

DELIBERATIVE AGENDA

SPECIAL CITY COUNCIL WORKSESSION

MONDAY, MARCH 21, 2011

CONFERENCE ROOM 12, CITY HALL

6:15 P.M.

PRESENT: All Councilors and Mayor Kiss; Councilor Mulvaney-Stanak arrived at 6:32 p.m.

1. AGENDA
2. COMMUNICATION: Ken Schatz, City Attorney, re: Pending Litigation (oral)

On a motion by Councilors Bushor and Brennan, the Special City Council Work Session went into executive session at 6:20 p.m., premature disclosure of which would place the City at a substantial disadvantage. Present were: CAO Leopold, ACAO Schrader, City Attorney Schatz, Jim Strouse, Chairman, Retirement Board; Attorneys representing City against Morgan Stanley; Ray Nails, Police Department and Retirement Board members.

* * * * **EXECUTIVE SESSION** * * * *

On a motion by Councilors Wright and Kranichfeld, the Special City Council Work Session came out of executive session at 7:25 p.m.

3. ADJOURNMENT

On a motion by Councilors Wright and Kranichfeld, the Special City Council Work Session unanimously adjourned at 7:25 p.m.

Attest:

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

LOCAL CONTROL COMMISSION
MONDAY, MARCH 21, 2011
CONTOIS AUDITORIUM, CITY HALL
7:38 P.M.

PRESENT: All Commissioners were present.

CITY ATTORNEY’S OFFICE: Ken Schatz and Gene Bergman

CLERK/TREASURER’S OFFICE: Lori Olberg

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

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

2. CONSENT AGENDA

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

2.01. COMMUNICATION: Carole Bourneuf, Executive Secretary, re: Local Control Sub-Committee/City Council License Committee Minutes, January 26, 2011

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

2.02. COMMUNICATION: Carole Bourneuf, Executive Secretary and Lori Olberg, Licensing, Voting and Records Coordinator, re: Local Control Sub-Committee/City Council License Committee Minutes, February 9, 2011

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

2.03. COMMUNICATION: Carole Bourneuf, Executive Secretary, re: Minutes, 3/2/11

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

2.04. FIRST CLASS CLUB LIQUOR LICENSE RENEWALS (2011-2012): see attached list

*waive the reading, accept the communication, place it on file and approve the 2011-2012 First Class Club Liquor License Renewals

2.05. FIRST CLASS HOTEL LIQUOR LICENSE RENEWAL (2011-2012): see attached list

*waive the reading, accept the communication, place it on file and approve the 2011-2012 First Class Hotel Liquor License Renewal

2.06. SECOND CLASS STORE LIQUOR LICENSE RENEWALS (2011-2012): see attached list

*waive the reading, accept the communication, place it on file and approve the 2011-2012 Second Class Store Liquor License Renewals

2.07. OUTSIDE CONSUMPTION PERMIT RENEWALS (2011-2012): see attached list

*waive the reading, accept the communication, place it on file and approve the 2011-2012 Outside Consumption Permit Renewals

3. ADJOURNMENT

On a motion by Commissioners Dober and Berezniak, the Local Control Commission unanimously adjourned at 7:39 p.m.

Attest:

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

SPECIAL MEETING, CITY COUNCIL
MONDAY, MARCH 21, 2011
7:39 P.M.

PRESENT: See above

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilor Adrian with no second, the agenda was amended as follows: add Councilor Mulvaney-Stanak as a co-sponsor to agenda item 2. RESOLUTION: Authorization to Establish Burlington White Ribbon Week During Sexual Violence Awareness Month, April 2011 (Councilors

Adrian, Berezniak, Brennan, Paul, Decelles, Dober, Keogh, Kranichfeld, Wright and Mayor Kiss); note Councilor Kranichfeld's **proposed written** amendment for agenda item 6. RESOLUTION: Creation of Urban Agriculture Task Force (Councilors Kranichfeld, Adrian, Shannon, Kaplan, Dober, Keogh, Berezniak, Paul); note Councilor Wright's **proposed written** amendment for agenda item 6. RESOLUTION: Creation of Urban Agriculture Task Force (Councilors Kranichfeld, Adrian, Shannon, Kaplan, Dober, Keogh, Berezniak, Paul); amend the actions on consent agenda item 4.22 to 4.28 to waive the rules and place them in all stages of approval (per Assistant CAO Schrader); remove from the consent agenda item 4.03. RESOLUTION: Utilization of TIF Funds for Repayment of HUD Section 108 Loan Re The Moran Project (Board of Finance) and place it on the Deliberative Agenda as agenda item 6.5; note written material for agenda item 8. COMMUNICATION: Charles Baker, Executive Director and Claire Leonard, Associate Planner, CCRPC, re: Burlington All Hazards Mitigation Plan: Certificate of Adoption City of Burlington City Council A Resolution Adopting the Chittenden County Multi-Jurisdictional All-Hazards Mitigation Plan and Annex 3, the City of Burlington All-Hazards Mitigation Plan and add item 4.5. RESOLUTION: Authorization to Execute Settlement Agreement (Board of Finance).

2. RESOLUTION: Authorization to Establish Burlington White Ribbon Week During Sexual Violence Awareness Month, April 2011 (Councilors Adrian, Berezniak, Brennan, Paul, Mulvaney-Stanak, Decelles, Dober, Keogh, Kranichfeld, Wright and Mayor Kiss)

Councilor Berezniak made a motion, seconded by Councilor Decelles, to waive the reading and adopt the resolution. Councilor Berezniak then read the resolution into the record. Councilor Shannon thanked Ron Redmond of the Church Street Marketplace for bringing this item to the Council. The Council then stood and officially took the pledge. The motion then passed unanimously.

3. PUBLIC FORUM

City Council President Keogh opened the public forum at 7:47 p.m.

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Will Bennington, Chicken Farmer	2	Supported Urban Agriculture Task Force
Larry Walters		Stop Downtown Smoking
Alison Nihart	3	Supported Urban Agriculture Task Force
Jessica Hyman	3	Supported Urban Agriculture Task Force
William Robb		Supported Urban Agriculture Task Force
Jim Podrasky		Vehicles for Hire
Ron Ruloff		Recall Vote
Peter Lackowski	1	Supported Urban Agriculture Task Force
Dan Filstein	2	Supported Urban Agriculture Task

Force

Paul Robar

Benway's Taxi

Opposed Taxi Ordinance

With no one further coming forward and no objection from the remaining Council, City Council President Keogh closed the public forum at 8:11 p.m.

4. CONSENT AGENDA

On a motion by Councilors Adrian and Bushor, the consent agenda was unanimously adopted, as amended, thus taking the following actions as indicated:

- 4.01. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re: Accountability List
*waive the reading, accept the communication and place it on file
- 4.02. COMMUNICATION: Kirsten Merriman Shapiro, Special Project Manager, CEDO, re: BEDI Grant & Section 108 Loan – Moran Project
*waive the reading, accept the communication and place it on file
- 4.04. COMMUNICATION: Larry Kupferman, CEDO Director, re: Lease amendment for Champlain Solid Waste District
*waive the reading, accept the communication and place it on file
- 4.05. RESOLUTION: Lease Amendment With Chittenden Solid Waste District (Board of Finance)
*waive the reading and adopt the resolution
- 4.06. COMMUNICATION: Peter L. Potts, Chair, Burlington Planning Commission, re: Intervale Management Plan and Transportation Plan
*waive the reading, accept the communication and place it on file
- 4.07. COMMUNICATION: Scott Schrader, Assistant Chief Administrative Officer, re: Declaration of Elected Candidates Annual City Election –March 1, 2011
*waive the reading, accept the communication and place it on file
- 4.08. COMMUNICATION: Scott Schrader, Assistant Chief Administrative Officer, re: Declaration of Election Results Questions on the Ballot Annual City Election – March 1, 2011
*waive the reading, accept the communication and place it on file
- 4.09. COMMUNICATION: Bob Kiss, Mayor, re: Appointment of Connie Krosney to BHA Board of Commissioners
*waive the reading, accept the communication and place it on file
- 4.10. COMMUNICATION: Paul Dettman, Executive Director, Burlington Housing Authority, re: Notice of Public Hearing
*waive the reading, accept the communication and place it on file
- 4.11. IN/OUTDOOR ENTERTAINMENT PERMIT RENEWALS (2011-2012): see attached list
*waive the reading, accept the communication, place it on file and approve the 2011-2012 Indoor and Outdoor Entertainment Permit Renewals
- 4.12. TOBACCO LICENSE RENEWALS (2011-2012): see attached list

*waive the reading, accept the communication, place it on file and approve the 2011-2012 Tobacco License Renewals

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

K2D Group, d/b/a 156 Bistro, March 17, 2011, 8 p.m. – 12 a.m., DJ for celebration of St. Patrick's Day, 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 K2D Group, d/b/a 156 Bistro

4.14. COMMUNICATION: Johnathan Croft, AOT GIS Database Administrator, State of Vermont, Policy & Planning Division-Mapping Unit, re: Annual Certificate of Highway Mileage

*waive the reading, accept the communication, place it on file and send to DPW Director Goodkind for confirmation of no changes

4.15. COMMUNICATION: Peter E. Keibel, Natural Resources Board, District #4 Coordinator, State of Vermont, re: Act 250 Notice Minor Application 10 V.S.A. §§ 6001-6092

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

4.16. COMMUNICATION: Bob Kiss, Mayor, and Bill Keogh, Council President, re: Rescheduling of April 18 Council meeting

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

4.17. COMMUNICATION: ACAO Schrader, re: Board of Finance Minutes for January 6, 2011

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

4.18. COMMUNICATION: ACAO Schrader, re: Board of Finance Minutes for January 10, 2011

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

4.19. COMMUNICATION: ACAO Schrader, re: Board of Finance Minutes for January 13, 2011

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

4.20. COMMUNICATION: ACAO Schrader, re: Board of Finance Minutes for January 20, 2011

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

4.21. COMMUNICATION: Carole Bourneuf, Executive Secretary, re: Board of Finance Minutes for February 28, 2011

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

4.22. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: City Council Draft Minutes for October 4, 2010

*waive the reading, accept the communication, place it on file and waive the rules and place them in all stages of approval.

4.23. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: City Council Draft Minutes for October 18, 2010

*waive the reading, accept the communication, place it on file and waive the rules and place them in all stages of approval.

4.24. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor,

Assistant to the CAO, re: City Council Draft Minutes for October 25, 2010

*waive the reading, accept the communication, place it on file and waive the rules and place them in all stages of approval.

4.25. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: City Council Draft Minutes for November 8, 2010

*waive the reading, accept the communication, place it on file and waive the rules and place them in all stages of approval.

4.26. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Sue Trainor, Assistant to the CAO, re: City Council Draft Minutes for November 22, 2010

*waive the reading, accept the communication, place it on file and waive the rules and place them in all stages of approval.

4.27. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re: Special City Council Draft Minutes for January 14, 2011

*waive the reading, accept the communication, place it on file and waive the rules and place them in all stages of approval

4.28. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator & Sue Trainor, Assistant to the CAO, re: City Council Draft Minutes for January 24, 2011

*waive the reading, accept the communication, place it on file and waive the rules and place them in all stages of approval

4.5. RESOLUTION: Authorization to Execute Settlement Agreement (Board of Finance).

Councilor Kehoe made a motion, seconded by Councilor Shannon, to waive the reading and adopt the resolution. Councilor Kehoe explained this resolution was created at the recommendation of the City Attorney and Schlickner, Bogart and Denton for the City to settle the arbitration proceeding regarding the City's pension plan against Morgan Stanley. The agreement was also supported by the Retirement Board. Councilor Adrian expressed his dissatisfaction with the Council holding an executive session about this matter. Councilor Paul asked for a point of order and requested a three minute recess which was granted at 8:15 p.m. Councilors Wright, Kehoe and Shannon then all spoke in support of the resolution.

A roll call vote was requested. The vote was as follows:

Ayes: Councilors Berezniak, Brennan, Bushor, Dober, Kaplan, Kehoe, Kranichfeld, Mulvaney- Stanak, Paul, Shannon, Wright and Keogh

Nays: Councilors Adrian and Decelles

The resolution passed by a vote of 12 in favor and 2 opposed.

5. ORDINANCE: VEHICLES FOR HIRE – Taxi Rewrite (Councilors Dober, Mulvaney-Stanak: License Committee)(1st reading)(**Proposed action: refer this to the Ordinance Committee**)

Councilor Dober made a motion, seconded by Councilor Mulvaney-Stanak, to consider this the first reading and refer to the Ordinance Committee. Gene Richards, Tammy Gagne, representatives from Airport and Nikki Fuller, Assistant City Attorney, were present to answer questions. Councilor

Mulvaney-Stanak explained the rewrite included a passenger bill of rights, a change to the method of charging from zones to meters by July 1, 2012. The License Committee believed that zones were confusing. Requirements such as no smoking at any time in the inside of cabs and the ability to print receipts were added to benefit the customers. She noted that more research would need to be done to determine fares under the meter system.

Councilor Decelles asked when the License Committee would like the Ordinance Committee to make a determination. Councilor Dober stated that mid-June was the hope.

Councilor Bushor asked for a synopsis of what the main issues were with the taxi drivers. Councilor Dober stated the driver comments ranged from requesting no ordinance to opposing proposed drug testing. He then explained that 85% to 90% of the ordinance was just clarifying words within the ordinance and the intent of the ordinance had not changed. Discussion then revolved around the zone vs. meter fees.

Councilor Shannon noted her concern that the two main taxi services stated they would not provide service in Burlington with the passage of this ordinance.

The motion then passed unanimously.

5.01. COMMUNICATION: Taxi Licensing Appeals Board and Taxi Issues Work Group, re: Vehicle for Hire Ordinance Rewrite

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

5.02. COMMUNICATION: Vincent Dober Sr. (License Committee Chairman and Taxi Appeals Board Member, re: Taxi Fare Study

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

6. RESOLUTION: Creation of Urban Agriculture Task Force (Councilors Kranichfeld, Adrian, Shannon, Kaplan, Dober, Keogh, Berezniak, Paul)

Councilor Kranichfeld made a motion, seconded by Councilor Kaplan, to waive the reading and adopt the amended resolution.

Councilor Kranichfeld stated it was the intent of the resolution to create a clear and rational policy for residents who wished to grow food within City limits, for community gardens, for community farming, and for raising livestock. He noted that at present there was no governing agency for a resident to go to within the City to deal with these issues. Councilor Kaplan noted she spent several years on the Burlington Food Council and she appreciated the volunteer efforts of and tremendous work done by the Council.

Councilor Decelles asked for a definition of livestock. Councilor Kranichfeld stated that would be the work of the Task Force to determine. Councilor Wright explained the amendment he had requested in which appropriate areas for urban agriculture were specified. He also added within the resolution that the Burlington Police Department and Code Enforcement be included in the discussion.

Councilor Bushor noted she had received a number of communications from residents on this topic. She asked to amend the resolution including language regarding livestock. This was considered friendly by both the maker and the seconder. She also asked that the Friends of Burlington Gardens be added to the resolution. That too was considered friendly by the maker and seconder of the resolution.

Councilor Decelles requested that William Ward, Code Enforcement Director, address the issue of what was currently permitted. Mr. Ward stated that four animals were the limit but the challenge would be with the nuisance animal. Councilor Decelles asked for more specifics about the type of animals allowed within the City and how many visits Code Enforcement had made as a result of complaints relative to chickens or livestock questions; Mr. Ward said there had been very few.

Councilor Berezniak stated his belief that, contrary to Councilor Wright's comments, that Urban Agriculture was appropriate in all areas of the City as long as it was not causing problems. Councilor Brennan commented on a school he had visited in another state that included chickens as part of a curriculum. It was a great way to learn about the food supply as well as factory farming.

Mayor Kiss stated that he used to have chickens on Hyde Street and that there used to be a horse on the street. He believed items such as this help to make Burlington a better place.

The motion passed by a vote of 13 to 1 with Councilor Decelles voting against.

6.5.(was 4.03.) RESOLUTION: Utilization of TIF Funds for Repayment of HUD Section 108 Loan Re The Moran Project (Board of Finance)

Councilor Berezniak made a motion, seconded by Councilor Shannon, to waive the reading and accept the communication and place it on file. Kirsten Merriman Shapiro, Special Project Manager at CEDO, was asked questions by Councilor Berezniak. Councilor Berezniak stated his recollection that no money from the proposed TIF would be used on the Moran Plant. Ms. Merriman Shapiro stated in all prior communications to the Council, BEDI money had been slated to be used for pre-development costs.

Councilor Bushor noted that the motion had been to waive the reading and accept the communication; however, this was a resolution. Calling a point of order, Councilor Wright noted the communication was on the consent agenda.

The Council then voted to waive the reading and adopt the resolution unanimously.

7. COMMUNICATION: Geoff Wyman, Center for Media and Democracy, Channel 17/Town Meeting Television, re: Channel 17 Annual Update

Lauren-Glenn Davitian, Executive Director of the Center for Media and Democracy, addressed the Council. She explained they had been able to sign a contract with Comcast Cable through 2016 which would allow CCTV to receive a percentage of money from all Comcast subscribers. CCTV currently taped City Council, Public Works and Development Review Board Meetings. While they went over-budget last year, they should be on target this year.

Ms. Davitian noted the growing demand for additional coverage from the Parks Department, NPA's and residents who want more transparency. She had been to the Board of Finance who had stated there were no additional funds available. She explained there could be more web viewing; that compared to other towns Burlington had a small number of people viewing the meetings through the web. As she had mentioned last year, a widget could be placed more prominently on the City's website for people to access. Additionally, City Councilors could let the constituents know as well.

Councilor Kaplan asked Ms. Davitian to inform the Council of the cost to produce a meeting. Ms. Davitian explained that it was \$100 per production hour, with the average cost to film and air a Council meeting being approximately \$1,000 a meeting. She also noted that Burlington was the only town with live coverage of Council meetings. She saw this as a great benefit to residents and explained that Burlington Telecom could offer live coverage because it was able to dedicate a station to that.

The Council then expressed appreciation to CCTV for the work they do for the City.

8. COMMUNICATION: Charles Baker, Executive Director and Claire Leonard, Associate Planner, CCRPC, re: Burlington All Hazards Mitigation Plan

Councilor Decelles made a motion, seconded by Councilor Dober, to waive the reading, accept the communication and place it on file. Claire Leonard, Associate Planner for the CCRPC, speaking in Mr. Baker's absence, explained the Burlington All Hazards Mitigation Plan had been sent to FEMA for review. The All Hazards Mitigation Plan was required to be completed to receive pre-disaster mitigation plan grants from FEMA. Approval from FEMA was now pending, awaiting the final adoption of the document.

Councilor Bushor made a motion to adopt the resolution, seconded by Councilor Mulvaney-Stanak. City Attorney Schatz noted the resolution mentioned input had been received from a variety of department heads. He wondered if they had had a chance to review the actual plan. Councilor Bushor asked if action on this item could be postponed to the Council's next meeting so as to get confirmation from those individuals listed on the Mitigation Plan document. Ms. Leonard stated it could wait to the next meeting.

Councilor Bushor then made a motion to remove the resolution and move it to the next Council agenda with the action being to request approval from the department heads. The motion then passed unanimously.

9. COMMUNICATION: City of Burlington, Vermont, Telecom Fund, re: Audit Report, June 30, 2010

Councilor Shannon made a motion, seconded by Councilor Kehoe, to waive the reading, accept for preliminary discussion and place it on the March 28, 2011 City Council Deliberative Agenda. The motion passed unanimously.

10. COMMITTEE REPORTS

Councilor Shannon reported to the Council that two ordinances on the agenda of the cancelled March 7th meeting were discussed at the Ordinance Committee meeting on March 8th. These would be coming forward at the next meeting for adoption.

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

Councilor Adrian informed the Council of the adventures of the pothole bandit in 1986. He appreciated the recent foresight of the City to pass the street tax.

Councilor Wright discussed the recent newspaper article which questioned the City's efforts in getting the charter change documents, changing the composition of the Board of Finance, to the Legislature. He explained to his constituents that, as noted in the article, the deadline for charter changes were routinely missed by municipalities and it did not mean that the charter change would not pass. Further, regarding minutes of meetings, he stated they could get the meeting minutes with only voting information and no details. He preferred having greater detail within the minutes and that took extra time.

Councilor Brennan reported on the School District's Diversity Initiative. He informed the Council the Task Force was moving forward with three community meetings at the end of April focusing on curriculum, climate and leadership.

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

The Mayor noted the required documentation would be forwarded to the Legislature and as soon as the Legislature passed the Charter Change the configuration of the Board of Finance would be changed.

He noted the complicated quilt that was the City of Burlington and appreciated that the Council moved through all the varied issues of this meeting. He then noted he had signed the Civility Accord at the U.S. Conference of Mayors and read the Accord to the Council members.

13. ADJOURNMENT

Without objection, Council President Keogh adjourned the meeting at 10:03 p.m.

Attest:

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

BOARD OF CIVIL AUTHORITY
MONDAY, MARCH 21, 2011
10:03 P.M.

ABSENT: Councilor Kaplan

MAYOR KISS PRESIDING:

1. AGENDA

On a motion by Board of Civil Authority Member Keogh the agenda was adopted as is.

2. CONSENT AGENDA

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

- 2.01. RESOLUTION: Appointment of Assistant Election Officials in Ward One and Six (Councilor Keogh)
*waive the reading and ratify the resolution

3. ADJOURNMENT

On a motion by Board of Civil Authority Member Bushor, the Board of Civil Authority unanimously adjourned at 10:04 p.m.

Attest:

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