



Regular City Council Meeting - Monday, December 2, 2019, 6:00 pm - 7:00 pm, Conference Room 12, expected executive session re: Champlain Parkway; 7:00 pm - end of meeting, Contois Auditorium, City Hall

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

December 2, 2019

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

Perri Freeman – Central District

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

Richard Haesler, Assistant City Attorney

John Rose, Assistant City Attorney



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Jordan Redell, Mayor's Office

Olivia LaVecchia, Mayor's Office

Deanna Paluba, HR

Brian Lowe, IT

Lori Olberg, C/T

Amy Bovee, C/T

Chapin Spencer, DPW

Susan Molzon, DPW

Martha Keenan, DPW

Lee Perry, DPW

Gene Richards, Airport

Nic Longo, Airport

OTHERS PRESENT:

Jeff Glassberg

Meghan O'Rourke

Lauren-Glenn Davitian

Lea Terhune

Gil Livingston

Robert Bristow-Johnson

Joseph Scromenti

Sandy Wynne

Rachel Cunningham

Johnny Cunningham

Ann Cunningham

Josie Compton

Chris Hanson

Johanna Renkin

Dean Corren

John Mahoney



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Irene Wrenner

Kim Chase

Steve Goodkind

Charlie Messing

James Leas

Joe O'Brien

J.F. Carter Neubieser

Kate Latta

1.0 CALL TO ORDER

Council President Wright called the City Council meeting to order at 6:08 PM on December 2, 2019.

1.01 Agenda

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

- **Add Item 5.11 (Charter Change - Ranked Choice Voting, Thea Lewis)**
- **Add Item 5.12 (Electric Car Ride & Drive)**
- **Add Item 5.13 (Ranked Choice Voting, Rob Richie)**
- **Final version of Item 6.05 (Request letter Megan Sullivan)**
- **Additional information for Item 6.09 (Ranked Choice Voting)**

VOTING: unanimous; motion carried.

2.0 PRESENTATION: Champlain Parkway - DPW

DPW Director Spencer, DPW Assistant Director Baldwin, DPW Project Manager Molzon, and Assistant City Attorney Rose gave an update on the Champlain Parkway milestones, the FHWA rescinding the road rod, and the three remaining legal challenges to the project.

MOTION by Councilor Mason, SECOND by Councilor Paul, to find that premature public knowledge of pending litigation would place the city at a substantial disadvantage. VOTING: unanimous; motion carried.

MOTION by Councilor Mason, SECOND by Councilor Roof, based on the finding of premature public knowledge



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placing the city at a disadvantage and pursuant to 1VSA313 to go into Executive Session to discuss pending litigation relative to the Champlain Parkway and to invite DPW staff and the Assistant City Attorney to attend. **VOTING: unanimous; motion carried.**

Executive Session was convened at 6:20 PM.

MOTION by Councilor Roof, SECOND by Councilor Paulino, to adjourn Executive Session. VOTING: unanimous; motion carried.

Executive Session was adjourned at 7 PM. Council President Wright recessed the City Council meeting at 7 PM and reconvened at 7:10 PM. The assemblage recited the Pledge of Allegiance.

3.0 TOWN MEETING TV FY20 UPDATE

Meghan O'Rourke and Lauren Glen Davitian gave an update on Town Meeting TV services and the request for a 5% increase in the FY21 budget. Burlington coverage includes 75 meetings per year. There was discussion of the tapings and accessing the videos, and agreement Channel 17 plays a vital role for the community in broadcasting municipal meetings.

4.0 PUBLIC FORUM

Public Forum was opened 7:25 PM.

- Lea Turhune spoke about removal of the mural on Leahy Way.
- Gil Livingston spoke in support of ranked choice voting.
- Robert Bristow-Johnson spoke in support of rank choice voting.
- Joseph Scromenti spoke in support of ranked choice voting.
- Sandy Wynne reminded everyone that Burlington is a fair trade city and urged people to buy local, fair trade, and less volume.
- Rachel Cuttingham spoke about the loudness of the F-35 planes flying overhead.
- Johnny Cuttingham suggested the money spent on the F-35s could buy schools and the planes should be moved to a remote island.
- Ann Cuttingham spoke about the loudness of the F-35 planes impacting children.
- Josie Compton spoke about the noise of the F-35 planes.
- Chris Hanson spoke about the noise of the F-35 being unbearable and urged moving the planes elsewhere.
- Johanna Renkin spoke about noise measurements as an average, not measuring acute noise, and that hearing can be lost in a single event if the noise is extreme enough.
- Dean Corren spoke in support of instant runoff voting.
- John Mahoney spoke in support of the Save Our Skies position on the F-35s.
- Irene Wrenner spoke in support of ranked choice voting and expressed concern for the noise from the F-35 planes.
- Kim Chase spoke about hearing loss from F-35s.
- Steve Goodkind urged having a public discussion on the Champlain Parkway to allow the public to express their



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views.

- Charlie Messing spoke about the letter from the Mayor regarding the railroad, the F-35 noise, the mural, police keeping the peace, and graffiti control.
- James Leas spoke about F-35 noise and potential for impacting hearing.
- Joe O'Brien spoke in support of ranked choice voting.
- J.F. Carter-Neubieser spoke in support of ranked choice voting.
- Kate Latta, VPIRG, spoke in support of ranked choice voting.

There were no further comments from the public. Public Forum closed at 8:13 PM.

5.0 CONSENT AGENDA

- 5.01 PROCEDURAL: Amend/Adopt Consent Agenda and Take Action(s) as Indicated
- 5.02 COMMUNICATION: Accountability List
- 5.03 COMMUNICATION: Return of Passenger Rail to Burlington
- 5.04 COMMUNICATION: Remarks, James Marc Leas, 11/18/19
- 5.05 COMMUNICATION: Mural Remarks, Lea Turhune, 11/18/19
- 5.06 COMMUNICATION: Sweep Accounts & Other Bank Accounts
- 5.07 COMMUNICATION: September 2019 Financials
- 5.08 COMMUNICATION: BCA Market Factor Adjustment of Development Director Position
- 5.09 COMMUNICATION: FIO Document(s)
- 5.10 RESOLUTION: Quitclaim, 185 Pleasant Avenue
- 5.11 COMMUNICATION: Ranked Choice Voting, Thea Lewis
- 5.12 COMMUNICATION: Electric Car Ride & Drive, William Calfee
- 5.13 COMMUNICATION: Ranked Choice Voting, Rob Richie

MOTION by Councilor Bushor, SECOND by Councilor Roof, to adopt the consent agenda, Items 5.01 – 5.13, and take the actions indicated. VOTING: unanimous; motion carried.

6.0 DELIBERATIVE AGENDA

- 6.01 Appointment: Church Street Marketplace District Commission, term expires 6/30/20

Lyndora Mae Harbour explained her interest in serving on the commission and strengthening the downtown.

MOTION by Councilor Paul to nominate Becky Holt to the Church Street Marketplace District Commission for a



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term ending 6/30/20.

MOTION by Councilor Mason to nominate Lyndora Mae Harbour to the Church Street Marketplace District Commission for a term ending 6/30/20.

VOTING: majority of votes for Becky Holt.

Becky Holt is appointed to the Church Street Marketplace District Commission for a term ending 6/30/20.

6.02 Appointment: Fence Viewer, term expires 6/30/20

MOTION by Councilor Pine to nominate Roth Bernstein as Fence Viewer for a term ending 6/30/20.

DISCUSSION:

- **Roth Bernstein explained his interest in getting involved in the community.**

VOTING: unanimous; motion carried.

Roth Bernstein is appointed Fence Viewer for a term expiring 6/30/20.

6.03 Presentation: Airport Noise Compatibility Program Update

Aviation Director Richards and Deputy Aviation Director Longo gave an update on the Noise Exposure Map that is needed in order to secure FAA funding for the Noise Compatibility Program at the airport. Details of the FAA grant must be followed and if federal money is accepted there is no discrimination as to what aircraft use the airport. The Noise Exposure Map and Noise Compatibility Program must be consistent. Data from the flight monitoring system cannot be used for the Noise Exposure Map. The only eligible data are from the computer model regulated by the FAA. There are no new land acquisitions proposals in the new Noise Exposure Map. Sound mitigation programs being offered include:

- sound insulation to reduce interior noise with new windows, doors
- sales assistance to ensure at least fair market value sale for the property
- purchase assurance to ensure fair market value for the property

These programs are for property owners by the airport who do not qualify for sound insulation because the interior noise levels in their house are under the threshold. The airport will be submitting the Noise Compatibility Program document to the FAA for review and approval by June 2020. In the meantime the airport will be developing an implementation plan.

Councilor Tracy commented the conversation is about noise impact, but the F-35 has already arrived. Councilor Tracy asked if Burlington will be responsible for the local match to the program to mitigate noise from the F-35s. Aviation Director Richards said the airport administration is still working on that part of the process and vetting avenues for the 10% match. It is not anticipated that Burlington or the airport will be paying the match. Councilor Tracy asked about the cost of the Noise Compatibility Program monitoring each year. Deputy Aviation Director Longo said the installation of noise



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monitors will cost \$1 million with \$50,000 to \$100,000 annual cost to maintain and operate the system.

Councilor Bushor asked about the percent of noise from the F-35 planes versus other planes at the airport. Deputy Aviation Director Longo said the map depicts noise from all operations at the airport. Councilor Bushor asked if the number of people impacted by noise means the sound insulation program will broaden. Deputy Aviation Director Longo said the numbers in 2023 are for all operations at the airport and show all properties that are eligible for all the mitigation programs. Councilor Bushor requested the percentage of population impacted be provided going forward.

Councilor Pine stressed doing what needs to be done to minimize the impact. Deputy Aviation Director Longo said the modeling is done in a controlled environment. Data on each aircraft is put into the modeling system. Noise and sound are perceived differently by individuals, and that is why a controlled scientific approach and a 65 DNL average are used. Aviation Director Richards added the methodology is required to acquire financing from the FAA to help the community. The airport has no say on what planes use the airport. The airport is committed to finding the best possible way to have the least impact on as many people as possible and is putting full effort toward maximizing the return from the program.

Councilor Freeman asked if the match money can cause delay in the program moving forward. Aviation Director Richards said a delay is not anticipated. Staff will work hard to obtain the funds. Councilor Freeman spoke against expansion of the airport and air travel due to the ecological crisis and that maintaining the system is impractical. Councilor Freeman also spoke against the F-35 on humanitarian grounds.

Councilor Paul asked if all property owners within the 65 DNL contour are eligible for the sound insulation program. Deputy Aviation Director Longo said the property must be within the 65 DNL and have an acoustical test done. Chamberlin School is within the 65 DNL, but the interior noise level after testing was below 45 DNL. Also, commercial properties are compatible uses in the DNL so they are not eligible for the insulation program.

Councilor Mason asked about the timeline for funding. Aviation Director Richards said the airport is a year ahead in the FAA process and doing all that can be done with the time and programs available. Deputy Aviation Director Longo said full approvals from the FAA are anticipated in June 2020 and then application can be made for federal funding for implementation of the programs. Councilor Mason asked how it is determined what properties are eligible for funding. Aviation Director Richards said in addition to the FAA criteria the airport is asking that the age and condition of the house and the population be considered.

Councilor Dieng asked for assurance the taxpayers of Burlington are not paying more because of the F-35s. Aviation Director Richards said the airport budget is strong and staff is working hard to make sure the people have the best possible airport available to them. The military being at the airport is due to past commitments and not part of the airport budget.

Councilor Hanson asked what is being done to ensure the F-35 planes are not flying over schools when children are there. Aviation Director Richards urged municipalities and schools to talk to the Air Guard directly about the flight path. The



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airport has no input into the Guard's schedule.

6.04 Public Hearing: Substantial Change Request to Vermont Economic Progress Council for Waterfront Tax Increment Financing (TIF) District Reconciliation Plan

Consultant Glassberg and Assistant City Attorney Haesler explained the request for submission to the Vermont Economic Progress Council to preserve access to Waterfront TIF to pay for public improvements beyond the December 2019 deadline. The substantial change request is because the project has changed (change in the marketplace and change in construction cost) and reasons for the change must be submitted. The submission documents the progress in the project design and scheduling, and the developer's commitment to the concept of the minimum increment.

The public hearing was opened at 9:26 PM. There were no comments. The public hearing was closed.

6.05 Substantial Change Request Submission – Jeff Glassberg

MOTION by Councilor Bushor, SECOND by Councilor Mason, to approve the substantial change request submission to Vermont Economic Progress Council for the Waterfront TIF District and authorize the City Council President and CAO to execute the formal request letter.

DISCUSSION:

- Councilor Paulino asked if the city will still be able to recover in a timely fashion with the changes to the project. Consultant Glassberg said based on a conservative forecast by the Assessor the trend is less than \$21.83 million, but there could be other growth in the district to add to the available increment to pay for public improvements or the minimum increment can be changed. Councilor Paulino asked how long it will take for the city to pay off \$21.8 million. Consultant Glassberg said Year 2035 is the life of the TIF District and the return to grand list growth.
- Councilor Bushor asked if the public improvements are covered by the \$18 million. Mayor Weinberger explained the \$21.8 million was an "up to" maximum. The first priority was the new streets and the cost estimates are less than \$18 million. Councilor Bushor requested the full City Council have the opportunity to discuss the project and any changes in the development agreement.
- Councilor Pine asked if there is enough increment to service the public improvements, noting .25% of the increment goes to the Education Fund and is not for the city to use to service debt. Assistant City Attorney Haesler said the increment combined with assurances from the developer provide enough to cover the public improvements. Councilor Pine mentioned protecting the city and the taxpayers against incurring debt even if the improvements are not complete by the June 30, 2021 deadline. Assistant City Attorney Haesler confirmed that is the second assurance needed from the developer.
- Councilor Dieng questioned having discussion when there is no design from Brookfield. Consultant Glassberg said the project changed and the city was advised to submit the request for substantial change to VEPC so there can be a formal public submission on change in the project prior to the end of the calendar year.
- Councilor Mason confirmed there will be further opportunity for City Council and the public to have input on the project. Councilor Mason asked what will happen if the request for substantial change submission is not supported. Assistant City Attorney Haesler said the city will not be in compliance with TIF law requiring that VEPC be kept updated on the project.



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- **Councilor Tracy commented on communicating the city's intentions. Assistant City Attorney Haesler said the city is trying to keep the regulatory agency informed on the status of the project. Consultant Glassberg added there has been tremendous progress in the developer's ability to articulate their plan and have a fully articulated program, provide guidance on the market and construction costs, and have a timeline. There are regulatory and finance variables that could impact the project and must be addressed. Councilor Tracy asked if an economic feasibility study was done on the new design. Consultant Glassberg said more information has been requested on the proof of concept to match the assumptions with the reality of the marketplace. Councilor Tracy asked if the developer has full financing for the project. Consultant Glassberg said the lender is still interested in the project. Councilor Tracy asked about the public engagement process. Consultant Glassberg said a communication is expected proposing some form of public engagement for discussion at the CDNR. Councilor Tracy commented the developer should pay for the public improvements.**
- **Councilor Pine pointed out "but for" private development public infrastructure would not get built.**
- **Councilor Freeman disagreed with the "but for" argument and said the TIF model is not a good model.**

VOTING (by roll call): Councilor Bushor – aye, Councilor Hanson – nay, Councilor Dieng – aye, Councilor Paulino – aye, Councilor Freeman – 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 carried.

6.06 Fleet Purchases FY2020 – Board of Finance

MOTION by Councilor Bushor, SECOND by Councilor Roof, to waive the reading and adopt the resolution on the fleet purchases for FY2020 from the General Fund and Water Resources Division.

DISCUSSION:

- **Councilor Bushor explained the resolution is for the type of vehicles being purchased by the city moving toward hybrid or fully electric vehicles.**
- **Councilor Hanson asked about trading in vehicles and stated the city is not aligning its purchases with the climate crisis. DPW Project Manager Keenan and DPW Fleet Manager Perry explained the city does lease to own so the vehicles can be traded. Presently, the city does not have the infrastructure (charge stations) to support electric vehicles, but is moving in the right direction.**

VOTING: 9 ayes, 3 nays (Councilor Tracy, Councilor Freeman, Councilor Hanson); motion carried.

6.07 Charter Change: Housing Trust Fund – Charter Change Committee

MOTION by Councilor Tracy, SECOND by Councilor Roof, to waive the reading and adopt the resolution on the charter change for the March 2020 annual meeting relative to funding for the Housing Trust Fund.

DISCUSSION:

- **Councilor Tracy said the resolution provides a full penny to help restore the Housing Trust Fund.**
- **Councilor Bushor said one and a half cents would be better, but there is a budget gap to address. Residents need to be educated on how the money will be used.**
- **Councilor Mason cautioned many people view this as yet another tax increase.**
- **Mayor Weinberger pointed out this is the first of five initiatives from the housing summit and brings the**



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funding up to historic levels to protect against erosion over time.

- Councilor Pine urged looking for other revenue sources than the property tax.
- Councilor Dieng spoke against another increase on the tax rate.
- Council President Wright said the budget is tight with increases hitting the middle class hard.

VOTING: 10 ayes, 2 nays (Council President Wright, Councilor Dieng); motion carried.

6.08 Charter Change: Airport Commission – Charter Change Committee

MOTION by Councilor Tracy, SECOND by Councilor Hanson, to waive the reading and adopt the resolution on the charter change for the March 2020 annual meeting relative to adding members to the Airport Commission.

DISCUSSION:

- Councilor Tracy said the charter change adds a representative from Winooski and an additional person from Burlington to the Airport Commission.
- Councilor Paul noted the Airport Commission was not actively engaged in this change and previously had voted against having a representative from Winooski on the Airport Commission.

AMENDMENT by Councilor Paul, SECOND by Councilor Mason, to refer the resolution to the Charter Change Committee to have engagement with the Airport Commission.

DISCUSSION OF AMENDMENT:

- Mayor Weinberger said there have been discussions with Winooski and South Burlington on how to better work together on airport issues. Adding a Winooski seat on the Airport Commission as was done with South Burlington is an alternative to regional governance. Aside from the additional seat, there is an MOU being drafted with South Burlington and Winooski on how to work better together.
- Councilor Tracy said the Charter Change Commission is willing to have more due diligence on this.

VOTING ON MOTION AS AMENDED: unanimous; motion carried.

6.09 Charter Change: Ranked Choice Voting for Mayor, City Council, and School Commission – Councilors Hanson, Pine, Tracy, Freeman, Bushor

MOTION by Councilor Hanson, SECOND by Councilor Pine, to waive the reading and adopt the resolution on the charter change for the March 2020 annual meeting relative to ranked choice voting for the Mayor, City Council, and School Commission.

DISCUSSION:

- Councilor Hanson said the current voting system is flawed and does not represent the will of the majority of voters. The voters need to be given the opportunity to decide on ranked choice voting.
- Council President Wright recalled ranked choice voting in Burlington in the past forced a homogenous vanilla campaign where candidates did not take a strong stand on any issues.
- Councilor Shannon stated even after two elections using instant runoff voting people are still confused how instant runoff voting works.



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MOTION by Councilor Mason, SECOND by Councilor Shannon, to suspend the rules at 10:35 PM to complete the item on ranked choice voting only. VOTING: unanimous; motion carried.

AMENDMENT by Councilor Shannon, SECOND by Councilor Mason, to give the Charter Change Committee more time to consider other election methods to avoid a third candidate "spoiler effect", increase voter participation, and yield election results with support from more than 50% of the voters.

DISCUSSION OF AMENDMENT:

- Councilor Shannon said the Charter Change Committee is working to bring forth to City Council something that can be moved to the public. It is reasonable to have more time to review the options, engage the public, and then bring a voting method forward.
- Councilor Bushor asked if other options on how results are processed will be explored and questioned if there is time to do what needs to be done to explain the process to the voters. Councilor Shannon said technical details on counting ballots is not necessary to put the charter change on the ballot. The objections of the voters against ranked choice voting need to be heard, but there may be a version of ranked order voting that is more appropriate for Burlington.
- Councilor Pine said the process is being debated in order to have an item on the ballot in March.
- Councilor Roof stressed the need for public inclusion and more public process to prevent confusion and negative consequences. There are complexities.
- Councilor Mason said voter confusion is real and this is a substantive, material change. More time is needed to inform everyone.
- Councilor Hanson said City Council has been aware of this item which the community can discuss during the campaign so the item should be on the ballot in March. The voting method has been discussed for the past 20 years and used in five of those years so this is not new. Millions of people across the country have adopted instant runoff voting. There is the campaign cycle to do outreach and education.
- Councilor Freeman spoke in support of having voters weigh in on instant runoff voting. Instant runoff voting is not so complex. It is understandable.
- Councilor Dieng said there is time to discuss the voting method with constituents.

VOTING ON AMENDMENT (by roll call): Councilor Bushor – nay, Councilor Hanson – nay, Councilor Dieng – nay, Councilor Paulino – aye, Councilor Freeman – nay, Councilor Mason – aye, Councilor Paul – aye, Councilor Pine – nay, Councilor Roof – aye, Councilor Shannon – aye, Councilor Tracy – nay, Council President Wright – aye (6 ayes, 6 nays); motion does not carry.

VOTING ON ORIGINAL MOTION (by roll call): Councilor Bushor – aye, Councilor Hanson – aye, Councilor Dieng – aye, Councilor Paulino – aye, Councilor Freeman – aye, Councilor Mason – nay, Councilor Paul – aye, Councilor Pine – aye, Councilor Roof – aye, Councilor Shannon – nay, Councilor Tracy – aye, Council President Wright – nay (9 ayes, 3 nays); motion carried.

7.0 COMMITTEE REPORTS

No report.

8.0 CITY COUNCIL - GENERAL AFFAIRS



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No report.

9.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

No report.

10.0 MAYOR – GENERAL AFFAIRS

No report.

11.0 ADJOURNMENT

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

The meeting was adjourned at 11:12 PM.

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