



**Monday, March 17, 2025, 2:30 PM, HR Conference Room, 200 Church St., Burlington, VT**

**2:30 pm, HR Conference Room, 200 Church St., Burlington, VT OR Remotely via ZOOM:**

**Please click the link below to join the webinar:**

**Zoom Link: <https://zoom.us/j/94820907375?pwd=ZWdzWk5KTGp5K29vZ1dEd2dLaU9jQT09>**

**Meeting ID: 948 2090 7375**

**Passcode: 616429**

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## **1. Approve Minutes**

<b>Subject</b>	<b>1.1. Approve minutes from 02.03.25 Meeting</b>
Meeting	March 17, 2025 - HRPC 03/17/2025 - Monday, March 17, 2025, 2:30 PM, HR Conference Room, 200 Church St., Burlington, VT
Category	1. Approve Minutes
Department	Human Resources
Type	
Recommended Action	

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## **2. Adopt Agenda**

<b>Subject</b>	<b>2.1. Adopt Meeting Agenda</b>
Meeting	March 17, 2025 - HRPC 03/17/2025 - Monday, March 17, 2025, 2:30 PM, HR Conference Room, 200 Church St., Burlington, VT
Category	2. Adopt Agenda
Department	Human Resources
Type	

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## **3. Public Forum**

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## **4. Policy Review**

<b>Subject</b>	<b>4.1. Discuss / approve new policies to be added to the City of Burlington's Comprehensive Personnel Policy Manual</b>
Meeting	March 17, 2025 - HRPC 03/17/2025 - Monday, March 17, 2025, 2:30 PM, HR Conference Room, 200 Church St., Burlington, VT
Category	4. Policy Review
Department	Human Resources

Type

Recommended Action

## 5. Other Committee Business

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## 6. Adjournment

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<b>Subject</b>	<b>6.1. Motion to adjourn</b>
Meeting	March 17, 2025 - HRPC 03/17/2025 - Monday, March 17, 2025, 2:30 PM, HR Conference Room, 200 Church St., Burlington, VT
Category	6. Adjournment
Department	Council and Board

Type

Recommended Action

## 7. Informational and Non-Discrimination Statements

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The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities and employment opportunities. The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements, auxiliary aid, service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Burlington, should contact the office of the Title II Burlington ADA Coordinator at 802-865-7000 as soon as possible but no later than 48 hours before the scheduled event.



## Human Resources Policy Committee Meeting

Monday, Feb. 3, 2025, 2:00 PM, HR Conference Room, 200 Church St., Burlington, VT

2 pm, HR Conference Room, 200 Church St., Burlington, VT OR Remotely via

ZOOM: Please click the link below to join the webinar:

Zoom Link: <https://zoom.us/j/94820907375?pwd=ZWdzWk5KTGp5K29vZ1dEd2dLaU9jQT09>

Meeting ID: 948 2090 7375

Passcode: 616429

Present:

Councilor Sarah Carpenter, Chair (SC)

Councilor Marek Broderick (MB)

Councilor Evan Litwin (EL)

Other in Attendance:

Lynn Reagan, HR Acting Director (LR)

Erin Jacobsen, Chief of Staff (EJ)

Meaghan Diffenderfer, HR Administrative Coordinator

Meeting called to order, 2:07 pm by Chair Carter

### 1. Adopt Agenda

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MB moves to adopt the agenda without the tentative executive session

EL seconds

All in favor, motion so moved and adopted

### 2. Approve Minutes

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MB moves to approve the minutes from the 12/2/24 meeting as written

EL Seconds

All in favor, motion so moved and approved

### 3. Public Forum

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None.

### 4. Policy Review

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**Subject**

#### 4.1. Burlington Police Department Press Releases

SC invited Chief of Staff Jacobsen to provide an update on the police department press policy. Included in the agenda packet were two policies: the PPM policy that requires all department heads or designees to confirm with the Mayor's office on press releases, and Departmental Directive 30 (DD30)– a Departmental Directive for the Police Department with detail on BPD should handle its own communications. Additionally there was a copy of the executive order by the mayor on 1/8/25 clarifying those policies. The Chair invited Erin to let us know if there are any updates.

EJ shared the mayor's office has asked BPD to take up the review of DD 30 and to suggest any updates they would like to see made by the end of the month, in order to provide the changes jointly to the Police Commission at their next meeting. The Mayor's Office has also asked that in doing the review, the BPD consider policies of other VT jurisdictions (cities, VT State Police, and International Association of Chiefs of Police, other trade institutions, etc) to take into consideration other policies and past practices. It is then up to the commission to vote on that new directive. While it is not anticipated that Personnel Policy Manual (PPM) will need to be updated, the Mayor's Office will review if the city wide policy will need to be revised. Since the office has been reviewing the press releases issued by BPD, they have provided very few edits, but have asked some informative questions and made light edits. The floor was then opened for committee member questions.

SC asks if any edits are made to DD 30, will that have to come forward to the Council, and if so, would it come forward to this committee prior to the larger council?

EJ clarifies that this falls under BPD and the Police Commission. Edits will be made by those groups and then brought forward to the full Council, not this committee. If there are any impacted changes made to the PPM, those changes would then come forward to HRPC.

SC asks if the communication policies are on the City webpage.

EJ directs to Joe Magee, Director of Communications for the Mayor's Office. She sees no reason why the policies could not be on the website, and there have been no issues with the PPM policy with any personnel or media. Large changes to the DD and PPM are not anticipated.

EL asks if the PPM needs to be revisited to clarify police communications or emergency communication.

SC clarifies her understanding that DD 30 is the clarification since there are so many different layers of communications that come from BPD.

EL asks for clarification on the process of emergency communications (ex - when the public is at risk, like a shooter at large.)

EJ provides clarification on the difference between an emergency communication and a press release. The current practice is time sensitive emergency communications are sent out immediately. If there is a short time frame for emergency communication or press release for review, that turnaround timeline is shared by BPD staff when sent to the Mayor's office for review. It has been a non-issue thus far.

Councilors discuss and point out that clarification to the public on the difference between a press release and emergency communication may be helpful. EJ agrees this is one of the most helpful things councilors can do in regards to this policy.

EL references a Seven Days article where the State Attorney advised that the press releases may violate a "gag order." Councilor Litwin asks if the City is reflecting on the guidelines set forth by the judge and Attorney's Office for DD30.

EJ Agrees and reflects that a lot of the material within DD30 is to be sure that communications coming from DD30 aren't violating any constitutional rights. The Mayor's Office does want to be sure that those guidelines are encapsulated in the policy.

EL asks for clarification that the turn around time set forth by BPD has not been an issue.

EJ shares that the longest time a release was not attended to by their office was by a few hours. It was still reviewed before the press deadline. Reviewing the press releases is split between several members of the Mayor's Office, and no one has reported it being a cumbersome process.

EL asks if there is a template document to follow regarding what can and cannot be presented in a press release.

EJ does not have one at this time, but Ingrid Jonas (Senior Advisor on Public Safety) has been looking into it, as the Mayor's Office has also identified it as a useful tool to have.

EL asks for an expansion on what clarifying questions or modifying information the Mayor's Office has asked when reviewing press releases.

EJ states any changes have been far and few between and very minor. The most recent one was that part of the press release included court release conditions for a drug related arrest. The Mayor's Office has asked clarifying questions around what involves an incident with the police (which can include wellness checks, if the person is a witness, etc.), and they are trying to differentiate instances of interaction versus actual arrests. The end goal is for the policy to be efficient for BPD as well. There are also some tech tools that can be utilized to help generate the press releases.

EJ leaves the meeting at 2:41 pm.

**Subject**

**4.2. Review newly created ADA Interactive Process policy**

LR provides an update on the ADA Interactive Process policy. This policy is cementing the practice that has been in place by the department for years. In partnership with the City Attorney's office, the HR office is creating a clear outline of how ADA requests are being handled. This policy can then be referenced for any public requests or for future use by the HR Department in the case of staff turnover. The policy is for employees who made need accommodation to function in their role. Accommodations may be minor (different keyboard/desk) or larger (private workspace, allowance of a service animal). The HR office maintains confidentiality to every extent they can, but in some cases, need to inform the manager(s). This process is initiated by the employee, and may require sharing medical information or working with a healthcare professional to come up with an appropriate accommodation. The HR Office will then review the accommodation ask to determine if it is reasonable to fulfil. At SCs recommendation, it will be brought forward to the accessibility committee. The next steps for this policy are to be sent to all staff to have 15 days to review before it goes into effect.

EL asks if there is an appeal process.

LR will have to check to see if that would fall under grievance rights. There have not been incidents of appeal. These decisions are not opinion based, but employment law. Determination of a reasonable request is often around hardship on the City (monetarily or the impact on the employee to do their job in full). If an accommodation requires a financial contribution by the city on behalf of the employee, that's when that factor comes into play. If we can keep the individual working, that's what we want to do. We have, for instance, purchased a new monitor. If a request costs thousands of dollars, that's when deeper evaluation may come into play.

SC asks if there is an external appeal process, and if so, if both internal and external appeal processes should be laid out.

LR confirms she will look into it. The appeal could come to HRPC but it would have to be in executive session and in a format that doesn't violate HIPPA.

Councilors ask further clarifying questions around the potential grievance process. SC asks how claims of discrimination are handles.

LR outlines the process: an internal investigation, or external as needed based on what employees are involved in the claim.

## **5. Department Head 360 Evaluation Update**

LR provides updated on the Department Head 360 Evaluation process. There have been some slight changes since the Committee last met. As this is the first time a Mayor has elected to roll out evaluations in this format, there will not be any outside evaluators (including City Councilors and Commission members). It will be strictly a self-evaluation, two peer departments heads, Chief of Staff and Deputy Chief of Staff, and direct reports. The evaluation survey launched on January 31<sup>st</sup> and respondents will have two (2) weeks to complete. All data will go to a member of the HR team who will then compile all data, removing identifying information, and present it to the Mayor.

SC asks how commissions will evaluate department heads as they are tasked to, and if the information will be provided to associated commissions.

LR clarifies this does not replace that process, but is in addition to it. Since the evaluations are confidential, they will not be shared with commissioners.

MB agrees that the format should be kept separately, especially now that commissioners are not appointing the department head. The feedback from staff and commissions are both valuable, but serve

different purposes. If this is under our purview, it would make sense for the HRPC to formalize that process for commissions.

Councilors weighed the options of what if any information would be valuable to be presented to the Council when reappointments come to a vote. They expressed they would feel more well-informed to know how Department Heads are received by staff, since internal and external/public facing communications can be different.

LR will bring this feedback back to the Mayor's office.

## **6. Other Committee Business**

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EL returns to the BPD Press Release conversation to see if there are any follow up recommendations the Committee wants to provide.

SC confirms the follow up actions will be two-fold: a review of DD 30 by the Police Commission which will then come forward to City Council, and if necessary, changes to the PPM will be made which will come forward to HRPC for review before going to Council.

EL brings forward further questions he has, including: what is being submitted by BPD and what are the actual modifications and edits being made to press releases, and if those edits are done in line with the ethical guidelines set forth by the courts/attorneys office or by opinion; if all departments are subject to this policy; if it's only being enforced now because of ongoing litigation.

SC encourages committee members to reach out to EJ directly with their further questions, as she was invited to this meeting to answer the questions during the earlier agenda item. If the Committee would like to ask EJ to join for the next meeting, they may do so. Some of the questions brought forth are not under the purview of this committee, and some of these questions can be reserved for when the policy comes forward to the full Council.

LR confirms that the role of the HRPC is to take on policies and communications that impact the employees, not the public.

The cancelled Executive Session will tentatively be held on 2/25 at 8:30 am to review a final policy.

The next meeting is on 3/17 at 2 pm in the HR Conference Room and via Zoom.

## **7. Adjournment**

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Meeting adjourned by Chair SC at 3:37 pm.

## **8. Informational and Non-Discrimination Statements**

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## Interactive Process Policy

This policy describes the process by which the City will address requests for reasonable accommodations for disabilities. This policy will apply to current employees, applicants, and those to whom a job offer has been extended but whose service has not yet commenced. In the case of an applicant or individual whose employment is pending, it is understood that the process will look different than in the case of a current employee insofar as the timeline for decision-making may limit discussions and information gathering.

### What is a Disability?

The term “disability” means,

- (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment.

This definition is from 42 U.S.C. § 12102, which contains additional relevant definitions. HR should consult with the City Attorney’s Office in deciding what constitutes a disability. Note that substance abuse disorder is a disability to the extent that the individual is receiving treatment for the disorder and is not currently using a substance. For more information, refer to the Americans with Disabilities Act.

### What Is a Reasonable Accommodation for a Disability?

A reasonable accommodation includes any of the following:

- (1) A modification or adjustment to a job application process to enable a qualified applicant with a disability to be considered for the position.
- (2) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, to enable a qualified individual with a disability to perform the essential functions of that position.
- (3) Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment as similarly situated employees.

A modification or adjustment is not considered a *reasonable* accommodation if it will cause undue hardship for the City as the employer. Undue hardship may take four forms:

- (1) Even with the modification or adjustment, the employee (or applicant or pending employee) still will not be able to do the essential functions of the job. An essential function is a core duty or competency. Each position in the City has enumerated duties and competencies associated with that position, but not every duty or competency is core. It would be a reasonable accommodation to excuse an employee from a non-core duty or competency because of a disability. However, core duties and competencies cut directly to the reason the job exists. For example, an employee hired to do manual labor cannot be

excused from performing all manual tasks because of a disability. That would undercut the reasons the position exists.

- (2) The modification or adjustment would enable the employee to perform essential functions of the job, but would impose a cost that is excessive relative to all available resources.
- (3) Allowing the modification or adjustment poses a “direct threat” to the health or safety of the employee or others. Determination of a direct threat requires substantial evidence that the threat is significant, actual, and currently existing.

### **What Are Some Examples of Potentially Reasonable Accommodations?<sup>1</sup>**

- (1) Job restructuring, typically through reassigning tasks within a department.
- (2) Allowing an employee to take advantage of protected leave or leave provided as an employee benefit.
- (3) Modification of work from home policies.
- (4) Modified workplace policies (e.g., allowing an insulin-dependent employee to eat at desk even if otherwise not allowed).
- (5) Use of a service animal. For more information, please see: <https://www.ada.gov/resources/service-animals-2010-requirements/>.
- (6) Modified or part-time schedule, which may affect the employee’s compensation subject to personnel rules and/or a collective bargaining agreement. This option is not preferred but should be considered where the employee requests it or the alternative is dismissal.
- (7) Reassignment to another position for which the employee is qualified, which may affect the employee’s compensation subject to personnel rules and/or a collective bargaining agreement. This option is not preferred but should be considered where the employee requests it or the alternative is dismissal.

### **How Will the City Be Informed of the Need for a Reasonable Accommodation?**

- (1) The need for the accommodation may be obvious.
- (2) The employee may request the accommodation orally or in writing. The employee does not need to use the magic words, “I need to request an accommodation”. All that is required is that the employee make clear the need for a modification or adjustment based on a disability. “I need a more comfortable chair” is not an example of a request for a reasonable accommodation, but “I need a more comfortable chair because I have a back problem” is.
- (3) Someone may also request the accommodation on behalf of the employee, such as a doctor or a spouse.<sup>2</sup>

### **What Information Can the City Require?**

The City needs to verify that the employee has a disability, and the City needs to know how the disability affects the employee’s ability to do their job. If the employee’s needs are clear, then the City should not request further information. A discussion with the employee may also satisfy this purpose. Where more information is necessary, the City should request reasonable documentation.

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<sup>1</sup> These may not necessarily be reasonable in all circumstances. Refer to factors in previous section.

<sup>2</sup> The receipt of a request from a third party does not, in itself, authorize staff to continue to communicate with the third party rather than the employee.

Where appropriate, this should include medical records, but the City may not require the employee to provide more documentation than is reasonably necessary to establish the existence of the disability and its effect on the employee's ability to perform job functions. The employee is free to provide more information than requested.

### **How Will a Reasonable Accommodation Be Selected?**

If the employee proposes an accommodation that appears reasonable on its face, then the accommodation shall be implemented with no further process. If the accommodation is not reasonable on its face, one or more meetings shall be noticed in writing in which the employee, a representative of HR, a supervisor if appropriate, an attorney in the City's Attorney Office if appropriate, and appropriate representatives of the employee shall participate. The meeting or meetings should be recorded with the employee's informed consent.

The goal of the meeting or meetings will be to brainstorm possible accommodations and to consider whether any proposed accommodation is reasonable. Any agreed upon solution should be documented in an informal writing. No accommodation should be rejected unless the employee refuses it or unless the reasons it is not reasonable are supported by substantial evidence and documented in writing. The City has the burden of explaining why an accommodation is not reasonable.

Experts may be consulted as appropriate during the process, and the City should request clarification whenever appropriate. The employee is expected to participate fully in the process and to respond to reasonable requests for information or clarification in a timely manner. Reasonable accommodations may be appropriate to help the employee participate and respond.

### **How Will Privacy Be Maintained?**

All medical records, written requests for an accommodation, or records of the deliberative process shall be kept in the employee's personnel file and shall be available only to HR personnel, supervisors on a need-to-know basis, attorneys in the City Attorney's Office on a need-to-know basis, the employee, other public agencies when requested pursuant to applicable law for investigatory or legal compliance purposes, or otherwise when legally required.

### **What Happens If a Reasonable Accommodation Cannot Be Identified?**

An employee may be terminated, subject to applicable law if:

- (1) The employee cannot perform essential job functions because of a disability, and
- (2) A reasonable accommodation was not identified through the interactive process or the employee refused a reasonable accommodation that would enable the employee to perform essential job functions.

## Market Factor

When it is determined by the Human Resources Director that the current Willis Compensation Plan is insufficient to accurately calculate a Grade then the Human Resources Director and CAO may elect to conduct an external market factor analysis. The purpose of an analysis is to align salaries with prevailing market rates while maintaining internal equity and fiscal responsibility and to provide flexibility in offering competitive salaries for positions with significant recruitment challenges. A market factor position salary will follow the City's current pay scale by having fifteen (15) steps within this new market factor Grade created. If an employee is in a position that transitions from a Willis identified Grade to a market factor Grade then their new rate of pay will be determined using Human Resource's Step Placement process. To the extent that previous relevant experience equals or exceeds the minimum necessary knowledge and skills, job duties, and responsibilities of the position being held, those specific and relevant years of experience (less the minimum number of years of experience required in the position description) may be converted to additional steps at a 3:1 ratio, up to and including the maximum of step five (5).