Regular City Council Meeting - Monday, December 1, 2014 - 7:00 p.m. - Contois Auditorium
12/1/2014

Regular City Council Meeting - Monday, December 1, 2014 - 7:00 p.m. - Contois Auditorium (Monday, December 1, 2014)

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Members present
Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Also Present

CAO Bob Rusten, City Attorney Eileen Blackwood, Brian Lowe, Mayor's Office, David White, P/Z, ACAO Rich Goodwin, Miro Weinberger, Mike Kanarick, Lori Olberg, Amy Bovee, Peter Owens, Nate Wildfire, Richard Haesler

Meeting called to order at 7:12 PM

1. Agenda

Action, Procedural: 1.01 Motion to Approve/Amend the Agenda (proposed amendment) Start Time: 7:12pm

Motion to Amend the Agenda to move Item 4.02, Communication - Burlington Town Center Development Agreement to Item 1.02 and note draft Resolution per President Shannon; Note additional supporting documentation to Consent Item 3.03 per John Irving; Item 4.01 note proposed amendment to Resolution per Councilor Blais; note supporting documentation for agenda item 4.03 per Housing Board of Review Member Ben Traverse; Item 4.07 note Resolution per President Shannon.

Motion by Chip Mason, second by Sharon Bushor.

Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action, Communication, Discussion, Information: 1.02 Communication: Creating A Development Agreement For The Redevelopment Of The Burlington Town Center - Draft - (Was Item 4.02)

Peter Owens, CEDO, stated they are seeking input on the public process for drafting and adopting a development agreement for the redevelopment of the Downtown Mall. This promises to be a big step in creating a walkable Downtown. They are guided by planBTV, which responds to the call to reduce dependence on automobiles, to combat climate change, to create healthy environments, to create green infrastructure, and encourage active transportation by adding jobs, housing, commerce and entertainment. They have an opportunity to grow the community and undo some of the negative consequences of the 1960s urban renewal. They will reorient the mall to the street to create open, civic space.

Don Sinex, Burlington Town Center, stated they are here to develop a process. This is an important site in the City and they have to get this project right. They want to have an open and transparent process, which he is committed to. He develops sites based on market factors and what demands there are. He is confident that they need some housing, a hotel, and some retail, but also wants to consider what the City and public's interests are in the project. He will measure the success by how well it is used and how the tenants do in their space. He received an email suggesting that they create a quiet space for shoppers to take a break, which he thinks is a great idea. He likes to develop by integrating other people's good ideas into the plans. The goals is to create something that will be used for years to come and enhance the downtown. This will be a private public partnership and their objective is to merge their interests to develop a plan that is best for Burlington. He expects that it will be a $200 million project. They have some conceptual plans about what the site could become. When reviewing planBTV, he saw an alignment of the interests of the City with private interests. Opening up the corridors on St. Paul and Pine Streets are important to both mall operations and the City's interests.

William Fellows, PKSB Architects, stated they have a great commitment to public service and activities. They have been working on conceptual ideas and reviewed planBTV. The City and the Developer share similar purposes. He displayed conceptual renderings of what the design could be. They plan to increase connectivity from Church Street to Macy's and also create connectivity from Bank to Cherry Street on both Saint Paul and Pine Streets. They will also turn the retail onto street. They will create independent structures for public access on St. Paul and Pine Streets. People will be able to walk through in each direction and have independent activities that are supportive of the mall. They also plan to introduce housing and a hotel to include open space, which they will program. They will also have stormwater management elements. This will activate Cherry and Bank Streets in the way that they should be. These are primary principles for public amenities and use in this project.

David White, Planning and Zoning, stated they create plans to articulate visions for the community and ideas about how they would like it to grow and evolve. This site is an integral part of the Downtown and Waterfront master plan. There is tremendous opportunity here. The master plan asks them to reopen St. Paul Street and Pine Streets, and the developer and the City both believe this is a good idea. They envision building on top of the existing space to create opportunities for housing, entertainment, and additional retail. The plan lacks sufficient detail to do a development project and it needs to be taken several steps farther. Development cannot happen without a partnership between the private property owner and the City. Significant infrastructure will be necessary, and they will have to determine who will own what. They will begin with design workshops where the City, the property owner and the community will come up with ideas about what they want to see and how they want to do it. They anticipate that they will have a public advisory team and a technical team to engage the public and that their questions about the project have been answered. This will result in a development agreement for consideration by the Mayor and City Council. That will determine who does what and when. They will also determine if public financing will be used.

City Council President Shannon recessed the item to address the public forum.

Councilor Mason recused himself.

Councilor Paul introduced the resolution. The resolution states that the City Council supports a collaborative approach for development, accepts $150,000 from Devonwood to hire a development team to advise the Administration and Council, will appoint two members each of the Council and Planning Commission to work with the administration on the public process, and sets a timeline for the next year.

Councilor Knodell requested a description of the process. Mr. White stated they will follow a model to allow them to enter into a development agreement. The City, the mall, and the public will look at the conceptual design for the project. The second piece of the project is to determine how to make the elements of the project happen. They have called for a committee of City Councilors and Planning Commission members to determine the public engagement. They will also have a technical committee to help them work through the details of the project and create their final agreement. Councilor Knodell stated many of the City's goals relate to the design of the project. She inquired how they will integrate other goals that people may have for the project, such as the creation of livable jobs. Mr. Sinex stated the project has to be economically sustainable so that it is not a public burden. There will be public space and amenities that will have to be paid for by the rest of the project. He is committed to the process and the notion that affordable housing will be a component of what they do. If the demands from the public are too high, they will have to compromise to satisfy those needs while making sure the project is economically viable. The process will help them understand this.

Councilor Tracy stated they mentioned the need for vehicular connection and noted that it is important for biking as well. He inquired what structural ideas they have. Mr. Sinex stated they are looking at options for changes in structure and the implications of having vehicular traffic run through their design. They are committed to having a bike connection running from north to south. They will continue to look at other issues. Mr. Fellows stated returning the streets to vehicular traffic is not their priority, but they are interested in increasing connectivity. They envision creating an atmosphere similar to Church Street. Mr. Sinex stated they are not foreclosing any possibility.

Councilor Bushor stated there is tremendous potential to better utilize this space. She expressed concerns about the timeline of the project being too short to allow all to participate. She suggested that they have an indoor running/walking track around the mall for mall walkers. She hopes they will balance development between the Downtown and Waterfront and find a way to connect them.

Councilor Wright inquired what other projects Mr. Sinex has completed. Mr. Sinex stated he worked for a company in Chicago and engaged in many large transactions, including the development of Copley Plaza in Boston. This project was particularly challenging because it was built over an active freeway. They will work to make this project sustainable and responsible to benefit the City and the public. Councilor Wright expressed concerns about potential changes to zoning.

2. Public Forum: Time Certain 7:30 p.m.

Information, Procedural: 2.01 Public Forum

Jim Wilkinson - In favor of ban on antibiotics in livestock production
Melissa Sullivan - In favor of ban on antibiotics in livestock production
Cara Stapleford - In favor of ban on antibiotics in livestock production
Taylor Audette - In favor of ban on antibiotics in livestock production
Andrew Simon - In favor of divesting pension funds from fossil fuels
Gregory Curtis - In favor of ban on antibiotics in livestock production
Patricia Bristow-Johnson - In favor of ban on antibiotics in livestock production
Laura Mistreda - In favor of ban on antibiotics in livestock production
Molly Fleming - In favor of ban on antibiotics in livestock production
JT Lukens - In favor of divesting pension funds from fossil fuels
Lily Meyers - In favor of divesting pension funds from fossil fuels
Davin Steiger - In favor of ban on antibiotics in livestock production

Public Forum closed at 8:04pm

3. Consent Agenda

Action (Consent), Procedural: 3.01 Motion to Approve/Amend the Consent Agenda taking the following actions as indicated

Resolution: Motion to Approve/Amend the Consent Agenda taking the following actions as indicated

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action (Consent), Resolution: 3.02 Resolution: Authorization for the Sale of 59 Murray Street by The Burlington Board of School Commissioners (Board of Finance)

Resolution: waive the reading and adopt the resolution

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action (Consent), Resolution: 3.03 Resolution: Approval of Interruptible Gas Sales Agreements with Vermont Gas Systems for the Joseph C. McNeil Generating Station (Board of Finance)

Resolution: waive the reading and adopt the resolution

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action (Consent), Communication: 3.04 Communication: C/T Office, re: Accountability List

Resolution: waive the reading, accept the communication and place it on file

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action (Consent), Communication, Information: 3.05 Communication: Sandra Harris, President, Vermont League of Cities and Towns, re: VLCT Board Sets DY16 Dues

Resolution: waive the reading, accept the communication, place it on file and send a copy to the Board of Finance for consideration

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action (Consent), Communication: 3.06 Communication: Christian Kuzia, General Manager, Courtyard by Marriott Burlington Harbor, re: Dumpster Extension

Resolution: waive the reading, accept the communication, place it on file, grant the dumpster extension and note that the hotel is responsibile for all monies owed to the Department of Public Works through February 2015: obstruction permits ($20 per month) and meter bag fees ($30 per day/per space/24 hours a day)

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action (Consent), Communication: 3.07 Communication: C/T Office, re: Monthly Financial Reports as of October 2014

Resolution: waive the reading, accept the communication and place it on file

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action (Consent), Communication: 3.08 Communication: C/T Office, re: Sweep Account Report as of November 20, 2014

Resolution: waive the reading, accept the communication and place it on file

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action (Consent), Communication: 3.09 Communication: Burlington Sustainability Partnership (BSP), re: Burlington and the STAR Community Index

Resolution: waive the reading, accept the communication and place it on file

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action (Consent), Communication: 3.10 Communication: Chittenden County Assistant Judges, re: Pre-Budget Meeting

Resolution: waive the reading, accept the communication and place it on file

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action (Consent), Communication: 3.11 Communication: Stephen Barraclough, General Manager, Burlington Telecom, re:

DVR Credit

Resolution: waive the reading, accept the communication and place it on file

Motion by Sharon Bushor, second by Tom Ayres.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

4. Deliberative Agenda

Action, Resolution: 4.01 Resolution: Studying the Feasibility of Divesting Public Funds from The Fossil Fuel Industry (Councilors Colburn, Shannon, Ayres, Siegel, Brennan, Knodell, Bushor, Paul)

Councilor Colburn introduced the resolution. She stated they will have a task force with City Councilors, the administration, employee representatives, and citizen experts to more closely look at this issue.

Councilor Bushor inquired if the administration believes that this could return to the Council sooner than one year. There is a feeling that this should be done sooner rather than later. Councilor Colburn stated there is nothing in the resolution that would prevent the report from returning sooner than one year. The timeline was developed in recognition that these would be volunteers addressing a complex issue.

Councilor Blais stated the goal is to reduce the impact of climate change. The amendment seeks to ask the task force to consider adoption of other methodology.

Councilor Tracy stated he will not support the amendment. He believes that they should fully divest funds from this type of company.

Councilor Colburn stated she will not support the amendment. There is nothing in the resolution that would prevent the task force from investigating other forms of divestment. This task force will consider a wide range of alternatives for divestment.

Councilor Mason stated he sees this as adding another tool to combat climate change. If they find that their investment return would be negatively impacted, he believes the conversation would end. This will give them another tool to continue the discussion.

Councilor Knodell stated she will support the amendment. It will be important to research the different strategies that can be used.

Councilor Mason stated he will support this, but hopes the committee will keep the role of BERS in mind. They are the trustees of this fund and he has concerns about what pressure this will put on them. He inquired if he expects the committee will be volunteers. Councilor Colburn stated the expectation is that they would be volunteers with expertise on these issues.

Councilor Colburn stated she spoke with the chair of the Retirement Board to determine if he believed it would compromise their work. He did not believe that it would and would be supportive of the task force. She does not believe they will be infringing on their authority and they believe the report will be useful.

Mayor Weinberger spoke in favor of the resolution. He believes this will answer the question whether divestment can be used.

Councilor Paul stated she believes they have opportunities for socially responsible investment in a way that was not available in the past.

Councilor Ayres encouraged the study group to look at different investment strategies and how they actually impact the fossil fuel industry. He hopes they will look at conflicting information about the impact of divestment on the rate of return.

At the existing line 46, add the following Whereas clause:
"AND WHEREAS, the Investor Network on Climate Risk is a network of 100 institutional investors representing more than $13 trillion in assets and which is committed to addressing the risks resulting from climate change"

At the existing line 62 (I realize that the line will change with the proposed Whereas clause), or as the final Resolved clause, add the following
"BE IT FURTHER RESOLVED that the Task Force's feasibility study will include an assessment of the wisdom of BERS, in lieu of divesting from fossil fuel companies, to consider enrollment in the Investor Network on Climate Risk, or a comparable investment vehicle."

Motion by Norm Blais, second by Chip Mason.

Final Resolution: Motion Passes

Aye: Norm Blais, Sharon Bushor, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Kurt Wright, Joan Shannon

Nay: Tom Ayres, Selene Colburn, Max Tracy

waive the reading and adopt the resolution

Motion by Selene Colburn, second by Jane Knodell.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action, Ordinance - Second Reading: 4.03 Ordinance: HOUSING -Deposits (City Attorney's Office; Ordinance Committee)

(2nd reading)

Councilor Mason stated the Ordinance Committee reviewed this and worked with the Housing Board of Review to complete these cleanup changes. The Board thought the changes would help them work more effectively as a Board. The Ordinance will track State Statutes.

City Council President inquired if this has been vetted through the City Attorney's Office. Assistant City Attorney Haesler stated it has not. The Board convened and submitted the request today. He does not have an objection to the amendment.

Councilor Colburn inquired if there is any reason this should return to the Ordinance Committee for further discussion and review. Councilor Mason stated he believes that this is a positive change that makes the Ordinance stronger. He would prefer not to send it back to Committee.

Councilor Knodell inquired if this solution would work for both the landlord and the tenant. Councilor Mason stated he believes this would work best for the tenant. Councilor Bushor stated if this language was omitted, there could be a delay in returning the security deposit. This language will protect the tenant.

waive the second reading and adopt the ordinance with an amendment to line 17 to insert the word "consecutive" after the number (3) and to insert on line 79 "or the date the tenant vacated the dwelling unit, provided the landlord received notice from the tenant of that date" after the word unit.

Motion by Chip Mason, second by Sharon Bushor.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Action, Ordinance - Second Reading: 4.04 Ordinance: HOUSING - Certification of Compliance (Code Enforcement Office; Councilors Knodell, Colburn, Blais; Ordinance Committee)(2nd reading)

Councilor Paul spoke in favor of the Ordinance.

Bill Ward, Code Enforcement, stated this is till be a welcomed change. They have a stable residential unit inspection process. Most landlords are doing an excellent job and this will let that shine. It will also spotlight those who are not doing as well. He believes this is the right approach. He has spoken with landlords and tenants about this proposal.

Councilor Bushor stated it is important that this addresses how quickly problems are addressed. It defines the front lawn and green belt. There is a question on fireworks as a public nuisance. There is a section linking this to the land records to help track good landlords. Mr. Ward stated that the Certificate of Compliance has always been required to be posted at the property. They will issue 5 year certificate of occupancy. It will provide an additional tool for renters and tenants. Landlords will be able to display that they have been inspected for five years and received a high rating. Councilor Bushor noted this is a quality of life Ordinance.

Councilor Colburn spoke in favor of the Ordinance. This will provide landlord accountability for good landlords and all tenants.

Councilor Hartnett inquired how many landlords were involved in this process. Mr. Ward stated he reviewed proposed changes with Vermont Apartment Owners. That organization distributed the information to review the changes with them. They had some questions, but were overall supportive. He has spoken with the majority of property owners and managers to review the changes. Councilor Hartnett inquired if there was a public process for them to voice their opinion. Mr. Ward stated it was discussed at the Council meeting and subcommittee meeting.

City Council President Shannon inquired if the Ordinance addresses homeowners shooting off fireworks. She spoke in favor of the Ordinance.

waive the second reading and adopt the ordinance as amended by the Ordinance Committee

Motion by Karen Paul, second by Chip Mason.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Chip Mason, Karen Paul, Max Tracy, Kurt Wright, Joan Shannon

Not Present at Vote: Bianka Legrand

Action, Resolution: 4.05 Resolution: Approval of Chief Innovation Officer Position (Board of Finance)

Councilor Paul stated this will establish a department head position to oversee information technology. This will bring them to a place of technology innovation.

Mayor Weinberger stated they have been discussing this position for the past year. This position is one ofFY15. A property tax increase linked to those positions was approved. They included budgeting for this position and the Council approved a resolution creating the department and position. They have created a job description for approval. The biggest change is calling it Chief Innovation Officer. This will ensure that the City's IT functions are working properly, but will also work to make the City more data driven. Those elements of the job description will be an important part of the management team.

Councilor Knodell stated she voted against this at the Board of Finance. She supports creation of the position, but does not feel it should be a political appointee.

waive the reading and adopt the resolution

Motion by Karen Paul, second by Sharon Bushor.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Joan Shannon

Nay: Jane Knodell

Not Present at Vote: Kurt Wright

Action, Resolution: 4.06 Resolution: March 3, 2015 Annual City Meeting - Charter Changes to Allow Noncitizens to Serve on All City Board and As All City Department Heads (Charter Change Committee)

Councilor Blais stated this was unanimously approved by the Charter Change Committee. This will allow non-citizens to serve on Boards, Commissions and as Department Heads.

waive the reading and adopt the resolution

Motion by Norm Blais, second by Bianka Legrand.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Joan Shannon

Not Present at Vote: Kurt Wright

Action, Resolution: 4.07 Resolution: In Support of Ban on Non-therapeutic Uses of Antibiotics in Livestock Production

Councilor Colburn stated they have heard a lot of public comment on this issue. The resolution provides a recommendation to their congressional delegation about the issue of antibiotics in factory farming and for agricultural use and it has public health implications. This is in line with Burlington's Climate Action Plan.

Councilor Legrand spoke in favor of the resolution. Resistance to antibiotics is an important public health issue that requires immediate public action.

Councilor Ayres spoke in favor of the resolution.

Councilor Hartnett stated this practice is seldom used in Vermont. Many farmers do not believe in this practice.

Councilor Bushor stated she will be supporting the resolution. One person spoke about the fact that this has stalled in Congress because of lobbying by pharmaceutical companies. She believes that this is the right approach for bringing this forward and it impacts them all.

refer the resolution to the City Attorney's Office for review and return to the Council for adoption on 12/15

Motion by Selene Colburn, second by Bianka Legrand.

Final Resolution: Motion Passes

Aye: Tom Ayres, Norm Blais, Sharon Bushor, Selene Colburn, Dave Hartnett, Jane Knodell, Bianka Legrand, Chip Mason, Karen Paul, Max Tracy, Joan Shannon

Not Present at Vote: Kurt Wright

5. Committee Reports

Information, Procedural: 5.01 Verbal Reports

Councilor Knodell spoke about the CDNR Committee.
City Council President Shannon stated they will hold a work session to discuss their Legislative Agenda.

6. City Council - General Affairs

Councilor Blais spoke about the Burlington High School performance of Shrek.

Councilor Ayres spoke about First Night Burlington.

7. Mayor - General Affairs

Mayor Weinberger spoke about the upcoming legislative session and their discussions on education reform, the cleanup of Lake Champlain, and gun violence and public safety.

8. Adjournment

Action, Procedural: 8.01 Motion to Adjourn

Without objection, City Council President Shannon adjourned the meeting at 9:44pm