

CITY HALL, CONFERENCE ROOM 12
MONDAY, MARCH 8, 2010
6:00 P.M. TO 7:00 P.M.

1. AGENDA
2. COMMUNICATION: Joseph E. McNeil, re: Collective Bargaining (oral)

* * * * **EXPECTED EXECUTIVE SESSION** * * * *

3. ADJOURNMENT

DELIBERATIVE AGENDA

REGULAR MEETING, CITY COUNCIL
CONTOIS AUDITORIUM, CITY HALL
MONDAY, MARCH 8, 2010
7:22 P.M.

PRESENT: Councilors Davis, Bushor, Kaplan (departed at 9:08 p.m.), Adrian, Keogh, Shannon, Ellis, Paul, Dober, Decelles, Berezniak, Kehoe (via phone at 7:28 p.m., off phone at 8:30 p.m.), Caldwell, Mayor Kiss

OFFICE OF THE CITY ATTORNEY: Ken Schatz and Richard Haesler

OFFICE OF THE CLERK/TREASURER'S OFFICE: Jonathan Leopold, Ben Pacy and Sue Trainor

PRESIDENT KEOGH PRESIDING

President Keogh began the meeting by stating a recount had been requested in Ward 2. The recount would take place on March 15th. City Attorney Schatz anticipated that both seats in Ward 2 would be part of the recount and it would be the Board of Civil Authority, not the Council, participating in the recount.

1. AGENDA

On a motion by Councilor Adrian, with no second, the agenda was amended as follows: remove consent agenda item 3.02. RESOLUTION: Approving the Issuance of Certain Tax-Exempt Airport Facility Revenue Bonds by the Burlington Community Development Corporation To Currently Refund and Finance a Portion of the Costs of Certain Airport Facilities (Board of Finance); note **written** material for consent agenda item 3.14. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for February 22, 2010; add to the consent agenda item 3.15. COMMUNICATION: Parks, Art and Culture Committee (Karen Paul, Paul Decelles and Mary Kehoe), re: Resolution on Disc Golf at Leddy Park with the consent action to "waive the reading, accept the communication and place it on file;" note **revised** version for item 4.01. RESOLUTION: Authorization to Enter into Negotiations with The Lake Champlain Maritime Museum as a Tenant for the Moran Redevelopment Project (Councilors Paul, Kehoe, Decelles: Parks, Art & Culture Committee); add to the agenda item 5.02. RESOLUTION: Burlington Telecom Financial Advisor (Councilors Kaplan, Keogh, Paul, Shannon & Dober); add to the agenda item 5.03. RESOLUTION: Burlington Telecom – Reconvene Blue Ribbon Committee to Consider Offer From "Reboot BT" (Councilors Shannon, Berezniak, Ellis, Kehoe). This is a **revised** version from last week; Councilor Dober requested to be added as a co-sponsor to items 5.02 and 5.03; remove item 5.5. COMMUNICATION: CAO Leopold, re: Financial Report (oral). The amended agenda passed unanimously.

2. PUBLIC FORUM

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Jason Van Driesche	5	Supported item 5.03.
Greg Jenkins		Addressed the Pension Fund
Ralph Montefusco	4	Supported item 5.03.

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

3. CONSENT AGENDA

On a motion by Councilor Adrian and Decelles, the Council voted unanimously to adopt the consent agenda thus taking the following actions as indicated:

- 3.01. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re:
Accountability List
*waive the reading, accept the communication and place it on file
- 3.03. COMMUNICATION: Mary O'Neil, Associate Planner & CLG Coordinator, Department of
Planning and Zoning, re: FY2010 Certified Local Government Grant
Agreement
*waive the reading, accept the communication and place it on file
- 3.04. RESOLUTION: Supplemental Budget Resolution 2010-08 Re Authorization for
Acceptance of Historic Preservation Grant Funds from the Vermont
Division of Historic Preservation (Board of Finance)
*waive the reading and adopt the resolution
- 3.05. RESOLUTION: Reclassification and Title Change of Burlington City Arts Art Director
Position (Board of Finance)
*waive the reading and adopt the resolution
- 3.06. RESOLUTION: Creation of Two Classified Limited Service Full Time Positions –
Burlington City Arts – Studio Technician and Community Programs
Coordinator (Board of Finance)
*waive the reading and adopt the resolution
- 3.07. RESOLUTION: Title Change of the Manager of Network Planning and Constructions;
The Contract, Insurance, Regulatory and Government Affairs Specialist;
And the Information Services Administrator Positions at Burlington
Telecom (Councilors Bushor, Kaplan, Dober: Institutions & HR Policy
Committee)
*waive the reading and adopt the resolution
- 3.08. RESOLUTION: Church Street Marketplace District Commission Authorization to Enter
Into License Agreement With Paradigm RE, LLC. (Board of Finance)
*waive the reading and adopt the resolution
- 3.09. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Sue
Trainor, Assistant to the CAO, re: City Council Minutes for September
14, 2009

*waive the reading, accept the communication, place it on file and adopt the minutes as received at the February 8, 2010 City Council Meeting

3.10. COMMUNICATION: Susan Leonard, Director of Human Resources, IHRPC, re:
Recommendation – Changes in Domestic Partner Affidavit

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

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

156 Bistro, 156 St. Paul Street, Thursday, March 4, 2010, 8:00 p.m. – 11:00 p.m., Chad Hollister,
No dancing

*waive the reading, accept the communication, place it on file and ratify the one day only Special
Event Indoor Entertainment Permit Application for 156 Bistro

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

156 Bistro, 156 St. Paul Street, Thursday, March 11, 2010, 8:00 p.m. – 11:00 p.m., Chad Hollister,
No dancing

*waive the reading, accept the communication, place it on file and approve the one day only Special
Event Indoor Entertainment Permit Application for 156 Bistro

3.13. COMMUNICATION: Bob Kiss, Mayor, re: Facts about Burlington Telecom

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

3.14. COMMUNICATION: Jonathan P.A. Leopold, Jr., CAO, re: Board of Finance Minutes for
February 22, 2010

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

4. PRESENTATION: CEDO and the Lake Champlain Maritime Museum, re: Moran

Larry Kupferman, CEDO Director, asked Jesse Beck, President of Freeman, French, Freeman Architects, to address the Council. Mr. Beck informed the Council that the design of the Moran building was recently awarded two awards through the American Institute of Architects. One of the awards was for Excellence in Architecture, the second was a month-long exhibition of Vermont architecture, both large and small, with the Moran project being awarded the People's Choice Award. Mr. Beck believed it was just the beginning of the awards that the Moran Project would receive.

Kirsten Merriman-Shapiro outlined the process that took place in attempting to find the third tenant. All NPAs held meetings and were presented information on the four prospective tenants: Burlington City Arts, Flynn Center for Performing Arts, Burlington College, Lake Champlain Maritime Museum. The Moran Advisory Group was reinstated and reviewed materials submitted. Presentations were made to the Parks Commission, Planning Commission and Burlington Business Association's Waterfront Action Group.

Art Cohen and Adam Cain of the Lake Champlain Maritime Museum addressed the Council, outlining their vision as partners/tenants at the Moran Plant. The Shipwreck Center would explore and display the history and archeology of the bottom of Lake Champlain. There are 300 shipwrecks that sit on the bottom of the lake, an incredible resource and a fascination to many. Additionally, rolling exhibits of shipwrecks from across the world would be brought to Burlington. Interactive theatres, the Lois McClure Schooner and classes would also be available. The Museum anticipated that this display could result in a world-class attraction and center.

4.01. RESOLUTION: Authorization to Enter into Negotiations with The Lake Champlain Maritime Museum as a Tenant for the Moran Redevelopment Project (Councilors Paul, Kehoe, Decelles; Parks, Art & Culture Committee)

Councilor Shannon made a motion to waive the reading and adopt the resolution, seconded by Councilor Paul. Councilor Decelles offered an amendment, ensuring the Parks, Arts and Culture Committee were provided monthly updates on the engagement of the Lake Champlain Maritime Museum. This was considered friendly. The Mayor was concerned that delays may occur if the Committee were involved in negotiations. Councilor Decelles stated it was not the intention to be involved in the negotiation. Rather, the intent was to ensure that the Committee was part of the process. The amended resolution then passed unanimously.

4.02. COMMUNICATION: Larry Kupferman, CEDO Director, re: Moran Center Project Update

CEDO Director Kupferman was available to answer questions on this communication. Councilor Paul noted her frustration that she had asked repeatedly for the pro formas, business plans, tax returns and feasibility studies of the proposed tenants of Moran. Despite being told that the information would be on the website, it had not been placed there yet. Ms. Merriman-Shapiro stated that taxes and audit information had been provided to her. However, converting the large volume of documentation into PDFs of a size that could open, as well as complying with the ADA compliance for the visually impaired to be able to read the tax information, had complicated the situation. Due to the print size of the information, it required that it be described in a narrative format. Options were still being determined as to how to remedy the technical challenges of the situation.

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

4.03. COMMUNICATION: David G. White, White + Burke Real Estate Investment Advisors, re: Moran Project Financing Update

David Weinstein, Special Projects, CEDO, reviewed the information contained in Mr. White's memo. He outlined that the City had been awarded a \$3.15 million grant for the Waterfront North Project, a \$4 million project which addressed the transportation infrastructure necessary for Moran to happen. With the grant, this project was now fully funded. This would allow the City to put in the infrastructure similar to the south and middle part of the waterfront. This grant, which usually required a 20% local match, would be 100% federal funds with no local match. The design development costs, despite adjustments that needed to be made, had only increased 2%. The City was now looking at New Market tax credits, a complicated concept. Three intermediaries determined the projects that would be funded. It appeared that the City was being reviewed at this time by all three. Between the three, enough tax credits could net \$3.5 million for the city's share of project and remaining funds would then flow as a subsidy to the tenants if they chose to participate in the program. Freeman, French, Freeman was currently negotiating with the National Park Service for a historic tax credit. If the design qualified for historic tax credits, the project could receive between \$1 million and \$3 million of new money.

Councilor Caldwell asked Mr. Weinstein if the Moody's downgrade would affect the project. He stated that the money being received was primarily grants or tax credits and the rating should not affect the project. Councilor Shannon congratulated and thanked David Weinstein and the rest of the team for bringing the money to the City of Burlington.

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

5. RESOLUTION: Authorization to Amend Contract for Development Services for the

Moran Redevelopment Project (Board of Finance)

Councilor Davis made a motion to waive the reading and adopt the resolution, seconded by Councilor Bushor. Councilor Caldwell asked several questions about the length and costs of the contract. Kirsten Merriman-Shapiro explained that the resolution extended the length of contract with Mr. White in order for the Council to continue to be informed. The motion passed unanimously.

5.01. COMMUNICATION: Larry Kupferman, CEDO Director, re: Moran Center Project Development Services Contract Amendment

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

5.02. RESOLUTION: Burlington Telecom Financial Advisor (per Councilors Kaplan, Keogh, Paul, Shannon, Dober)

Councilor Shannon made a motion, seconded by Councilor Kaplan, to waive the reading and adopt the resolution. Councilor Shannon explained that the three Councilors assigned to this task had met with the Administration and were in agreement with the selection of Dorman and Fawcett. Councilor Caldwell asked if the meetings had been publicly warned. City Attorney Schatz stated they were not warned meetings; the group was not a formal body with the authority to make any decisions. They were primarily interviewing candidates. Committees that were formed with decision making roles should be publicly warned.

Councilor Caldwell stated that in working on various committees, decisions were made and then brought to the Council for review and decisions. She believed this was in essence what was being done in most cases and that the Administration and Council President should make these proceedings more formal in order to achieve transparency and allow participation by the public. She did not agree with the way this process was handled.

Councilor Decelles stated his opinion that the prior vote on the matter was unanimous and the Council authorized the appointed group to review and make a determination of a financial advisor. Councilor Shannon explained the process was approved by the City Attorney and that interviews involving financial information would be difficult to do with the public present. Councilor Paul explained that she had done her best to forward all information to other Councilors.

Councilor Bushor expressed her appreciation of the resolution, noting that it was a step forward in working together for the community. However, she asked the Administration to ensure that all Councilors be made aware of meetings of this nature so they could attend.

The motion passed unanimously.

5.03 RESOLUTION: Burlington Telecom – Reconvene Blue Ribbon Committee to Consider Offer From “Reboot BT” (Councilors Shannon, Berezniak, Ellis, Kehoe, Dober)

Councilor Shannon made a motion, seconded by Councilor Berezniak, to waive the reading and adopt the resolution. Councilor Shannon noted the reason for the resolution was to have a review done of the offer from Reboot BT. She then noted, at Councilor Bushor’s request, some changes that were made to the resolution, noting an amendment was offered that allowed for the addition of “any short term options that come forward”. The Reboot BT proposal was seen as an offer to help and potentially a short term proposal. Councilor Shannon explained the Blue Ribbon Committee should be included in the review of any offers.

Councilor Caldwell made a formal request that the warning of meetings and meeting agendas be sent out to all Councilors prior to meeting. Further, materials that the Blue Ribbon Committee received should be presented to the full Council. Councilor Caldwell asked about the make up of the Committee with the departure of Councilor Davis. Council President Keogh stated he would be filling the position. Therefore, Councilors Shannon, Paul and Keogh would be the Council representatives on the Blue Ribbon Committee.

Councilor Decelles, noting the hiring of a financial advisor to review Burlington Telecom, stated his opinion they should be included in the discussion of short term proposals. Councilor Shannon stated she assumed the offers would be forwarded to the advisor. Councilor Decelles then asked for a recess at 8:38 p.m. The meeting resumed at 8:48 p.m. Councilor Shannon then added language to the resolution which requested that Dorman and Fawcett be consulted, as appropriate.

Mayor Kiss explained that all parties have been acknowledged in person or in writing of their receipt of offers to help, including from the Reboot BT Group. The Mayor anticipated that following the advisor's review and after working with CitiCapital, the interested parties would be contacted. He did not see the need for the Blue Ribbon Committee to reconvene at this point. Councilor Bushor agreed with Councilor Decelles, stating she wanted to be confident that the financial advisors were aware of the pros and cons of the various proposals.

The motion to adopt the resolution, as amended, passed unanimously.

6. COMMUNICATION: Julie Potter, Senior Planner, CCRPC, re: Burlington All Hazards Mitigation Plan

Ms. Potter addressed the Council, requesting permission to submit Burlington's information to FEMA for adoption. Councilor Bushor noted the importance of the document and asked why Fletcher Allen Health Care and the Burlington International Airport were not included in the report. Ms. Potter stated the Airport was included in the Chittenden County and South Burlington reports and they could both be found on the CCRCP website. She did not know why the hospital was not included.

Councilor Adrian stated this plan was brought before the Public Safety Committee and that the Fire Chief weighed in on the document at that time. He stated the Council was being asked to approve CCRPC sending the plan to FEMA, with a final version being voted on later. Councilor Adrian, seconded by Councilor Kaplan, voted to submit the plan to FEMA pending final approval by the Council. The motion passed unanimously.

7. COMMITTEE REPORTS

Councilor Shannon informed the Council that the Ordinance Committee would be having its last meeting of the Council session to discuss a smoking ban in the parks; the Livable Wage and the Noise Ordinance would also be discussed. A modification to non-union employee benefits was taken up but the Committee needed more information from the CAO's Office and the actuary. Due to compression between union and non-union employees and ongoing union negotiations, the Committee did not feel it could follow through on this item.

Councilor Bushor, speaking on behalf of the Human Resources Committee, informed the Council that the consent agenda included items regarding title changes for Burlington Telecom employees. Additionally, the Committee reviewed the Domestic Partner documents and the affidavit was strengthened. A final item the Committee was working on addressed probationary employees' access to time off. The Committee's goal was to bring the item back to Council on the 22nd of March to finalize it.

Councilor Paul stated that the consent agenda included the final work of the Parks, Arts and Culture Committee on disc golf. Councilor Kaplan asked for a review of the disc golf issue. Councilor Decelles

stated the Committee's determination that Leddy Park was not an appropriate fit for disc golf. Councilor Paul stated the Parks Commission was in agreement with this determination.

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

Councilor Decelles thanked the voters for participating in the recent election, stating that 42% of those who voted were from the New North End. He asked that voters contact their legislators to move the IRV ballot item along quickly in the State Legislature.

Councilor Dober noted the upcoming Ward 4/7 NPA Meeting. Discussions would take place on voting locations.

Councilor Bushor announced the upcoming Ward 1 NPA meeting. Discussion would take place on the design of Colchester Avenue, with representatives from Winooski also participating.

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

Mayor Kiss spoke about the downgrade by Moody's of the City's bond rating. This was a potential due to the Telecom concerns. The cash flow issue was what prompted the "negative watch." He then read an e-mail from Fire Chief O'Neil who was currently working in Haiti. He then spoke about the meeting that took place in the past week to write a proposal to Google for support in delivering broadband networks.

10. ADJOURNMENT

Council President Keogh, without objection, adjourned the meeting at 9:11 p.m.

Attest:

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