communication and place it on file
- 3.10. COMMUNICATION: Lis Mickenberg, Chair, Board for the Registration of Voters, re: Danielle Kingsbury
*waive the reading, accept the communication, remove Danielle Kingsley from the Board for the Registration of Voters and advertise the vacancy (already did)
- 3.11. COMMUNICATION: Dorothy Schnure, Manager, Corporate Communications, Green Mountain Power, re: Replacement of Transmission Line
*waive the reading, accept the communication and place it on file
- 3.12. COMMUNICATION: Phil LaVigne, Member, Housing Board of Review, re: Resignation
*waive the reading, accept the communication, place it on file, advertise the vacancy (already did) and send a letter of appreciation to Phil LaVigne thanking him for his time served on the Housing Board of Review
- 3.13. COMMUNICATION: Harry Chen, MD, Commissioner of Health to Timothy Webster Ahonen, re: Deputy Health Officer Re-appointment
*waive the reading, accept the communication and place it on file
- 3.14. SPECIAL EVENT OUTDOOR ENTERTAINMENT PERMIT APPLICATION (two days only):
Courtyard Burlington Harbor in the Garden Terrace, Ice Bar Event in conjunction with the Burlington Winter Carnival, Friday, February 2, 2012 and Saturday, February 3, 2012, 6 p.m. to 9 p.m. each day, Ticketed Event, DJ
*waive the reading, accept the communication, place it on file and approve the Special Event Outdoor Entertainment Permit Application for the Courtyard Burlington Harbor for two days only
- 3.15. SPECIAL EVENT INDOOR ENTERTAINMENT PERMIT APPLICATION (one day only):
Manhattan Pizza and Pub, Friday, December 23, 2011, Dancing and one hour extension of Indoor Entertainment Permit
*waive the reading, accept the communication, place it on file and approve the Special Event Indoor Entertainment Permit Application for Manhattan Pizza and Pub for one day only

3.16. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary, re: Minutes, Adjourned City Council for September 26, 2011

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the December 5, 2011 City Council Meeting

3.17. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary, re: Minutes, Regular City Council Meeting, October 3, 2011

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the December 5, 2011 City Council Meeting

3.18. COMMUNICATION: Amy Bovee, Executive Secretary and Lori Olberg, Licensing, Voting and Records Coordinator, re: Minutes, Adjourned City Council, October 17, 2011

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the December 5, 2011 City Council Meeting

4. COMMUNICATION: Burlington Bike Path Task Force, re: Update

John Bossange, Chair of the Bike Path Task Force, stated they would update the Council on the progress of the group. This involved many people from Parks and Recreation, Local Motion, BBA, as well as the task force itself. There was a draft executive summary that needed to include more information in the future. A matrix was used to assess the RSG report and the final report listing each section by priority.

Peter Clavelle stated that the Task Force allowed him to re-enter public service and offer historical perspective. There were grand plans to have a bike path connecting to Montreal, have a bike path that connected the entire city and region, but it was important first to focus on the Burlington Bike Path between Oakledge Park and the mouth of the Winooski River. This began to take shape when the Rutland Railway abandoned its rails in the 1960s. In 1972, the bridge over the Winooski River was removed and it continued. The first segment, North of Leddy Park, was constructed in the 1970s. The bulk of it was completed in 1986. There were votes to construct it, the first for \$750,000. In 1987 there was a multipurpose waterfront vote for \$2.9 million. All along the way Federal and State support was garnered. There were more votes in the 1990s and federal money for transportation enhancements. The Rails to Trails Act was passed in 1983 where the Bike Path went to the Supreme Court and the constitutionality of the rail act was upheld. The public trust doctrine case allowed construction of the Bike Path on public lands that were formerly fill lands. Howard Dean and Bernie Sanders were involved in campaigns to improve it. The Bike Path has been described as stellar, spectacular and awesome. It is also flood ravaged, tired and in need of re-investment. It is an incredible asset and resource to the community that requires reinvestment.

Chapin Spencer, Local Motion, stated comprehensive rehabilitation of the path was important. There were important health and community benefits, but most important was the economic impact. There were over 150,000 users of the Bike Path each year, 1/3 from outside of Chittenden County. Those users spend over \$4 million a year directly. That does not account for special events. The marathon brings in \$3.5 million a year. The USA Triathlon brings in an estimated \$2 million. That alone is \$9 million a year. This was a wonderful infusion of people and money that will only increase as improvements are made. There are active efforts to connect the islands and Quebec bike trails to Burlington. Not only do business owners benefit from the Bike Path, but it also raises the value of homes along it. There are two more outdoor shops that have opened in Burlington, the outdoor recreation industry is growing, and this will benefit Burlington.

Mari Steinbach, Director of Parks and Recreation, stated that the Bike Path has ten segments. Images on the slideshow indicate examples of disrepair along the path. RSG was the contractor for this project and they provided a list of recommended improvements based on their walk along the bike path. From within the Task Force, a prioritization subcommittee developed a matrix to measure the findings against safety, design standards, connectivity, economic vitality and maintenance efficiencies. They rated each project recommended by RSG within the 16 segments. They assigned letter grades to rate each category depending on the impact and criteria. Each score was reached through a deliberative process of consensus and discussion. An 'A' project was a higher priority. The final recommendation laid out three funding plans. The first was rehabilitation of the path only. This defined cost that would have to be expended regardless of implementing the plan, with a price tag just over \$12 million. The second was functional improvements, recommendations that improve safety, add capacity, or improve conditions beyond the existing system. The total for A and B would be \$14 million. The third tier would be to complete all proposed projects, including enhancement projects. Those would improve safety, add capacity, and improve conditions beyond the existing system, as well as integrate those components that improve character and aesthetics. That would cost \$16,673,000. There would need to be an operations and maintenance component and an annual budget appropriation to care for this investment.

Mr. Bossange stated the Task Force recommended starting with the \$12 million project. The next steps were to share the report with the public. Wards Six/Seven and NPAs have been updated. There would be another public forum in January to invite the public to comment. People have been very positive and encouraging. Reports will be given to the Rotary and the Chamber of Commerce. The next piece of work would be to look for funding sources. TIF financing, federal grants, FEMA money, transportation funding at the state and federal levels, impact fees, private donations, corporate sponsorships, and grant options would be considered. Efforts would be made to get the cost down as much as possible. This would come back to the Council for further discussion on financing. That should be done in April or May with a recommendation to voters in 2012.

Councilor Dober inquired if there was an estimate of the annual maintenance cost. Ms. Steinbach stated it would be developed in the coming months as the budget was built.

Councilor Bushor stated there was no good way to connect Ward 1 or Riverside Avenue to the Bike Path, but if it was connected to Montreal it would be nice if that could connect to Ward 1. She inquired about the life of the Bike Path if it were brought to grade A, as bonding capacity was often linked to the life of an item. Mr. Spencer stated that there needs to be an adequate sub-base. There were no similar standards when the path was first built. The more it was reconstructed, the longer it would last. Life spans of 15-20 years were not unreasonable. There were currently BED trucks traveling on the path which damaged areas without a sub-base. Councilor Bushor stated she would like the dollar amount to be as low as possible and would be interested in a bond and a dedicated tax for ongoing maintenance. It was important to build in maintenance so the City was not stuck in 20 years.

Councilor Wright stated it was an honor to serve on the Task Force and thanked the presenters. There was a tremendous amount of support for the Bike Path. It was important to make it an affordable project, but it was essential that it be repaired. It had been neglected for too long.

Councilor Berezniak inquired if there was a comparison with how much cost it would cost to build a comparable road. Mr. Bossange stated he was unsure, but it would be nice to widen the path in places. The cost to rebuild it with a sub-base would be \$12 million. Peter Clavelle stated it would be interesting to develop those numbers and compare the cost per mile with the circumferential highway or the southern connector. Compared with those, it would likely be a bargain. Chapin Spencer stated there was a lot of shoreline stabilization that would be wrapped into this project.

City Council President Keogh inquired about the policy of winter use of the Bike Path. Mr. Bossange stated that was a Parks and Recreation issue. Ms. Steinbach stated that they would like to develop that, but it had not happened yet.

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

5. PRESENTATION: Colchester Avenue Corridor Plan

5.01. RESOLUTION: Colchester Avenue Corridor Plan (Councilors Wright, Brennan, Hartnett)

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

Lainey Churchill, Chittenden County Planning Commission, stated they had worked with the City to create the Colchester Avenue Corridor Plan.

Joe Segalli, RGS, stated the study area extended along Colchester Avenue between Riverside Drive and Pearl and Prospect Streets. Colchester Avenue was an arterial roadway and residential. In 2004, the City Council established the Colchester Avenue Task Force. The work done was high level and visionary. The Burlington Transportation Plan recommended that it be reconfigured as a complete street. Ultimately, there was more detail to be considered so consultants were brought on board to complete a traffic analysis and a more comprehensive look. It had taken two years with three major public meetings. The first identified short term issues and ideas that could be implemented. The second focused on longer term solutions and the last was the presentation of the plan. The proposal was to convert Colchester Avenue between Prospect Street and East Avenue from a 4 lane road to a 3 lane road with bike lanes on both sides. That was done to get input from the public and neighbors to understand the complexities of that kind of change. It would be a complete street that would serve motorists, pedestrians, cyclists, and neighbors. Mobility through traffic would be balanced against accessibility and neighborhood character. This would be done by dividing the corridor into two segments.

The first was East Avenue to Prospect Street that carried 19,000 vehicles per day and had heavy pedestrian flows, particularly at Trinity Campus. It was identified as a high crash area. The long term recommendation was to configure this section to have one lane in each direction and a left turning lane in the middle. This allowed for bike lanes on both side of the street. Right now they were not as wide as they should be, but moving the curbs would cause drainage problems. There would be some delays, but it would allow cyclists better use. The intersection at Prospect Street needed to be aligned. The offset was confusing and caused more delay. The change was simple and would add green space to the UVM campus and the UHC property would be cut into. This would improve access for drivers and pedestrians. The East Avenue intersection had a right turn lane that was too short. East Avenue would be shifted to the West and the driveway on trinity campus would be shifted. That area would be reconfigured in the future. The challenge of pedestrians crossing will be handled by having mid intersection pedestrian crossings to control and manage crossing. There would be guiderails to direct people to the crosswalks. There were concerns from neighbors, but exact locations had not yet been chosen. In pavement LED lights were being considered, allowing a pedestrian to push a button to alert drivers that a pedestrian was trying to cross. There were a few bus stops with shelters and there were considerations to consolidate the stops. The shelter on Pearl Street near Prospect Street may be moved to the UVM green to help prevent backup on Pearl Street. There was a suggestion to put a stop at the Fletcher Allen Entrance to reduce the number of busses that have to travel behind the hospital.

Key characteristics of the Eastern Segment were that it carries less traffic. On the top of the hill there was on street parking. The houses were very close to the sidewalks so there were limits of where to push the road. Having one lane in each direction was sufficient, but it was difficult to fit a street, bike lane,

parking, green belt, and sidewalk. The proposed solution was to utilize pocket parking where parking spaces cut into the green strip. This would allow some parking, some green space and a bike lane. The specific locations would depend on peoples' driveways and parking needs. More detailed engineering would determine where they should go. The intersection of Riverside, Mill Street, and Barrett Street was very complicated. The recommendation was to have one signalized intersection and eliminate the traffic light at Mill Street. This would create an enhanced gateway into the City. There could be a new pedestrian crossing into Winooski. Having stops and pullouts for busses were important because stopped busses block traffic. There would be a few new shelters and fewer stops.

Short term recommendations include a 25 mph speed limit, University Place being right turn only, clearing snow from bus stops, and pruning trees to improve sight distance. Medium term recommendations would be to consolidate transit service for the corridor, building a new sidewalk near the cemetery, and building midblock crossing. The projects to move the major intersections were critical. It would also be necessary to rebuild the sidewalks to Prospect Street and East Avenue because the drainage was awful. The eastern segment would require more design work.

Councilor Bushor stated this was a project that was important to her and reflected a lot of work. This was a proposal and each phase would need to go through a process that engaged the public with an opportunity to weigh in and make modifications. She stated she liked the proposal at the Mill St. intersection and the plans to have a safer pedestrian crossing. She stated she hoped that there may be a way to access Barrett Street in the back if turning from the stop sign did not work. When looking at the places on Colchester Avenue where the green pockets would allow for parking and a bike path could also be places for snow to be deposited. There was a previous proposal that would have closed University Place with UVM capturing that space, and the City getting nothing. She stated she was glad that did not go through. Right now it was still used by emergency vehicles, particularly the Fire Department on Mansfield Avenue.

Councilor Hartnett inquired how much parking would be lost on the street. Mr. Segalli stated that needed to be analyzed and has not yet been determined. There were questions about whether or not there was more off street parking available. Councilor Hartnett stated that would be concerning, especially near the University.

Councilor Dober inquired about the parking cut outs being filled with snow and inquired as to how would they be cleared when the parking ban was over. Public Works Director Goodkind stated that they would be able to plow them when they were clear. When vehicles were in them they would plow past them. He stated everything in the report would get a further look.

Councilor Berezniak inquired about the bike path ending at the top of Pearl Street. He also raised concerns about the intersection at Riverside and Colchester Avenue and inquired if a study had been done about how that might change peoples' routes. Ms. Churchill stated that would be part of the next phase.

City Council President Keogh stated he was concerned about queuing that builds up. It recently took 15 minutes to go up Pearl Street to the School District building on Colchester Avenue. He also raised concerns about air pollution from idling vehicles. Mr. Segalli stated this would happen during the high peaks. However, there was a lot of data collected that showed that overall, the queues were not a significant problem. Overall, it would work reasonably well.

Councilor Bushor thanked them for their work. She stated this was just the beginning and there would be future chances to weigh in.

The motion passed unanimously.

- 5.02. COMMUNICATION: Nicole Losch, Transportation Planner, Bicycle & Pedestrian Program Manager, re: Colchester Avenue Corridor Plan

Councilors Wright and Brennan made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

- 5.03. COMMUNICATION: RSG Inc., Transportation, re: Colchester Avenue Corridor Plan Burlington, Vermont: Executive Summary

Councilors Wright and Brennan made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

The City Council Meeting recessed in order to complete the Board of Tax Abatement agenda.

7. RESOLUTION: Approval of Towing Contract with Spillane's Towing & Recovery (Board of Finance)

Councilors Mulvaney-Stanak and Shannon made a motion to waive the reading and adopt the resolution.

Councilor Shannon stated one of the biggest complaints she received was about the towing policy. This contract would be in place until June of 2015. It was unclear to what extent the contract established the policy or if policy could be established outside of this. The current policy was to move cars to another street and the former policy was to move them to City parking lots. The change was made so more cars could be towed more quickly. If that policy wanted to be changed, she inquired if there would still be an opportunity to do so. Walt Decker, Police Department, stated it could still be revised. Cars were currently moved both to other streets and parks and parking lots. The contract related to the company doing the towing service. It had been tried many different ways over the years. The policy was adjusted based on the snow event and what parking was available. Councilor Shannon inquired who made decisions on where cars go. In September, a constituent had a parking problem and was towed in front of another home. It was unknown why the car was dropped there. She inquired if the towing company or the Police Department made the determination of where cars go. Mr. Decker stated if it was a snow ban Parks made the determination. In other situations, the Police would tell the tow company to move cars to the next available legal parking spot. Councilor Shannon stated that became an issue with resident only parking areas. Streets without resident only parking had cars dropped in front of them. Another homeowner therefore becomes impacted by this. She inquired about vehicles that were towed from downtown and were impounded, even when they only had one ticket. This happened to a performer at the Flynn. She inquired where that policy came from. Mr. Decker stated a car with one ticket amounting to more than \$50 that was not paid, challenged, or had accumulated late fees could be impounded. Councilor Shannon stated that the ordinance said vehicles with over \$50 in tickets would be towed. She inquired if that ordinance was under the purview of the City Council or the Public Works Commission. City Attorney Schatz stated that would be under the City Council's domain. She inquired where the storage area for impounded cars was located. Mr. Decker stated it was the Spillane's center that was located just off of Airport Road. She inquired about the clause that stated the towing company may release up to 36 cars per year without collecting charges and inquired what that meant. Mr. Decker stated that related to human error and the vendor would release the car if it was taken to another location. Mr. Goodkind stated the designated areas during snowstorms would be defined and streets were not usually used.

Councilor Hartnett inquired how many bidders there were. Mr. Decker stated one, Spillane's. Councilor Hartnett inquired if that had to be chosen. Mr. Decker stated the City required a minimum of 12 wreckers. There needed to be a system where three or four wreckers work with each plow truck getting the streets plowed and this required many wreckers. Spillane's mostly used its own vehicles and acted as a subcontractor when more were needed. Councilor Hartnett inquired if the City had considered hiring its own subcontractors. Mr. Decker stated it had been tried but no one responded. Logistically, billing and

coordination was much simpler with one entity. In the past it was difficult to find where cars were relocated. Councilor Hartnett stated there may be room to look at this. He inquired if a Parking Enforcement Officer was present with the tow truck. Mr. Decker stated the Parking Enforcement Officer writes the ticket and the tow truck then moves the car. Councilor Hartnett inquired if an owner can move their car if it was targeted to be towed. Mr. Decker stated the Parking Enforcement Officer made that call and there was a graduated system. Calling the wrecker still costs money, but if it did not remove the vehicle it costs less. Councilor Hartnett inquired how much Spillane's receives. Mr. Decker stated the City determines that amount. Councilor Hartnett inquired how much it costs. Mr. Decker stated it is \$50 and more if the vehicle has to be stored. Councilor Hartnett stated he would like someone to visit NPAs in the future to discuss the policy with residents. It is confusing and unclear.

The motion passed unanimously.

8. RESOLUTION: March 6, 2012 Annual City Meeting—Advisory Referendum Urging Congress to Propose an Amendment to the Constitution for the States' Consideration Providing that Corporations are not Persons Under the Laws of the United States or Its Jurisdictional Subdivisions (Councilors Adrian, Bushor, Berezniak, Kranichfeld, Shannon, Mulvaney-Stanak, Brennan, Paul)

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

Councilor Adrian stated this was based on a request from a constituent who had been working on this ballot item as a concentrated effort throughout the state. He stated the chances of there actually being a constitutional amendment were probably slim, but everybody was feeling the impact of being excluded from the electoral process. The Supreme Court decision worked to seal that fate. Passing legislation may not be sufficient to make this change. Constitutional amendments could be made through processes that go through State Legislatures.

Councilor Bushor thanked Councilor Adrian for his work on this resolution. There were many people around the state working to get this on the ballot. She stated she would like this on the ballot as presented to help the legislature move forward. The legislature may vote on this before March, but this would show people were supportive.

Councilor Berezniak stated he attended a meeting that said it should be a consistent message from across the state.

Councilor Mulvaney-Stanak stated there were problems with corporations being involved in campaign financing and it sparked the need for discussion about public financing. She stated she would support it as drafted.

The motion passed by a vote of 12-2 with Councilors Decelles and Dober voting against.

9. ORDINANCE: FIRE PROTECTION AND PREVENTION—Smoke detectors (Councilors Shannon, Bushor, Kranichfeld: Ordinance)(1st reading)
Proposed Action: consider this 1st reading and refer to the Ordinance Committee

Councilors Shannon and Bushor made a motion to consider this 1st reading and refer to the Ordinance Committee.

Councilor Shannon stated the Council received an email stating they found they were required to have a hard wired fire detector in her single family home. The Council broadly agreed that standards should not

exceed the state standards. This would revise the ordinance to reflect what the state has done. Senior Assistant City Attorney Bergman drafted this to correct the error. The state statute does not require hardwiring in single family homes that are for rent. In Burlington there would be many instances of single family homes that are rented and should have hard wired smoke detectors. This differs from the state statute in exempting only owner occupied single family homes.

Councilor Bushor inquired if the Council was satisfied with this, the Council could amend the rules and adopt the ordinance. Councilor Decelles inquired if a public comment period would be required. City Attorney Schatz stated there is no requirement of public comment.

Councilors Bushor and Brennan made a motion to suspend the rules and put this in all stages of passage. The motion passed unanimously.

10. **ORDINANCE:** **HEALTH—Smoking in outdoor places prohibited (Councilors Shannon, Bushor, Kranichfeld: Ordinance Committee)(1st reading)**
 Proposed Action: consider this 1st reading and refer to the Ordinance Committee

Councilors Shannon and Bushor made a motion to consider this first reading and refer to the Ordinance Committee.

Councilor Shannon stated this has been in progress for a long time and it was challenging to determine the best way to make this work. A committee was formed to reflect a broad range of interests on the subject. They had many meetings and had to work through some issues. They came up with a proposal that was close to what was presented tonight. Their proposal allowed cart vendors to smoke at their carts and a smoking area at the top of the parking garage. The Police Chief had concerns about the accessibility of the garage, and how it would be difficult for the Police to explain to the customers that they cannot smoke but the cart vendor could. The Committee opted not to include those things in the Ordinance. Instead of smoking areas, they set a smoking time limit because no one wanted the smoking areas near them. There had been a lot of objection about the smoking area in City Hall Park, the one area that remained. The number of smokers was small and getting smaller. Those few smokers have a significant impact on people. People were becoming less tolerant of smoking and more aware of the real impacts of second hand smoke. This was the direction that most Burlingtonians wanted to go in. Some had stated this was discriminating against smokers, but they were still allowed to smoke, just not in public space. People from the Y bring children downtown and it was hard to dodge the smoke.

Dr. Harry Chen, Health Commissioner, stated the Vermont Department of Health was approving of this effort. This was about the smoke, not smokers. The Department of Health supported policies that were healthy for the public and workers. He stated this made strides to protect people, but recommended taking away the provision that allowed outdoor smoking at restaurants. Workers would be exposed to smoke in these areas. The Surgeon General stated that second hand smoke can cause heart disease, lung cancer, sudden infant death syndrome and respiratory problems. There was no safe amount of second hand smoke. Smoke free policies affect social norms regarding tobacco use, especially in the young. This year roughly 800 Vermonters will die from tobacco use, and 100 will die because of second hand smoke. The ordinance needed to apply to all restaurants and bars that were leasing property from the City of Burlington. This would cause less confusion about where and why smoking was allowed or not allowed in different areas. It would be difficult to enforce policies with allowances and loopholes. Only 12% of Chittenden County Residents and 15% of Vermonters smoke. 40% of non-smokers say they were exposed to second hand smoke in the last week. VDH has been working to create smoke-free park and having a zone can make enforcement difficult. However, it was important to allow for transitions and help smokers who want to quit. Having a smoking area in City Hall Park was not a good idea in the long term, but may help in the short term. Some previous speakers noted there was a disparity of who smokes in Vermont, but that also results in major health disparities. Vermont offers a generous cessation benefit and there was

free nicotine replacement and counseling through 1-800-Quit-Now and recommended that be included on signage. Vermont is America's healthiest state and he hopes to see the City pass this.

Gary Schaedel, head of the Chronic Disease Prevention for the Department of Health, stated the CDC has been promoting the reduction of second hand smoke through policy change. This was consistent with their message.

Councilor Decelles stated he started at the top of Church Street and walked to the bottom of Church and counted the amount of people who were smoking. There were roughly 350 people out, 6 of whom were smoking and 12 of whom were panhandling. In City Hall Park, there were 30 people, 3 of whom were smoking and 4 were drinking from open containers. Tonight there were 225 people on Church Street, 4 were smoking and 5 were panhandling. He inquired if three people were to walk up the street at any given point, would those people smoking have a detrimental effect on their health. Dr. Chen stated that if the people were within 25 feet the answer would be yes. Some effects would be immediate. One of the results of outlawing indoor smoking was a reduction in the number of healthcare costs for heart conditions. It would be a small risk, but risk did exist. Mr. Schaedel stated he has asthma that affects him. Councilor Decelles stated this has as much to do with smoking on Church Street as it does other issues. There are a lot of problems that are greater downtown, such as undesirables and panhandlers. This will not make them go away. Some have stated that this is what Burlington wants, but that is not clear. It would be interesting to put an advisory question to voters in order to gauge their feelings.

Councilor Kranichfeld thanked the task force for their work on the issue. The proposal was better than it had originally been. He stated he does not support the smoking ban and voted against sending it to the Ordinance Committee and forming the task force. He stated he should not be a co-sponsor because he voted against sending it back to the Council. He stated he cannot justify using limited police resources to deal with a problem on Church Street that is not as big of a problem as other issues, such as panhandling, fighting, screaming, open containers, and drugs. Those problems should be dealt with more effectively. The disorderly conduct statute could be enforced better. The rules that already exist are not being addressed. At the Ordinance level, the Police stated this would be a low priority and enforced selectively. The biggest problem is for businesses leasing spaces on Church Street, as it confuses the issue and will be difficult to figure out where smoking is allowed and where it is not. A person on one side of a rope would be banned, and a foot away another person could be smoking. It will be difficult to explain. He stated one of the most compelling arguments was from people who were trapped at an outdoor space next to a smoker and could not leave. This would not solve that problem. The other problem is there are complaints about Church Street being a pay to play area. This was mentioned in discussions about the loitering ban due to the lack of public seating. This tells people they can smoke on Church Street but they need to have the money to spend at a café. There are health risks, but there are more important things to do and the resources of the City should be used efficiently. He stated he will vote against this.

Councilor Berezniak stated he will support this and stated the idea to allow smoking at restaurants was from the oppositions of restaurant owners who feared the ban would drive away customers. Many already do not allow smoking on their patios. The compromise is that they can choose to allow smoking if they want to. An owner tonight stated he would not do that, but he would like patrons to have the option of stepping outside to smoke on the public side of the rope. Most will not allow smoking for very long, because most patrons are not going to want to sit next to someone who is smoking. Having an area for people to go smoke will be served by a quadrant in City Hall Park. The way society is going, that may not last long either. It is a good compromise. He stated he will support this and the Committee has done an excellent job.

Councilor Bushor stated the health and safety of the community is paramount and deserves the attention the Council is giving it. This is about smoke and not any other behaviors that are being discussed. That is why the Ordinance is drafted this way. There will be issues around enforcement, but the Public is putting up money for signage and education. There will be signs explaining where you can and cannot smoke.

People will self-enforce this. Most people follow the rules. Similarly, the Police do not always give parking tickets when there are bigger issues, but that does not mean it should be done away with. The Police may not always enforce this, but they will attend to it when they can and when there are chronic offenders. The Task Force did a lot of work for the Council. They identified the day and night populations. The night population smokes more and goes to the bars. This is part of a phase in to eliminate exposure to second hand smoke. This is a good compromise. There is a designated smoking area in City Hall Park, private property was not included, and those who lease property have the right to choose whether or not smoking is allowed. The area in City Hall Park will provide a place for City employees who work in City Hall to go. It is a temporary solution that is necessary. Ideally, people who smoke should stop smoking, but it is an addiction and some people enjoy it.

Councilor Mulvaney-Stanak stated this was tricky. Taking a partial step can create more confusion and division. It would almost be easier if there was a full solution, but that would be harder to pass. Some issues would be if City Hall Park was the best location for a spot to allow smoking. This conflicted with BCA's visioning issue for City Hall Park. It is a complex space with the activity level in the summers. At Fletcher Allen there is an area that was once a nice grassy area that has turned black and gross because patients and employees have flocked to smoke there. It will be necessary to provide amenities to avoid this happening in the park. She stated she has concerns for employees. There are all types of employees downtown. For restaurant employees, it could be difficult if there is not a private back area, especially if they are only allowed a five minute smoke break. They may not have time to leave that area. The impact of this will be the push-out effect on properties just outside the banned zone. Another issue is people who are living downtown in apartment buildings. This may not address the needs of residents who want to smoke outside of their home. Also, having the option for businesses who lease public property will cause the potential for differential treatment. Smoking impacts people of different economic means and makes Church Street a pay to play space. To smoke in a leased space, you have to buy something. There needs to be more dialogue about this. Most smokers start before the age of twenty-five and allowing smoking downtown does send a negative message to young people visiting downtown. This is something that should be addressed but needs more dialogue surrounding it.

Councilor Brennan stated that various laws are not enforced stringently, like the seat belt law, but having it in place does save lives. Being around second hand smoke is dangerous to health. This starts a movement that has been in play to have people smoke less and encourage them to quit. It will never be completely eliminated, but knowing the facts is helpful. He stated he is supportive, although has concerns about City Hall Park. There are certain areas of concentration that cause eyesores if they are not well maintained.

Councilors Berezniak and Shannon made a motion to suspend the rules and continue the meeting. The motion passed unanimously.

Councilor Blais stated he will support this. He stated he has reservations about putting a law on the books that may not be enforceable, or may put strain on the Police force. However, hearing from the Marketplace Commission and the Department of Health caused him to change his mind. This sends a message to citizens about what is right. As a Republican form of government, citizens look to elected officials to make the right call.

Councilor Hartnett stated that City Hall Park cannot be an option. It is the number one gathering place for families in the summer and to have people smoking near them defeats the purpose. The boundaries are far beyond Church Street and it might be good to look at them. He stated he is unsure about the purpose of the ordinance. Everyone has heard about second hand smoke, but allowing it in outdoor cafés does not eliminate the smoke. If it is not about the smoker, but the smoke, this does not solve that. It is a mixed message with a lot of grey area. This is tough and needs more time spent on the issue.

Councilor Dober stated he understood the issues and discussion, but he is not sure that everyone is remembering that Church Street is the jewel of Burlington. The engine of that jewel is all of the businesses located on Church Street. Every business owner he talked to is against this, yet everyone has heard that they are all for it. He stated he would like to see the committee actually go to businesses and conduct a survey of business owners and employees. He stated he does not see this as a huge problem. Other people have said this will make people quit, but this may just make people quit coming to Burlington. He stated he will support it going back to the Ordinance Committee, but not further than that.

Mayor Kiss stated that when this was discussed regarding City parks, the solution was to have areas where people congregated there is no smoking with signage. Allowing smoking in the park is a good compromise. What is proposed here tonight is not a compromise and does not work. Telling people they can smoke when outside in a restaurant area but not outside of that will not work. Having people be able to smoke in City Hall Park where all around people cannot smoke does not work. There needs to be more discussion. He stated he would support something like this if it were on Church Street only. It could be between 9am and 9pm. If this goes to the Ordinance Committee, he hopes they will take a fresh look at it.

Councilor Wright stated he is a State Representative who sponsored a bill requiring insurance companies to offer smoking cessation programs, and understands the dangers of smoking and second hand smoke. He agrees with Councilor Mulvaney-Stanak about the struggles with this. He stated he will support sending it to the Ordinance Committee and hopes they come forward with a better proposal. He stated the City Hall Park proposal does not work. He stated the group with the \$50,000 grant to make City Hall Park better did not say they wanted a big smoking area there. There should be a different designated place. He stated when the resolution went to the Committee, he proposed the changes that asked for consideration of cafés and the timelines and he was glad to see them, as they work in the interest of businesses. Their concerns need to be seriously considered. There has been a change in the last few years with the Church Street Marketplace supporting this. There is not a big contingent of business owners opposing this. He stated he would like to know if there is a bigger concern out there. He would also like to see it limited to the Church Street Marketplace. He suggested having a sunset on this to allow time to see how it works.

Councilor Adrian stated that he disagreed with Councilor Kranichfeld, and that law enforcement should do everything possible. The willingness of people to move this forward indicates there is a consensus beyond partisan lines that this issue must be addressed. It is forward thinking and on target with many Scandanavian countries. Others have stated this is a backdoor measure to target a specific population. If that were to be done, it would not be veiled by a smoking resolution.

Councilor Shannon stated the enforcement issues had been raised with every smoking ban that has been proposed, but this has not been a problem. It is not enforced the way fights, drugs and disorderly conduct are, rather it is enforced by the public and our culture. There will be occasions that the Police will enforce this. A citizen seeing people fighting will call the Police, but a citizen seeing someone smoking will ask them to stop. People will have to be educated and this will be a process. Some non-smokers are more sensitive to smoke than others. The problem of diners who may be trapped by a smoker sitting next to them has been solved, because it is now avoidable. There will be a choice to go to a café that does not allow smoking. The boundaries beyond the Marketplace are interesting, because in the past it was just Church Street. The Burlington Business Association asked for it to be expanded. As for people who live downtown, there was representation on the Task Force. One advocated for the hours because the early morning hours seemed to have a different feel. It was an important perspective to have. Compromises were made, such as City Hall Park and the Cafés. This was the consensus of the stakeholders of smokers, non-smokers, businesses and workers. There was a lot of work done on surveying.

Jeff Nick, Church Street Marketplace Commission, stated the cafés over time will probably ban smoking. The manager of Starbucks was excited by banning smoking, because they have tried to ban it but people ignored the signs. The bridal shop at the top of Church Street has had problems with Spectrum banning smoking and people moving up the street. Ron Redmond has surveyed businesses on Church Street which

showed most businesses are supportive. The notion of having the ban just on Church Street is problematic because the areas next to Church Street will have more smokers. Having them farther away would help prevent high concentrations of smokers.

Councilor Shannon made a motion to amend her motion to also refer the communication to the Ordinance Committee. She stated the resolution should not be passed without passing the ordinance. Councilor Bushor accepted the amendment as friendly.

Councilor Berezniak stated the Council may be supportive of a stronger Ordinance coming back. He stated this is not intended to target low income people. The tobacco industry targets those populations heavily.

Councilor Dober stated he has not seen the survey study and it would be relevant, both from owners and employees.

City Council President Keogh requested a roll call.

The motion passed by a vote of 12-2.

AYES: City Council President Keogh, Councilors Adrian, Bushor, Berezniak, Brennan, Mulvaney-Stanak, Hartnett, Wright, Shannon, Blais, Paul and Dober

NAYS: Councilors Kranichfeld and Decelles

10.01. COMMUNICATION: Resolution re Designation of Smoking Area in City Hall Park
Proposed Action: refer to the Ordinance Committee

Councilors Shannon and Bushor made a motion to refer to the Ordinance Committee. The motion passed by a vote of 12-2.

11. COMMUNICATION: Mayor Bob Kiss, re: Skate Park Funding Options (**material to be sent under separate cover**)

Mayor Kiss stated this was in response to the Pennies for Parks funding resolution. There was no more appropriate source for funding of the Skate Park. Through extraordinary means another funding source may be found, but this would be at the expense of other worthy projects. This was approved as part of an investment. It was budgeted and approved and it continued to be the right source of funding.

Councilor Hartnett stated he was disappointed to read this because the spirit of the resolution was to really look into this and that was probably not done. This was going to be an ongoing issue because a lot of people in Burlington were paying attention to this issue and the way the process was handled. He stated he was disappointed and hoped that in the future, the spirit of the resolution was followed.

Councilor Wright stated there was no question the spirit of the resolution was not followed. The Mayor did not have to open the budget but he wished that had been made more clear. There was discussion about delaying the vote on this resolution for one more meeting because ACAO Goodwin thought there may be other things to consider. He expressed disappointment that the spirit of the resolution was not followed. People from Appletree Point were concerned they do not have funding for fixing their tennis court, playground, and basketball court. They were told to seek private funding.

Councilor Dober inquired what the other options that would have been chosen from. Mayor Kiss stated that this was an unwarranted request. The process was articulated in Pennies for Parks and money could be used for repairs or new constructions. It was very clearly appropriate. Looking at how to fund things,

there could be extraordinary measures, but it did not mean the request was appropriate. The suggestion that other areas need repair was only a disguise to express dislike for Skate Park funding. The Parks Department went through a discussion on leveraging value and the importance of investment in Waterfront Park. He stated he talked with Interim CAO and Assistant CAO for Finance. There could be other ways to put this together, but it was unwarranted. Councilor Dober stated the legislative body requested alternative sources and that should be honored. He stated that was owed to the body. Mayor Kiss stated that there was not a better source and his next step would be to veto a proposal like this. There were always alternatives, but there was no better source.

Councilor Wright stated that he wished Mayor Kiss would have made that clear at the last meeting because it would have saved time and debate.

Councilor Berezniak stated he had heard the Mayor make that point.

Councilor Adrian stated he heard the Mayor making that point at the time and was unhappy about the time being wasted by debating it so long.

Councilor Hartnett stated maybe the Mayor could look to see if Pennies for Parks could put heat in the building.

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

12. COMMITTEE REPORTS (5 mins.)

Councilor Adrian stated there would be a Parks Arts and Culture Committee meeting on Wednesday.

Councilor Shannon stated there would be an ordinance committee meeting to discuss the Smoking Ordinance. The Fire Ordinance already passed so it would no longer be on the agenda. Councilors with a strong opinion were encouraged to attend the meeting.

Councilor Berezniak stated the resolution titled a laptop in every house went before the CD Committee and there was no funding source. The portion of the WiFi downtown was looked at closely but the money was not found for that either. The resolution that had been referred for the charitable drop box alternative to panhandling resolution was sent to the Marketplace Commission to implement. It was bogged down by being too artistic; it will continue to be looked at.

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

Councilor Shannon stated she was at a loss about what to do in regards to a Public Forum speaker who bad mouths the food shelf each meeting. She stated the Food Shelf's donations were being affected, so every time she hears the speaker she will write a check. This may stop this. Every organization has its problems, but this is a necessary service.

Councilor Hartnett stated he will stay on the Pennies for Parks issue. The Bike Path Task Force mentioned a dedicated tax knowing the process and he now wonders if that kind of system can be trusted and used. As much as that Bike Path needs to be improved, if it came down to a dedicated tax, he would not vote for it based on how Pennies for Parks has been handled.

Councilor Bushor stated this is the last meeting of the year and wished everyone a Happy New Year and a happy holiday. She stated that the Ordinance Committee is going to take up the Smoking Ordinance, but the public should be engaged. This is a holiday week and people may not be able to make the meeting Wednesday. She stated she hoped the public would have a chance to stay involved.

Councilor Brennan stated that he appreciates the condolences he has received and this holiday season will be somber for his family. He stated he pulled the resolution for non-citizen voting rights that will be introduced in January.

Councilor Blais stated that Winter Solstice is the night of the longest night, and this year it came three days early.

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

Mayor Kiss stated Pennies for Park keeps coming up. 75-100 people came and supported building a new Skate Park. It is worn out and parents with kids want this option. Many people want this investment and it is appropriate. This has followed the process and is appropriate. Those other things do need to be repaired, and that is why Pennies for Parks was put into place.

There was a request sent out to have an ad hoc committee to deal with reapportionment. Parties have chosen Ed Adrian, Emma Mulvaney-Stanak, and Paul Decelles. He stated he proposed drawing out of a hat for the independents. Councilor Bushor stated she was hoping to hear the representatives. She stated that since Councilor Adrian is representing Ward 1, she will give Councilor Paul the opportunity if she would like it.

Mayor Kiss stated President Obama gave a speech noting the end of the Iraq War and read a portion of it. He stated there has not been celebration, but there should be recognition.

14.5 EXECUTIVE SESSION

City Attorney Schatz stated there were two items involving pending litigation that the Council should be informed about. One was the Airport regarding the terms of a lessee in relation to payments of taxes and the terms of the lease. The other involved the lawsuit with Citi Capital and Burlington Telecom; premature public disclosure would put the City at a substantial disadvantage.

On a motion by Councilors Bushor and Mulvaney-Stanak, the Council went into executive session at 11:16 p.m.

On a motion by Councilors Bushor and Mulvaney-Stanak, the Council went out of executive session at 11:20 p.m.

15. ADJOURNMENT

On a motion by City Council President Keogh and Councilor Wright, the Adjourned City Council Meeting unanimously adjourned at 11:20 p.m.

Attest:

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

BOARD OF ABATEMENT OF TAXES
MONDAY, DECEMBER 19, 2011
9:00 P.M.

PRESENT: see above

MAYOR KISS PRESIDING:

1. AGENDA

On a motion by Board of Civil Authority Members Mulvaney-Stanak and Brennan the agenda was adopted as is.

2. CONSENT AGENDA

On a motion by Board of Civil Authority Members Hartnett and Bushor the consent agenda was unanimously adopted thus taking the following actions as indicated:

2.01. COMMUNICATION: Clerk/Treasurer's Office, re: Notice City of Burlington Board of Abatement of Taxes

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

3. REQUEST FOR THE ABATEMENT OF TAXES: Burlington Housing Authority
57-61 Maple Street
049-2-032-000

John Vickery, Assessor, stated the subcommittee was recommending abating the taxes, penalties, and interests from the date of purchase at Wharf Lane Apartments. The property was purchased just after April 1, but the Burlington Housing Authority was a tax exempt entity. The recommendation was that this be abated, as it was manifestly unjust to levy taxes on a tax exempt entity. They have agreed to pay education taxes as a voluntary payment.

Councilor Berezniak inquired if the payment of the education portion would be adjusted in the future or would it just be a one-time payment. Mr. Vickery stated the City would still be liable for that portion. Jim Knapp, Burlington Housing Authority, stated it was purchased to preserve affordable housing, intended as a temporary measure. The property will go back on the tax rolls tomorrow. Burlington Housing Authority is exempt from all taxes. To avoid putting the City in an awkward situation with the state, there have been adjustments to give the City a voluntary donation.

Assistant City Attorney Richard Haesler stated the City supports this abatement because the entity approached the City saying they should not have to pay taxes. The City checked with the Tax Department that stated since it was purchased after April 1, there will be taxes based on that ownership. This requires taxing them or leaving the City having to pay them. The City approached Burlington Housing Authority with this proposal to avoid litigation.

Councilor Adrian inquired if it will be sold tomorrow and who to. Mr. Knapp stated it will be sold to a tax credit partnership composed of a subsidiary of Burlington Housing Authority, a subsidiary of Vermont Housing and a to be named at a Limited Partner who will put in an equity investment and it will become a tax paying entity that will pay the March and June tax installments. Councilor Adrian inquired why the tax exempt entities are not making it exempt. Mr. Knapp stated they have elected not to in order to capture tax benefits for the investors. Assistant City Attorney Haesler stated the City is not exempted the March and June payments. Councilor Adrian stated the housing authority is paying a voluntary donation to the City, there will be a closing, but there is no assurance to the City that they will go back on the tax rolls. Mr. Knapp stated the property is on the tax rolls today, which is the problem. Burlington Housing Authority owns it, a group that is exempt from all taxes. There is a disagreement with the State about whether or not they can enforce the April 1 rule. The statute exempts the entity and the property while it is owned. Rather than further discussions with the State, this will allow the voluntary payment to cover the State taxes.

Councilor Blais inquired if Counsel for the State expressed their view about the taxability. Assistant City Attorney Haesler stated they have and took the view that this will stay on the tax rolls and if the City exempts them, it would be left to other tax payers to make up the education tax piece. The tax department is taking a hard line position on education taxes and forcing litigation. This entity missed the deadline of April 1 by a couple of days. The City was left in a position where a bill could be sent, but they could refuse to pay. This resolves the dispute without having to go to court. Councilor Blais inquired if this will be litigated down the road. Assistant City Attorney Haesler stated if it were a larger project it might, but the cost of legal fees would be too high to be worthwhile in this circumstance.

Councilor Bushor stated she supports this compromise, but inquired if it will be permanently on the tax rolls. Mr. Knapp stated it will be on the rolls and the entity will own it for the next fifteen years. Councilor Bushor inquired if the City contributed \$200,000 to keep the property as affordable housing. Mayor Kiss stated it will be. Wharf Lane is an asset that could have been for sale as for profit. It was spent to preserve it. Mr. Knapp stated that the property will be put under an affordability covenant for a minimum of fifteen years in the hands of this entity. Burlington Housing will have the opportunity to purchase it back after that.

Councilor Berezniak inquired if this issue is resolved in a future case, would Burlington Housing be able to get their money back. Assistant City Attorney Haesler stated there is no case on the horizon.

Councilor Mulvaney-Stanak stated this was recommended unanimously by the Tax Abatement Subcommittee. It was at risk of being sold privately and the residents who live there need affordable housing. This looks at abatement for $\frac{3}{4}$ of the taxes. Mr. Vickery's memo details what is being abated. She encouraged the Board to move forward with the abatement.

The motion passed unanimously.

4. ADJOURNMENT

On a motion by Board of Civil Authority Members Decelles and Brennan, the Board of Abatement of Taxes unanimously adjourned at 9:22 p.m.

Attest:

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