

DRAFT

\*\*\*\*\*  
CITY COUNCIL WORK SESSION  
CONFERENCE ROOM 12, CITY HALL  
6:15 P.M.

COMMUNICATION  
DATE 12/1/08  
AGENDA ITEM # 7.05

- 1. Streets and Sidewalks

\*\*\*\*\*  
LOCAL CONTROL COMMISSION  
CONTOIS AUDITORIUM, CITY HALL  
MONDAY, SEPTEMBER 15, 2008  
7:00 P.M.

PRESENT: Councilors Ashe, Adrian, Bushor, Berezniak, Gutchell, Knodell, Davis, Ellis, Wright, Keogh, Shannon, Montroll, Paul, and Decelles

CITY ATTORNEY'S OFFICE: Ken Schatz, Gene Bergman, Nikki Fuller

CLERK/TREASURER'S OFFICE: Ben Pacy, Lori Olberg, Sue Trainor

PRESIDENT WRIGHT PRESIDING

- 1. AGENDA
- 2. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2008-2009):

Two Blocks Down, LLC, d/b/a Callahan's (formerly Quatre Bistro), 30 Main Street

Commissioner Davis made a motion to approve the license, seconded by Commissioner Ashe. The motion passed unanimously.

- 3. OUTSIDE CONSUMPTION PERMIT APPLICATION (2008-2009):

Two Blocks Down, LLC, d/b/a Callahan's (formerly Quatre Bistro), 30 Main Street

Commissioner Davis made a motion to approve the license, seconded by Commissioner Ashe. The motion passed unanimously.

- 4. SECOND CLASS STORE LIQUOR LICENSE APPLICATION (2008-2009):

Rock's (formerly 88 Oak Street Deli and Mini-mart), 88 Oak Street

Commissioner Davis made a motion, seconded by Commissioner Berezniak, to approve the license. The motion passed unanimously.

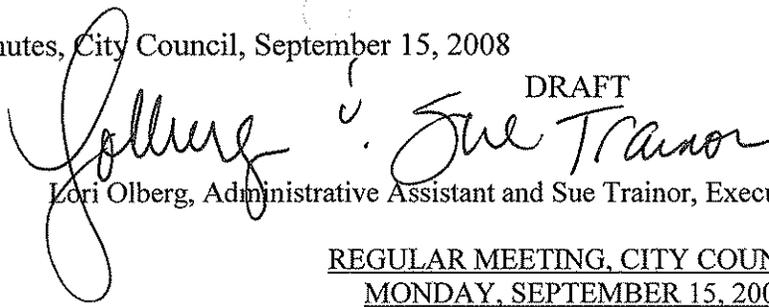
- 5. ADJOURNMENT

On a motion by Commissioners Davis and Ashe, the Commission voted unanimously to adjourn the meeting at 7:03 p.m.

Attest:

At their meeting of 12/1/08  
the Burlington City Council voted to  
waive the reading, accept this communication  
and place it on file. *adapt the minutes @ the*  
Attest: *Jon Oliver*  
*December 15, 2008 City Council Meeting*

DRAFT



Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO

REGULAR MEETING, CITY COUNCIL  
MONDAY, SEPTEMBER 15, 2008  
7:03 P.M.

PRESENT: See Local Control Commission Meeting, above.

PRESIDENT WRIGHT PRESIDING

1. AGENDA

On a motion by Councilors Knodell and Bushor, the Council voted unanimously to amend the agenda as follows: amend the consent action to item 6.19. COMMUNICATION: Barbara Shaw-Dorso, Community Justice Center, re: Letter from Ashley Watson of 20 Luck Street to “waive the reading, accept the communication, place it on file and refer it to the Police Commission and the Public Safety Committee;” amend the consent action to item 6.22. COMMUNICATION: Vermont League of Cities & Towns, re: Proposed 2009 Vermont Municipal Policy to “waive the reading, accept the communication, place it on file and refer it to the Mayor’s Office for a response;” remove item 6.26. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for May 15, 2008; note written material for item 6.27. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for August 11, 2008 with the consent action to “waive the reading, accept the communication and place it on file;” note written material for item 6.28. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for August 18, 2008 with the consent action to “waive the reading, accept the communication and place it on file;” note written material for item 6.29. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re; Board of Finance Minutes for August 25, 2008 with the consent action to “waive the reading, accept the communication and place it on file; add to the agenda item 12.01.05. COMMUNICATION: Bob Kiss, Mayor and Jonathan P.A. Leopold, Jr., CAO, re: Capital funding for Parks and Recreation; note revised third page (A Background—pertaining to Myrtle Street Community Gardens) of item 14.01. COMMUNICATION: Conservation Legacy Program, re: Program Overview; amend Part A, the 4<sup>th</sup> line of item 15.02. ORDINANCE: VEHICLES FOR HIRE (Councilor Davis, Mayor’s Office, CAO’s Office, Airport Dept., Police Dept., City Attorney’s Office) to include the word “and/” after the word “fare” with the proposed action to: suspend all rules and place in all stages of passage; add to the agenda item 15.03. COMMUNICATION: Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO, re: September 2, 2008 Taxi Issues Public Hearing Minutes; add to the agenda item 15.5. APPOINTMENT: Development Review Board (Alt.) (Term expires 6/30/11); add to the agenda item 15.6. APPOINTMENT: Telecommunications Advisory Committee (Term expires 6/30/10); remove item 16.0. PRESENTATION: Kim Sturtevant, Assistant City Attorney, Gene Bergman, Senior Assistant City Attorney, Kathleen Butler, Code Enforcement Director, David White, Planning & Zoning Director and Norm Baldwin, Assistant Director of Technical Services, Department of Public Works, re: Report on Certificates of Occupancy and place it on the September 22, 2008 DELIBERATIVE agenda; remove item 16.01. COMMUNICATION: Eugene M. Bergman, Esq., Sr. Asst. City Attorney and Kathleen Butler, Director, Code Enforcement, re: Report on Certificates of Occupancy and place it on the September 22, 2008 DELIBERATIVE agenda; add to the agenda item 20.5. COMMUNICATION: Joy McGarvey, 162 Lakewood Parkway, to Wayne Gross, Director of Parks and Recreation, re: Disc Golf Assessment for Leddy Park; add item 20.6. COMMUNICATION: from Wayne Gross regarding the Disc Golf Resolution and Update; remove item 22.0. RESOLUTION: November 4, 2008 Special Election – Advisory Referendum Concerning Same-Sex Marriage (Councilors Adrian, Berezniak); add to the agenda item 23.5. EXECUTIVE SESSION: Regarding Adam Cate. Councilor Shannon made a motion to move the appointments (items 15.5 and 15.6) along with the City Council with Mayor Presiding appointments

## DRAFT

to the September 22, 2008 City Council Meeting. The motion was considered friendly and passed unanimously.

## 2. PUBLIC FORUM

President Wright opened the public forum at 7:29 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Haik Bedrosian		Primary Election Problems Disagrees with Structure of C/T Office
Jim Bennett		Opposes School Board Request
Robert Dunshee		Opposes School Board Request
Greg Jenkins		Opposes Disc Golf Course
Ron McGarvey		Supports Disc Golf Course
Chris Shackett/Joe Speidel		UVM Student Government/Community Coalition
Alan Robinson		Police Commission Candidate
Roger Cole		Adam Cate
Heather Reimer		Supports School Board Request
Jim Flint		Supports Penny for Parks and thanks Bob Whalen
Seth Sherman		Opposes Disc Golf Course Design
Anna Smith		Supports Green Mountain Children's Museum
Helen Hossley		Supports School Board Request
Vince Brennan		Supports School Board Request
Peter Lackowski		Supports Burlington Telecom Commission
Jessica Nordhouse		Put School Bond on Ballot
Michel George		Amendment to the Zoning Change
Peggy Owen Sands		Supports School Board Request
Eric Bradford		Opposes School Board Request

DRAFT

There being no one further coming forward, President Wright closed the public forum at 8:17 p.m.

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

Councilor Paul noted her frustration about not being apprised of the Adam Cate matter and felt it was time to move forward with this issue.

Councilor Gutchell, referring to Councilor Knodell's recent concern that the city isn't growing, noted the 26% increase in retail sales in South Burlington, Rutland's 36% increase and Williston's growth, compared to Burlington 11% increase over the 6 years. The City is falling behind in retail sales. He understood that Burlington cannot compete with the box stores, but felt there was no reason we should only be at 11% growth with the amount of space that is available in the City.

Councilor Decelles mentioned his receipt of a letter from Ashley, an 18 year old resident of Burlington. She was concerned that her peers were causing trouble around town, giving teens a bad name. The Councilor asked that her letter be referred to the Police Department. Councilor Bushor noted the item was already on the agenda and being referred to the Police Commission.

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

The Mayor commented on the following items: 1) the Boston Celtics came to Church Street, the first stop on their celebration of their winning season; 2) the work to rewrite the City's Climate Action Plan would begin on September 18<sup>th</sup> and he hoped residents would participate; 3) there would be a press conference about Burlington's response to the pandemic flu preparation; 4) Bike safety/pedestrian safety would be discussed at a press conference in response to the recent accidents and injuries that have occurred; 5) The Intervale continued to be worked on through negotiations with FEMA and other organizations; 6) In response to recent personnel matters/confidential matters: it is an employer's responsibility to keep these matters confidential in order to protect individuals. He understood the frustration of the Councilors but hoped that they will respect the process involved.

5. COMMITTEE REPORTS

Councilor Montroll explained that due to the budget constraints of CCTA, the First Night Shuttle Services would be discontinued. The cost is less than \$6,000 and the Committee will be asking the Mayor/City to find the funds to support this shuttle.

Councilor Shannon noted the Joint Ordinance Committee and Planning Commission met about PUD's and the possible uses of PUD's in various areas.

Councilor Adrian stated that the Public Safety Committee met to take up the issue of Residency Requirements for Sex Offenders. One person participated from the public and he encouraged individuals to attend the next meeting on October 7<sup>th</sup>.

Councilor Bushor informed the Council that the Institutions Committee will be meeting on September 25<sup>th</sup>, reviewing Champlain College's request for zoning modifications.

6. CONSENT AGENDA

On a motion by Councilors Knodell and Bushor, the Council voted unanimously to accept the consent agenda as amended thus taking the indicated actions on the following consent items:

6.01. RESOLUTION: Reclassification of the Burlington Electric Department Storekeeper –

DRAFT

Purchasing and Inventory Position (Board of Finance)

\*waive the reading and adopt the resolution

6.02. RESOLUTION: Title Change & Reclassification of a CEDO Department Community Development Specialist Position (Board of Finance)

\*waive the reading and adopt the resolution

6.03. RESOLUTION: Church Street Marketplace District Commission – Authorization to Enter into Sidewalk Café License Agreements (Councilor Ashe)

\*waive the reading and adopt the resolution

6.04. RESOLUTION: Authorization to Execute Construction Contract for College Street Improvements Phase I (Board of Finance)

\*waive the reading and adopt the resolution

6.05. COMMUNICATION: Carol Duncan, Capital Program Manager, Office of the City Engineer, re: Waterfront Improvements -- Phase I

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

6.06. RESOLUTION: Approval of World Green Exchange User Agreement (Board of Finance)

\*waive the reading and adopt the resolution

6.07. RESOLUTION: Authorization for Execution of Additional Agreements for Phase 2 of South End Development at Burlington International Airport (Board of Finance)

\*waive the reading and adopt the resolution

6.08. RESOLUTION: Authorization for Acceptance of Grant Offer and Conditional Authorization to Contract for Continued Construction of Phase 2 of South End Development at Burlington International Airport (Board of Finance)

\*waive the reading and adopt the resolution

6.09. RESOLUTION: Acceptance of Grant Offer and Authorization to Contract for Updated Master Plan at Burlington International Airport (Board of Finance)

\*waive the reading and adopt the resolution

6.10. RESOLUTION: Authorization to Contract for Land Use/Re-use Study at Burlington International Airport (Board of Finance)

\*waive the reading and adopt the resolution

6.11. RESOLUTION: Compensation Adjustment for McNeil Station Shift Supervisors (Board of Finance)

\*waive the reading and adopt the resolution

6.12. RESOLUTION: First Night Shuttle Services (Councilors Montroll, Keogh, Davis: Transportation, Energy & Utilities Committee)

\*waive the reading and adopt the resolution

6.13. RESOLUTION: Downtown Parking Study (Councilors Montroll, Keogh, Davis: Transportation, Energy & Utilities Committee)

\*waive the reading and adopt the resolution

DRAFT

6.14. RESOLUTION: Short Term Airport Parking (Councilors Montroll, Keogh, Davis: Transportation, Energy & Utilities Committee)

\*waive the reading and adopt the resolution

6.15. COMMUNICATION: Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO, re: Minutes, City Council, June 2, 2008

\*waive the reading, accept the communication, place it on file and adopt the minutes as received at the August 11, 2008 City Council Meeting

6.16. COMMUNICATION: Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO, re: Minutes, City Council, June 9, 2008

\*waive the reading, accept the communication, place it on file and adopt the minutes as received at the August 11, 2008 City Council Meeting

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

Quatre Bistro, 30 Main Street, Saturday, September 6, 2008, UFC Fight, 10:00 p.m. – 1:00 a.m.

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

6.18. COMMUNICATION: Northern Vermont Rescue Conservation & Development Council, Inc. re: 2008 Better Backroads Grant Application

\*waive the reading, accept the communication, place it on file and send the application to DPW Director Goodkind to complete for possible funding

6.19. COMMUNICATION: Barbara Shaw-Dorso, Community Justice Center, re: Letter from Ashley Watson of 20 Luck Street

\*waive the reading, accept the communication, place it on file and refer it to the Police Commission and the Public Safety Committee

6.20. COMMUNICATION: Vermont Rural Fire Protection Task Force, re: Two Free Videos

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

6.21. COMMUNICATION: Bob Kiss, Mayor to Kevin M. Merli, Director, Mitigation Division, FEMA I, U.S. Department of Homeland Security, re: Burlington Intervale

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

6.22. COMMUNICATION: Vermont League of Cities & Towns, re: Proposed 2009 Vermont Municipal Policy

\*waive the reading, accept the communication, place it on file and refer it to the Mayor's Office for a response

6.23. COMMUNICATION: Open Government Committee, re: Comments, Feedback, Suggestions

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

6.24. COMMUNICATION: Bob Kiss, Mayor, re: City Funding and Support for Senior Centers

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

6.25. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, Board of Finance Minutes for September 8, 2008

DRAFT

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

6.27. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for August 11, 2008

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

6.28. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for August 18, 2008

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

6.29. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for August 25, 2008

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

7. INDOOR ENTERTAINMENT PERMIT APPLICATION (2008-2009):

Two Blocks Down, LLC, d/b/a Callahan's (formerly Quatre Bistro), 30 Main Street

Councilor Davis made a motion, seconded by Councilor Decelles, to approve the permit application. The motion passed unanimously. Councilor Ashe was not at the table.

8. OUTDOOR ENTERTAINMENT PERMIT APPLICATION (2008-2009):

Two Blocks Down, LLC, d/b/a Callahan's (formerly Quatre Bistro), 30 Main Street

Councilor Davis made a motion, seconded by Councilor Paul, to approve the permit application. The motion passed unanimously. Councilor Ashe was not at the table.

9. TOBACCO LICENSE APPLICATION (2008-2009):

Rock's (formerly 88 Oak Street Deli and Mini-mart), 88 Oak Street

Councilor Davis made a motion, seconded by Councilor Berezniak, to approve the license application. The motion passed unanimously. Councilor Ashe was not at the table.

10. PUBLIC HEARING: Burlington Comprehensive Development Ordinance PROPOSED ZA08-02 re: UVM Trinity Core Campus Overlay

Planning Director David White explained the purpose of the UVM Trinity Core Campus Overlay.

President Wright opened up the Public Hearing at 8:22 p.m. Shirley Fortier from UVM spoke, stating that UVM was aware of this ordinance change and would continue to work with the City with any future planning.

There being no one further coming forward, President Wright closed the public hearing at 8:24 p.m.

Councilor Bushor made a motion to suspend the rules, place this in all stages of passage for the proposed Trinity Campus Core Overlay Ordinance, seconded by Councilor Keogh. Councilor Montroll stated there without a draft ordinance on the table or in the packet, members of the public would not have any idea of what it is. Thus having this be in all stages of passage would be problematic.

## DRAFT

Councilor Bushor explained that she made the motion because it was in the August 11, 2008 City Council Packet, was addressed at the Council meetings twice and no one other than a UVM representative had come forward. However, she was willing to modify the motion. Councilor Montroll then moved to amend the motion so that this would be the first reading and then have it appear on the September 22, 2008 City Council Consent Agenda. The motion was friendly to the maker and seconder. The motion passed with Councilors Davis and Knodell recusing themselves.

11. PUBLIC HEARING Burlington Comprehensive Development Ordinance PROPOSED ZA08-03 re: Misc. Amendments and Corrections

Councilor Bushor asked about Champlain College's concern with this ordinance change. Planning Director White informed the Council that it had to do with 5.23, 5.25 and 5.27, where parcels of land and density are zoned differently.

Councilor Bushor asked to suspend the rules on items 1 through 4, pass on first reading at this meeting and notice for action at the September 22, 2008 City Council M. The second part of the motion was to refer the last section, section 5, to the Ordinance Committee for a first reading. The motion was seconded by Councilor Keogh. Councilor Berezniak requested that the item be returned to the Council the first meeting of December.

President Wright opened up the public hearing at 8:30 p.m.

Mr. David Provost of Champlain College noted his concern that the College was currently in front of the joint Institutional Committee. This specific lot would take the application in front of the DAB and DRB and make it non-conforming.

Mr. Michael Rooney stated that it was difficult to know what is being proposed in this ordinance. He asked how many other people are equally unaware of the ordinance and what it was proposing. He also understood what Champlain College was saying. The City instructed Champlain College to come up with a Master Plan, went through public process and then as a City we refused to accept it. The DRB, DAB, Institutional Committee, Planning Commission each look at little bits of the master plan. Some organization within the City needed to look at the master plan in totality. Reject it tonight but then take it on as an entirety.

There being no one further coming forward, President Wright closed the public hearing at 8:35 p.m.

12. PRESENTATION: Stephen D. Allen, Parks & Recreation, Chair, re: "Penny for Parks" Proposal

Stephen Allen, Chair of the Parks and Recreation Commission and Dave Hartnett, a member of the Commission, presented their rationale for adding a ballot item on the November ballot. They felt confident that Burlington residents would support the initiative.

Councilor Bushor questioned, after reviewing the documentation provided, whether this penny increase would sustain Parks in their capital needs. At the Board of Finance meeting, Chairman Allen had said it would but looking at the laundry list that was provided, Councilor Bushor did not see how it could. Chairman Allen, the Department stated that the penny would raise \$350,000, whereas the annual needs were \$500,000 and so, no, the need would not be fulfilled completely by the penny. Chairman Allen stated that 50% of the money for special projects requests would come from other sources and if money were not able to be raised, the projects would not go forward. However, the proceeds from the penny tax would reflect the entire capital budget.

## DRAFT

Councilor Berezniak noted that none of the needs mentioned in the Parks presentation were new and he asked the Mayor why they were not included in the budget that was presented in June. Mayor Kiss reminded the Council that the City used a system whereby the City Engineers develop a priority list of capital projects/improvements that need to be done. Some of the items that the Parks Department had presented did not make the list of priorities and some items were never submitted as projects that needed to be done. He also noted that he had presented the Councilors with another option which would allow more funds to apply to the capital improvements program, which would then potentially allow the Parks Department more access to the funds.

Dave Hartnett said that the Parks Department wanted the money to go directly to the Parks Department, as the list of capital improvements was long and they suffer greatly.

Councilor Shannon stated that the City was faced with an avalanche of requests for maintenance needs from across the City and she would like to know if they made requests during the budget process and if not, why not. Chairman Allen said that departments requested through a competitive process and some requests were honored while others were not.

Councilor Montroll asked Chairman Allen what he thought about the Administration's proposal to increase the overall capital funds budget from \$1 million to \$1.4 million. Chairman Allen stated that the system in place has failed to meet the needs of the parks system and that even with more money, there was no guarantee or security for the department.

Councilor Ashe noted that other departments might feel crowded out of additional funding and asked Chairman Allen what distinguished the Parks Department from others, such as the Library or City Arts. The Chairman stated that the economic impact and potential negative economic consequences associated with not approving this request was significant and that this department warranted special attention in protecting these resources.

Councilor Keogh noted that since this was a charter change, it would need to go to the Legislature for approval which meant that Parks would not start getting any money until Fiscal Year 2010. The Parks Commission representatives knew this.

12.01. COMMUNICATION: Stephen D. Allen, Parks & Recreation, Chair, re: A Penny for Parks

At the request of Councilor Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

12.02. RESOLUTION: November 4, 2008 Special City Meeting – Proposed Charter Change re: Penny for Parks Authorized (Parks, Arts, Culture Committee: Councilors Adrian & Paul)

Councilor Knodell made a motion, seconded by Councilor Montroll, to postpone the decision and instead refer this item to the Board of Finance for their recommendation. It would then be placed on the September 22<sup>nd</sup> agenda for action. The motion passed by a vote of 13 in favor and 1 opposed, with Councilor Adrian voting against.

13. PRESENTATION: Jeanne Collins, Superintendent, Burlington School District and Members of the School Board, re: Our Schools, Our Future

School Superintendent Jeanne Collins, Chairman of the School Commission Tom Fleury and Finance Chair Fred Lane spoke to the Council about their request for a bond. Ms. Collins informed the Council

## DRAFT

that this was the result of four years of conversation with a variety of key participants regarding the future of Burlington schools. She noted that this was a visionary plan and hoped that the Council would let the voters decide whether to support this or not. Mr. Fleury outlined the variety of problems facing the schools and the work that needed to be done in all of the buildings.

Councilor Wright asked the presentators what they will do if the Council said no to this request. Mr. Fleury stated he hoped to continue to work with the Council.

Councilor Decelles noted that the Finance Board had asked the School Department to slow down and try to work with the Council to come up with a plan to benefit the schools. He asked why they did not do that. Mr. Fleury explained that they were anxious to have as many voters participate as possible in the decision and they were also concerned that having this item, along with an additional request for funding on the March ballot, could be to their disadvantage.

Councilor Decelles also asked what type of outside funding they would pursue. Mr. Lane explained that school districts had been eligible for 30% reimbursement for certain types of construction costs and 50% for things involving technical centers. There was currently a moratorium on construction costs at the state level, but they were hoping the legislators can remove that. Finally, regarding the Edmunds complex, Champlain College was interested in contributing to a parking facility.

Councilor Adrian asked Mr. Lane if they had received any information as to what a median bond amount for cities Burlington size would be. Mr. Lane stated he had talked with CAO Leopold about this and they were getting outside information as well but the process was incomplete. Councilor Adrian then addressed questions to the CAO asking for an explanation of what a median bond rating was. Councilor Adrian asked if the City could get a letter from rating agencies. CAO Leopold stated this was only done if you applied for a bond, as it was a complex interplay of elements involved. He noted that he has offered to work with the School Department over the next couple of months to look at the financial metrics of both the capacity of the City for bonding and what they are proposing to do to address their need.

Councilor Berezniak noted that he felt it was important for the bond request to go on the November ballot so that construction could begin in the spring.

Councilor Gutchell asked if the School Board had consulted with the CAO and Finance Board as to whether the City had the capacity to issue a bond of that size. Superintendent Collins stated that at the time of the \$226 million bond they had not consulted with the City.

Councilor Bushor asked a number of questions about the parking structure and what other options were looked at for parking, such as teachers parking off site and shuttling services. Superintendent Collins stated it was \$10,000 per space and that there was no option under the current planning and zoning to not provide parking.

Councilor Montroll stated that he felt the bonding capacity was the threshold issue and Mr. Lane agreed. Councilor Montroll then asked if there was a Plan B. Chairman Fleury stated they would continue to do a great job of heating the outdoors and work with the Administration and the Council to find ways to work on ideas.

Councilor Montroll noted that the impact of the School Board request would increase the tax rate from \$1.11 to \$1.34. This amount seemed to be well within the standards of the counties around Burlington. He asked CAO Leopold what impact it would have on the bonding capacity. CAO Leopold stated that no analysis had been done on the proposed bond issue relative to other communities in Chittenden County. Further, he explained that you have to look at the grand list and per capita income. A study had been done

## DRAFT

in the 1980's and Burlington taxpayers were making one of the highest levels of tax effort in the entire state.

Following questions from Councilor Ellis, Mr. Lane explained that the rate would increase 4.2% each year with the fifth year being the highest at \$596 for the average taxpayer. At that point the tax rate for the bond would max out and begin to decline. Mr. Lane also noted that there would be operational increases as well which would not be attributable to the bond.

Councilor Shannon noted that her primary issue before putting it on the ballot was the affordability and the City's credit rating. Councilor Shannon asked a variety of questions, asking that the responses be put in writing for her constituents. The questions included: how did the Board determine their priorities, where are the cost savings and revenues from the magnet schools, and how did the City get here with the need for more money due to deferred maintenance. She also asked about enrollment because the perception in the community is that it had gone down. Commissioner Lane responded that enrollment had declined, but was now steadily rising. Burlington had become a refugee city over the last five to six years which had increased the enrollment numbers.

Councilor Paul remarked that if you issue five \$18 million bonds within five years, in year six you are paying for all five of those bonds and she felt the information on the School Department's website did not address that. She noted the impact of these bonds would be felt long after year five. They would be felt for another 20 years from the issuance date of the first bond and she thought this should be mentioned.

- 13.01. RESOLUTION: Authorization for Special City Meeting November 4, 2008  
Issuance of General Obligation Bonds for School Department  
Capital Improvements Authorized (Board of Finance)

Councilor Knodell made a motion, seconded by Councilor Decelles, to postpone action on the resolution, refer it to the Board of Finance and request a recommendation back to the City Council for action at the September 22, 2008 meeting. The motion passed unanimously.

- 13.02. COMMUNICATION: Jeanne Collins, Superintendent, Burlington School District, re:  
Summary of Master Plan Proposal

- 13.03. COMMUNICATION: Thomas Fleury, School Board Chair and Jeanne Collins,  
Superintendent, re: Ballot Request for School Master Plan  
Phase I

At the request of Councilor Wright, and with no objection from the remaining Council, the action taken on items 13.02. and 13.03. were to waive the readings, accept the communications and place them on file.

14. PRESENTATION: Harris Roen, Chair, Burlington Conservation Board and Lisa Coven,  
Conservation Legacy Program Staff, Burlington Parks and Recreation  
Department, re: Burlington Conservation Legacy Program – Background  
and Update

Harris Roen and Lisa Coven presented the work that had been done through the Conservation Legacy Program. Councilor Berezniak noted his opposition to the Avant Garden/Myrtle Street project and asked how it got fast tracked. Mr. Roen stated that project had not received a positive recommendation from the Conservation Board. Those working on the Myrtle Street project then went directly to the Board of Finance and the City Council. Councilor Shannon asked what the current fund balance was and Ms. Coven stated she would provide that information via e-mail.

DRAFT

14.01. COMMUNICATION: Conservation Legacy Program, re: Program Overview

At the request of Councilor Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

At this time Councilor Ashe asked, prior to the suspension of the rules, that the Council only consider items of a time-sensitive nature. Councilor Bushor made a motion to propose adjusting the agenda to deal with items through 17, 23 and the Executive Session and to postpone all other items to the September 22, 2008 City Council Meeting.

The motion failed due to lack of a 2/3 majority.

The motion to suspend the rules was moved by Councilor Paul. The motion passed by a vote of 13 to 1 with Councilor Ashe voting against.

15. RESOLUTION: A Temporary Fuel Surcharge on Taxicab Rates (Councilors Davis, Ashe, Berezniak: License Committee)

Councilor Davis made a motion to move passage of the resolution, seconded by Councilor Bushor. Brian Searles, Director of the Airport and Nikki Fuller, Assistant City Attorney were recognized by Councilor Davis for their work on the taxi issues and are available for questions. This proposed surcharge will sunset on March 1, 2009 and the group will continue to work on a number of issues outlined in the packet.

Councilor Ashe asked how much of the suffering of the cab drivers was from the rising fuel costs or the proliferation of taxis. Brian Searles explained that they were separate issues; that the price index that was customarily used to calculate rate increases was not high enough considering the current circumstances with gas prices and this surcharge would help a great deal. Councilor Keogh supported the concept but stated he would like to have an easy to read customer placard that had phone numbers for complaints as well as information on the surcharge. Assistant City Attorney Fuller stated the placard was already in the works.

Councilors Decelles and Berezniak both noted their support for the proposal. Councilor Paul expressed her appreciation for the work that was done on this issue. In closing, Councilor Davis highlighted the minutes of the public hearing at which operators suggested moving to a metered system so that everyone involved would know the actual rates and customers would know that any cab with a meter was an authorized vehicle.

The motion passed unanimously.

15.01. COMMUNICATION: Taxi Issues Work Group, re: Taxi Licensing and Enforcement Issues

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

15.02. ORDINANCE: VEHICLES FOR HIRE (Councilor Davis, Mayor's Office, CAO's Office, Airport Dept., Police Dept., City Attorney's Office)

Councilor Davis moved to suspend the rules and place it in all stages of passage. Councilor Bushor seconded the motion. Councilor Bushor then wanted to ensure that the placard needed to state both the fare and the surcharge. The motion passed unanimously.

DRAFT

- 15.03. COMMUNICATION: Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO, re: September 2, 2008 Taxi Issues Public Hearing Minutes

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

17. RESOLUTION: Authorization to Enter into License Agreement to Maintain Park Benches on a Portion of the City's Right-of-way with Vermont Sandwich Company (Councilors Davis, Ashe, Berezniak: License Committee)

Councilor Davis made a motion to adopt the resolution, seconded by Councilor Ashe. The motion passed unanimously.

18. RESOLUTION: Establishing the Burlington Telecom Department and Commission (Councilors Montroll & Keogh)

Councilor Montroll made a motion to waive the reading and adopt the resolution, seconded by Councilor Paul. Councilor Montroll explained that this resolution referred the issue to the Charter Change Committee, asking that they make a recommendation back to the full Council. Adoption of the resolution does not create a department, but sets up the process to enable that to happen. He believed strongly that Burlington Telecom should have the same kind of oversight as other departments.

Councilor Keogh asked whether the Finance Board sponsored the resolution. CAO Leopold explained that the Finance Board had been considering a resolution that was proposed by the staff of the Department and the Administration to consolidate the Citizen Advisory Committee and the Burlington Telecom Advisory Committee into a single committee and to adopt the mandate for that committee that would be consistent with what the Burlington Telecom Advisory Committee (BTAC) reported to the Council in the annual report in July. Councilor Keogh then asked that the resolution be amended to show that Councilors Montroll and Keogh are co-sponsors of the resolution, not the Board of Finance.

Councilor Bushor noted she will agree with Burlington Telecom being a department but the competitive nature of Telecom made the choice of having a commission over this department is unwise and she will not support that if it comes to that.

Councilor Knodell, as a member of the Charter Change Committee, noted that she would rather have this come to the Committee to review some of the organizational alternatives rather than just zeroing in on the solution. Burlington Telecom is unique and the City needs to be very careful about what it is proposing.

Councilor Knodell then made a motion to refer this issue to the Charter Change and ask that it prepare a report and recommendations. Councilor Bushor seconded the motion. Councilor Montroll asked to amend the resolution to have a report back to the Council at the first meeting in December. The motion passed unanimously.

19. RESOLUTION: Authorization for Execution of a MOU Between the City and the Green Mountain Children's Museum re: Moran Redevelopment Project (Board of Finance)

Councilor Montroll made a motion, seconded by Councilor Ashe to adopt the resolution. Councilor Montroll noted that the resolution was substantially similar to the MOU for the Sailing Center authorized

## DRAFT

at the last meeting except for the contribution to the architect fees. CEDO Director Larry Kupferman, Kristin Merriman Shapiro from CEDO and members of the Children's Museum were present to answer questions. Councilor Montroll also wanted to mention that the Ice Factor still needed to be finalized and they need all three to get the package together. He then wanted to make sure, through the City Attorney, that under this MOU there was no requirement to actually retain the services of an architect unless the Council decided when it is an appropriate time to do so.

City Attorney Schatz stated that was correct, that it is still up to the City Council to ultimately decide whether to go forward with the architect and engineering contract. Negotiations are still ongoing with the Ice Factor.

Councilor Paul expressed her appreciation of the good work that Green Mountain Children's Museum does. However, she had some concerns that have been presented to the City Attorney and she was assured that all legal aspects of the Moran Project would be done in concert with seasoned and independent legal counsel. She then made a motion to table the motion, seconded by Councilor Keogh. The vote passed by a vote of 10 to 4, with Councilors Knodell, Ashe, Bushor and Davis voting against.

19.01. COMMUNICATION: Larry Kupferman, Director CEDO, re: Summary of key points in Memorandum of Understanding between the City and The Green Mountain Children Museum

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

20. RESOLUTION: Frisbee Golf at Leddy Park (Councilor Ellis)

Councilor Ellis made a motion to approve the resolution, seconded by Councilor Shannon. Councilor Ellis noted that this resolution came about as a result of a large public meeting held at the Parks Department. He made sure to include the issues that came up as a result of the attendees' concerns.

Councilor Bushor supported the resolution but asked Director Gross if July was the first and only time this item was discussed. Director Gross stated that it was again discussed briefly at the August meeting. Councilor Bushor was concerned that a larger community discussion did not seem to happen and asked how the department engages the community when a request is proposed. Director Gross stated that normally a public hearing would be held. In this case it was the middle of the summer and the department just did not take it to the same level. He acknowledged that they could have gone slower and had a public hearing. He also noted that the Commission would be talking again in September about this.

President Wright then asked how he would go about working on the clause that states the Department will seek independent and expert opinions. Director Gross said that he would have the Forester do a report and he had already gone outside to other communities for additional information. He noted that the other issues that had been raised were issues were fairly straightforward.

Councilor Wright asked again what the course of action would be if the resolution passed. Director Gross stated he was not really sure. The Department had not contemplated going outside of Parks and Recreation who could evaluate the conditions. He did not feel that any of the issues were complicated. Councilor Ellis stated that he was sure that the State Conservation Board and other individuals in the community would be willing to help and to provide comments and suggestions. UVM has an expert in the field as well. Many people asked if clearing out that much of the park would endanger the viability of the woods. This is important to determine and other opinions must be sought. Councilor Ellis also noted that there is danger involved in individuals being hit by these discs and people have expressed concerns about being hit while in the park.

Council Gutchell expressed that he could not support the resolution. He felt that Parks and Recreation has the ability to look at the issues that have been brought up, that Director Gross is already looking at redesigning the course so it takes it further away from sensitive areas and he feels that the Commission is fully capable of taking care of this.

Mayor Kiss stated that he believed empty space is not wasted space. The woods were a buffer and are not wasted. Parks and Recreation could possibly contemplate a trial period of having 9 holes rather than 18.

Councilor Decelles proposed an amendment stating Be It Further Resolved, strike independent and expert, and change it to the Parks and Recreation Department "seek opinions of appropriate staff in the City." The amendment was considered friendly to the maker and the seconder. Councilor Berezniak then asked to add an amendment to have the Parks and Recreation Department evaluate the old landfill on the bicycle path. The motion passed by unanimously.

20.5. COMMUNICATION: Joy McGarvey, 162 Lakewood Parkway, to Wayne Gross, Director of Parks and Recreation, re: Disc Golf Assessment for Leddy Park

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

20.6. COMMUNICATION: Wayne Gross, Parks and Recreation Director, re: Disc Golf Resolution and Update on Process

At the request of President Wright, and with no objection from the remaining Council, the action taken on this item was to waive the reading, accept the communication and place it on file.

21. RESOLUTION: Burlington Telecom Carriage Policy Review (Councilor Montroll)

Councilor Montroll made a motion to adopt the resolution, seconded by Councilor Keogh. Councilor Montroll outlined the reason for this resolution as a means to close a gap that was identified during the Al Jazeera issue. Councilor Bushor noted her concern about the wording regarding the TEUC Committee's responsibility. Councilor Montroll explained that the Committee would develop a process and then it would return to the Council.

CAO Leopold spoke against the resolution, noting the contract decisions were business practices, not utility practices. He believed that these types of issues were more properly overseen by the Finance Board. CAO Leopold noted that he supported the Council ultimately adopting a carriage policy, but not that the Board of Finance should review.

Councilor Keogh offered an amendment to state that the TEUC Committee work in consultation with Board of Finance. Councilor Montroll stated the concept was friendly and reworded the statement to "tasks its Finance Board and TEUC Committee."

The amended resolution passed unanimously. Approval of Purchase of 47.5 acres from Shelburne Shipyard, Inc Burlington International Airport (Board of Finance)

23. RESOLUTION:

Councilor Ashe made a motion, seconded by Councilor Montroll to approve the resolution. The questions about the negotiation of terms and language related to the contamination which was on the Guard. Brian Searles, Director of the Airport, and CAO Leopold explained that there was no

DRAFT

where the contamination came from, that VTANG committed to continue the program of remediation and containment for both the property currently owned and being acquired. Brian Searles stated that the Airport fully supports the resolution.

Councilor Shannon made a motion to postpone a decision to the meeting of September 22nd, seconded by Councilor Berezniak. Councilor Montroll asked if this item was time sensitive to which the Guard representative stated that the money that had been set aside for this purchase was from 2008 funds which had to be returned. The Guard is still pursuing the funds but a week's delay would be a problem. The motion then failed by a vote of 13 to 1, with Councilor Shannon voting for.

The Council voted to approve the resolution.

At this point, Brian Monaghan, Attorney from McNeil, Leddy and Sheahan noted that there were two amendments that need to be added to the motion.

Councilor Bushor then made a motion to reconsider, seconded by Councilor Decelles. The motion passed unanimously. Councilor Bushor made a motion, seconded by Councilor Knodell, to amend the resolution and be it further resolved that the "mayor or designee" be authorized to enter into all necessary agreements. The amendment passed unanimously.

President Wright then asked to vote on the amended resolution. The vote passed by a vote of 12 to 2, with Councilors Berezniak and Shannon voting against.

23.5. EXECUTIVE SESSION: Regarding Adam Cate

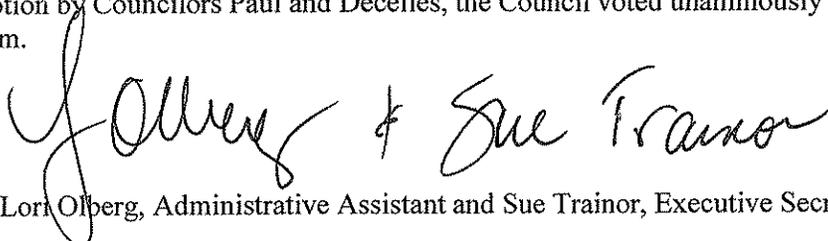
On a motion by Councilors Montroll and Bushor, the Council voted by a vote 13 to 1, with Councilor Ashe voting against, to go into executive session to discuss Adam Cate, premature public disclosure of which would clearly place the City at a disadvantage (11:46 p.m.). Also present were HR Director Lonerwright, Police Chief Schirling, Senior Assistant City Attorney Bergman, and Parks and Recreation Director Wayne Gross. CAO Leopold and Assistant CAO were not in attendance.

\* \* \* \* EXECUTIVE SESSION \* \* \* \*

On a motion by Councilors Knodell and Davis, the Council voted unanimously to go out of executive session (12:16 a.m.).

24. ADJOURNMENT

On a motion by Councilors Paul and Decelles, the Council voted unanimously to adjourn the meeting at 12:17 a.m.

Attest: 

Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO

**BOARD OF CIVIL AUTHORITY**  
**MONDAY, SEPTEMBER 15, 2008**  
**11: 42 P.M.**

MAYOR KISS PRESIDING

DRAFT

1. AGENDA

Add to the agenda item 2.02. COMMUNICATION: Ben Pacy, Assistant Chief Administrative Officer, re: Follow-up on September 9, 2008 State Primary Election\* with the consent action to "waive the reading, accept the communication and place it on file; add Councilors Keogh and Wright as co-sponsors to item 3.0. RESOLUTION: Resolution Relating to the Primary 2008 Election Report (Councilor Montroll)

2. CONSENT AGENDA

On a motion by Board of Civil Authority Members Wright and Knodell, the Board of Civil Authority voted unanimously to accept the consent agenda as amended, thus taking the indicated actions on the following consent items:

2.01. COMMUNICATION: Lori Olberg, Administrative Assistant, re: Appointment of Acting Justices of the Peace for the September 9, 2008 Primary Election

\*waive the reading, accept the communication, place it on file and ratify the appointment of Barbara Kopacz and Kirsten Merriman Shapiro as Acting Justices of the Peace for the September 9, 2008 Primary Election

2.02. COMMUNICATION: Ben Pacy, Assistant Chief Administrative Officer, re: Follow-up on September 9, 2008 State Primary Election

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

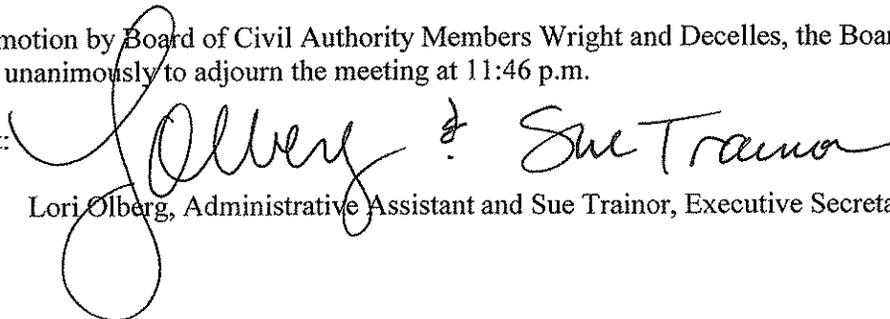
3. RESOLUTION: Resolution Relating to the Primary 2008 Election Report (Councilor Montroll, Keogh & Wright)

Councilor Montroll made a motion to adopt the resolution, seconded by Wright. He then explained that the resolution asks the Ward Clerks to outline what worked and what did not. The report would be brought back to the Council at the second meeting in October at CAO Leopold's request. Councilor Adrian noted that he would be recusing himself from the vote because he works for the Secretary of State's Office. The motion then passed unanimously.

4. ADJOURNMENT

On a motion by Board of Civil Authority Members Wright and Decelles, the Board of Civil Authority voted unanimously to adjourn the meeting at 11:46 p.m.

Attest:



Lori Olberg, Administrative Assistant and Sue Trainor, Executive Secretary to the CAO