BURLINGTON CITY COUNCIL
CITY HALL, CONTOIS AUDITORIUM *OR*
REMOTE MEETING WITH CALL-IN
BURLINGTON, VERMONT
MINUTES OF MEETING
December 9, 2024
DRAFT

MEMBERS PRESENT: Joan Shannon, Sarah E Carpenter, Mark Barlow, Gene Bergman, Ben Traverse, Melo Grant, Carter Neubieser, Joe Kane, Becca Brown McKnight (via Zoom), Evan Litwin, Marek Broderick

OTHERS PRESENT: Emma Mulvaney-Stanak (at 6:26 PM), Erin Jacobsen, Katherine Schad, Kim Sturtevant (via Zoom), Erik Ramakrishnan (via Zoom), Lori Olberg, Keaton Knowles, Chapin Spencer, Ashley Parker, Cindi Wight, Megan Moir, Martin Lee, Darren Springer, Emily Stebbins-Wheelock, Michael LaChance

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1. CALL TO ORDER and AGENDA

The meeting was called to order by City Council President Traverse at 6:15 PM.

MOTION by Councilor Shannon, SECOND by Councilor Litwin, to amend and adopt the agenda as follows:

VOTING: unanimous; motion carries.

2. PUBLIC FORUM: TIME CERTAIN: 6:05 PM

2.1. Verbal Comments
Forum opened at 6:16 PM.

COMMENTS:
Burlington residents (in person):
- Gail Anderson expressed concern about the lack of public safety, open drug use, and lack of enforcement in the downtown area. She said that the City Council has spent too much time focusing on oversight of the Police Department and spoke about the conditions that discourage recruitment.
- Joseph Rowell spoke about item 6.9 (purchase of the property at 0 North Avenue). He noted that he owns an adjacent property and has an easement that allows them to use the parcel to access their home. He said he wants to make sure the easement remains in place as the property transfers ownership to the City, as well as have input in the park planning process to maintain a buffer for privacy and continued use of their driveway.
- William Oetjen spoke about the graffiti ordinance, saying that his posting a flyer of his missing dog could potentially make him in violation of the ordinance as it is written. He said that the City cannot enforce the ordinance for some types of speech but not for others, and said that restricting speech is prohibited under the First Amendment. He expressed concern that the City would use the state apparatus to restrict speech.
- Christopher Aaron Felker spoke about the proposed updates to the graffiti ordinance, saying he hopes the right of private action language to be removed. He noted that the 14th Amendment requires that municipalities are content-neutral in their regulation of speech. He said that if the City wants to enforce its graffiti ordinance, it needs to do so for everyone.
- Todd Deluca spoke about the public nuisance ordinance, saying that it is a censorship ordinance that was created in response to a March 2023 City Council resolution to silence disfavored words about women's' bodies, their health, and their rights.
- Ellen Hacker spoke about item 6.9 on the agenda, saying that she lives just north of this property. She asked that the fence that was erected to dissuade unfavorable beach activity be kept in place until the three-year survey is complete. She also asked for a contact person to talk to regarding issues with the woods, such as the significant amount of invasive species in it.
- Liz Clements expressed support for Tyeastia Green, and expressed worry that there won't be a fair solution. She asked that the City work to come up with a solution.

Burlington residents (via Zoom):
- Sharon Bushor spoke about Barbara Nolfi, noting that they both served on City Council at the same time. She spoke about several things that aren't included in the resolution, which include information-gathering to inform decisions about whether to contract with Hydro Quebec, and her work (along with Ms. Bushor) to change the body's name from Board of Aldermen to the City Council, to make it more gender-neutral.
- Lee Morrigan spoke as a trans man with concern regarding the Democratic caucus's proposed amendment to remove the private right of action language from the graffiti ordinance amendments. They said that it seems that this shields those who are perpetuating harm against vulnerable populations. They said that the sticker campaign has been a targeted harassment of the trans community. They said that removing this protection from the amendments does not safeguard the trans community.
- Mark Leopold spoke about affordability in Vermont on a fixed income, and expressed concern about the potential cutting of entitlement benefits at a federal level, coupled with the deferred maintenance in the City that will likely cause an increase in utility rates. He asked that these increases be spread out over a longer timeframe.
- Pike Porter asked the Council to keep the private right of action language in the proposed graffiti ordinance amendments. He said private right of action is a tool that individuals can use when enforcement at the police level isn't occurring. He spoke about how this would be useful in other ordinances, such as the leaf blower ordinance. He asked that if the private right of action does not move forward, the City Council should consider banning gas leaf blowers altogether.

Non-Burlington residents (in person):
- Thomas Furland spoke about agenda item 6.9, regarding the 0 North Avenue property. He said that he is a neighbor and has been helping dealing with trespassers and vandalism, as well as maintaining the driveway. He expressed concern with people beginning to use that driveway, citing liability and privacy concerns.

- Luce Hillman spoke about item 7.4, related to District Energy Benchmarking and how it relates to the University of Vermont in particular. She expressed concern that it is challenging to meter steam and that the campus's meters frequently fail. She noted that the University has spent over $1 million in the last ten years to improve metering, with limited success. She spoke about improvements being made.

Non-Burlington residents (via Zoom):

- Keren Sita spoke about recent allegations around Jay-Z, and said that women shouldn't have to go through life feeling afraid for their bodily autonomy.

Forum closed at 6:44 PM.

3. WORK SESSION: 2025 TMD GENERAL OBLIGATION BOND – C/T

3.1 Work Session: 2025 TMD General Obligation Bond – C/T
Capital Program Director Parker said this relates to the City's request for a $20 million general obligation bond for Town Meeting Day 2025 to support General Fund capital projects. She provided a broad overview of the General Fund's capital budget, and spoke about the history of the City's general obligation bonds since 2016. She spoke about the latest general obligation bond of $23.8 million, and described what the bond went to support. This included upgraded public safety communication infrastructure, 3 new fire trucks, street and sidewalk improvements, deferred maintenance for City facilities, investment in park facilities, the Champlain Parkway project, and library renovations. She noted that the $5.2 million put toward the last two projects was able to provide local match for $74.5 million in grant funding. She then spoke about the next phase of general obligation bonding, saying that the $20 million ask would cover the FY26 through FY28 timeframe, to continue much-needed capital improvements and investments in multiple critical City assets. She spoke about the City' debt capacity, which has increased due to growth of the grand list and the City's ability to pay down some of its existing debt more quickly. She spoke about what the bond would fund, which would include replacing 74 vehicles in the City's fleet, improvements to the City's existing sidewalks and streets, investment in bridge infrastructure, transportation safety initiatives, catching up on deferred maintenance for the City's central facilities, addressing deferred needs for the City's parks and waterfront, and meeting local match obligations for major projects. She spoke about potential concerns related to affordability, noting that waiting will not help and that prices will continue to increase and deferred maintenance will only be more costly in the future. She spoke about the impact of the bond on tax rates, saying that it would be repaid through a small increase in municipal property taxes starting in FY26. She spoke about next steps, which include public outreach through a Town Hall on January 6, visiting the City's NPAs, and votes by the Board of Finance and City Council in January and a vote on Town Meeting Day by residents.

Mayor Mulvaney-Stanak spoke about another component related to affordability and transparency, which includes beginning to put together a matrix of which capital projects are chosen to pursue with whatever available funding there is, and to also apply an equity lens to this decision-making. Capital Program Director Parker added that staff are working on publishing a GIS map that will show the next five years of the capital plan, to give the public an opportunity to weigh in.

Councilor Bergman asked whether the Winooski River Bike Bridge is included in the projects related to this bond, given serious constituent concerns being raised over its condition. He also asked clarifying questions about the repayment of the bond and its effects on property taxes. He further asked how the City's new capital management software will help ensure that capital assets are tracked and maintained more effectively and efficiently. Director Spencer said the City is monitoring the Winooski Bike Bridge and is in communication with the Winooski Valley Park District about reinforcing the banks upstream. Chief Administrative Officer Schad noted that the slide showing the monthly expected tax increase is showing the maximum the tax bill would increase by, but that it could be less than that. Capital Program Director Parker then spoke about the new capital maintenance software.

Councilor Litwin asked that the City include the Accessibility Committee in its outreach campaign, especially around the schedule of sidewalks being fixed. Chief Administrative Officer Schad agreed, and noted that Capital Program Director Parker now also sits on that committee.

Councilor Neubieser expressed support for transparency and granularity around the spending of taxpayer funds. He said he would like to better understand what is not being prioritized, given that the list of all items is long. He asked what it would get the City if it chose to pursue an $8-$10 million bond instead of a $20 million bond. Chief Administrative Officer Schad clarified that the $8-$10 million per year mentioned in the presentation is what the City needs every year, and the $20 million is the bridge and interim plan before the City seeks a charter change to allow it to obtain a $10 million per year bond without voter approval.

Councilor Barlow asked if this bond would get the City caught back up with its fleet maintenance. Capital Program Director Parker replied that it would get the City back on its regular replacement schedule. Councilor Barlow said that the City in general should consider putting together a matrix of the large number of significant request for borrowing and funding, so that taxpayers and ratepayers can comprehensively begin to see how that will affect them in total.

Councilor Kane asked about the methodology used to track the buildings that are within three years of the end of their useful lives. He expressed support for the traffic calming projects in the queue. He asked if the City is budgeting adequately to meet its goal of replacing three miles of sidewalk per year. Chief Administrative Officer Schad spoke about the work staff does to catalogue the state of the City's buildings within its asset management software, which is used to drive decisions around which buildings need to be invested in. Director Spencer discussed more details around traffic calming, saying that most of the traffic calming measures would be seasonal in nature, given the lack of funds for more than one or two more durable construction projects per year. He added that the $20 million bond will need to be split among all asset classes and acknowledged that with increased construction costs, certain assets will need to be prioritized over others. Capital Program Director Parker added that with the impact fee study recommendations that will be brought to the Council in January, there may be an opportunity to have some funds for transportation projects from that that could ease the burden on General Fund bond money.

Councilor Grant expressed support for the traffic calming measures, which is a big issue for the City. She spoke about the apparatus floor of the Fire Station, noting that there was a temporary repair conducted, and asked if the City is monitoring it. Capital Program Director Parker replied that this is on the list of projects that would be conducted with this bond funding. Councilor Grant said that the Council needs to focus on more progressive property tax structures, given these large items that need funding and will impact residents.

City Council President Traverse said that as the City moves toward Town Meeting Day, there are four items in his mind that have significant costs associated with them for voters to think about. These include this $20 million general obligation bond, the water revenue bond, any education tax increases that will affect Burlington taxpayers, and a potential $8-$12 million budget gap in the City's General Fund. He noted that there will need to be some form of revenue increase to meet that gap, or there will need to be very significant savings realized somewhere.

4. MAYOR – GENERAL CITY AFFAIRS (TO INCLUDE CLIMATE AND PUBLIC HEALTH & SAFETY EMERGENCY UPDATES)

4.1 Verbal Reports

Mayor Mulvaney-Stanak began by speaking about a trip to Boston she took to meet with Mayor Wu and her chief of staff to discuss community safety and how they have been approaching that issue. She also spoke about a leadership initiative she is participating in with other mayors across the country, one topic of which is public safety. She said that the session was helpful in terms of insight on recruiting for chief of police positions and resolving issues related to police recruitment in general. She then spoke about regional efforts around retail theft, including engaging the county sheriff's department and the State's Attorney's Office. She noted that January 9th, 2025 is the next community safety meeting. She spoke about how the investment in downtown safety resources for the holiday season has been successful, and that the City was able to secure $30,000 in private donations to help with this effort. She then spoke about a work session the Council will be having in January on the topic of a new public safety building. She then spoke about the appointment of Christian Barry as the new interim director of the Racial Equity, Inclusion, and Belonging Office. She spoke about Ms. Barry's prior work at the Health Department related to health equity. She also spoke about hiring of an

Overdose Prevention Center implementation specialist, Theresa Vazina, who has deep expertise in harm reduction. She further noted that the City will be holding a January 6th Town Hall related to the finance items anticipated to be placed on the ballot for Town Meeting Day in March. She then spoke about work staff will be commencing with the City Assessor's Office to look at the municipal side of the tax structure for ways to achieve increased affordability and income sensitivity.

5. CITY COUNCIL – GENERAL CITY AFFAIRS (TO INCLUDE CLIMATE AND PUBLIC HEALTH & SAFETY EMERGENCY UPDATES)

5.1 Verbal Reports
City Council President Traverse began by noting that the Governor has appointed City Councilor Tim Doherty to serve on the Superior Court bench, and he congratulated former Councilor Doherty for this achievement and thanked him for his service.

Councilor Neubieser spoke about the formation of the tax fairness working group that the Mayor referenced, saying that this work is tantamount to ensuring that Burlington can be affordable to live in.

Councilor Grant began by thanking the Mayor for her creative thinking on a retail task force to tackle retail theft in Burlington and other regional municipalities. She said that coordinating efforts and bundling cases can potentially make a real difference in taking some of these individuals off the street. She spoke about her deep dive into the BPOA internal survey and encouraged others to review it as well, adding that she plans to bring this as a topic to the next Public Safety Committee meeting.

Councilor Shannon spoke about the loss of Lieutenant Nguyen last week, and asked what the City could do to retain officers like this. She shared a letter Lt. Nguyen wrote reflecting on his experience working at the Burlington Police Department for the last two decades, saying that the department is much farther ahead than others in the country for its community policing initiatives but that there are so few officers now that they cannot perform community policing when they are busy taking emergency calls.

Councilor Litwin congratulated the Burlington Fire Department for being highlighted by a national organization for its innovative prevention initiative.

6. CONSENT AGENDA

6.1 Motion to adopt the consent agenda (as amended) and take the actions indicated
6.2 Accountability List – C/T – waive the reading, accept the communication, and place it on file.
6.3 Communication: Erhard Mahnke, re: Recommended addition to City Legislative Priorities – waive the reading and place the communication on file.
6.4 Communication: Dr. Emma Wall Kouri, PhD, re: A plea for healing: an open letter to Burlington City Council – waive the reading and place the communication on file.
6.5 Communication: County Assistant Judges, re: Pre-Budget Meeting – waive the reading and place the communication on file.
6.6 Communication: Timothy C. Doherty, Jr., re: Resignation from the Burlington City Council – waive the reading, accept the communication, and place it on file.
6.7 Shelburne Street and Home Ave Preferred Alternative Approval – DPW – approve the Shelburne Street and Home Avenue Intersection Scoping Study Project Advisory Committee's selection of Alternative 2A to implement an exclusive pedestrian phase at this intersection and to make the additional short-and medium-term improvements described in the report.
6.8 Wastewater Plant Operator Reclassification Grievance Agreement – DPW - approve the attached "Memorandum of Agreement Between AFCSME Local #1343 and the City of Burlington Re: Grievance Regarding Main Plant Wastewater Operators and Retroactive Pay" authoring the pay of $17,750 in total wages to identified, eligible employees presently holding the positions of Wastewater Operator II and Senior Wastewater Operator and employed with the City as of May 5, 2023, and further authorize the Director of Public Works to execute said agreement on behalf of the City.
6.9 Authorization to Accept Grant Funds from the Patrick Leahy Lake Champlain Basin program and acquire the 0 North Avenue property – BPRW - **now agenda item 7.15**

6.10 Proceeding with $20M Capital Bond Request for TMD 2025 and Delaying Capital-Related Charter Change until TMD 2026 – CAO – waive the reading, accept the communication and place it on file.
6.11 Reassignment of lease for kiosk at the corner of Church St. & College St. – BWD - authorize the Mayor to execute a lease agreement with a term concluding on July 31, 2026 with Taste of France, LLC, for food and beverage operations in the College Street Kiosk, subject to final review and approval by the City Attorney's Office.
6.12 Local Health Office Annual Report: 2024 - waive the reading and place the communication on file.
6.13 Communication: JJ Redington, re: Tony Redington Roundabout Dedication – waive the reading and place the communication on file.
6.14 March 4, 2025 Annual City Election Calendar – C/T – waive the reading, accept the communication and place it on file.
6.15 Revised: Regular Schedule of Meetings of the Board of Finance and City Council through April 2025 – C/T and CC President - waive the reading, accept the communication, place it on file, and approve the dates as listed.
6.16 October 7, 2024 Regular City Council Meeting Minutes, Draft – C/T - waive the reading, accept the communication, place it on file, and adopt the minutes at the December 16, 2024 Regular City Council Meeting.
6.17 October 7, 2024 Board of Civil Authority Meeting Minutes, Draft – C/T - waive the reading, accept the communication, place it on file, and adopt the minutes at the December 16, 2024 Regular City Council Meeting.
6.18 October 28, 2024 Regular City Council Meeting Minutes, Draft – C/T - waive the reading, accept the communication, place it on file, and adopt the minutes at the December 16, 2024 Regular City Council Meeting.
6.19 October 28, 2024 Local Control Commission meeting Minutes, Draft – C/T - waive the reading, accept the communication, place it on file, and adopt the minutes at the December 16, 2024 Regular City Council Meeting.
6.20 November 12, 2024 Regular City Council Meeting Minutes, Draft – C/T - waive the reading, accept the communication, place it on file, and adopt the minutes at the December 16, 2024 Regular City Council Meeting.
6.21 November 12, 2024 Local Control Commission Meeting Minutes, Draft – C/T - waive the reading, accept the communication, place it on file, and adopt the minutes at the December 16, 2024 Regular City Council Meeting.
6.22 November 18, 2024 Regular City Council Meeting Minutes, Draft – C/T - waive the reading, accept the communication, place it on file, and adopt the minutes at the December 16, 2024 Regular City Council Meeting.
6.23 November 18, 2024 Board of Civil Authority Meeting Minutes, Draft – C/T - waive the reading, accept the communication, place it on file, and adopt the minutes at the December 16, 2024 Regular City Council Meeting.
6.24 November 18, 2024 Local Control Commission Meeting Minutes, Draft – C/T - waive the reading, accept the communication, place it on file, and adopt the minutes at the December 16, 2024 Regular City Council Meeting.
6.25 November 18, 2024 Local Cannabis Control Commission Meeting Minutes, Draft – C/T – waive the reading, accept the communication, place it on file, and adopt the minutes at the December 16, 2024 Regular City Council Meeting.
6.26 FIO Documents – for information only.

MOTION by Councilor Bergman, SECOND by Councilor Shannon, to approve the consent agenda as amended (removing item 6.9 and placing it on the deliberative agenda as item 7.15) and take the actions indicated for items 6.1-6.26.

VOTING: unanimous; motion carries.

7. DELIBERATIVE AGENDA

7.1 Resolution: Honoring Barbara Nolfi

MOTION by Councilor Bergman, SECOND by Councilor Grant, to adopt the resolution, which he read into the record:

"That WHEREAS, Barbara Nolfi, who served our city as a Progressive Ward 3 city councilor for eight years and a Parks and Recreation commissioner for 12 years, died this past fall at the age of 82 after living a full and meaningful life of love and service; and WHEREAS, for all of her adult life Barbara was a dedicated advocate for women's rights, healthcare and community well-being for all, with a focus on the value of collective living—even in the face of all of the challenges that entails; and WHEREAS, Barbara was a builder of community, especially as a founder of and active participant in many organizations that have helped thousands of people in northwestern Vermont: City Market/Onion River Food Co-op, the Community Health Centers of Burlington, the Burlington Women's Health Center, the Burlington Cohousing East Village, and the Charlotte Family Health Center; and WHEREAS, Barbara's commitment to women's health was reflected in her being a trained home birth midwife and a physician's assistant, assisting with the birth of over 100 children over a seven year period, and also serving as a nurse on the pediatrics ward of the Mary Fletcher Hospital (now part of UVMMC) and a traveling physician's assistant for Planned Parenthood of Vermont in addition to her work at the Charlotte Family Health Center and the People's Free Clinic (Burlington), the precursor to the Community Health Centers of Burlington; and WHEREAS, Barbara's lifelong commitment to collective living and community building was embodied and bookended by two acts of creation: 1. Her participation in the 1970 formation of a commune in Franklin, VT, part of the Free Vermont collective of communes in 1970s that helped create the Vermont we know today; and 2. Her participation 20 years later in 1990 in the Cohousing movement when she and others began the work to create the Burlington Cohousing East Village, which opened in 2007 and where she lived until the end of her life; and WHEREAS, Barbara's life also reflected a deep connection to nature as she swam, camped, and hiked, appreciating the birds and fish of Vermont's forests and lakes and always looking toward the moon; NOW, THEREFORE, BE IT RESOLVED that the City of Burlington recognizes and celebrates Barbara Nolfi's lifelong contributions and her dedication to this city and in improving the lives of countless residents, leaving a profound legacy that will live on for her family, our community, and beyond for years to come."
<u>DISCUSSION:</u>

- **Councilor Bergman, Mayor Mulvaney-Stanak, Councilor Neubieser, and Councilor Litwin spoke about the breadth of contributions that Ms. Nolfi made to the City.**

VOTING: unanimous; motion carries.

7.15 Authorization to Accept Grant Funds from the Patrick Leahy Lake Champlain Basin program and acquire the 0 North Avenue property – BPRW
Councilor Barlow said he is supportive of this resolution and acquisition but said that given some of the public comment heard tonight during public forum, he asked for more information about plans for the property and if staff could address some of the concerns raised by neighbors.

Director Wight said this is land the City has been looking to acquire for a number of years. She noted that the grant that would go along with this acquisition needs to be spent within 3.5 years, and that the City would like to spend the first several years getting to know the land to properly conduct the stewardship it needs. This includes an ecological survey and feasibility survey. She noted that the parcel holds one of Vermont's first Class I wetlands, which is also unique to have in a City. She said that if the space allows for it (given the required wetland buffer zone), one idea for the parcel is an accessible boardwalk to allow people to see the wetland through very controlled access. She reiterated that the City wouldn't be rushing into doing anything, and would like to solicit community input.

Councilor Litwin said that part of the ongoing conversation around this parcel needs to also be to ensure that park rangers are able to devote time to patrolling that park, though he acknowledged that some of the unsavory activity such as parties and beach fires has decreased since the installation of the fence.

MOTION by Councilor Barlow, SECOND by Councilor Shannon, to approve and authorize: 1. Acceptance of $1,228,592 in grant funds from Patrick Leahy Lake Champlain Basin Program in furtherance of acquisition, improvement, and maintenance of certain property located at 0 North Avenue; and 2. Execution of a grant agreement and all documents necessary to accept the funding by the Director of Parks, Recreation, and Waterfront,

subject to the final review and approval of the City Attorney's Office and Chief Administrative Officer; and 3. Acquisition of the 0 North Ave property for a cost not to exceed $80,000, with the understanding that the land will be conserved in perpetuity, including mayoral execution of a purchase and sale agreement and any other documents necessary to affect the transaction, subject to final review and approval of the City Attorney's Office.

VOTING: unanimous; motion carries.

7.2 Resolution: Authorization For $18,330,720 Amended Step III Loan From Vermont Clean Waster State Revolving Loan Fund And For Construction Contract With PC Construction For Up To $15,540,800 For Headworks Improvements (Stage 0) At The City's Three Wastewater Plants – DPW/Water Resources
Director Spencer began by noting that this item seeks an amendment to a previously-approved State Revolving Fund loan and authorization to execute a construction contract for a project to complete headwork improvements at the City's wastewater plants.

Engineering Manager Lee began by noting that Public Works initially received approval for this loan in June 2024 at a total of approximately $12.8 million, given that the original construction cost estimate was $10.3 million. He said that the only bid that came in for this work had a total construction cost estimate of $15.7 million, which is $5.4 million higher than what was originally estimated. He said that due to this, they are seeking to increase the authorized loan amount to $18.3 million. He said that they are additionally seeking authorization to execute a contract with PC Construction, the sole bidder, and a local and qualified company.

He then spoke about how this project would fit into other larger projects that are associated with the potential water bond, noting that this is a Phase 0 for that work. He said that the headworks conducts screening and grit removal at the wastewater treatment plants and is the first layer of wastewater treatment in the process. He noted that the current system is past the end of its useful life at all 3 plants, and requires frequent repairs. He noted that the City currently still has 2018 water resiliency plan bond funding to complete this work. Director Spencer added that the City attempted to solicit additional bids for this project by extending the deadline and removing the requirement for a mandatory site visit, but that no additional bids were received.

MOTION by Councilor Barlow, SECOND by Councilor Litwin, to waive the reading and adopt the attached resolution authorizing a Step III $18,330,720.00 amended loan from the Vermont Clean Water State Revolving Fund and a $14,128,000.00 contract with PC Construction with authorization for contingency funding of an additional $1,412,800.00 for the construction of these improvements for the Stage 0 upgrade of the City's three wastewater treatment plants as more specifically set forth in the attached resolution.

VOTING: unanimous; motion carries.

7.3 BED U.S. Department of Transportation Charging & Fueling Infrastructure Grant – BED
General Manager Springer began by noting that this is for a federal grant of $4.89 million with a 20% net match from Burlington Electric Department, which will be funded through BED's revenue bonds. He said that this grant will allow the City to increase its Level 2 electric vehicle chargers by 153 units and would also add 47 more fast chargers to the City. He said that BED is working to execute an agreement and obligate funds before the Administration transition at the federal level, and that they are targeting doing so in late December or early January.

BED Chief Financial Officer Stebbins-Wheelock provided an overview of the City current public EV charging infrastructure and charger locations. She noted that there are 23 Level 2 charging stations with 39 ports owned by BED, and 13 Level 2 charging stations with 28 ports that are privately owned, all located throughout the City. She noted that the City had not previously had a long-term strategy for where it would locate chargers, but has installed them where feasible as the opportunity has arisen.

Councilor Litwin asked if the grant is flexible enough to allow the City to place chargers where it wants to incentivize people to visit, such as Church Street, and whether it could also provide things like discounts on EV charging if someone were to donate to the food shelf, for example. General Manager Springer replied that they are pursuing having banks of chargers downtown in different locations to support people coming and supporting downtown businesses. He said that they cannot adjust the rate, but said that they could potentially subsidize the parking for the charging stations. Councilor Litwin spoke about siting some of these chargers in the Old North End, to encourage more traffic to those businesses.

Councilor Neubieser spoke about the health and environmental benefits of having these chargers available downtown. He expressed support and gratitude for the work BED is doing to install pole-mounted chargers to make those available for renters.

Councilor Grant said it will be good to locate chargers in other areas of the City than downtown, to make sure that people spend time in those areas as well.

MOTION by Councilor Barlow, SECOND by Councilor Neubieser, to approve and authorize the BED General Manager or their designee, subject to final review and approval by the City Attorney's Office, to accept and execute the grant agreement for a U.S. Department of Transportation Federal Highway Administration Charging & Fueling Infrastructure award.

VOTING: unanimous; motion carries.

7.4 Ordinance: Energy Benchmarking Of Space Heating In Certain Commercial Properties BCO Chapter 8, Art. VII (TEUC)
Councilor Barlow noted that this item is being proposed as part of the effort to collect data on energy utilization to better inform future policies related to building emissions reduction ordinances. Her said that due to some of the UVM campus being unmetered, there have been amendments offered to make an accommodation during this data collection effort with an eye toward alternative assessment strategies and compliance measures.

MOTION by Councilor Barlow, SECOND by Councilor Bergman, to postpone action on this item until the City Council's December 16, 2024 meeting to give additional time for feedback and future adjustment.
<u>DISCUSSION:</u>

- **Councilor Bergman spoke about the importance of benchmarking, and that these adjustments for UVM will allow for the most accurate information in data collection efforts. He said that these amendments will allow the process to move forward.**
- **Councilor Broderick expressed support for the amendments and the ordinance and ensuring that all building types are covered by the ordinance.**

VOTING: unanimous; motion carries.

7.5 BFD Staffing Study Recommendations – Fire
Mayor Mulvaney-Stanak noted that this particular study has helped the City understand its Fire Department efficiencies and core service work, as well as places where a better future approach could be used to keep the City safe as it grows and develops. She also noted several minor elements in the report that don't necessarily align with the City's and the Administration's values, particularly around the unhoused and substance use disorder, but she emphasized that these were minor.

Chief LaChance began by noting that this study came out of the negotiations for the last BFFA contract, and was the result of the observed high cost of overtime and retention challenges. He said that an MOU between the City and BFFA was created to study proper staffing levels at the Fire Department. He noted that after a procurement process, Mission CIT was selected to conduct the study, which it did from July through November of 2023 by reviewing department data and engaging with line personnel, command staff members, the Fire Commission, and City staff.

Chief LaChance presented the study result and recommendations with the City Council. He began by noting that the Fire Department is the only City department with minimum staffing requirements and that it must have 22 people on staff every day between 5 fire stations. He said that this leaves 2-3 people staffing suppression units and 2 people staffing ambulances. He noted that it takes 22 weeks to onboard new employees with limited fire service experience, and that the department has 1 administrative assistant. He noted that NFPA 1710 standards recommend 4-person staffing for each suppression unit, which leads to more fireground efficiency and enhanced safety. He said that Burlington's interim goal is to staff all apparatus with 3 personnel. He said that this would require an extra 3 people per shift, but that it would reduce overtime dependency from 6 to 3 staff and that the Fire Department would apply for a grant to offset the initial costs of staffing increases for FY26. He spoke about other recommendations from the study, including lateral hiring (which the Fire Department has already implemented), improving recruitment, ,seeking alternative funding such as grant funding, and priority dispatching. He spoke about the budgetary considerations around these recommendations, noting that the cost of inaction would be continued high overtime expenses and increased risk of staff burnout and injury, that investments are needed to implement these recommendations, that there would be long-term savings realized if these recommendations were implemented, and that the Fire Department continues to work to seek grant funding to offset burden on the City's General Fund. He also spoke about infrastructure upgrades that could also help with morale and recruitment/retention efforts, including station modernization efforts through a potential new public safety facility, apparatus replacement on regular cycles, regular equipment updates, and technology integration efforts for improved operational efficiency. He spoke about next steps and asks for the City Council, which include supporting budget allocations for phased staffing increases, training, and equipment, supporting grant applications, reviewing progress on these goals through quarterly updates, and pledging the City's support for Burlington's Fire and EMS services.

Councilor Neubieser thanked the Fire Department for its work to coordinate efforts across public safety programs in the City and playing an integral role in the City's public safety systems.

Councilor Grant echoed Councilor Neubieser's sentiments, and also thanked the Fire Department for its frequent and open communications with the City Council, and that she looks forward to hearing about the successes in the lateral transfer program.

Councilor Litwin said that he has noticed that large developments such as Cambrian Rise have advanced fire suppression systems that communicate directly with the Fire Department dispatch, resulting in them absorbing more resources from the Fire Department. He noted that the Fire Department responds to an incident at Cambrian Rise at least three times per week. He asked whether it would be possible to look at these resource-intensive buildings and determine whether the Fire Department could make improvements or efficiencies in how it responds to them. Chief LaChance noted that the Fire Department has changed its response models significantly during his tenure, by rating almost every large building in the City and determining its risk level and use, and has tailored response protocols to be more efficient and less-resource intensive. He said that where more work can be done is on the medical dispatch side, where dispatch would triage a patient over the phone and be able to initiate the most appropriate response. He said that this has already been done with overdose responses, where they send single-unit responses to overdose calls. He said that this will only improve as the Department improves its computer-aided dispatch system.

Councilor Carpenter thanked the Fire Department for their efforts to tailor responses more appropriately to individual situations.

7.6 Ordinance: Ordinance Amending B.C.O Sec. 1-9 & Sec. 21-29 Re: Defacement of property and ordinance violations targeting individuals on the bases of protected classifications (Ordinance Committee)

MOTION by Councilor Shannon, SECOND by Councilor Bergman, to waive the second reading, adopt the ordinance, and place it in all stages of passage.
<u>DISCUSSION:</u>

- **Councilor Shannon spoke about the proposed changes, noting that they are in the general provisions section of the code of ordinances and the graffiti and defacement of personal property section of the code of ordinances. She said that in the general provisions, it is further clarified that the defacement of public property is a public nuisance, and that there is newly-created a private right of action provision, which**

would allow individuals to sue to collect actual damages. She noted that both of these would now apply to all ordinances. She said there are also amendments in the graffiti and defacement of public property section of the code of ordinances specifically, allowing for the establishment of a new electronic reporting system specific to the defacement of property. She noted that the Ordinance Committee received a communication from the ACLU expressing concerns with what the City is trying to do, mainly that these changes are motivated by content of speech and that there are concerns about retaliation and selective enforcement. Further, the ACLU noted that the First Amendment has enhanced penalties for hate crimes, but that hate speech is protected. Additionally, the ACLU said that the City has the authority to define public nuisance but that it requires interference with a public right, such as air, water, and public rights-of-way. She further noted that the City received a letter from the Cornell Law School expressing similar concerns, saying that the City does not have the authority to open up private rights of action, which opens the City up to a lawsuit against an unconstitutional ordinance amendment and that it is overly broad and vague. She noted that the City Attorney is confident that the City can defend this proposal, but that she would like to make an amendment, given these concerns.

MOTION TO AMEND by Councilor Shannon, SECOND by Councilor Barlow, to remove the private right of action language and to request that the Ordinance Committee, in collaboration with the City Attorney's Office, confer with interested parties of their choosing, at least including the American Civil Liberties Union, to report back to the City Council with further policy or legislative recommendations on addressing hate speech.

<u>DISCUSSION ON AMENDMENT:</u>

- **Councilor Shannon expressed concern about the feedback that the private right of action would open the City up to lawsuits, and said that there could be other ways the City could accommodate the goal it's trying to accomplish without attracting lawsuits. She agrees with the ACLU's concern that this amendment pits residents against residents based on perception and risks weaponizing public ordinances into instruments of private conflict wielded against the most vulnerable in the community.**
- **Councilor Bergman said that because these are legal arguments, he does not believe that fear of a lawsuit is at the core of this proposed amendment.**
- **Assistant City Attorney Ramakrishnan noted that the right of action essentially already exists in the charter in language stating that any member of the public who is damaged by an ordinance violation can bring a private right of action, but that this would also put that into the code of ordinances. He said that this language also imputes a damage in a certain set of circumstances (in this case, speech that is intended to intimidate or harass someone on the basis of a protected classification). He said the City Attorney's Office believes that this is defensible because when an individual does something that is already illegal, there can be heightened penalties for that if it is then also against a protected class—individuals are not allowed to break the law (in this case, by defacing public property) in order to engage in expressive conduct.**
- **Councilor Bergman said based on this analysis, he does not think this amendment is appropriate, given that there are already rights in the charter that give residents the ability to address violations of the code by a means of private right of action. He said that this is allowed for the noise ordinance already. He said this is a good way for people to be able to address issues with their neighbors in a civilized way. He urged the Council to reject this amendment.**
- **Councilor Grant said that the private right of action offers a recourse for people who are being threatened or discriminated against and that the City could likely defend this, and she doesn't support this amendment.**
- **Mayor Mulvaney-Stanak spoke about her concerns with this amendment, namely that it doesn't move toward making the community safer, given that the City itself is under-resourced in its ability to enforce and the private right of action would be another tool for individuals to use to seek justice when their safety is violated. She also said that the City has a decision to make to ensure that it is**

allocating its resources and time as policymakers in the right direction for the good of the entire community.

- **Councilor Carpenter said that she would likely support the private right of action provision if the City learns that it is the only tool that it has to solve the problems its facing, but would like the chance to learn from other communities and what has worked for them.**
- **Councilor Barlow said he does not view this as taking tools off the table, but asking the City Attorney's Office to look for different tools and allowing more time for research. He expressed concern that individuals would use the private right of action in ways it is not intended to be used.**
- **Councilor Neubieser said that it is not the City Council's job to litigate the questions around misuse of the private right of action, but the court system's job. He said he trusts the courts and individuals to be reasonable and not use the private right of action provision frivolously.**
- **Councilor McKnight said it is important to her to have more tools to combat hate, and pointed out that this amendment still would move forward one tool, which is a new electronic reporting tool for defacement and graffiti. She said that the broadness of the original language is what is causing her discomfort, and would like the private right of action to apply to specifically the graffiti portion of the ordinance.**
- **Councilor Litwin said he would also like to see what other avenues can be explored, and asked whether a group can be convened to solely focus on hate speech and mitigating the City's risk for unnecessary litigation. He said he is not interested in using the City's resources to engage in complex litigation, and spoke about his fiduciary duty to the City's constituents and ratepayers.**

Absent objection, City Council President Traverse divided the question to hold a vote on the amendment and then hold a vote on the referral action.

VOTING ON AMENDMENT (by roll call): Councilor Barlow – aye, Councilor Bergman – nay, Councilor Broderick – nay, Councilor Carpenter – aye, Councilor Grant – nay, Councilor Kane – nay, Councilor Litwin – aye, Councilor McKnight – aye, Councilor Neubieser – nay, Councilor Shannon – aye, City Council President Traverse – aye (6 ayes, 5 nays); motion carries.

VOTING ON REFERRAL (by roll call): Councilor Barlow – aye, Councilor Bergman – aye, Councilor Broderick – aye, Councilor Carpenter – aye, Councilor Grant – nay, Councilor Kane – aye, Councilor Litwin – aye, Councilor McKnight – aye, Councilor Neubieser – aye, Councilor Shannon – aye, City Council President Traverse – aye (10 ayes, 1 nay); motion carries.

<u>DISCUSSION ON UNDERLYING MOTION (AS AMENDED):</u>

- **Councilor Bergman said this amended ordinance amendment is performative and does not do much to make progress on the issue, though he will reluctantly support it.**
- **Councilor Litwin said this amended ordinance amendment is prudent and gives the City the time to do more diligence without opening it up to expensive lawsuits.**
- **Councilor Carpenter said that she is not concerned about being sued if the ordinance is defensible and is the right thing to do. She said she would like more public conversation about this.**
- **Councilor Grant agreed with Councilor Bergman that this amended ordinance amendment is performative, and that the City Attorney's Office has already weighed in on the defensible nature of the (now removed) amendment language. She said that the diversification of the City has come with a number of issues, and that the urgency around these issues isn't recognized by the people in the City who aren't different.**
- **Councilor Neubieser said that the Council as elected officials have a responsibility to be clear about its actions and to now allow extreme hyperbole and fear-mongering to steer the conversation.**

- **Councilor McKnight noted that graffiti is already illegal in Burlington and that while she supports enhancements for hateful graffiti, there are tools the City can already be using and it is choosing not to use them.**

VOTING ON ORDINANCE AMENDMENTS AS AMENDED (by roll call): Councilor Barlow – aye, Councilor Bergman – aye, Councilor Broderick – aye, Councilor Carpenter – aye, Councilor Grant – nay, Councilor Kane – aye, Councilor Litwin – aye, Councilor McKnight – aye, Councilor Neubieser – aye, Councilor Shannon – aye, City Council President Traverse – aye (10 ayes, 1 nay); motion carries.

8. COMMITTEE REPORTS

8.1. Verbal reports
Councilor Barlow said the Transportation, Energy, and Utilities Committee (TEUC) will be meeting on December 17 at 4:00 at 645 Pine Street.

Councilor Grant said the Racial Equity, Inclusion, and Belonging Committee (REIB) will be meeting on December 17 and the Public Safety Committee will be meeting on December 19.

9. CITY COUNCIL PRESIDENT – COUNCIL UPDATES

9.1. Verbal reports
None.

10. ADJOURNMENT

10.1 Motion to Adjourn

The meeting adjourned without objection at 10:27 PM.

RScty: AACoonradt