



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

October 28, 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 [arrived 6:58 PM]

Ali Dieng – Ward 7 [arrived 6:52 PM]

Adam Roof – Ward 8

ADMINISTRATION:

Mayor Weinberger

Beth Anderson, CAO

Rich Goodwin, DFO

Eileen Blackwood, City Attorney

Jordan Redell, Mayor’s Office

Olivia LaVecchia, Mayor’s Office

Deanna Paluba, HR



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

Brian Lowe, IT

Lori Olberg, C/T

Amy Bovee, C/T

Chapin Spencer, DPW

David White, Planning

Meagan Tuttle, Planning

Todd Rawlings, CEDO

Cindi Wight, Parks & Rec

John Vickery, Assessor

Chris Burns, BED

OTHERS PRESENT:

Zoe Richards

Alicia Daniel

Jeff Nick

Aanen Olsen

Peter Culkins

Chelsea Ziglebaum

Olivia Darisse

Mike Lacroix

Mike Blake

Susan Herrick

Brad Pettengill

Melinda Moulton

Richard Moulton

Sandy Wynne

Lea Terhune

Isabel Gomez

Ali House

Nick Floersch



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

Steve Goodkind

Benjamin Glenn Peters

Erdhardt Mahnke

Betsy McGavisk

Kelly Devine

Michael Monte

[Note: Minutes in order of published agenda.]

1.0 CALL TO ORDER

Council President Wright called the City Council meeting to order at 5:48 PM on October 28, 2019.

1.01 Agenda

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

- **Note materials for Shelburne Street Roundabout items**
- **Amend action on Item 6.18 (Renewable Energy)**
- **Note correct version of Item 6.33 (Electric Commission Attendance Record)**
- **Note information on Item 7.03 (CSM Commission Report)**
- **Note material on Item 7.04 (Update on CityPlace Project)**

VOTING: unanimous; motion carried.

2.0 SITE VISIT: Shelburne Street Roundabout

Council President recessed the City Council meeting in City Hall at 5:54 PM to conduct a site visit to the planned Shelburne Street roundabout site. City Attorney Blackwood explained the purpose of the site visit is to make a determination on a necessity hearing and on compensation or damages. VTrans representatives attended the site visit to answer any questions. There were questions on parking, easement for the bike path, and impact on existing businesses and residents. The City Council meeting reconvened at City Hall at 6:42 PM.

3.0 SINGING BY RESIDENTS OF ETHAN ALLEN RESIDENCE



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

Susan Herrick spoke of the benefits of music for senior citizens and led residents from the Ethan Allen Residence in a series of songs.

4.0 BHS GIRLS VARSITY SOCCER TEAM EQUAL PAY INITIATIVE

MOTION by Councilor Shannon, SECOND by Councilor Pine, to waive the reading and adopt the resolution in support and acknowledgement of the Burlington High School Girls Varsity Soccer Team and their #Equalpay Initiative.

DISCUSSION:

- Councilor Shannon read the resolution addressing wage inequity.
- Council President Wright expressed pride for the team and the initiative on behalf of the entire City Council.
- Coach Hayes said the girls on the team are great and will do amazing things.

VOTING: unanimous; motion carried.

Council President Wright recessed the City Council meeting at 7:33 PM to convene the Local Control Commission. The City Council meeting reconvened at 7:35 PM.

5.0 PUBLIC FORUM

Public forum was opened at 7:35 PM.

COMMENTS

- Albert Petraca read a statement in support of removing the parade mural.
- Melinda Moulton, Main Street Landing, spoke of the easement on the west side of the building for emergency access and the concern of narrowing the bike path to 8' wide for the second rail track, limiting access by emergency vehicles and creating an unsafe situation.
- Rick Moulton read a letter from former Vermont Governor, Richard Dean, against the rail track proposal because there are other alternatives.
- Sandy Wynne urged everyone to buy fair trade sustainable chocolates for Halloween.
- Lea Terhune spoke of removing the mural now.
- Isabel Gomez spoke in support of removing the mural.
- Ali House spoke in support of removing the mural.
- Nick Floersch gave a briefing on the Code for America event and local expungement week funded by the City Council Initiative Fund.
- Steve Goodkind said the Environmental Justice Review for the Champlain Parkway says the project should not disproportionately impact low income/minority households so traffic should not be directed through the Pine, Maple, King Street neighborhood. City Council can take action on this.
- Benjamin Glenn Peters spoke about people getting sick from wireless devices and working together to find a solution.

There were no further comments from the public. Public Forum was closed at 8:03 PM.



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

6.0 CONSENT AGENDA

- 6.01 PROCEDURAL: Amend/Adopt Consent Agenda and Take Action(s) as Indicated
- 6.02 COMMUNICATION: Accountability List
- 6.03 COMMUNICATION: Minutes, Local Control, 6/3/19
- 6.04 COMMUNICATION: Minutes, City Council, 6/3/19
- 6.05 COMMUNICATION: Minutes, City Council, 6/17/19
- 6.06 COMMUNICATION: Minutes, Mayor Presiding, 6/24/19
- 6.07 COMMUNICATION: Minutes, Local Control, 6/24/19
- 6.08 COMMUNICATION: Minutes, City Council, 6/24/19
- 6.09 COMMUNICATION: Minutes, City Council, 7/15/19
- 6.10 COMMUNICATION: Minutes, Mayor Presiding, 8/12/19
- 6.11 COMMUNICATION: Minutes, Local Control, 8/12/19
- 6.12 COMMUNICATION: Minutes, City Council, 8/12/19
- 6.13 COMMUNICATION: Minutes, Local Control, 8/26/19
- 6.14 COMMUNICATION: Minutes, City Council, 8/26/19
- 6.15 COMMUNICATION: Minutes, City Council, 9/9/19
- 6.16 COMMUNICATION: Minutes, Board of Finance, 2019 January (7,14,22,28), February (11,19), March (11,25), April (8,15,29), May (13,20), June (3,1,17,24), July (8,15,29)
- 6.17 COMMUNICATION: Champlain Parkway Environmental Justice Review, Steve Goodkind
- 6.18 COMMUNICATION: Renewable Energy, Emily Wallace
- 6.19 COMMUNICATION: Resignation CSM District Commission, Michael Ly
- 6.20 COMMUNICATION: You, Robert Daumiller
- 6.21 COMMUNICATION: Rail Service, Brad Pettengill, 10/7/19
- 6.22 COMMUNICATION: Mural, Lea Terhune, 10/7/19
- 6.23 COMMUNICATION: Rail Service, Larry Sudbay, 10/7/19
- 6.24 COMMUNICATION: Housing Policy Reform Proposals, Cindy Cook, 10/7/19
- 6.25 COMMUNICATION: Rail Advisory Council Memo, Carl Fowler, 10/7/19



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

- 6.26 COMMUNICATION: Rail Service, Melinda Moulton, 10/7/19
- 6.27 COMMUNICATION: Rail Issues, Rick Moulton, 10/7/19
- 6.28 COMMUNICATION: UVM Salt Sheds, Martha Lang
- 6.29 COMMUNICATION: MOU 195-201 Flynn Ave.
- 6.30 COMMUNICATION: DEC Block Grant Amendment Rte. 127 Outfall Repair
- 6.31 COMMUNICATION: VOCA Grant
- 6.32 COMMUNICATION: BHS/BTC ReEnvisioning Project Update, Clare Wool & Tom Peterson
- 6.33 COMMUNICATION: Electric Commission Attendance Record
- 6.34 COMMUNICATION: Police Commission Attendance
- 6.35 PERMIT (one day): BCA Highlight Events, 12/31/19
- 6.36 PERMIT (one day): Burton, 266 Queen City Park Road, 11/2/19
- 6.37 COMMUNICATION: FIO Document(s)
- 6.38 RESOLUTION: Quitclaim, 63 Birch Court
- 6.39 RESOLUTION: Quitclaim, 21 Curtis Ave.
- 6.40 RESOLUTION: Public Improvement Bonds School District Capital Improvements

MOTION by Councilor Bushor, SECOND by Councilor Roof, to adopt the consent agenda, Items 6.01 – 6.40, and take the action indicated. VOTING: unanimous; motion carried.

7.0 DELIBERATIVE AGENDA

7.01 Indoor Entertainment Permit Application 2019-2020: Einstein Tap House, 165 Church Street

MOTION by Councilor Roof, SECOND by Councilor Tracy, to approve the 2019-2020 Indoor Entertainment Permit Application for Einstein Tap House, 165 Church Street, with the following conditions:

1. **All city permits need to be closed out**
2. **Contingent upon Fire Marshall approval**
3. **All standard conditions**

VOTING: unanimous; motion carried.

7.02 Presentation: Burlington Wildways

Burlington Wildways Director, Zoe Richards, and Field Naturalist, Alicia Daniel, showed photos of various parts of the land parcel, plants, and animals in the natural area and discussed the multiple ownership of the open space that formed the



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

partnership of Burlington Wildways. Work continues on trails, conservation issues, stewardship of the landscape, access, protecting rare plants, and elevating the status of natural areas in climate change mitigation.

Councilor Bushor cautioned against trail abuse and overuse.

Councilor Dieng asked about bee pollination efforts. Wildways Director Richards said there is an active effort to work with different groups to restore and enhance native plants for pollinating insects.

7.03 Report: Church Street Marketplace District Commission

Jeff Nick, Chair of the CSM District Commission, publicly thanked Ron Redmond for his years of service and announced the marketplace is 100% occupied. Parking management has been helpful. The maintenance team does yeoman's work. CSM is looking forward to the new development. There is concern some national retailers are teetering which could have an impact on the marketplace. Another concern is the anti-social behavior occurring on the street. It is suggested that sale of off premise alcohol be restricted before 10 AM. CSM is successful today, but success is fragile so all that can be done must be done to stay strong.

Councilor Tracy mentioned business owners leaving doors open when actively cooling or heating which is a waste of energy, and the need for bike racks on Church Street. CSM Chair Nick said it is difficult to mandate action with the doors to businesses. There are many variables and business owners say open doors bring in customers. Regarding bike racks, there are some racks on Church Street. More could be located on the periphery or on corners because there are so many activities on the street.

Councilor Pine asked about expanding the downtown district. CSM Chair Nick said the commission would like to continue the effort which has been challenging.

Councilor Bushor mentioned retail sales being constant in 2008 and not tracking as well in 2019 due to the loss of mall parking, loss of Macy's and other retailers as well as the impact of e-commerce and the behavior on the street. CSM Chair Nick said the loss of parking was a blow, but the increase in the number of hotel rooms was good. Parking convenient to retail is needed. Thanks are extended to Brookfield for the donation to the marketplace. Social behavior in the downtown is a concern.

Councilor Dieng asked for further explanation of the comment on alcohol sales. CSM Chair Nick said he sees people drinking in the morning on the street and being drunk by noon. An easy fix to the problem is limiting the sale of alcohol. Councilor Freeman commented alcohol is a factor, but there are other underlying issues to consider.



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

7.04 Update from Brookfield on CityPlace Project

Aanen Olsen, Peter Culkins, and Chelsea Ziglebaum gave an update on the work done on the CityPlace project in the last 60 days including the new design with the office component in the former Macy's buildings, housing and hotel above the retail, retail on the first floor, the street grid, and the rooftop observation and community space. Next steps are to advance the design (three block approach), start the public approval process, negotiate with tenants, and start construction in 2020.

Councilor Roof asked about the number of housing units with the new plan and if there is any change to the Church Street side of the project. Aanen Olsen said every unit of housing is retained (280-300 units). The mall will remain on the Church Street side. The leasing department will handle tenants. The team is working with the Medical Center. The largest issue is parking. A comprehensive parking audit will be done.

Councilor Pine asked if there will be office space remaining after the Medical Center is in place and if there are office/retail tenants. Chelsea Ziglebaum said there will be 40,000 s.f. of office space. There are hybrid tenants out there. Councilor Pine asked about the status of the executed term sheet for financing and if office rents will be competitive. Aanen Olsen said the term sheet is executed. The bank has a placeholder for the project. The team is working on competitive office rents.

Councilor Bushor stressed the public wants to see the new design and asked about square footage for retail. Chelsea Ziglebaum said the retail space is on the ground floor. Store fronts will be on the first level. Councilor Bushor asked if there will be enough parking for the housing, Medical Center, and shoppers. Aanen Olsen said the parking will be adequate for what is proposed plus some spaces for the public. The need for readily available parking is understood. Councilor Bushor asked about the process with the community and perhaps having a meeting at City Hall open to all residents. Aanen Olsen said meetings are planned with the CDNR and business associations.

Councilor Tracy stressed the need for public engagement especially with substantial changes to the design. The public should have a chance to weigh in on what they want to see in the downtown.

Councilor Dieng asked about damages for the loss of business due to the project delay and who makes up the management team. Aanen Olsen said the team is himself, Peter Culkins, Chelsea Ziglebaum and the boots on the ground. Damages due to delay were not part of the agreement and have not been discussed. Councilor Dieng asked what is next and if a new agreement will be needed. Aanen Olsen said community feedback on aesthetics and programming needs will be gathered.

Councilor Paulino asked how many rooms will be in the hotel, and commented positively on having the community spaces on top of the hotel. Chelsea Ziglebaum said the hotel will have 175 rooms. Councilor Paulino asked about the number of parking spaces to be created, expressing hope that the project will not be delayed by a couple of hundred parking spaces. Aanen Olsen said the number of spaces is still being determined.



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

Councilor Mason asked about potential causes for delay. Aanen Olsen said delays could occur due to regulatory issues through the public approval process and any legal challenges or delay in leasing the space.

Councilor Hanson urged focusing on transportation demand management to reduce parking and get people out of their cars. Aanen Olsen said Brookfield is willing to work with the city and tenants on a solution to parking. Councilor Hanson asked if there will be district heating of the building. Aanen Olsen said the issue is ongoing and be addressed during the design phase.

Councilor Paul observed the project is more in line with the skyline of Burlington, and asked about housing in light of inclusionary zoning, and retail gain or loss. Aanen Olsen said the housing will meet the affordability requirement of 20%. For retail the focus will be Cherry Street and Pine Street frontages and a pedestrian connection to the hotel. Councilor Paul urged engaging the public in the project and community space.

Councilor Shannon spoke in support of the current development proposal, noting the community values energy efficiency in transportation and heating.

Councilor Roof asked about public improvements at the street level. Aanen Olsen reiterated the commitment to connect the street and to the TIF agreement.

Council President Wright asked if Don Sinex signed off on the proposal and if the proposal will serve the \$1.28 million TIF debt. Aanen Olsen said Mr. Sinex approves of the design, and Brookfield is confident the project will meet the TIF. Council President Wright asked if the price structure for the apartment units has changed with the new design. Aanen Olsen said the projections are aligned. Chelsea Ziglebaum said the structure type that is proposed is more economical to build. The high rise construction type of steel and concrete (very expensive to build) has been replaced with steel stud technology with labor and materials more readily available. Council President Wright asked about the cost of the project now. Aanen Olsen said the number is not known at this point in time. Council President Wright asked if the deadlines will be met and how the city can assist. Aanen Olsen said it is regulatory. Brookfield will be working with the city on a parking solution.

Mayor Weinberger said the Administration will do what can be done to assist in meeting the goals that were outlined.

7.05 Shelburne Street Roundabout Necessity Hearing

The necessity hearing was opened at 6:42 PM. Olivia Darisse, VTrans, noted the submittals for the necessity hearing. Mike Lacroix, VTrans, assured there will be access to all properties for the duration of the project. The roundabout is the best engineered solution to safety issues at the intersection. Land appraiser Benoir explained the appraisal process for the project and Parcel 16. The report and appraisal are included in the submittals.



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

Bob Lake, 616 South Willard Street, questioned the engineering and the number of accidents claimed for the dangerous intersection. Mr. Lake said people will not be able to access his business. There will be traffic delays with the one lane approach which will put him out of business. Mr. Lake suggested installing temporary barriers on the street to witness the results of one lane into the roundabout.

Councilor Shannon asked about compensation for parking off-site and if there is another way to look at compensation due to the impact on the Lake business. Legal counsel advised FHWA sets the rules on compensation for federally funded projects. There was further discussion of determining business loss for compensation. It was noted there would be no compensation for work done in the right-of-way. With the project there will be disruption, but no loss of parking so there is no business loss.

Councilor Tracy asked if the temporary easement for two months is enough time. Mike Lacroix said the time estimate is based on projects of similar size.

MOTION by Councilor Mason, SECOND by Councilor Roof, to close the necessity hearing and direct staff to prepare draft findings of fact and conclusions of law for City Council consideration at the 11/18/19 meeting, and to postpone the compensation hearing until the 11/4/19 meeting.

DISCUSSION:

- **Councilor Mason said it would be beneficial to have a more clear understanding of the positions of the respective parties on the amount of compensation and period of time for which compensation is being sought.**

VOTING: 10 ayes, 2 nays (Councilors Paulino, Wright); motion carried.

7.06 Shelburne Street Roundabout Compensation Hearing

Postponed to 11/4/19.

7.07 Public Hearing: ZA#19-06 Signs, ZA#19-09 Zoning Administration Officer, ZA#19-10 Inclusionary Zoning

The public hearing was opened at 9:45 PM.

COMMENTS

Erdhardt Mahnke, 60 Grove Street, spoke in support of inclusionary zoning.

Betsy McGavisk spoke in support of inclusionary zoning and making it easier to build affordable units in low income



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

neighborhoods.

Kelly Devine urged support of the zoning change for inclusionary zoning to help get more affordable and market rate housing.

Michael Monte spoke in support of the ordinance changes that will allow more affordable housing to be built.

There were no further comments. The public hearing was closed at 9:52 PM.

7.08 Ordinance: ZA#19-06 Signs

MOTION by Councilor Mason, SECOND by Councilor Bushor, to waive the second reading and adopt the ordinance on signs, ZA#19-06.

DISCUSSION:

- Councilor Mason summarized the sign ordinance.
- Councilor Bushor said an amendment on banners will be coming forth.

VOTING: unanimous; motion carried.

7.09 Ordinance: ZA#19-09 Zoning Administrative Officer

MOTION by Councilor Mason, SECOND by Councilor Dieng, to waive the second reading and adopt the ordinance on the Zoning Administrative Officer, ZA#19-09.

DISCUSSION:

- Councilor Mason said the ordinance is now in line with the charter.
- Councilor Bushor noted her previous stance on splitting up Planning and Zoning has not changed.

VOTING: 11 ayes, one nay (Councilor Bushor); motion carried.

7.10 Ordinance: ZA#19-10 Inclusionary Zoning

MOTION by Councilor Mason, SECOND by Councilor Pine, to waive the second reading and adopt the ordinance on inclusionary zoning.

DISCUSSION:

- Councilor Mason gave a history of the meetings held on inclusionary development proposals and explained the parking requirements for inclusionary zoning (15% reduction).



Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

- Councilor Bushor said it is good the institutions are involved. Inclusionary zoning is one part of the process to fill the affordable housing need.
- Councilor Pine spoke of the changes helping developers be able to afford to build affordable units.
- Councilor Hanson referred to the waiver fees (Lines 26-29 of the ordinance) and asked if the units can be resold or the rent increased after the three year period. Planning Director White said the waiver is of the impact fee. Most units have a long term affordability clause. Todd Rawlings, CEDO Housing Program Manager, said typically waivers are written for those in the 50% or 100% category. The provisions pertain to affordable units above and beyond the minimum requirement. Nothing precludes the prices going up after the three year period. Senior Planner Tuttle said the issue is creating a balance between the ordinance and the offset received by the developer.

AMENDMENT by Councilor Hanson, SECOND by Councilor Freeman, to strike lines 26-29 in the ordinance.

DISCUSSION OF AMENDMENT:

- City Attorney Blackwood cautioned that a substantial change in the ordinance requires that another public hearing be warned.
- Councilor Pine said the exclusion is extremely rarely used. Initial rents or sales prices being this affordable are difficult for developers and this 25% exclusion is a small reward for that.
- Councilor Paulino confirmed with staff that the exclusion is rarely used.

VOTING ON AMENDMENT (strike lines 26-29): 3 ayes, 9 nays (Councilors Bushor, Pine, Dieng, Mason, Paul, Paulino, Roof, Shannon, Wright); motion does not carry.

VOTING: unanimous; motion carried.

7.11 Ordinance: Illuminated Signs

MOTION by Councilor Mason, SECOND by Councilor Bushor, to waive the second reading and adopt the ordinance on illuminated signs.

DISCUSSION:

- Planning Director White said the section is being eliminated because it is redundant to what is required in the zoning ordinance in matters of electrical service and construction.

VOTING: unanimous; motion carried.

7.12 Electrification of Heat and Air Conditioning Systems in New Construction – Councilor Bushor

MOTION by Councilor Bushor, SECOND by Councilor Hanson, to waive the reading and adopt the resolution.

DISCUSSION:

- Councilor Bushor said electrification of heat/air with new construction will be required.

VOTING: unanimous; motion carried.





Regular City Council Meeting - Monday, October 28, 2019, 5:45 pm, Contois Auditorium, City Hall 10/28/2019

8.0 COMMITTEE REPORTS

- Councilor Tracy said the TEUC discussed the narrow streets policy, GMT Next Gen system, parklet program, Amtrak, and the water resources rate study. The Charter Change Committee discussed voting rights and the Housing Trust vote.
- Councilor Pine said CDNR will discuss community engagement with the Brookfield project.

MOTION by Councilor Mason, SECOND by Councilor Hanson, to suspend the rules at 10:30 PM. VOTING: unanimous; motion carried.

- Councilor Shannon said the PACC discussed the replacement/repair of the mural plaque in French and English, the RFP for Memorial Auditorium (bids due 12/2/19), and the off leash dog ordinance.
- Councilor Dieng said the HR Committee will meet 11/5/19 to discuss HR policies and applicants for the Diversity, Equity, Inclusion Director position.

9.0 CITY COUNCIL – GENERAL AFFAIRS

- Councilor Hanson mentioned the tenant summit at Fletcher Free Library on 11/3/19, and the visit to Montreal with other city councilors to look at bike infrastructure.
- Councilor Tracy said the visit to Montreal to view bike infrastructure shows there will be an increase in ridership if the infrastructure is built, maintained, and plowed in winter.
- Councilor Paul mentioned funding the International Film Festival recently held in Burlington was money well spent. All are urged to attend the festival next year.
- Councilor Roof said he received a call from a citizen on pedestrian safety and people going through stop signs. A mix of solutions should be discussed.
- Councilor Pine suggested stop light cameras be installed.
- Councilor Dieng said Ward 7 NPA serves dinner at the meeting every third Wednesday and all are invited.

10.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

No report.

11.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger reported;

- St. Paul Street is open.
- There was positive feedback on Innovation Week.
- The Housing Joint Committee continues to meet.
- There is a memo on tenant protection.
- Rail issue negotiations will be discussed in Executive Session.



**Regular City Council Meeting - Monday, October 28, 2019, 5:45
pm, Contois Auditorium, City Hall
10/28/2019**

12.0 ADJOURNMENT

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

The City Council meeting was adjourned at 10:43 PM.

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