



Regular City Council Meeting - Monday, December 16, 2019, 7:00 pm, Contois Auditorium, City Hall 12/16/2019

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

December 16, 2019

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

Perri Freeman – Central District [via telephone for Police item

only]

Franklin Paulino – North District

Joan Shannon – South District

Jack Hanson – 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: Mayor Weinberger

Steve Locke, Interim CAO

Rich Goodwin, DFO

Eileen Blackwood, City Attorney

Kim Sturtevant, Assistant City Attorney

Jordan Redell, Mayor's Office



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Olivia LaVecchia, Mayor's Office

Deanna Paluba, HR

Brian Lowe, CIO

Lori Olberg, C/T

Amy Bovee, C/T

Chapin Spencer, DPW

Laura Wheelock, DPW

Cindi Wight, Park & Rec

Sophie Sauve, Parks & Rec

Meagan Tuttle, Planning

Ian Jakers, Planning

OTHERS PRESENT:

Jeff Munger

Bill Keogh

Lea Terhune

Steve Goodkind

Amy Maqyar

Vicki Garrison

Jackie Robertson

Aiden Buchanan

Jaz Mojica

Tom Kingston

Charles Winkleman

Mike Fife

James Leas

Brian Cina

J.F. Carter Neubieser



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1.0 CALL TO ORDER

Council President Wright called the City Council meeting to order at 7:05 PM on December 16, 2019.

1.01 Agenda

MOTION by Councilor Bushor, SECOND by Councilor Roof, to approve the agenda with the addition of Item 1.02 – Police Chief Resignation. VOTING: unanimous; motion carried.

1.02 Resignation: Police Chief del Pozo

Mayor Weinberger reported he has accepted the letter of resignation from Police Chief del Pozo. Accomplishments under the leadership of Chief del Pozo were noted. Mayor Weinberger also reported Deputy Chief John Murad has been named Acting Police Chief after it was disclosed Deputy Chief Wright had a Facebook account under another name and was discussing the police department. An outside investigator will be engaged to conduct a thorough review of the Burlington Police Department social media activity and practices. The draft Social Media Policy under review by the HR Committee will be updated within two weeks to address the emerging evidence of social media activity.

Councilor Pine asked for an explanation of the decision to not update City Council as the police situation unfolded. Mayor Weinberger said the Chief self-reported the problematic tweets and phone call, and after meeting with the City Attorney and HR Director the decision was made to put the Chief on administrative leave while the matter was investigated. It was discovered the Chief's medical condition was implicated. On the advice of the City Attorney and HR Director the matter was treated as a personnel issue, and with all city employees steps were taken to prevent medical information from being released. Personnel practices cause the city to protect the employees at the expense of transparency.

Councilor Tracy asked about the statutory obligation to report police misconduct to the Vermont Criminal Justice Training Council. City Attorney Blackwood explained the statutory obligation is to report unprofessional conduct and it was believed there was no conduct in this case that fell into any categories that would require reporting. Councilor Tracy asked if the Mayor has apologized on behalf of the city to the individuals involved for the harm caused to each of them. Mayor Weinberger confirmed he did apologize to Ms. Landon and Mr. Winkleman for what happened and set the record straight. Councilor Tracy questioned if the Mayor lived up to transparency to the voters. Mayor Weinberger said he worked hard and did the best he could throughout a very challenging set of circumstances, and was guided by the city's employment professionals, the law, a sense of compassion, and a desire to not quickly conclude on the ability of the Police Chief to serve when the Chief had served outstandingly for the city. The city administration values transparency and works hard to live up to that commitment, but medical privacy and HIPPA are real concerns. Mental health stigma is a real issue. The





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Chief had a serious injury that could have impacted his actions.

Councilor Bushor commented it would have been better to share the situation at hand with City Council in Executive Session and receive opinions from the councilors though the Mayor ultimately makes the final decision. City Council confirms the Mayor's recommended department heads. Mayor Weinberger said holding an executive session was considered, but was not the consensus of the team.

Councilor Hanson asked if the Mayor would inform City Council or the Police Commission given a chance to re-do the situation. Mayor Weinberger reiterated he worked hard throughout the process, took the advice of the employment professionals, respected important privacy concerns, demonstrated support for a key member of the city team, demonstrated compassion, and did his best to get it right. Hopefully Burlingtonians will recognize that. Councilor Hanson asked who is involved in developing the Social Media Policy and if the state was contacted to see if the situation warrants investigation. Mayor Weinberger said the City Attorney answered the question on investigation. The Social Media Policy is in the hands of City Council. The city administration is working on additional language and getting approval on the policy from the Public Employment Employee Union. The draft policy is in operation and hoped to be finalized in partnership with City Council.

Councilor Roof asked about next steps in searching for the next Police Chief. Mayor Weinberger said it is a high priority to move as quickly as possible. There will be further information on how to proceed in the next couple of weeks.

Councilor Freeman (via telephone) asked about a restorative process going forward. Mayor Weinberger said he would welcome hearing ideas from Councilor Freeman and others.

Council President Wright said the Police Chief's service to the city over the past four or five years needs to be weighed against an incident of bad judgement. Everyone needs to think about how they are using social media, whether constructively or destructively.

2.0 PUBLIC FORUM

Public forum was opened at 7:30 PM.

COMMENTS

- Lea Turhune read words from people about removal of the mural.
- Steve Goodkind spoke about the city administration keeping information from the public.
- Amy Magyar spoke in support of the Accessory Dwelling Unit ordinance.
- Vicki Garrison spoke of collusion with del Pozo situation, removing the mural, and read a poem on privilege.
- Jackie Robertson spoke about ethics and professional people not being on Facebook.
- Aiden Buchanan spoke about the del Pozo resignation and separating police services and mental health services for public safety reasons.



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- Jaz Mojica spoke of a double standard and called for the Mayor's resignation due to lack of trust.
- Tom Kingston spoke about the del Pozo situation.
- Charles Winkleman expressed criticism of the police and the Mayor.
- Mike Fife spoke of the lack of action on the Social Media Policy.
- James Leas spoke of how the del Pozo situation was handled by the Mayor and called for the Mayor's resignation.
- Brian Cina spoke of violation of public trust and suggested actions to restore the public trust.
- J.F. Carter Neubieser spoke of how the del Pozo situation was handled by the Mayor.

There were no further comments from the public. Public Forum was closed at 8:21 PM.

3.0 CONSENT AGENDA

- 3.01 PROCEDURAL: Amend/Adopt Consent Agenda and Take Action(s) as Indicated
- 3.02 COMMUNICATION: Encumbrance Application, UVM, Sidewalk Butlers
- 3.03 COMMUNICATION: Moran Frame Project Update - CEDO
- 3.04 COMMUNICATION: Michael Sullivan re: Bernie Sanders
- 3.05 COMMUNICATION: FIO Document(s)
- 3.06 RESOLUTION: CEDO Staffing Structure Update
- 3.07 RESOLUTION: Reimburse Waterfront TIF and Downtown TIF FY19
- 3.08 RESOLUTION: Reimburse Waterfront TIF, CityPlace Burlington Project
- 3.09 RESOLUTION: Public Improvement Bonds, Waterfront TIF
- 3.10 RESOLUTION: Future Reimbursement, Waterfront TIF

MOTION by Councilor Bushor, SECOND by Councilor Roof, to adopt the consent agenda, Items 3.01 – 3.10, and take the actions indicated. VOTING: 9 ayes, one nay (Councilor Tracy); motion carried.

Council President Wright recessed the City Council meeting at 8:22 PM to convene the Liquor Control Commission meeting. The City Council meeting resumed at 8:25 PM.

4.0 DELIBERATIVE AGENDA

- 4.01 Permit: Outdoor Entertainment, Beach House, 60 Institute Road

MOTION by Councilor Roof, SECOND by Councilor Hanson, to approve the Outdoor Entertainment Permit for The Beach House, 60 Institute Road, with all standard conditions in the License Committee's recommended approval at the 12/10/19 meeting. VOTING: unanimous; motion carried.



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4.02 Financial Impact of Livable Wage for City Employees – HR, IT, CAO

HR Director Paluba, CIO Lowe, and Interim CAO Locke reported that extending the livable wage to seasonal and temporary city employees working 10 hours per week and having less than five years of longevity with the city will cost approximately \$208,000 for the current number of seasonal employees. With the higher number of seasonal employees at mid-summer the cost is closer to \$300,000.

Councilor Bushor expressed interest in moving toward employees with 10 or more hours per week with two years longevity with the city.

MOTION by Councilor Pine, SECOND by Councilor Bushor, to refer the matter to the HR Committee for further review and discussion.

DISCUSSION:

- **Councilor Hanson spoke in support of having discussion of all city employees receiving a livable wage starting with employees working 10 or more hours per week and in the second year of employment with the city.**
- **Councilor Tracy expressed hope a way to provide a livable wage for all city workers can be found.**

VOTING: unanimous; motion carried.

4.03 City Hall Park Budget Update/Amendment and Procurement of Benches – DPW, Parks & Rec

Mayor Weinberger, DPW Senior Engineer Wheelock, Parks Comprehensive Planner Sauve, and Parks & Rec Director Wight reported the project has gone well and there is a savings. Reducing the maximum amount in a contract is not typically done, but there is the capacity to bring the maximum limiting amount down. Parks & Rec Director Wight spoke of the partnership with DPW and Parks & Rec on the project.

Councilor Tracy asked about using tropical hardwoods and having armrests on the benches that prevent people from laying down on the bench. DPW Senior Engineer Wheelock said non-tropical hardwood is being used as a special request to the manufacturer. The hardwood fades faster. Only the 9' bench has dividers. The 6' benches do not have a center divider.

MOTION by Councilor Mason, SECOND by Councilor Paulino, to authorize the following:

- **Park & Rec Director to execute contract amendments with S.D. Ireland Brothers Corp. to amend the total maximum contract amount for the Great Streets City Hall Park Reconstruction to \$4,735,286.80 including up to \$225,000 in contingency funds for immediate allocation for finishes and amenities, and up to \$176,795.80 additional contingency for the duration of the project subject to approval by the City Attorney.**
- **CAO or designee to affect all necessary budget amendments and transfers of funds to/from the referenced funding sources as needed to pay for the City Hall Park Project expenses.**





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DISCUSSION:

- Councilor Bushor commended having a savings, but still felt the cost of the City Hall Park Project is too much and the money could be used elsewhere. Councilor Bushor noted the Board of Finance approved the benches.

VOTING: 9 ayes, one nay (Councilor Bushor); motion carried.

4.04 Ordinance: ZA#20-03 Accessory Dwelling Units

MOTION by Councilor Mason, SECOND by Councilor Roof, to accept the first reading of the ordinance and refer the matter to a work session of City Council.

DISCUSSION:

- Councilor Mason explained the ordinance is to encourage creation of accessory dwelling units as permitted uses and allows an increase in size, exemption from storm water requirements and parking.
- Councilor Bushor complimented the work of Planning staff on ADUs, noting stacked parking is an option not available before. Discussion is needed on the owner occupied requirement.
- Councilor Pine said research shows an increase in the number of ADUs occurs when not requiring owner occupancy. Councilor Pine asked about the maximum lot issue being exceeded under certain circumstances. Senior Planner Tuttle said in the Old North End and downtown neighborhoods lot coverage is an obstacle. If a property owner wants an ADU and is at lot coverage then there must be storm water management on the portion of the ADU that is over the lot coverage.
- Councilor Hanson said the work session will be worthwhile. The residency requirement needs further discussion.
- Councilor Shannon said more properties would be affordable to people if they could create an accessory apartment or allow them to have an elderly parent live independently with them. The prohibition on tandem parking is a problem, but there should be a parking requirement with ADUs otherwise the burden is on neighboring properties all vying for the same street parking. As density is increased it is important parking is provided on-site. Having fire sprinklers in the ADU is also an issue. The ordinance needs to be clear on whether sprinklers are required or not. The ADU should not be allowed to be used as temporary housing for visitors (i.e. Airbnb). The quality of housing improves with owners on-site so this should be required.
- Councilor Mason stated the matter is now before City Council. Sprinklers were outside the scope of the joint commission. There must be compliance with state building codes. The commission has not discussed short term rentals.
- Senior Planner Tuttle said there was discussion of being flexible with the ordinance with regard to fire code and parking issues. Also discussed were alternative maximum size for ADUs and lot coverage waivers to give homeowners maximum flexibility.

VOTING: unanimous; motion carried.

4.05 Charter Change: Change Local Election Dates for Petitions, Warnings, Ballots

MOTION by Councilor Tracy, SECOND by Councilor Paulino, to waive the reading and adopt the resolution to change the local election dates for petitions, warnings, and ballots for the March 2020 annual meeting.





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DISCUSSION:

- Councilor Tracy said the resolution deals with the availability of ballots and combines the state and city ballots into one. The school board will be involved in the discussion as well. The public can provide feedback at the charter change hearing. The City Attorney will review the issue.

VOTING: unanimous; motion carried.

4.06 Charter Change: Add Members to Airport Commission

MOTION by Councilor Tracy, SECOND by Councilor Roof, to waive the reading and adopt the resolution to add members to the Airport Commission.

DISCUSSION:

- Councilor Tracy said the charter change deals with adding two more members to the Airport Commission, one from Winooski and one from Burlington.
- Airport Commission Chair, Jeff Munger, and Vice Chair, Bill Keogh, said the Airport Commission voted against the additional members.
- Mayor Weinberger spoke in support of a delay until the Airport Commission can be fully engaged and there is action on the MOU with South Burlington and Winooski.
- Councilor Paulino asked if Winooski having a seat on the Airport Commission will give them more of a say over the F-35s. Airport Commission Chair Munger said the airport has no say in the F-35 basing or removal. The Pentagon and Department of Defense made the decision. The Airport Commission is advisory only. Vice Chair Keogh added the airport has no say in the operation of the F-35 and is working closely with neighborhoods in dealing with noise mitigation.

MOTION TO TABLE by Councilor Paul, SECOND by Councilor Shannon. VOTING: 7 ayes, 3 nays (Councilor Tracy, Councilor Pine, Councilor Hanson); motion carried.

4.07 Charter Change: Resident Non-Citizen Voting in Local Elections

MOTION by Councilor Tracy, SECOND by Councilor Roof, to waive the reading and adopt the resolution on the charter change to allow resident non-citizen voting in local elections.

DISCUSSION:

- Councilor Tracy said the charter change would mean people with permanent residency, green cards, would be allowed to vote in the City of Burlington elections.
- Councilor Roof said public discourse is expected on this matter. There is lots of misinformation and confusion on 'non-citizen' meaning 'illegal immigrant'. The charter change is a way to extend democracy to people who are here and have a green card, but have not gone through the extensive path to citizenship.

VOTING: 9 ayes, one nay (Council President Wright); motion carried.

4.08 Response to Act 152: Glebe Land Interests – City Attorney





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MOTION by Councilor Bushor, SECOND by Councilor Hanson, to retain ownership of all perpetual glebe lands in the City of Burlington and in which the city has an interest.

DISCUSSION:

- **City Attorney Blackwood and Assistant City Attorney Sturtevant explained there is historic interest called “glebe interest” that the city has in certain properties to clear up title with transfer of property. In the city there are 800 properties in the city that have a glebe interest attached. The city will make sure there are no issues with the properties before releasing the glebe interests.**
- **Councilor Shannon said the city should release rights on the majority of glebe lands.**
- **Councilor Mason asked about timing and enforcement. City Attorney Blackwood said this will occur at the end of the year or early January. The city will not act on old violations, but simply wants the properties not to have violations so the permit can be closed.**

VOTING: unanimous; motion carried.

5.0 COMMITTEE REPORTS

- Councilor Tracy announced the TEUC will meet 12/17/19 to discuss the snow and ice plan, traffic calming program update, asset management resolution, climate crisis resolution, and waterfront rail update.
- Councilor Mason announced the Central Peddler District/Food Truck Committee will meet 12/18/19 to work on recommendations to City Council, and the Ordinance Committee will meet 12/30/19.
- Councilor Roof said the Public Safety Committee will meet in January 2020 to discuss Burlington’s encampment removal policy.

6.0 CITY COUNCIL - GENERAL AFFAIRS

- Councilor Bushor reported on test driving several electric vehicles.
- Councilor Bushor said Jarrett Wood requested the TEUC and Public Safety Committee prioritize pedestrian safety.
- Councilor Bushor reported UVM gave an update on housing to the Neighborhood Planning Assembly. Trinity Campus will be used for medical and graduate students.

7.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

No report.

8.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger reported the following:

- Green infrastructure installations the city invested in are showing significant results.
- Everyone is urged to get their Highlight buttons for New Year’s Eve.



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9.0 ADJOURNMENT

City Council wished everyone a Merry Christmas and happy holiday season.

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

The meeting was adjourned at 9:40 PM.

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