

## Burlington Planning Commission

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*Yves Bradley, Chair  
Bruce Baker, Vice-Chair  
Lee Buffinton  
Emily Lee  
Andy Montroll  
Harris Roen  
Jennifer Wallace-Brodeur  
Holly Ransom, Youth Member*



# Burlington Planning Commission

## REGULAR MEETING

**Tuesday, May 12, 2015 - 6:30 P.M.**

Conference Room #12, Ground Floor, City Hall, 149 Church Street

## MINUTES

**Present:** B. Baker, A. Montroll, H. Roen, L. Buffinton, E. Lee, J. Wallace-Brodeur

**Absent:** Y. Bradley

### **I. Agenda 6:37**

No changes. A Montroll initiates meeting.

### **Public Forum**

No speakers

### **II. Report of the Director**

The director presented the following report:

- The front office is being slammed with permit applications and inquiries.
- The posting for Sandrine's position closes Friday. The position was posted nationally so we are hoping for a multitude of candidates, and looking forward to beginning the vetting process.

### **III. Capital Improvement Plan**

Presented by Martha Keenan, the Capital Improvement program manager for the City. The plan has been worked on for a year, what we see tonight is of course a snapshot in time, in collaboration with all departments and the Enterprise Fund. (B Baker arrives) There is not much information on the Enterprise Fund. The CIP is a ten year plan, the funding source is the general fund, and the major focus is roadway enhancements and maintenance, later expansion needs, ie; complete streets.

The Plan shows what the City should be spending on sidewalks and streets is about double what we are spending now.

The Police Department has a net positive financial status, and is the only department which does. The City is trying to change the fleet status to owning, not leasing.

The largest City needs are sidewalks and roads, as well as fleet management.

The majority of impact fees goes to fleet support with a large grant component.

A budget addressing Enterprise funds (anything that generates own revenue) will be developed.

There is a shortfall of about 62 million. There was a lot of assessment done last year in an attempt to get to a balanced budget in 2016. The overall need is large in FY 2017 and 2018 and then levels off. It will be necessary to make an investment in deferred maintenance.

*As approved by the Planning Commission on May 26, 2015.*

The Police and Fire Departments need training and the goal is to establish that training in the Burlington area with possible expansion to address the needs of other municipalities. The Complete streets program/sidewalks/Memorial Auditorium all needs a lot of rehabilitation, as do BCA and the City Hall Park project.

There will be funds from the two TIF projects, about \$50 million coming from new revenues.

City Council and the Board of Finance want input about coping with the shortfall of FY 2016. The Program Manager is requesting that the Planning Commission deliver a letter to the Board of Finance by May 28 acknowledging that exposure to the plan, recognize the needs, and any suggestions they may have to address those needs. The goal is to not raise taxes.

L Buffinton: The budget is based on future tax revenue, are we meeting the projected tax revenue?

M Kennan: The Waterfront TIF has exceeded expectations, the Downtown/Waterfront TIF is not really started yet.

D White: The Town Center is in the Waterfront TIF, but not actually included yet. There is anticipation of some revenues from this project through the Waterfront TIF.

A Montroll: This should be on the agenda for the 26<sup>th</sup>. Could the Long Range Planning Committee look at this and return with questions, feedback.

**On a motion by B Baker, seconded by H Roen, the Commission unanimously refers this examination to the LRPC for a response at the next meeting.**

#### **IV. 86 Lake Street**

D White: This is a review of the March 10<sup>th</sup> Verizon proposal to install telecommunications on the rooftop at 86 Lake Street. The Planning Commission has been looking at better locations. The Mayor has weighed in citing the important infrastructure to community, and urging an expeditious conclusion. The Planning Commission seeks a wider range of possibilities and is very concerned about the sensitivity of the location.

Two people speak for Verizon, Brian and Louis:

They make three points:

- There has been a design revision to the antennas similar to North Winooski Avenue project with reduction of lengths and number of antennas, shorter by two feet, not narrower, so same dimensions in width. Views of proposed elevations
- A response to a request that other locations be shown and the reasons why they were rejected. Louis hands out a spread sheet with this information. Their application is not yet filed with the Public Service Board. Twenty sites were considered with the first and second as the best choices. The capacity on the Burlington Square site is about to be exhausted. A temporary source is not viable use. Cell on Wheels (COW) is being used less and less and more compliance is necessary including lead time. Regulatory compliance is difficult to comply with. They hope to submit the application to the PSB next week and are aware that there has been vehement opposition from the planning staff and that the City may be participating in the federal review of this process.
- 3. It was determined from a close reading of statutes, that remaining projects over the next few years in Burlington will be de minimus which will be minimal review of small projects.

L Buffinton: What is the City Planning official position?

D White: There is a need for more information, and it is unacceptable to have interference with Burlington Square.

A Montroll leaves at 7:30pm.

D White: There are two other issues: the air intake and exhaust are prominently located on the façade of building that would be the west façade facing Lake Street. The gas service is on the south with no information about the gas meter, which is neither hidden nor protected from exposure to accidents. In general the standard is for mechanicals to be hidden from view on the street front.

B Baker: What are legal standards to be applied?

D White: Conformity with Municipal Development Plan. It is for the Commission to decide if competing needs are balanced.

J Wallace-Brodeur: One point is that as technology advances, it is likely these will not become permanent structures. Verizon did provide information and it does seem that the need for coverage outweighs historic significance. Screening should be addressed, the project judged on its merits, and done with due diligence.

H Roen: Is not strongly opposed, especially with the ability to comment in the future.

L Buffinton: J Wallace-Brodeur's eloquent comments are pertinent. It is smaller and looks better than before, but the Zoning Ordinance says no utilities on the front of the building, and screening is needed.

E Lee: Wonders if the Commission should bow out of weighing in? What does staff think?

D White: Staff is not independent, it is up to the Planning Commission and the City Council to weigh in.

E Lee: Her biggest concern is that it reads as architectural, she wonders if there are other options.

J Wallace-Brodeur: Would say that the City Council will weigh in.

Kim Sturtevant, City Attorney: Has submitted and reported the communications to the City Council.

Sharon Bushor, City Councilor: Issues like this rely on a thorough review by the Planning Commission, and if there are comments, it is very useful. If the City Council feels the information is incomplete or additional is needed, they do rely substantially on the Planning Commission.

B Baker: Verizon has made an effort to mitigate the historical impacts. The Municipal Development Plan states that the City is to support this enterprise.

L Buffinton: Did the State Historic Division sign off on the historic preservation design?

Brian/Version: They signed off on the first plan which was larger.

B Baker: Their review doesn't address cell technology.

D White: The technology is an economic and community resource, it is infrastructure within the built environment which complies with our specific conditions in the zoning regulations. Staff would like to develop a specific part of ordinance which addresses these specific needs. Our plan is silent as to details.

J Wallace-Brodeur: I would recommend a conversation between the parties and return with a draft letter.

H Roen: Doesn't feel a need to comment and is comfortable waiting.

D White: The conditions are that there are 21 days from submission of the application for comments.

**On a motion by H Roen, seconded by E Lee, the Commission moves to table this action until the 21 day comment period, L Buffinton abstains, all other vote in favor.**

L Buffinton: Has the State approved the intake on the front of the building?

Brian/Version: They did reduce the scope of the project and the State Historic Preservation officer did agree that the project could be incorporated as building element.

## **V. Statute of Limitations**

K Sturtevant: The Planning Commission Ordinance Committee has been working on a Comprehensive Development Ordinance to reference the Bianchi structures. There is concern under case law concerning attempts to remove the use exemption which would involve the Planning and Zoning Office, the Code Enforcement Office, the Assessor Office, and the fifteen year acknowledgement process. If that information has been available there is accountability for knowledge. Under case law there are still violations. Staff discussions have concerned what is the policy for who is making the determinations.

D White: Is there a provision for the time when the building inspector gave permits but there were no zoning permits?

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S Bushor: Appreciates the attempt for clarity, the community doesn't want more ways for continuing uses that are detrimental to neighbor hoods.

H Roen: If the City knows and has notified the landowner, there should be no fifteen year exemption.

J Wallace-Brodeur: The City is more responsible for acting.

D White: We are talking about evidence in the record, inspection reports.

J Wallace-Brodeur: The threshold for knowledge and for verification are two separate issues, this is going in right direction. The Commission should be working on this, more recommendations would be helpful.

S Bushor: If there are no permits, the parties haven't been through the correct process. A lot of people do things/projects that are not okay. She is tired of that impact in the neighborhood that she represents. What is the intent of the language? If the owner has a way to substantiate an item, who determines if a violation exists?

E Lee: The written proposal seems pretty broad, maybe staff could come up with tighter language?

D White: There needs to be a definition of what it means to be made aware.

A Montroll returns 8:24

H Roen: This creates problems at closings.

B Baker: The City has compounded the problem because they haven't recorded the permits.

D White: At what point is enough, enough? Some are problems, some aren't. When does something fit a better procedure and protocols? Whatever the solution, it must pass the straight face test assuming the assessor's office records or the code/housing inspection records show.

K Sturtevant: Notice is to try to keep people from hiding things from the city. No clandestine violation.

A Montroll: Code Enforcement enforces the zoning ordinance. If the Tax assessor sees violation, it will create better records in the City.

E Lee: From now onward should start compliance.

J Wallace-Brodeur: This is asking for better coordination in the city.

D White: It's an opportunity during any city inspection to verify occupancy.

**On a motion by E Lee, seconded by A Montroll, the Commission unanimously recommends that there be more specific language composed for the Statute of Limitations proposals.**

S Bushor: In the language adopted, if it is not possible to demonstrate a specific condition for 15 years, it is not shown that there would be action. Does this create more work for the Code Enforcement Office? The language is not clear, what level of enforcement would this generate?

K Sturtevant: Code Enforcement is aware of the proposals.

## **VI. Burlington Town Center Update**

D White: There was a public meeting last week; the presentation is available on line. The important thing to take from this is the understanding that it is a response to what Don Sinex and his group have heard from the City components and may not reflect their future proposals.

D White: The architecture will attempt to articulate ideas presented.

E lee leaves 8:46

## **VII. Committee Reports**

Long Range Planning Committee: Has new projects in the works, will meet May 21<sup>st</sup>.

Executive Committee

Ordinance Committee: Has met and discussed to do list.

**VIII. Commissioner Items**

L Buffinton: On May 19 there is a City Parks discussion about the Burlington College land which will be facilitated by the Vermont Land Trust, and will address future development with a broad brush. There is a housing summit on May 20 with exploration of housing needs and solutions.

**IX. Minutes/Communications**

There were no minutes/communications.

**X. Adjourn**

On a motion by J Wallace-Brodeur, seconded by L Buffinton, the Commission unanimously adjourned at 8:52 pm.



Y. Bradley, Chair

May 27, 2015



E. Tillotson, Recording Secretary