



Regular City Council Meeting - Monday, November 13, 2017, Contois Auditorium, City Hall 11/13/2017

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

November 13, 2017

MEMBERS PRESENT: Jane Knodell (Council President) – Central District

David Hartnett – North District

Joan Shannon – South District

Richard Deane – East District

Sharon Foley Bushor – Ward 1

Max Tracy – Ward 2

Sara Moore – Ward 3

Kurt Wright – Ward 4

William “Chip” Mason – Ward 5

Karen Paul – Ward 6 [left at 9:42 PM]

Ali Dieng – Ward 7

Adam Roof – Ward 8

ADMINISTRATION: Miro Weinberger, Mayor

Beth Anderson, Interim CAO

Rich Goodwin, DFO

Eileen Blackwood, City Attorney

Brian Lowe, Mayor’s Office

Katie Vane, Mayor’s Office

Lori Olberg, C/T

Amy Bovee, C/T



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David White, P&Z

OTHERS PRESENT: Raphine O'Rourke
Andy Montroll
Kelly Devine
Charles Thorp
Andrew Simon
Barbara McGrew
Linda Ayer
Charles Simpson

1.0 CALL TO ORDER and AGENDA

City Council President Knodell called the meeting to order at 7:22 PM on November 13, 2017 and led the assemblage in the Pledge of Allegiance

1.01 Agenda

MOTION by Councilor Roof, SECOND by Councilor Deane, to approve the agenda with the following amendments:

- **Add Item 3.26 (EPA Assessment Grant Application) to Consent Agenda**
- **Remove from Consent Agenda and add as Item 4.03 (Communication on Hours of Enforcement from DPW Director Spencer) to Deliberative Agenda**
- **Add Item 4.07 (Voting Process for Selection of BT Buyer) to Deliberative Agenda**

VOTING: unanimous; motion carried.

2.0 PUBLIC FORUM

Public forum was opened at 7:25 PM.





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COMMENTS

- Kelly Devine, Burlington Business Association, spoke in support of approving form based code for the downtown core and expressed hope there can be further dialogue on the energy conservation requirements. Clarifying language is needed.
- Charles Thorp urged support of KBTL and not letting Burlington fall behind in broadband.
- Andrew Simon spoke in support of the KBTL Co-op and embracing the vision for the community.
- Barbara McGrew, Ward 3, stated with form based code the city will get bland cookie cutter buildings and lose creativity and curtail the public process.
- Linda Ayer urged support of KBTL, adding what residents can do when they work together is powerful. The city has lots of precedents.
- Charles Simpson stated the majority of the people in attendance at the City Council meetings are in support of KBTL. Selling BT to a foreign national is not in keeping with the vision for Burlington.

There were no further comments. Public Forum was closed at 7:40 PM.

3.0 CONSENT AGENDA

- 3.01 PROCEDURAL: Amend/Adopt Consent Agenda and Take Action(s) as Indicated
- 3.02 COMMUNICATION: Accountability List
- 3.03 COMMUNICATION: Minutes, Special City Council Work Session, 7/31/17
- 3.04 COMMUNICATION: Minutes, Special City Council Work Session, 8/7/17
- 3.05 COMMUNICATION: Minutes, Local Control Commission, 8/7/17
- 3.06 COMMUNICATION: Minutes, City Council Mayor Presiding, 8/7/17
- 3.07 COMMUNICATION: Minutes, City Council, 8/7/17
- 3.08 COMMUNICATION: Minutes, Special City Council Work Session, 8/28/17
- 3.09 COMMUNICATION: Minutes, Local Control Commission, 8/28/17
- 3.10 COMMUNICATION: Minutes, City Council, 8/28/17
- 3.11 COMMUNICATION: Minutes, Special City Council Work Session, 9/18/17
- 3.12 COMMUNICATION: Minutes, Local Control Commission, 9/28/17
- 3.13 COMMUNICATION: Minutes, City Council, 9/18/17
- 3.14 COMMUNICATION: Minutes, Local Control Commission, 9/25/17
- 3.15 COMMUNICATION: Minutes, Full Board of Abatement of Taxes, 9/25/17
- 3.16 COMMUNICATION: Minutes, City Council, 9/25/17



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- 3.17 COMMUNICATION: Sweep Report September 2017
- 3.18 COMMUNICATION: Step Placement, Excavation Inspector, Caleb Manna
- 3.19 COMMUNICATION: Step Placement, PW Engineer, Matthew Zanchi
- 3.20 COMMUNICATION: BBA re: Sale of BT
- 3.21 COMMUNICATION: Julie Devin re: BT Bid Selection Process and Outcome
- 3.22 COMMUNICATION: FIO Document(s)
- 3.23 RESOLUTION: Update Staffing Structure, BED
- 3.24 RESOLUTION: Quitclaim Deed, Railroad Spur, RFC Realty
- 3.25 RESOLUTION: License Agreement, BTC Mall Associates
- 3.26 COMMUNICATION: EPA Assessment Grant Application

MOTION by Councilor Roof, SECOND by Councilor Bushor, to adopt the Consent Agenda and take the action indicated for Items 3.01 through Item 3.26.

VOTING: unanimous; motion carried.

4.0 DELIBERATIVE AGENDA

4.01 Indoor Entertainment Permit Application (2017-2018): Lincoln's, 191 College Street

MOTION by Councilor Deane, SECOND by Councilor Roof, to approve the Indoor Entertainment Permit 2017-2018 for Lincoln's, 191 College Street, with the condition all permits must be closed out and with all standard conditions.

VOTING: unanimous; motion carried.

4.02 Indoor Entertainment Permit Application (2017-2018): Safont Corp. d/b/a The Scuffer, 148 Church Street

MOTION by Councilor Deane, SECOND by Councilor Roof, to approve the Indoor Entertainment Permit 2017-2018 for Safont Corp. d/b/a The Scuffer, 148 Church Street, with all standard conditions.

DISCUSSION:

- Councilor Bushor asked for an explanation of "floor shows" as noted in the application. Councilor Deane said the applicant is looking for opportunity to create an entertainment venue and will keep the shows low keyed. The applicant was not specifically asked about floor shows.

VOTING: unanimous; motion carried.

4.03 Proposed Adjustment to Hours of Enforcement - DPW





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Councilor Bushor said the proposed recommendation is to change the hours of parking enforcement to 9 AM – 9 PM for all parking scenarios in the area of enforcement including parking lots. There is compelling information to roll the enforcement back even further to 8 PM. The committee needs to be thinking about how to continue to entice people to the downtown stores and restaurants despite the ongoing construction. Offering more free parking for a period of time is one suggestion.

MOTION by Councilor Bushor, SECOND by Councilor Deane, to waive the reading, accept the communication on proposed adjustment of hours of enforcement from DPW Director Spencer, and place the information on file.

DISCUSSION:

- Councilor Wright said he has also heard concerns about how to continue to bring people to the downtown area. Councilor Wright said he will attend the DPW meeting and advocate for further rollback of the hours of enforcement.

There were no further comments.

VOTING: unanimous; motion carried.

4.04 Public Hearing: ZA#18-01 PlanBTV Downtown Code

Council President Knodell opened the public hearing at 7:46 PM. There were no comments. The public hearing was closed at 7:46 PM.

4.05 Ordinance: ZA#18-01 PlanBTV Downtown Code

MOTION by Councilor Mason, SECOND by Councilor Deane, to waive the second reading and adopt ZA#18-01 PlanBTV Downtown Code.

DISCUSSION:

- Councilor Shannon agreed with the statement that this form based code stifles creativity, but creativity has been stifled with the existing code, budgets, and other considerations. The ordinance forces developers to produce better buildings. There has been a tremendous amount of public process with the ordinance and it is worth giving it a chance.
- Councilor Bushor disagreed with the height allowance, exclusion of the public, and building to the property line (encroaching on the public right-of-way should not be allowed on a regular basis). “Boxy” buildings are not inviting. Councilor Bushor said it is hoped there will be effort to right the wrongs from the ordinance.

There were no further comments.

VOTING: 9 ayes, 3 nays (Councilor Bushor, Councilor Moore, Councilor Tracy); motion carried.

4.06 BT Sale: Report from KBTL and Ting





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Andy Montroll reported three meetings were held to try to find a resolution that worked. Mayor Weinberger and Peter Clavelle also tried to help, but a successful resolution that worked for all could not be found.

4.07 Resolution: Voting Process for Selection of BT Buyer

MOTION by Councilor Roof, SECOND by Councilor Wright, to waive the reading and adopt the resolution on the voting process for selection of the BT buyer on November 27, 2018.

DISCUSSION:

- Councilor Roof explained the resolution which was a collaborative effort outlines a path forward through 11/27/18. Four city councilors (Knodell, Wright, Mason, Roof) will meet to consider options on how City Council will proceed with voting on 11/27/17 with a report on 11/17/17. The four bidders will submit their letters of intent by 9 AM on 11/20/17. If possible, bids can be submitted by 11/17/17 by 3 PM. The resolution clarifies the role and standards of negotiation led by Terry Dorman. Terry Dorman will advise City Council on developments and provide material updates. The resolution clarifies circumstances whereby City Council can interact with bidders. A work session will be held 11/27/18 so City Council can ask questions of the bidders. The resolution sets in a clear fashion items that will help City Council make a fully informed decision on 11/27/17 including financial assessment of all bidders, financial pro formas from all bidders, due diligence site visit opportunities, meetings with BT staff set up by Stephen Barrenclough to receive feedback on the bidders, and legal analysis and review of all bids.
- Councilor Wright stated it is time to make the best deal possible. The resolution provides a path for that opportunity. Whichever bidder is chosen will have a stronger proposal for the effort.
- Councilor Shannon suggested a deadline of November 17, 2017 at 3 PM to allow time to review the offers. Councilor Roof explained the bidders need enough time to produce a good bid and City Council and the public need time to review. It must be clear to the bidders that it would be beneficial for City Council to receive the bids as soon as possible. The more time for review the better.
- Councilor Shannon questioned the need for city councilors to communicate with the bidders rather than work through the hired negotiator, Terry Dorman. There is concern about inappropriate communications. Council President Knodell said the intent is to inform Terry Dorman and the City Attorney. City Attorney Blackwood said Terry Dorman should be contacted before communicating with the bidders. No city councilor should be contacting the bidders. Any questions should go through Terry Dorman who is doing the negotiations. Communication by any city councilor could impact negotiations.

AMENDMENT by Councilor Shannon to change line 23 of the resolution to read "Bidders are to submit letters of intent no later than November 17, 2017 at 3 PM." The amendment failed due to lack of a second.

AMENDMENT by Councilor Shannon, SECOND by Councilor Deane, to change line 26 of the resolution by eliminating the words "without informing the City Attorney or Terry Dorman" and having the sentence read "Be it further resolved that no individual city councilor shall be in contact with any bidder individually for the remainder of this process."

DISCUSSION OF AMENDMENT:

- Councilor Tracy suggested the Administration should also not be in contact with any of the bidders. Councilor Shannon explained the Mayor is part of the Administration that works on bids and cannot be prohibited from talking to people.
- Councilor Hartnett noted Terry Dorman represents City Council and not the Mayor. Terry Dorman should be



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available to answer questions from City Council on the bids.

- Councilor Bushor stated when questions arise City Council wants to be aware and included in significant communications. City Council needs to be informed every step of the way.
- Councilor Roof said the intention is to make sure all City Council conversations are accounted for.
- Councilor Shannon clarified conversation about the bid is not allowed, but there can be casual conversation.
- Councilor Wright said there must be as much access as needed to Terry Dorman and access to every bit of information.

VOTING ON THE AMENDMENT: 11 ayes, one nay (Councilor Roof); motion carried.

CONTINUED DISCUSSION ON THE RESOLUTION AS AMENDED:

- Councilor Dieng suggested there be five city councilors on the committee and those who created the first voting system should not be on the committee.

AMENDMENT by Councilor Dieng to have a subcommittee of five city councilors. The amendment failed due to lack of a second.

AMENDMENT by Councilor Tracy, SECOND by Councilor Moore, that the resolution be amended to read: "Be it resolved that any communication between the Mayor or members of the Administration and the bidders shall be disclosed to City Council."

DISCUSSION OF AMENDMENT:

- Mayor Weinberger stated there will be dozens if not hundreds of contacts with the bidders with respect to what the resolution is asking to be done. Also, bidders seek information from the Administration. Material negotiations go through Terry Dorman, but it is impractical and inappropriate for City Council to tell the Administration how to conduct business. The Mayor's Office does not work for City Council, but works for the City of Burlington and works with City Council. The Administration is happy to work collaboratively. Mayor Weinberger said he takes issue with the notion of a past mistake not being repeated. There was no lack of communication from the Administration to City Council about what was happening and there was a major effort to address and explore with Council President Knodell a way to address the communication that went to the fourth bidder after City Council was advised. To continue to raise this issue and raise concerns is not consistent with what happened.
- Councilor Hartnett said for the sake of the people of Burlington it is hoped there will be open communication as there has always been.
- Councilor Shannon said she is confident the Administration will share all appropriate information with City Council.
- Council President Knodell said according to the Mayor there will be open sharing of information on any points relating to the negotiations. There is confidence this will be the case.

There were no further comments on the amendment.

VOTING ON THE AMENDMENT: 2 ayes, 10 nays (Councilor Bushor, Councilor Wright, Councilor Paul, Councilor Mason, Councilor Shannon, Councilor Hartnett, Councilor Deane, Councilor Roof, Councilor Dieng, Council President Knodell); motion did not carry. The amendment is defeated.

VOTING ON RESOLUTION AS AMENDED (City Council cannot have contact with the bidders): 11 ayes, one nay (Councilor Dieng); motion carried.



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5.0 COMMITTEE REPORTS

- Councilor Roof reported CBNR is meeting November 16, 2018 to discuss homelessness and encampments, and the Public Safety Committee is holding a work session on November 15, 2017 to discuss the homeless initiative.
- Councilor Mason reported the Ordinance Committee is meeting November 20, 2017 to discuss the Quality of Life right. The November 27th deadline will not be met because another meeting could not be scheduled by the committee in November. The committee is mindful of the deadline though.
- Councilor Tracy reported the TEUC will meet November 29, 2017 to hear a report from BED and is working to find a time with City Council to present the public engagement plan for the Walk/Bike public process.

6.0 CITY COUNCIL – GENERAL AFFAIRS

- Councilor Wright wished everyone a Happy Thanksgiving, adding there is lots to be thankful for and it is hoped everyone can work in a collaborative spirit.
- Councilor Wright announced Ken Lawless passed away. Condolences to the family.
- Councilor Bushor announced Target is coming to South Burlington.
- Councilor Tracy mentioned the NPA meetings for Wards 2 and 3 were held in the newly renovated space at St. Joseph's School. Thanks to all for the hard work.
- Councilor Roof explained his newly grown mustache is in support of men's health which is celebrated in November.
- Councilor Hartnett extended thoughts and prayers to John Ewing in his battle against a rare blood cancer.

7.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

No report.

8.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger reported:

- There will be two hours of free on-street parking on Saturdays during the holidays.
- The Administration does track what is happening in the downtown economically.
- The city recently hosted the Vermont Climate Pledge Coalition Summit on Climate Action. It is envisioned this will be an annual event.
- Votes are still being accepted for the finalist in the city flag competition. The winner will be unveiled at First Night.
- Burlington Co-Housing Community celebrated its 10th anniversary. The place is thriving and solar.

9.0 ADJOURNMENT

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





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The meeting was adjourned at 8:50 PM.

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