



Regular City Council Meeting - Monday, December 17, 2018, 6:00 pm, Contois Auditorium, City Hall 12/17/2018

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

December 17, 2018

MEMBERS PRESENT: Kurt Wright (Council President) – Ward 4

Jane Knodell – Central District

David Hartnett – North District

Joan Shannon – South District

Richard Deane – East District

Sharon Foley Bushor – Ward 1

Max Tracy – Ward 2

Brian Pine – Ward 3

William "Chip" Mason – Ward 5

Karen Paul – Ward 6

Ali Dieng – Ward 7

Adam Roof – Ward 8

ADMINISTRATION: Miro Weinberger, Mayor

Beth Anderson, CAO

Rich Goodwin, DFO

Eileen Blackwood, City Attorney

Jordan Redell, Mayor's Office

Olivia LaVecchia, Mayor's Office



Regular City Council Meeting - Monday, December 17, 2018, 6:00 pm, Contois Auditorium, City Hall 12/17/2018

Lori Olberg, C/T

Amy Bovee, C/T

Chapin Spencer, DPW

Norm Baldwin, DPW

Neale Lunderville, CEDO

David White, Planning & Zoning

Bill Ward, Code Enforcement

OTHERS PRESENT:

Phil Carter, VTrans

Representative from Dealer.com

Representative from Overlake Park, LLC

Albert Petracca

Patrick Robbins

Bill Truex

Phelan Fritz

Jeff Nick

Emily Reynolds

Walter Keating

Kenzie Hines

Betsy McGavick

Jack Hanson

Kara Amasauri

Celin Daly

J. Carte Neuberger

Buddy Singh

Lorre Tucker

[Note: Minutes reflect the order of the published agenda.]



Regular City Council Meeting - Monday, December 17, 2018, 6:00 pm, Contois Auditorium, City Hall 12/17/2018

1.0 CALL TO ORDER and AGENDA

Council President Wright called the meeting to order at 6:13 PM on December 17, 2018 and led the assemblage in the Pledge of Allegiance.

1.01 Agenda

MOTION by Councilor Knodell, SECOND by Councilor Bushor to approve the agenda with the following amendments:

- **Note additional information in Item 5.01 (Champlain Parkway Compensation Hearing)**
- **Add revision to Item 5.03 (DID Charter Changes)**
- **Note material for Item 5.06 (AFSCME Collective Bargaining Agreement)**

VOTING: unanimous; motion carried.

The compensation hearing for Champlain Parkway was held (see Item 5.01) and then the City Council meeting was recessed until 7 PM. At 7 PM the City Council meeting resumed and was recessed to convene the Local Control Commission meeting. The City Council meeting resumed at 7:13 PM.

2.0 COUNCIL PRESIDENT COMMENTS

Council President Wright reminded city councilors to set a positive tone at meetings, respect colleagues, follow the rules, and direct comments through the City Council President.

3.0 PUBLIC FORUM

Public forum was opened at 7:24 PM.

COMMENTS

- Albert Petracca hung posters stating how individual city council members voted on the mural.
- Patrick Robbins and Bill Truex, marketplace founders, gave a history of the CSM Commission and urged sending the charter changes for the DID to the Charter Change Committee and letting the voters decide. The marketplace space is attractive to people and people enjoy being there so it is important to have design quality control to ensure a high quality environment.
- Phelan Fritz, ECHO Director, spoke on ECHO's perspective as a nonprofit and the position on the DID. ECHO is in favor of expansion of the DID because it is important to the city and the people, and critical for the downtown and the waterfront in order to compete. The DID expansion will also bring the entire city together.
- Jeff Nick, CSM Commission, spoke in support of expanding the DID and having a robust marketing campaign. With an enlarged DID a better job can be done promoting events in the downtown. There is no effort to privatize. The city is in control of the public realm. Mr. Nick said he supports the Festival of Fools.
- Emily Reynolds, Burlington Housing Justice, spoke of the expansion of the DID being against the goals of Housing



Regular City Council Meeting - Monday, December 17, 2018, 6:00 pm, Contois Auditorium, City Hall 12/17/2018

Justice and concern that rents will increase. The DID is privatization.

- Walter Keating spoke of the lack of transparency on the DID and the decision being irresponsible. To rush to a ballot decision is reckless. The DID will benefit the businesses at the expense of residents. The DID is privatization. City Council is urged to pull the DID from debate and stop the process.
- Kenzie Hines spoke of high rents and Burlington being unaffordable, and questioned an improvement district really representing the residents or the improvements coming to only those who can pay.
- Betsy McGavick expressed concern the DID will cause increased police harassment and policing of homeless members. The increased amenities in the district will hike up prices and drive young working people out of the city. Regarding inclusionary zoning there is concern with the recommendation that allows developers payment in lieu. City Council is urged to be critical of the recommendation. A written comment from Julie Masouta was read regarding concerns about the DID.
- Jack Hanson spoke against the DID proposal and expressed concern for the loss of local oversight and control with the turnover to a nonprofit entity, and the potential of increasing rents. City Council is encouraged to oppose the DID expansion.
- Kara Amarsauri spoke in favor of the DID which will be a huge supporter of small businesses especially those on the side streets and the waterfront that do not feel connected to Church Street. The DID will add cohesiveness and vibrancy to the downtown. The ambassador program is envisioned to dovetail with the Howard Outreach Program to create more networks for the vulnerable community. City Council is urged to pass the DID expansion.
- Celin Daly spoke in favor of the charter change on consolidating Planning into one department and appointment by the Mayor of the Planning & Zoning Director.
- J. Carter Neuberger urged City Council to oppose the DID expansion. The board members would be mostly business owners. Renters are not represented. Mr. Neuberger spoke of the reaction to the silent comment on the vote by city council members on the mural, stating people are not being treated with dignity and City Council is hypocritical.
- Buddy Singh stated an actively managed business improvement district works. The charter language says residential units will not be assessed a fee. There is no privatization of streets. A managed DID works to help everyone. City Council is urged to support the DID expansion and put the issue to the voters.
- Lorre Tucker spoke in support of the DID and working together to help each other. The business community cares about everyone and contributes help. This is opportunity to work together. City Council is urged to vote for the DID

There were no further comments. Public Forum was closed at 8:07 PM.

4.0 CONSENT AGENDA

- 4.01 PROCEDURAL: Amend/Adopt Consent Agenda and Take Action(s) as Indicated
- 4.02 COMMUNICATION: Accountability List
- 4.03 COMMUNICATION: Opening Burlington City Commissions/Boards
- 4.04 COMMUNICATION: Ohio Mutual Release of Claim, Main Street
- 4.05 COMMUNICATION: Fire Department Surplus Equipment
- 4.06 COMMUNICATION: Co-Location Working Group Memo
- 4.07 COMMUNICATION: Resignation, Medical Examiner, Karen Huyck, MD
- 4.08 COMMUNICATION: Extend Deadline for Multi Gen Center Closing



Regular City Council Meeting - Monday, December 17, 2018, 6:00 pm, Contois Auditorium, City Hall 12/17/2018

- 4.09 RESOLUTION: Land Donation, 2.93 Acres, New North End
- 4.10 RESOLUTION: Quitclaim Deed, 526 St. Paul Street
- 4.11 RESOLUTION: Quitclaim Deed, 116 Pleasant Avenue

MOTION by Councilor Knodell, SECOND by Councilor Bushor, to adopt the Consent Agenda and take the actions indicated for Items 4.01 through 4.11. VOTING: unanimous; motion carried.

5.0 DELIBERATIVE AGENDA

5.01 Compensation Hearing: Champlain Parkway

The hearing was opened at 6:15 PM. DPW Engineer Baldwin reviewed the necessity determination of properties to be taken on Pine Street. None of the affected property owners opted to speak. Phil Carter, VTrans, explained the method of property evaluation for just compensation. There were questions on the temporary/permanent easements and response from property owners. Compensation offers to property owners were made via certified mail. No responses were received.

The compensation hearing was closed at 6:32 PM.

MOTION by Councilor Mason, SECOND by Councilor Bushor, to direct staff to prepare a draft decision determining compensation for City Council consideration at the January 7, 2019 meeting. VOTING: unanimous; motion carried.

5.02 Indoor Entertainment Permit Application (2018-2019): Sweetwaters, 120 Church Street

MOTION by Councilor Deane, SECOND by Councilor Roof, to approve the 2018-2019 indoor Entertainment Permit application for Sweetwaters, 120 Church Street, with all standard conditions.

DISCUSSION:

- Councilor Deane said Sweetwaters is adding jazz one night a week to the list of entertainment offered.

VOTING: unanimous; motion carried.

5.03 Charter Change: Downtown Improvement District (DID) – Charter Change Committee

MOTION by Councilor Shannon, SECOND by Councilor Roof, to waive the reading and adopt the amended resolution.

DISCUSSION:

- Councilor Shannon read a statement extending thanks to Councilor Roof, the visionaries of CSM, and all the people who shared thoughts and gave reasons to extend the DID to improve the downtown. Private money





Regular City Council Meeting - Monday, December 17, 2018, 6:00 pm, Contois Auditorium, City Hall 12/17/2018

will be used with public control. The Open Meeting and Public Records Law will apply. All city protocol will be followed. Comments that were heard by the Charter Change Committee were addressed. There will be additional public hearings and opportunity for public comment before the question is put to the voters.

- Councilor Pine said there should be a dialogue on what is done to reflect the values of Burlington and this may not be the step to take.
- Councilor Knodell asked what the change was to the resolution. City Attorney Blackwood said lines 90-93 were deleted regarding residents on the board. Councilor Knodell asked how long in the process changes in language can be made, adding the benefit of setting up a nonprofit versus a department of the city has not yet been addressed. The DID should be designed to fit Burlington and having a nonprofit may not be the way.
- Councilor Bushor said the process has been lengthy, but all concerns should be heard because everyone cares about Burlington. How rents in the downtown will be controlled is an issue. Renters have concern of rents increasing if fees increase for the improvements. There may not be enough representation from residents. Line 56 in the resolution should be amended to include "visitors alike" after "...all community members". A comparison of the marketplace model and the nonprofit model should be shown. Another model to the nonprofit model could succeed.
- It was noted a majority vote of City Council would be needed to take the question off the ballot.
- Councilor Mason said he has witnessed challenges facing businesses on the side streets. The CSM Director is to serve the Mayor and businesses will pay into the budget that is controlled by the city. With the proposed model the city still has full control, but the businesses have more control over the funds.
- Councilor Roof said the facts need to get out to the community so an informed vote can be made. There will be a presentation on Channel 17, a tour of the NPAs, a digital presentation on social media, a dedicated website, and posting on Front Porch Forum. The public option is there now and works for four blocks in the downtown. The proposed structure gives the fee payers a means for participation and still gives the city control.
- Councilor Hartnett urged seeing the language sooner than later. Businesses are moving out of the city. The city has an obligation to keep the downtown vibrant.

Councilor Tracy requested a five minute recess. The meeting was recessed at 8:51 PM and resumed at 9:02 PM.

- Councilor Tracy spoke of the lack of due diligence and rush to move the vote forward without time to fully review the details and language or get public feedback.
- Council President Wright explained if six councilors do not support the resolution he will cast his vote not in support because that indicates the matter is not ready for a public vote.
- Councilor Dieng stated there is nothing the DID would do that CSM is not already doing. The question is not ready to go to the ballot. Answers to questions are needed. The question on the ballot could be advisory.
- Mayor Weinberger said the committee, individuals, and staff have worked on the proposal for over two years. The proposal is designed not to add to the housing burden. Residential is not paying in. The housing crisis can be addressed in different ways. The DID proposal is democratic. City Council will approve the bylaws of the new entity and the management plan of the new entity. City Council with Mayor Presiding will determine the majority of the DID board including nine businesses of which five are property owners and four are business owners. City Council approves the budget and taxation. The DID sunsets and a democratic action is required to renew. The opportunity to create an active management system for the entire downtown should not be missed.

VOTING (by roll call): Councilor Bushor – aye, Councilor Deane – aye, Councilor Dieng – nay, Councilor Hartnett – aye, Councilor Knodell – nay, Councilor Mason – aye, Councilor Paul – aye, Councilor Pine – aye, Councilor Roof – aye, Councilor Shannon – aye, Councilor Tracy – nay, Council President Wright – aye (9 ayes, 3 nays); motion



Regular City Council Meeting - Monday, December 17, 2018, 6:00 pm, Contois Auditorium, City Hall 12/17/2018

carried.

5.04 Department of Permitting & Inspections – Charter Change Committee

MOTION by Councilor Shannon, SECOND by Councilor Knodell, to waive the reading and adopt the resolution.

DISCUSSION:

- Councilor Shannon said permit reform has been a long time goal of the city. It was difficult to break down the silos of government. The merger of CEDO and Planning will be reviewed by the Charter Change Committee in a year. The appointment by the Mayor of the Planning Director, Director of Permitting & Inspections, and the Zoning Enforcement Officer will go forward. Staff has worked hard to bring accountability and improve customer service, and the charter change does this.
- Councilor Dieng asked if the Planning Commission is comfortable with the Mayor appointing the Planning Director. Planning Director White said the Planning Commission wanted to hold off on the mayoral appointment because there is so much change happening in the Planning Department right now.
- Councilor Bushor spoke in support of keep Planning and Zoning together and expressed concern the proposed model is creating inefficiencies and may fail over time due to loss of expertise. The Mayor appointing the Zoning Administrator and the Planning Director may not be in the best interest of the city. The model for permit reform excluding splitting Planning and Zoning is good.
- Councilor Pine asked about the mission of the new department with three separate functions brought into one. Code Enforcement Director Ward said the mission is a better way for the departments to work together for the benefit of the citizens. This is the first step. Much will follow. The citizen advisory committee will continue. There will be benefits for staff members as well.
- Councilor Deane said people experience city government when making changes to their homes so if the process can be made easier that is good. This is just the start of working out the process.
- Councilor Tracy spoke in support of permit reform, but not the Mayor appointing the Planning and Zoning Directors.
- Councilor Hartnett said it could be made easier for customers in many ways. The Planning Commission is not in favor of the appointment of the City Planner by the Mayor. The role of the Planning Commission is vital as is oversight of Planning and Zoning.
- Councilor Knodell spoke in support of integrating Zoning with Permitting and appointments by the Mayor so there is accountability.
- Planning Director White said as Planning Director he supports the mayoral appointment of the Planning Director. The Planning Commission approves the master plan for the city so there is still independence.
- Code Enforcement Director Ward noted a member of the Planning Commission was part of the citizen advisory committee.

VOTING (by roll call): Councilor Bushor – nay, Councilor Deane – aye, Councilor Dieng – aye, Councilor Hartnett – nay, Councilor Knodell – aye, Councilor Mason – aye, Councilor Paul – aye, Councilor Pine – aye, Councilor Roof – aye, Councilor Shannon – aye, Councilor Tracy – aye, Council President Wright – aye (10 ayes, 2 nays); motion carried.

It was noted there will be public hearings on permit reform on January 22 and 28, 2019.





Regular City Council Meeting - Monday, December 17, 2018, 6:00 pm, Contois Auditorium, City Hall 12/17/2018

5.05 Recommendations of CDNR

MOTION by Councilor Pine, SECOND by Councilor Knodell, to waive the reading and adopt the resolution.

DISCUSSION:

- **Councilor Pine said there will be opportunity to discuss the review of the recommendation from the inclusionary zoning committee by the Planning Commission and CDNR.**

AMENDMENT by Councilor Mason, SECOND by Councilor Knodell, to add to line 35 in the resolution that a report will be provided by April 1, 2019. VOTING on amendment: unanimous; motion carried.

CONTINUED DISCUSSION:

- **Councilor Knodell clarified inclusionary zoning requires developers of new projects to include a certain number of affordable units at 65% of the area median income level. Inclusionary zoning is not a tool to meet housing needs. There are other ways to address this. Proposals coming forth will spread the benefit of inclusionary zoning across the city.**
- **Councilor Pine said the recommendation is to have a payment in lieu option because smaller projects find it difficult to provide affordable units and end up building larger units (three and four bedroom units rather than one and two bedroom units).**
- **Councilor Bushor said inclusionary zoning will make a healthier city and a more diverse city.**
- **Councilor Dieng asked if developers were consulted. Councilor Pine said three active developers were part of the working group. Also, comments were heard from nonprofit and for-profit developers. There will be a report at the end of March.**
- **Councilor Deane asked about payment in lieu or contributing to the Housing Trust Fund. Councilor Knodell said the inclusionary zoning committee did not address the Housing Trust Fund. The best way to use those funds can be discussed.**
- **Mayor Weinberger said there has been much hard work that will result in more affordable housing.**

VOTING: unanimous; motion carried.

5.06 AFSCME Collective Bargaining Agreement – Board of Finance

City Attorney Blackwood noted the contract to approve has been provided to City Council. The terms have been reviewed with City Council in Executive Session.

MOTION by Councilor Knodell, SECOND by Councilor Bushor, to waive the reading and adopt the resolution to ratify the tentative agreement and authorize the execution of the Collective Bargaining Agreement between the City of Burlington and AFSCME for July 1, 2018 through June 30, 2022. VOTING: unanimous; motion carried.

6.0 COMMITTEE REPORTS

- **Councilor Hartnett announced the PACC will meet 12/18/18 to receive an update on Moran and Memorial Auditorium.**



Regular City Council Meeting - Monday, December 17, 2018, 6:00 pm, Contois Auditorium, City Hall 12/17/2018

- Councilor Knodell reported the senior center study committee met three times to look at improving services to seniors across the city including challenges experienced by Heineberg Senior Center.

7.0 CITY COUNCIL – GENERAL AFFAIRS

- Councilor Dieng apologized for his tweet on City Council, promising to first speak to the Council President going forward.
- Councilor Hartnett urged everyone to attend Highlight on New Year's Eve. There will be a parade, shows throughout the city, and fireworks at 8 PM.

MOTION by Councilor Knodell, SECOND by Councilor Roof, to suspend the rules to complete Item 8.0 (City Council President Council Updates) and Item 9.0 (Mayor General Affairs). VOTING: unanimous; motion carried.

8.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

Council President Wright noted:

- City Council did a better job holding vigorous debate and finding compromise at the meeting.
- Birthday wishes are extended to Councilor Bushor and Councilor Tracy.
- Implicit bias training will be scheduled.
- Happy Holiday, Merry Christmas, Happy New Year to all!

9.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger noted:

- The hard work by all on the Moran, DID, permit reform, inclusionary zoning is appreciated.
- Everyone is urged to attend Highlight on New Year's Eve.

10.0 ADJOURNMENT

MOTION by Councilor Deane, SECOND by Councilor Shannon, to adjourn the meeting. VOTING: unanimous; motion carried.

The meeting was adjourned at 10:35 PM.

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**Regular City Council Meeting - Monday, December 17, 2018, 6:00
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12/17/2018**

