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DELIBERATIVE AGENDA

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SPECIAL CITY COUNCIL WORKSESSION

MONDAY, JULY 11, 2011

CONFERENCE ROOM 12, CITY HALL

6:00 P.M. – 6:45 P.M.

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

ABSENT: Councilors Adrian, Mulvaney-Stanak and Hartnett

ALSO PRESENT: ACAOs Goodwin and Schrader; Joe Reinert, Assistant to the Mayor; Fire Chief Lasker; Susan Leonard, Director of Human Resources; Joseph McNeil, Esq., McNeil, Leady, Sheahan and City Attorney Schatz

1. AGENDA

2. COMMUNICATION: Joseph McNeil, Esq., re: Collective Bargaining (oral)

On a motion by Councilors Bushor and Paul, the Council went into executive session at 6:07 p.m. to discuss collective bargaining, premature disclosure of which would place the City at a substantial disadvantage. Present were those listed above.

On a motion by Councilors Dober and Wright, the Council came out of executive session at 6:57 p.m.

3. ADJOURNMENT

On a motion by Councilors Dober and Wright, the Special City Council Work-session unanimously adjourned at 6:57 p.m.

Attest:

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

LOCAL CONTROL COMMISSION

MONDAY, JULY 11, 2011

CONTOIS AUDITORIUM, CITY HALL

7:19 P.M.

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

ABSENT: Councilors Hartnett and Mulvaney-Stanak

CITY ATTORNEY'S OFFICE: Ken Schatz and Richard Haesler

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

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Commissioners Dober and Berezniak, the Local Control Commission voted unanimously to adopt the agenda as is.

2. CONSENT AGENDA

On a motion by Commissioners Berezniak and Blais, the Local Control Commission voted unanimously to adopt the consent agenda thus taking the following actions as indicated:

2.01. 2011-2012 FIRST CLASS CABARET LIQUOR LICENSE RENEWAL: Rasputin’s  
\*waive the reading, accept the communication, place it on file and approve the 2011-2012 First Class Cabaret Liquor License Renewal for Rasputin’s

2.02. AMENDMENT TO OUTSIDE CONSUMPTION PERMIT (2011-2012):

El Gato Cantina, 169 Church Street

\*waive the reading, accept the communication, place it on file and approve the Outside Consumption Permit Amendment for El Gato Cantina to add 11 tables, 44 chairs

3. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2011-2012): Boloco

Commissioners Dober and Berezniak made a motion to approve the 1<sup>st</sup> Class Restaurant Liquor License Application for Boloco. The motion passed unanimously.

3.01. OUTSIDE CONSUMPTION PERMIT APPLICATION (2011-2012): Boloco

Commissioners Dober and Berezniak made a motion to approve the Outside Consumption Permit Application for Boloco. The motion passed unanimously.

4. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2011-2012):

Four Corners of the Earth, 310 Pine Street

Commissioners Dober and Berezniak made a motion to approve the 1<sup>st</sup> Class Restaurant Liquor License Application for Four Corners of the Earth. The motion passed unanimously.

5. ADJOURNMENT

On a motion by Commissioners Dober and Berezniak, the Local Control Commission voted unanimously to adjourn at 7:21 p.m.

Attest:

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

REGULAR MEETING, CITY COUNCIL  
MONDAY, JULY 11, 2011  
CONTOIS AUDITORIUM, CITY HALL  
7:21 P.M.

PRESENT: see above

CITY COUNCIL PRESIDENT KEOGH PRESIDING:

1. AGENDA

On a motion by Councilors Shannon and Bushor, the agenda was unanimously adopted, as amended as follows: note revised version of agenda item 6. ORDINANCE: VEHICLES FOR HIRE—Taxi Rewrite (Councilors Dober, Blais: License Committee)(2<sup>nd</sup> reading) and add the Ordinance Committee as a co-

sponsor and note the correct License Committee Members as co-sponsors; note revised version of agenda item 6.02. RESOLUTION: Approval of 2011-2012 Maximum Taxicab Fares and Fees (Schedule II)(Councilors Shannon, Bushor, Kranichfeld: Ordinance Committee); add to the agenda item 6.03. COMMUNICATION: Ordinance Committee, re: Revised Vehicle for Hire Ordinance; remove from the consent agenda item 3.06. RESOLUTION: Authorize Contract for Audit Services for the City of Burlington (Board of Finance) and place it on the Deliberative Agenda as agenda item 6.5; remove from the consent agenda item 3.07. COMMUNICATION: Scott Schrader, Assistant Chief Administrative Officer, re: Audit Advisory Committee Recommendation on Independent Auditor and place in on the Deliberative Agenda as agenda item 6.5.1; note proposed amendment for agenda item 7. RESOLUTION: Composition of the Retirement Board and the Other Issues Raised by Former Board Member Horenstein (Councilor Paul) and add Councilor Mulvaney-Stanak as a co-sponsor; remove from the consent agenda 3.08. RESOLUTION: Encumbrance Permit and Amended Ground/Parking Leases for 41 Cherry Street, LLC (Board of Finance) and place it on the Deliberative Agenda as agenda item 7.5; remove from the consent agenda 3.09. COMMUNICATION: Larry Kupferman, Director, CEDO, re: Lease and Parking agreement Amendments and Encumbrance Permit for 41 Cherry Street, LLC and place it on the Deliberative Agenda as agenda item 7.5.1; add to the Deliberative Agenda item 7.5.2. COMMUNICATION: Richard Haesler, Assistant City Attorney, re: 41 Cherry Street – Encumbrance Permit/License Agreement; note substitute version of agenda item 9. RESOLUTION: Authorization for General Obligation Bonds (Board of Finance); note substitute version of agenda item 10. RESOLUTION: Authorization for Public Improvement Bonds for Fiscal Year 2012 (Board of Finance); add to the agenda item 12.01. COMMUNICATION: Burlington Telecom, re: City Council update July 11, 2011; remove from the consent agenda item 3.02. RESOLUTION: Authorization for Release of Rights with Regard to a Certain Parcel of Land (Board of Finance) and place it on the Deliberative Agenda as agenda item 12.6; remove from the consent agenda item 3.03. RESOLUTION: Authorization for Land Purchases and Relocation Services in Anticipation of AIP Grant Funds for Burlington International Airport (Board of Finance) and place it on the Deliberative Agenda as agenda item 12.7; remove from the consent agenda item 3.04. RESOLUTION: Authorization to Accept Grant for AIP Project Land Purchases for Burlington International Airport (Board of Finance) and place it on the Deliberative Agenda as agenda item 12.8; remove from the consent agenda item 3.05. RESOLUTION: Authorization to Contract for Services Associated with License Plate Recognition System at Burlington International Airport (Board of Finance) and place it on the Deliberative Agenda as agenda item 12.9; remove from the consent agenda item 3.16. COMMUNICATION: Scott Schrader, Assistant Chief Administrative Officer, re: Declaration of Election Results Questions on the Ballot Special City Election – June 28, 2011 and place it on the Deliberative Agenda as agenda item 12.10. Note the revised version; remove from the consent agenda item 3.24. COMMUNICATION: Mayor Bob Kiss, re: Appointment of Interim CAO and place it on the Deliberative Agenda as agenda item 12.11.; remove from the agenda item 3.13. COMMUNICATION: Richard H. Cate, Vice President for Finance and Administration University Treasurer, The University of Vermont, re: City of Burlington and University of Vermont Memorandum of Agreement Re: 2009 Zoning Amendments.

## 2. PUBLIC FORUM

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

<u>Name</u>	<u>Ward/Affiliation</u>	<u>Subject</u>
Phil Lavigne	Ward 7 Resident	Thanked Council for Appointment
Ron Ruloff	Burlington Resident	Burlington Telecom
Bill Fuller	Middlebury Transit	Opposed Taxi Ordinance
Don Corbett	New England Taxi	Opposed Taxi Ordinance

Paul Robar	Benway's Taxi	Opposed Taxi Ordinance
Nicholas Schieldrop	Shelburne Resident	Opposed Taxi Ordinance

There being no one further coming forward, City Council President Keogh closed the public forum at 7:41 p.m.

### 3. CONSENT AGENDA

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

- 3.10. INDOOR ENTERTAINMENT PERMIT RENEWAL (2011-2012): Rasputin's  
\*waive the reading, accept the communication, place it on file and approve the 2011-2012 Indoor Entertainment Permit Renewal for Rasputin's
- 3.11. 2011-2012 APPLICATION FOR CERTIFICATE OF APPROVAL FOR LOCATION OF A SALVAGE YARD: Queen City Iron & Metal Co. Inc.  
\*waive the reading, accept the communication, place it on file and approve Queen City Iron & Metal Co. Inc.'s request to renew their application for location of a salvage yard
- 3.12. REPORT: Spencer Newman, Chair, Burlington Electric Commission, re: Commission Chair Report  
\*waive the reading, accept the report and place it on file
- 3.14. COMMUNICATION: Jenny Davis, CEDO, re: Monthly NPA Report  
\*waive the reading, accept the communication and place it on file
- 3.15. COMMUNICATION: Philip M. LaVigne, Member, Board of Tax Appeals, re: Resignation  
\*waive the reading, accept the communication, place it on file, advertise the vacancy (already did) and send a letter of appreciation to Philip M. LaVigne thanking him for his time served on the Board of Tax Appeals
- 3.17. COMMUNICATION: Nicholas Ponzio, Sr. Project Engineer, Building Energy, re: CPG Application for Solar Electric System  
\*waive the reading, accept the communication and place it on file
- 3.18. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance June 6, 2011 Minutes  
\*waive the reading, accept the communication and place it on file
- 3.19. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance June 13, 2011 Minutes  
\*waive the reading, accept the communication and place it on file
- 3.20. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Amy Bovee, Executive Secretary to the CAO, re: Minutes, Special City Council Meeting, April 25, 2011  
\*waive the reading, accept the communication, place it on file and adopt the minutes at the August 8, 2011 City Council Meeting
- 3.21. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Amy Bovee, Executive Secretary, re: Minutes, City Council, May 2, 2011

\*waive the reading, accept the communication, place it on file and adopt the minutes at the August 8, 2011 City Council Meeting

3.22. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator and Amy Bovee, Executive Secretary, re: City Council Minutes for May 16, 2011

\*waive the reading, accept the communication, place it on file and adopt the minutes at the August 8, 2011 City Council Meeting

3.23. COMMUNICATION: Karen Paul, Ward Six City Councilor, re: Resolution on Work Sessions and Budget

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

3.25. COMMUNICATION: Mayor Bob Kiss, re: 2011 Justice Assistance Grant (JAG)

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

4. COMMUNICATION: Bob Kiss, Mayor, re: Appointment of Gregg Meyer as Assistant City Attorney

Mayor Kiss reminded the Council the City had budgeted funds over the last two years to appoint another Assistant City Attorney to help the City do more legal work in-house. He introduced Mr. Meyer to the Council.

Councilor Berezniak made a motion, seconded by Councilor Blais, to accept the communication and confirm the appointment.

Councilor Decelles inquired what the new Attorney's role would be. Attorney Schatz stated Mr. Meyer's background was in prosecution and civil matters. Councilor Decelles asked for Mr. Meyer's salary. City Attorney Schatz stated the Board of Finance approved Step 7, Grade 24, which was approximately \$74,000 a year.

Councilor Paul inquired if this would create a compression issue in terms of the level of experience compared with other Assistant City Attorneys. City Attorney Schatz stated it placed him on par or just below the other Assistant Attorneys so it was not a problem.

Councilor Dober inquired what the return on the investment of spending \$75,000 a year would be. City Attorney Schatz stated the Division of Legal Services was an important aspect of the City function and having Attorneys with sufficient experience was important. City Attorney Schatz noted that Mr. Meyer provided a substantial level of expertise in a variety of legal areas which would allow more matters to be handled in house.

Councilor Adrian stated he would recuse himself from the vote because he worked in the same office as Mr. Meyer.

The motion passed unanimously with Councilor Adrian abstaining.

5. ORDINANCE: PERSONNEL – Retirement System – Return to Service (Human Resources Department and Ordinance Committee) (2<sup>nd</sup> reading)

Councilors Shannon and Bushor made a motion to waive the 2<sup>nd</sup> reading and adopt the ordinance.

Councilor Shannon stated that currently when an employee retired from the City and then was rehired, they received two pensions, one based on their initial position and another based on the second position. Councilor Shannon noted that current employees were being allowed to continue that option or to move to the new proposal which merged the two pensions.

The motion passed unanimously.

5.01. COMMUNICATION: City Attorney's Office, re: Retirement Ordinance/Return to Service

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

6. ORDINANCE: VEHICLES FOR HIRE—Taxi Rewrite (Councilors Dober, Mulvaney-Stanak: License Committee)(2<sup>nd</sup> reading) + Ordinance Committee

Councilor Shannon and Bushor made a motion to waive the 2<sup>nd</sup> reading and adopt the ordinance.

Councilor Shannon stated the Ordinance Committee worked extremely hard to bring this forward in time for the new licensing season and while there continued to be more work required on the ordinance what was being presented was workable. She agreed with a public forum comment that the issue of locations of taxi stands would still need to be worked out.

Councilor Shannon explained the Committee had concerns about investigation and disqualification. The section of the Ordinance explained there were requirements people must satisfy in order to get a taxi license and items that would disqualify a person from getting a license. There was also a provision to allow an appeal. She explained that the Ordinance Committee would need to provide further clarification on this issue. The Committee initially had not planned to require meters, but decided to do so after discovering many drivers wanted meters, some drivers did not understand the zone system, and the public very much wanted meters. She explained that customers reported that the same cab ride could cost them anywhere from \$8-\$20. Meters would not be required for a year and could be adjusted so there were different rates for the Airport and the City. The Committee decided not to require meters that would print receipts in order to help taxi companies save money. Councilor Shannon also informed the Council that fees and fares were removed from the Ordinance so they could be adjusted annually through a resolution.

Councilor Bushor thanked everyone who helped contribute to the Ordinance and stated her opinion that this ordinance was better than the one currently in place. She noted that because many taxis already had meters, she was in favor of requiring them. She inquired what date the fees and fares would become effective. Assistant City Attorney Fuller stated the fares would be effective September 1st and the fees would be effective August 1st. Councilor Bushor made a motion to amend the resolutions regarding fees and fares to include the effective dates. Councilor Shannon accepted the amendment as friendly.

Councilor Dober inquired whether adding specific dates would affect the licensing pattern in the future. Assistant City Attorney Fuller stated this would not change when fees were adopted. Councilor Bushor stated the resolution was intended only for this cycle.

Councilor Decelles spoke in favor of the safety requirements. H then asked if advertising requirements applied to the inside of the vehicles; it did not. Councilor Shannon stated that would only apply to the taxi stands at the Airport. Assistant City Attorney Fuller stated in order to advertise at the Airport, the Airport Commission would have to give permission. Councilor Decelles inquired how many licensed cabs there were at this time. Tamara Gagne, Airport staff, stated there were 110 taxis. Councilor Decelles inquired how costs would be affected. Councilor Dober stated rates would increase, per the Transportation Price Index (TPI), and that was included in the new ordinance. Ms. Gagne agreed that fares were adjusted by the TPI each year.

The motion passed by a vote of 11-1 with Councilor Decelles voting against.

6.01. RESOLUTION: Approval of 2011-2012 Taxi and Contract Vehicle Administrative Fees (Schedule I)(Councilors Shannon, Bushor,

Kranichfeld: Ordinance Committee)

Councilors Shannon and Bushor made a motion to waive the reading and adopt the resolution. The motion passed by a vote of 11-1 with Councilor Decelles voting against.

6.02. RESOLUTION: Approval of 2011-2012 Maximum Taxicab Fares and Fees (Schedule II)(Councilors Shannon, Bushor, Kranichfeld: Ordinance Committee)

Councilors Shannon and Bushor made a motion to waive the reading and adopt the resolution. The motion passed by a vote of 11-1 with Councilor Decelles voting against.

6.03. COMMUNICATION: Ordinance Committee, re: Revised Vehicle for Hire Ordinance

Councilors Shannon and Bushor made a motion to waive the reading, accept the communication and place it on file. The motion passed by a vote of 11-1 with Councilor Decelles voting against.

6.5. RESOLUTION: Authorize Contract for Independent Audit Services for City of Burlington (Board of Finance)

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

Councilor Paul stated this would allow for the selection of a new Auditor. She explained there had been an RFP process that resulted in two responses. The Audit Advisory Committee, Assistant CAO Goodwin and Interim CAO Schrader all agreed in their recommendation of this Auditor. The firm was Melanson-Heath and they were based in Nashua, NH.

Councilor Adrian inquired if the CPA's were licensed in the State of Vermont and stated if they were not, it could raise problems. Interim CAO Schrader stated that on page 18 of the response it indicated the Auditor, Mr. Byron, was licensed in Vermont. Councilor Adrian requested it be confirmed that everyone mentioned in the response was a licensed CPA in Vermont.

The motion passed by a vote of 11-1 with Councilor Adrian voting against.

6.5.1. (was 3.07.) COMMUNICATION: Scott Schrader, Assistant Chief Administrative Officer, re: Audit Advisory Committee Recommendation on Independent Auditor

Councilors Paul and Decelles made a motion to waive the reading, accept the communication and place it on file. The motion passed by a vote of 11-1 with Councilor Adrian voting against.

7. RESOLUTION: Composition of the Retirement Board and the Other Issues Raised by Former Board Member Horenstein (Councilor Paul and Mulvaney-Stanak)

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

Councilor Paul stated this would address issues raised by a former nine-year member of the Retirement Board. Councilor Paul stated her belief that the points Mr. Horenstein raised were valid and some were the same points raised by the Retirement Task Force. The Council intended to move forward in resolving those concerns, but some still had not been addressed. Councilor Paul offered a friendly amendment to change the resolve clause to request the Ordinance Committee change the language in the Ordinance to match the Charter.

Councilor Dober noted this had been discussed in the HR Committee for some time, explaining that the Charter and Ordinance did not match. He also believed the composition of the Retirement Board needed to be looked at. Councilor Dober then asked for a two minute recess.

\*\*\*2 minute recess\*\*\*

Councilors Dober and Decelles made a motion to amend the resolution to include the HR Committee in discussions with the Ordinance Committee. Councilor Paul accepted the amendment as friendly.

Councilor Bushor stated the section regarding disability suggested it should be referred to the Retirement Board then brought to the Board of Finance and the Ordinance Committee. She noted there had been previous discussions regarding the current disability provision and a suggestion to change it to reflect the social security disability standard. City Attorney Schatz stated that the Council had referred several retirement changes for non-union employees to the Ordinance Committee. The Committee considered the matter but did not conclude its work. They chose to wait until the collective bargaining negotiations were completed. Those have not concluded for all bargaining units, so the issue currently was on hold in the Ordinance Committee.

Councilor Bushor then stated that section should still be addressed but not by the Retirement Board. Councilor Bushor made a motion, seconded by Councilor Brennan, to amend the resolution to request that the Ordinance Committee continue to discuss the issue and provide a response by October, providing the union negotiations were complete. The amendment was not accepted as friendly by Councilor Berezniak.

Councilor Shannon stated the issue raised was separate from what the resolution addressed. The resolution referred to whether or not the Board should deal with disability cases. This would refer an issue to the Ordinance Committee that was already going to be addressed.

Councilor Paul, agreeing with Councilor Shannon, stated the current language was important because it was important for the Retirement Board to make a recommendation.

Councilor Bushor withdrew the amendment.

Councilor Adrian spoke in favor of the resolution and stated there were too many City employees on the Retirement Board; constituents should have greater representation. He believed at most there should be only two employees on the Retirement Board.

Councilor Shannon stated the Ordinance Committee addressed the conflict between the Charter and the Ordinance. The Retirement Task Force also took this issue up and the makeup of the Board was negotiated through the unions. She stated she did not want to take the issue up again and would prefer to request a report from City Attorney Schatz to the Council. She offered an amendment requesting this. Councilor Paul inquired if the City Attorney knew the answer to this question. City Attorney Schatz stated he did not and would need to research it. Councilor Paul accepted the amendment as friendly.

Councilor Bushor requested the City Attorney to determine, while researching the matter, if it was solely the number of employees that were negotiated versus the total membership and whether other individuals could be added to the Board in order to broaden it.

Councilor Shannon inquired about the actuarial rate of return mentioned in the Horenstein letter. Councilor Paul stated they were included, just not specifically. Councilor Shannon made a motion to amend the resolution to include the actuarial expected investment rate of return. Councilor Shannon then quickly withdrew her amendment.

Councilor Wright stated the Ordinance Committee could continue to explore the issue further.

The motion then passed unanimously.

7.5. (was 3.08.)               RESOLUTION: Encumbrance Permit and Amended Ground/Parking Leases for  
41 Cherry Street, LLC (Board of Finance)

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

Councilor Shannon requested an explanation of the project. Richard Haesler, Assistant City Attorney, stated there were three diagrams that attached to the encumbrance permit and laid out three different schedules. The first was the pedestrian route. The other two outlined a traffic plan. Larry Kupferman, CEDO Director, introduced representatives from 41 Cherry St. LLC. Councilor Shannon asked if the arrangement would be similar to the Hilton Hotel. Mr. Kupferman stated the lease allowed the hotel to use four parking spaces for their entryway. The first document was a ground lease amendment, as the City currently owned the land. The four parking spaces need to be leased to the participants so that construction can happen. The parking agreement was also being amended to allow their employees to use parking spaces in the Cherry Street parking facility. They would lease sixteen spaces in the parking garage which would offset the loss of revenue from the on-street spaces. The third document was the encumbrance permit which allowed the use of City property. It also outlined the roadway conditions during the project to ensure good pedestrian and vehicle flow during construction.

Councilor Shannon inquired about the parking exchange and why they were leasing spaces in the Lakeview garage. Mr. Kupferman again explained that would allow hotel employees to park in the garage. The amendment would guarantee sixteen spaces and allow up to thirty-five spaces. Councilor Shannon inquired how this would benefit the City. Mr. Kupferman stated this would generate revenue in the garage to offset the loss of four parking spaces on the street.

Councilor Shannon inquired if that would take spaces away from the public. Mr. Kupferman stated there were plenty of spaces in the garage and DPW had been included and involved in the discussion. Employees would likely park on the roof. City Attorney Schatz stated it would be guaranteed revenue. Councilor Shannon inquired if that garage was ever full. City Attorney Schatz stated it was rarely full and there was a similar type of agreement for the Hilton. He noted the spaces were not specifically reserved, however, the garage staff ensured there were enough spaces in the garage for those leaseholders.

The motion then passed unanimously.

7.5.1. (was 3.09.)               COMMUNICATION: Larry Kupferman, Director, CEDO, re: Lease and  
Parking agreement Amendments and Encumbrance  
Permit for 41 Cherry Street, LLC

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

7.5.2.   COMMUNICATION: Richard Haesler, Assistant City Attorney, re: 41 Cherry Street –  
Encumbrance Permit/License Agreement

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

8.       RESOLUTION:               Response to FY 10 Management Letter (Councilor Paul)

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

Councilor Paul stated the Management Letter was the Auditor's letter that noted auditing deficiencies. The Management Letter for FY09 listed 64 deficiencies. Councilor Paul stated that due to the attention

given to the report by the Council and staff, the FY10 letter was about half the length. She explained that last year a resolution had passed requesting department heads to give an oral presentation explaining how they were addressing issues laid out in the Management Letter. This was not possible because of a change in the budget process. This resolution requested that the Board of Finance and City Council receive a memo regarding how deficiencies would be addressed to allow the City to improve. Councilor Paul also noted that many of the problems addressed in the Management Letter applied solely to the Schools.

Councilors Berezniak and Shannon made a motion to call the question. The motion passed unanimously.

The resolution then passed unanimously.

9. RESOLUTION: Authorization for General Obligation Bonds (Board of Finance)

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

ACAO Goodwin stated in December of 2010, Bond Anticipation Notes were issued for \$5.915 million to be used for the City, Capital, Streets, Fire and Burlington Electric. When they were issued the intention was to go out to bond in the next year. This would bond for the \$6.7 million authorized by voters.

The motion passed unanimously.

10. RESOLUTION: Authorization for Public Improvement Bonds for Fiscal Year 2012 (Board of Finance)

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

ACAO Goodwin stated taxpayers authorized the issuance of up to \$4 million in bonds. Of that \$4 million, \$1 million would be used for capital improvements, \$1 million would be used for capital improvements for Burlington Electric and \$2 million would be used for working capital and capital improvements in the Schools.

The motion passed unanimously.

11. REPORT: Mari Steinbach, CPRP, MPA, Director, Parks and Recreation, re: Annual Report

Mari Steinbach, Director of Parks and Recreation, and Carolyn Hanson, Chair of the Parks and Recreation Commission, provided an overview to the Council. Director Steinbach stated this year had been about reconnecting with the community. The previous fall had started with the NPA Neighborhood Improvement Nights which allowed the department to hear what services were important to residents. Efforts were made to be more attentive to calls for service and succeeded in being responsive. The Burlington Kids' issue also allowed for more community engagement. A Bike Path Task Force was created and the department was currently working with an engineering firm to assess the condition of the bike path.

Director Steinbach noted there were eleven functional areas within the department. She explained that over the next year within the Recreation Programs and Special Events the department intended to focus on accounting in order to obtain a more accurate number of participants and revenues. The Miller Community and Recreation Center saw an increase in participation of 40% and the department planned to continue that trend. Participation at Leddy Arena was down slightly but efforts would be made to creatively manage that space. There would be efforts to provide better accounting for participation at Memorial Auditorium. The facility use and participation had increased in the last few months. The Parks Operation and Maintenance Program had a crew of four full time staff who cared for all City-owned and leased spaces and had worked very hard mitigating damage from the flooding this spring. Currently there

were four full time grounds crew that covered the parks and all manners of right of ways. The Trees and Greenways division she believed was the best emergency response team, addressing hazard trees and vegetation. This year this division won the Tree City USA award for the 17<sup>th</sup> year in a row. The waterfront division implemented a new fee structure and, despite the late start to the season, appeared to be successful. The Conservation Legacy Program brought Callahan Gardens online and took Baird Gardens offline. The program represented the greatest diversity of groups working together on a wide variety of projects. There was a list of Capital Projects that were completed to enhance facilities. Finally a non-smoking Ordinance was implemented throughout the Parks system.

Carolyn Hanson, Chair of the Parks and Recreation Commission, stated a lot of time was spent on the Burlington Kids Program and there were many comments from the public. There were several public hearings including one regarding the Air Show. Steve Allen had been working on a foundation which would enable the Parks Department to receive contributions. Chris Pearson had been working with an Ad Hoc group on Memorial Auditorium, considering renovations and methods to increase the use of the building. There had been discussions about naming parks facilities and what direction to go in. The Chair informed the Council that the Director had been tasked with determining processes and criteria for decision making on naming facilities because this had been lacking for years. The Commission had also been talking quite a bit about dog parks and many citizens expressed interest in a park in the South end of Burlington. A group had begun work on this and more information would be available in October.

Councilor Wright inquired if the Commission had voted unanimously to move forward with the Air Show and if there were any restrictions. Ms. Hanson stated the Commission had voted unanimously to approve the Air Show. While there were no restrictions, discussion had taken place on looking at carbon offset as well as the potential of having a national act at a future Air Show. Councilor Wright inquired about the progress on a Memorial Auditorium update that had been due in July. Ms. Steinbach stated they were waiting on results from CEDO and there would be a stronger report at the next PACC meeting at the end of July.

Councilor Bushor stated the Penny for Parks was a good splinter tax. She felt there had been an increase in the use of Memorial Auditorium and was glad its uses would be explored more thoroughly. She inquired about progress with the Conservation Legacy Program and if they were still working to maintain areas of open space. She also stated she would like to see an action plan. Ms. Steinbach stated there would be more information available next year and many different strategies for conservation and acquisitions have been discussed. Councilor Bushor stated she would like to see more detail about this.

Without objection, City Council President Keogh made a motion to waive the reading, accept the report and place it on file. The motion passed unanimously.

12. REPORT: Steve McIntyre, Chair, Telecommunications Advisory Committee, re: Annual Report to the City Council

Steve McIntyre, Chair of the Telecommunications Advisory Committee, and Amber Thibeault were present to speak to the Council. Chair McIntyre stated the Committee had originally been formed to advise the City Council on Burlington Telecom issues. He noted Burlington Telecom had undergone significant internal changes with the resignation of Chris Burns as General Manager and the addition of the consultation team of Dorman and Fawcett. The size of the work force had been reduced to 19 full time and 5 part time employees and contracted laborers. CitiCapital was still in the decision making process regarding the return of equipment. Six employees left the staff and their positions were eliminated because of financial constraints. The financial reporting was strengthened to include monthly profit, loss and cash flow reports. The operational side had benefited from help from Hiawatha Broadband Communications. Dorman and Fawcett were now left to operate the business in a manner consistent with private enterprise operations.

The Chair informed the Council that BTACVT.com contained documents, agendas, and minutes. Marketing had been limited in the past year as operations were realigned. The new fiscal year would allow for an increase in marketing and sales. The budget for BT included a sales and marketing leader, a senior account executive and a graphic designer. Operating costs were forecasted to be lower this year because of the reduction of staff. The operating cost in FY 10 had been \$4.6 million while FY11 had been reduced to \$4.3 million. Capital expenditures were down one-third from 2010 to 2011. The pre-debt service cash flow was budgeted at \$460,000 and was forecasted at \$620,000 after being negative in 2010. Burlington Telecom was on track to be a viable investment.

The Chair outlined there continued to be legal challenges including the matter of the Public Service Board with respect to the Certificate of Public Good as well as citizens suing in Chittenden County Superior Court over the use of the City's pooled cash. Mr. McIntyre informed the Council there currently was a letter of intent from two investment groups. The upcoming negotiations would be the most important part of the next year.

There had been discussion about what would happen to BTAC when a purchase was made. The Chair believed the most likely scenario would be that the City would retain a minority share of BT and BTAC may or may not exist. BTAC was now down to three members out of a potential seven member committee. The Blue Ribbon Committee would reconvene when investors were beyond a certain level of negotiations to assist in determining who would be the best investor. BTAC recommended that if the Blue Ribbon Committee became more permanent, the two groups could merge and allow interested citizens to be involved.

City Council President Keogh inquired who was on the Cable Advisory Committee. Amber Thibeault from Burlington Telecom stated there were four members and that committee was separate from BTAC.

Councilor Dober inquired about the status of repossession. Mr. McIntyre stated CitiCapital had not made a decision. Ms. Thibeault stated there was a communication in the Council packet updating the Council on the status of negotiations. City Attorney Schatz stated there had been no new information from CitiCapital. Councilor Dober inquired how to attract new customers without new answers. City Attorney Schatz stated there was no indication of any immediate action. BT staff had worked to catalog equipment so if CitiCapital moved for return of equipment, BT would be able to maintain operations. City Council President Keogh stated it would take at least a year for BT to shut down.

Councilor Blais inquired how many subscribers there were currently. Ms. Thibeault stated there was a rise in the number of business customers. This week 12 new customers were installed per day. Councilor Blais inquired if there were more subscribers now than a year ago. Ms. Thibeault stated there were more commercial customers but not residential customers.

Councilor Shannon stated it was difficult to service so many committees but without knowing what the future would bring made it difficult to restructure committees. There would need to be a different committee structure in the future.

Without objection, City Council President Keogh made a motion to waive the reading, accept the report and place it on file. The motion passed unanimously.

12.01. COMMUNICATION: Burlington Telecom, re: City Council update July 11, 2011

Without objection, City Council President Keogh made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

12.5. (was 3.01.) COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re: Accountability List

Withdrawn per Councilor Paul to discuss on the Deliberative Agenda. Remained as consent agenda item 3.01. with the action to “waive the reading, accept the communication and place it on file.”

12.6. (was 3.02.)           **RESOLUTION: Authorization for Release of Rights with Regard to a Certain Parcel of Land (Board of Finance)**

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

City Attorney Schatz stated this item related to a transaction that took place in 1993 when Burlington owned the land under Burlington Town Center garage on Cherry Street. The City sold the land to Security Capital Corporation who then leased it back to the City. The City then subleased it to the company who operated the Burlington Square Mall. It was a transaction that allowed the City to obtain some money with the sale and receive a stream of revenue through the lease. The terms of the deal were that after twenty years the land would be paid for by the subleasee, the owner of the Mall. The Mall, now owned by a separate party, would like to pursue ownership of the garage by making complete payments to the City. Security Capital had not done all the paperwork in regards to the title and they now needed to have a quiet title action in which the Court would determine the ownership of the property. The City of Burlington would need to confirm that when the City was paid the total amount of lease payments the City would then convey the property to the owner of the Burlington Square Mall. This resolution clarified that the City was authorized to release the land and it was consistent with the lease agreements.

Councilor Berezniak inquired if through the different lease agreements the intent had been to sell it to a specific buyer. City Attorney Schatz stated the agreements allowed it to be assigned to the entity that owned the Burlington Square Mall. The mall and parking garage were supposed to be operated together.

The motion passed unanimously.

12.7. (was 3.03.)           **RESOLUTION: Authorization for Land Purchases and Relocation Services in Anticipation of AIP Grant Funds for Burlington International Airport (Board of Finance)**

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

Councilor Paul requested a summary of each project. Bob McEwing, the Interim Airport Director, stated the first project accepted a grant from the FAA in the amount of \$2 million to purchase nine homes in the vicinity of the Airport. This was part of a process to acquire properties that were impacted by the noise from the Airport. The second resolution purchased ten homes that were included in the current grant. Purchase and sales agreements had already been obtained for five of the properties. Those homes were located on Dumont, Maryland, and White Streets. The final resolution authorized the purchase of a license plate recognition system for use in the parking garage. This would allow the Airport to keep close track of cars coming and going to the garage, allowing for recovery of between 3-15% of lost revenues. When people lost their tickets it was difficult to prove when they entered the garage.

Councilor Paul agreed the license plate recognition system was a good one and people cheat the system frequently. Mr. McEwing stated it would take a year to pay back the cost associated with purchasing the system.

The motion passed unanimously.

12.8. (was 3.04.)           **RESOLUTION: Authorization to Accept Grant for AIP Project Land Purchases for Burlington International Airport (Board of Finance)**

Councilors Paul and Dober made a motion to waive the reading and adopt the resolution. The motion passed unanimously.

- 12.9. (was 3.05.)           RESOLUTION: Authorization to Contract for Services Associated with License Plate Recognition System at Burlington International Airport (Board of Finance)

Councilors Paul and Dober made a motion to waive the reading and adopt the resolution. The motion passed unanimously.

- 12.10. (was 3.16.)       COMMUNICATION: Scott Schrader, Assistant Chief Administrative Officer, re: Declaration of Election Results Questions on the Ballot Special City Election – June 28, 2011

Councilors Paul and Berezniak made a motion to waive the reading, accept the communication and place it on file.

Councilor Paul requested the communication be posted and read aloud. Following discussion between the Councilors, ACAO Schrader read the results into the record.

The motion passed unanimously.

- 12.11. (was 3.24.)       COMMUNICATION: Mayor Bob Kiss, re: Appointment of Interim CAO

Mayor Kiss stated he had appointed ACAO Schrader as the interim CAO until a new CAO could be selected. He added that having Assistant CAOs for Finance and Administration had helped provide a strong link during transition times.

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

### 13.     COMMITTEE REPORTS

Councilor Kranichfeld announced the Public Safety Committee would meet on August 2<sup>nd</sup> to discuss the consolidation of fire stations.

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

Councilor Bushor stated the Ward 1 NPA would meet on July 13<sup>th</sup>. There would be a pot luck barbeque followed by a discussion on noise and quality of life. There had been a lot of discussion about neighborhood noise and this would allow residents to express concerns and plan further steps.

Councilor Dober stated the Ward 4 & 7 NPA meeting was coming up.

Councilor Shannon commended the Burlington Free Press for their coverage of the Church Street Marketplace and the Ward 5 Enterprise Zone in businesses.

Councilor Decelles stated a 12 year old boy had been hit by a car crossing the street on his bike despite the traffic light giving him the right of way. He also noted his concern with the riders who ride irresponsibly, stating accidents could be prevented if bicyclists were more aware.

Councilor Paul stated the next Parks Arts and Culture Committee would be in July and the Moran Building would be discussed.

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

Mayor Kiss spoke about the Gallup Poll which surveyed 1.1 million people over a three year period on well-being. This well-being index measured life evaluation, emotional health, physical health, healthy behavior, work environment and basic access. In March they rated Burlington/South Burlington as the number one small city in the United States.

16. ADJOURNMENT

On a motion by Councilors Bushor and Brennan, the Regular City Council Meeting unanimously adjourned at 10:02 p.m.

Attest:

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

BOARD OF CIVIL AUTHORITY  
MONDAY, JULY 11, 2011  
10:03 P.M.

PRESENT: Mayor Kiss, President Keogh, Councilors Adrian, Berezniak, Blais, Brennan, Bushor, Decelles, Dober, Kranichfeld, Paul, and Shannon

1. AGENDA

On a motion by BCA Members Decelles and Brennan, the agenda was adopted as is.

2. COMMUNICATION: Thomas A. Little, Chair, Legislative Apportionment Board, re: 2011 Legislative Apportionment Board Proposed House Districts

Mayor Kiss stated that based on Census data, the Legislature, under state statute, was required to do a Reapportionment. This report suggested that the City of Burlington should have ten single seat House districts. This Board would make a recommendation and this was the first opportunity for feedback. No comment on the City's part would signify consent. The Mayor suggested a meeting in August to determine the City's position on this matter.

City Council President Keogh made a motion, seconded by Councilor Adrian, not to accept the report.

City Council President Keogh stated he did not believe that having ten single member districts in Burlington would serve the City's best interest and could result in gerrymandering.

Councilor Adrian stated that he had spoken with Steve Hingtgen who had informed him that he was solely responsible for drawing the City districts and presenting them to the Legislative Apportionment Board. Mr. Hingtgen had the technical help of Dave Crossman of the Secretary of State's Office as well as the Chair of the Progressive Party. Councilor Adrian stated he liked the idea of single member districts for Burlington, but the lines that were drawn in the report did not make a lot of sense, citing the example of a line being drawn up the middle of Brookes Avenue. He would like to see more meetings and discussion on this. He suggested that this be sent back to the Legislature for continued discussion. Councilor Adrian requested that the City's lobbyists track this issue and bring it back to the Board of Civil Authority when it was ready to be considered. He also requested assistance from staff to utilize the Tracking Map System in order to allow the City to make informed decisions when proposed changes are made.

City Attorney Schatz stated the Board of Civil Authority would be presented two opportunities to comment on the proposal. The first inquiry was from the Legislative Apportionment Board. They served an advisory role and send their recommendation to the Legislature. They were required to ask the Board

of Civil Authority to comment on their proposal, which must be done by July 31<sup>st</sup>. City Attorney Schatz stated it was possible to simply inform the Board that the Council did not approve of the concept, however, there was also the opportunity to tell them what the City would prefer. The next opportunity for comment would be after both the Legislative Apportionment Board and the Legislature had reviewed the proposal.

Councilor Bushor stated she was not satisfied with this proposal. She believed that regions should be defined by areas with similar issues and characteristics. There were many places in the proposal where divisions were illogical. She also stated she did not agree with single member districts because having two representatives allowed for broader representation.

Councilor Decelles found the map was appropriate for the greater New North End. He also stated he did not believe the Legislature was going to take the Council's opinions into account and thought this was a futile exercise.

Councilor Berezniak stated he did not support the proposal because it did not follow certain rules that were to be considered when making changes, such as recognizing patterns of geography, social interaction, trade, political ties or common interests. For instance, he noted there was one proposed area that would be almost entirely college students.

Councilor Kranichfeld agreed with the prior comments and stated this plan did not conform to the criteria that Councilor Berezniak stated. The lines being drawn were not consistent with the use of Compact Contiguous Territory. Many lines were drawn through the middle of natural districts.

Councilor Shannon stated her neighborhood was fine, but other areas had some strange divisions. She did not feel they had access to enough information to make an informed decision. She was especially concerned with the segregation of the students, especially with challenges surrounding the voter checklist in that area.

Councilor Blais stated that since former Senator Little did not support this plan, and he was very knowledgeable about reapportionment, his lack of support was a red flag.

Councilor Brennan stated he was opposed to just rejecting the motion and felt some input should be provided.

Mayor Kiss stated that there were a variety of ways in which the Board could respond to this without rejecting it completely. He proposed meeting another time this month to further discuss the issue.

City Council President Keogh stated he did not feel there was enough information to make an informed decision.

Councilor Bushor stated she felt the Council was missing an opportunity to give feedback. She suggested the minutes of this meeting be attached to the action so the Legislature can hear concerns.

Councilor Decelles proposed a friendly amendment to allow the City's response to be the minutes of this meeting. There were relevant comments that were made and they could be sent as a response. City Council President Keogh accepted the motion as friendly.

City Attorney Schatz clarified that there was a template for how the Legislative Apportionment Board wanted to get a response from the Board of Civil Authority. The Board of Civil Authority would send a response saying the City rejected the proposal. Minutes would then be attached which would cover the discussion of this meeting.

Councilor Adrian proposed a friendly amendment to request that the City Lobbyists notify the Board of Civil Authority as soon as this issue was taken up by the Legislature. City Council President Keogh accepted the amendment as friendly.

Councilor Shannon requested the minutes reflect that she does not have the information to do a thorough review. There were some items that have raised concerns for her, but those may not be all of the concerns. She also noted that there had not been time for constituents, voters, and the public to weigh in.

Councilor Dober made a motion to call the question. The motion passed.

City Council President Keogh requested a roll call. The motion passed unanimously.

### 3. ADJOURNMENT

On a motion by Board of Civil Authority Members Keogh and Adrian, the Board of Civil Authority voted unanimously to adjourn at 10:32 p.m.

Attest:

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