



Special City Council Meeting, Thursday, September 29, 2016, 7:00 pm, Contois Auditorium, City Hall 9/29/2016

MINUTES SUBJECT TO CORRECTION BY BURLINGTON CITY COUNCIL. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE CITY COUNCIL.

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

September 29, 2016

DRAFT

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

David Hartnett – North District

Joan Shannon – South District

Selene Colburn, East District [via teleconference]

Sharon Foley Bushor – Ward 1

Max Tracy – Ward 2 [via teleconference]

Sara Giannoni, Ward 3

Kurt Wright – Ward 4

Karen Paul – Ward 6

Tom Ayres, Ward 7

Adam Roof – Ward 8 [via teleconference]

MEMBERS ABSENT: William "Chip" Mason – Ward 5

ADMINISTRATION: Miro Weinberger, Mayor
Eileen Blackwood, City Attorney
Rich Goodwin, DFO
Jennifer Kaulius, Mayor's Office



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Brian Lowe, Mayor's Office

Katie Vane, Mayor's Office

Amy Bovee, C/T Office

Lori Olberg, C/T Office

David White, Planning & Zoning

OTHERS PRESENT:

Bruce Wilson

Beth Awhaitey

Keir Demars

Simone Wright

Karen Hamilton

Savannah Jarvis

Kolby Lamarch

Julien Chavlot

Robert Les

Charlene Fu

Ron Ruloff

Charlie Messing

Shireen Hart

Lynn Martin

Maxine Holmes

Ann Taylor

Krista Hasert

Barbara McGrew

Solveig Overby

Richard Deane

Ross Montgomery

Ibnar Avilix

Steve Goodkind



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Margaret Murray

Amey Radcliffe

Joey Corcorean

Paco Defrancis

Kara Berg

Robert Herendeen

Andrew Simon

Kirk Jones

Genese Grill

Al Petratca

Brian Boardman

[Note: Due to technical difficulties telephone connection was not consistent and the meeting was briefly recessed twice (8:21 PM and 9:30 PM) to reconnect the line.]

1.0 CALL TO ORDER and AGENDA

City Council President Jane Knodell called the meeting to order at 7:08 PM and led the assemblage in the Pledge of Allegiance.

1.01 Agenda

MOTION by Councilor Shannon, SECOND by Councilor Wright, to approve the agenda with the following amendments:

- **Add Item 2.03 (Ron Ruloff Handout) to Consent Agenda.**
- **Note additional information in Item 4.01 (Tom and Deb Miller).**

VOTING: unanimous; motion carried.

2.0 CONSENT AGENDA

2.01 PROCEDURAL: Amend/Adopt Consent Agenda and Take Action(s) as Indicated



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2.02 COMMUNICATION: Pledge of Credit of City to Secure Indebtedness for Public Improvements Waterfront TIF District

2.03 COMMUNICATION: Ron Ruloff Handout

MOTION by Councilor Shannon, SECOND by Councilor Paul, to adopt the Consent Agenda Items 2.01 – 2.03 as amended (add Item 2.03 Ron Ruloff handout) and take the action indicated. VOTING: unanimous; motion carried.

3.0 PUBLIC HEARING

3.01 Proposed ZA#16-14 Downtown Mixed Use Core (DMUC) Overlay

The public hearing was opened at 7:10 PM.

COMMENTS

- Bruce Wilson and representatives from the BTC Youth Program reviewed the mission of the successful youth center located in the downtown mall to provide a place and mentoring for youth. Mr. Wilson spoke in support of the BTC program and plan and people like Don Sinex who will bring jobs and vitality to Burlington.
- Beth Awhaitey, peer mentor for the BTC Youth Program, mentioned the assistance provided to youth in the program.
- Keir Demars, BTC Youth Program, spoke in support of the youth program and having space in the mall.
- Simone Wright, BTC Youth Program, stated supporting the youth program will put money toward people who need it.
- Ron Ruloff, resident, referred to his letter to City Council, dated 9/29/16, that spoke of the letter from Charles Simpson in the *Burlington Free Press* from July 13, 2016 that identified the marina project as a Weinberger handout. Mr. Ruloff contended all development is essentially a handout of public funds to private developers with no guarantee and warned of the taxpayers and the city's pension fund supporting this. Mr. Ruloff recalled saying 14 years ago that there were too many nonprofits, too many public agencies, and too little tax revenue. Mr. Ruloff spoke of the city collapsing the pension fund through mismanagement and the proposed development being a "pie-in-the-sky" project that is an attempt to make up the money that was lost and will bring in hundreds of drug addicts and set up a Champlain College dormitory. Mr. Ruloff said the city is in severe financial condition and needs a planned bankruptcy and austerity. City Council is urged to vote against the zoning amendment.
- Charlie Messing, Pine Street/College Street resident, said the mall project is in his front yard and is too big. Mr. Messing mentioned books he is reading on modern architecture and urban studies and TIF and the negative reaction by a tourist who changed their mind about relocating to Burlington after hearing about the planned skyscraper. Mr. Messing said something should be done with the mall, but not that big, and it is not certain the city should pay for the two streets either. Mr. Messing quoted Abraham Lincoln with the saying "A bad promise is better broken than kept."
- Shireen Hart, resident, spoke in favor of the project and read words from Tom Brassard in support of the project and higher density urbanism.
- Lynn Martin, resident, read a statement about communities growing from the bottom up, not the top down, and urged City Council to say "yes" to PlanBTV and vote down the proposal.
- Maxine Holmes, voting taxpayer and property owner in Burlington, urged City Council not to support the zoning change because the zoning as it is now is as the people of Burlington asked (i.e. not necessary to go above 105' for any building in the downtown). Wind corridors from the high rise building will be horrible. It will be very cold, very windy, with lack of light. Ms. Holmes said Mr. Sinex can come up with something better and the city should hold him





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to what the public wanted in terms of the zoning.

- Ann Taylor, resident and small business owner in Burlington, spoke in support of the BTC project. The offices are needed. The housing is needed. The building will look great. People want progress. Business owners want the project which is the next 50 years for Burlington. Mr. Sinex will provide more tax dollars and community projects to make the city better. It is not about the money. It is about what can be created for the future plus the city will get back the streets. City Council is thanked for the hard work.
- Krista Hasert, resident, spoke against the zoning changes in relation to the 14 story mall plan, but in support of putting the topic on the ballot in November so the public can vote on the issue.
- Barbara McGrew, resident, said the process has been too short. Ms. McGrew said she lives by pessimism of the intellect and optimism of the will, and is against the zoning change. Ms. McGrew said the College Street garage is in the overlay district. Downtown is all of Burlington's backyard and the view corridor is particularly precious. Ms. McGrew read an excerpt of the zoning on conditional use review. The amendment is saying 14 stories not to exceed 160' except for 15' for mechanicals so the height is 175' and Planning & Zoning has 5% discretion so the height could be 183' which is what developers will push so the city should stop saying 160' max when the height is actually 183' (close to double what is there now). Ms. McGrew said people do not understand form based code which has not been discussed adequately. The amendment is a backdoor way to get form based code into the downtown and is not a very good process which will give prescriptive cookie cutter buildings, not the creativity Burlington deserves. Ms. McGrew urged City Council to consider the phrase "rapid onset buyer's remorse" because the process has been too quick. The zoning overlay should not be approved.
- Solveig Overby, resident, asked City Council not to support the DMUC Overlay because it is unconscionable for the city to create a special zoning district with terms dictated by criteria required by a single property owner. The height and mass and other elements are part of this and are inappropriate. Ms. Overby showed photos of downtown Saint John's, Newfoundland with large buildings and said marketing Burlington as beautiful downtown Church Street with 160' and the amended zoning ordinance is not appropriate. The rules are being changed entirely in the downtown area.
- Richard Deane, resident, highlighted that energy and environmental leadership projects are required to decrease environmental impact and increase energy efficiency as core design and engineering tenets. The proposal will use waste heat from the McNeil Generating Plant for heat. The BTC project is not a tall mall project. The mall is being removed and a dense mixed use downtown with connected streets and space to live and work is being created. Dense development in the downtown is right for the future. Mr. Deane spoke in support of the initiative and future changes that increase opportunity for dense development in the Burlington downtown core – the type of development that promises to build the community. City Council is urged to embrace the change and support the initiative.
- Ross Montgomery, owner of a real estate company, urged City Council to pass the amendment. The issue has been thoroughly vetted with lots of public discourse. Vermont and Burlington have a problem with retention of college graduates and young families in business. The zoning amendment will allow for a reversal of the trend and alleviate housing pressure, provide downtown office and retail space that is in high demand.
- Ilnar Avilix Stratibus, resident, urged City Council to vote "no" on the ordinance change. Many voices are asking for the process to slow down for such a major change. The alternative plan is PlanBTV which is a good plan. Burlington is a livable city. People want to live here even with the mall in the state it is in. Building is being done. Housing is being built. Businesses are coming in. A much broader conversation is needed. PlanBTV had two years of discussion. The decision is resting on seven people voting for a change. The matter should be on the ballot for public vote and City Council should vote "no" on the ordinance.
- Steve Goodkind stated the ordinance is not all bad, but where it is bad is the height, above ground parking, student housing. These are over the top for Burlington. The good news is people get to vote on the matter. People are encouraged to pay attention and learn about the issues. The zoning needs to go down. There can be progress according to plans and the vision already in place and have a good project. All are urged to vote this ordinance down and go forward in a much better way. If the people stay together then there can be something that everyone



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is proud of. There is no other vision. All want to have a city that reflects the people's values.

- Margaret Murray, Montpelier resident and property owner in Burlington, said everyone is supposed to follow the rules and regulations of zoning. There are too many conflicts of interest. Ms. Murray said she just found out that Act 250 does not apply to affordable housing. If the rules are not followed the rules get broken. People know what is happening and are not happy.
- Amey Radcliffe, resident, stated putting the zoning decision on the ballot is a positive step forward and suggests the Mayor is listening to the opposition and recognizing there is validity to key messages by the people who oppose the project. PlanBTV was the context for workshops in 2001-2013 on existing buildings and zoning. The public was not thinking of taller buildings at that time and that is why the zoning change is not consistent with PlanBTV which is an excellent reason to vote "no" for the ordinance. Ms. Radcliffe said she submitted her thoughts in writing to City Council.
- Joey Corcorean, resident, thanked everyone for the work, adding that 14 stories will set a precedent for what could be allowed in the future. Ms. Corcorean said as an environmental lobbyist in another state she has seen the power of urgency on a decision when it seems this is the only way to go. City Council is asked to plumb its wisdom and have courage to look at consequences long term of changing the ordinance.
- Paco Defrancis, Ward 3, spoke in support of the project and zoning amendment as a good compromise to move the city forward. Regarding housing, the city is going from a place with no units so this is not gentrification if it is all net new development. No one is being removed. There will be new office space. Most employers have had to move to surrounding towns because there is no office space in Burlington. More jobs downtown that employees can walk to would be beneficial to the city. Mr. Defrancis said he is humbled someone wants to invest \$250 million in the city and displeased with the opposition using the word "we" because they are not speaking for all the residents. There are thousands in the city who support the project or have no negative views toward the zoning change.
- Kara Berg, resident, spoke against the zoning because the building is too tall and being pushed through. The zoning will benefit a small number of powerful people. It is unfair. It is also not a good idea to have a dorm over Church Street. There is a better way to get affordable housing without building so tall.
- Robert Herendeen, resident, said he is hearing "black or white thinking" on what can/should be done. Density is good, but the question is how much. Now it is one option or nothing. There is opportunity within present zoning to increase density dramatically. The project seems to drive increased height and change in zoning. City Council is asked to think about a creative solution which intends higher density and investigate the question of how much within the constraints of present zoning. It will be high.
- Andrew Simon, resident, said this is being turned into the generation already established versus young people trying to climb their way up the ladder. Somehow this project will be the way people can make a living in Burlington. It is wrong to frame it that way because those who have lived in Burlington and lived a long time are also trying to make it. A longer view of what the generations will benefit from must be taken. The initiatives that have been expressed to put the zoning change before the voters is applauded and will show what the people of Burlington feel about the proposed zoning change. City Council should be happy about the volume of discussion occurring with an active group of people who are called "the opposition". The discussion is positive, fact based, and open ended, the kind everyone wants on the part of the citizens of Burlington.
- Genese Grill, Coalition for a Livable City, said their organization is not the opposition and supports PlanBTV which was supported by City Council and is the consensus of Burlington residents. PlanBTV is Plan A. The other ordinance is some other plan. Ms. Grill said she is glad the question is on the ballot and explained the reason the Coalition says "we" is because the people of Burlington have already said "no" to the ordinance in 2008 and 2009 when height restrictions were established. Ms. Grill questioned what it is about "no" that is not understood.
- Al Petratca, resident, said the public stand is PlanBTV which took two years to complete and was a democratic and inclusive process. The primary vote was for a democratic socialist, but socialism does not happen through gentrification or handing out public money to Wall Street investors. The people have spoken. City Council is supposedly a democratic body, but has not responded to the popular democracy on the street that has been expressed through hearings. City Council is stuck with the fact that this pesky democracy has emerged in what was



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thought to be a slam dunk and now is fighting the hearts and minds of the people who will say "no" to the TIF and the 14 story mall.

- Kirk Jones, resident, said he participated in PlanBTV and it was unanimous buildings should be five or six or seven stories tall. The zoning already allows seven or eight stories. It will be delightful to have an influx of population come into the town, but not by building a giant structure downtown. Sunlight matters to people north of the building. It seems more of the Vermont style to raise this building a little bit, then that building a little bit. Hilton Gardens was thought to be low income housing, but it is a hotel for wealthy visitors from other places.
- Brian Boardman, resident, spoke in support of the zoning change. There are many examples across the country of downtowns with 1970s/1980s style malls that are failing because they did not go to the next step. Mixed use is where it is at now. The city needs to do the project to keep Burlington vital and growing. The project is green, economic, and the right way to go.

There were no further comments. The public hearing was closed at 8:20 PM.

4.0 DELIBERATIVE AGENDA

4.01 ZA#16-14: Downtown Mixed Use Core (DMUC) Overlay

MOTION by Councilor Shannon, SECOND by Councilor Paul, to approve the resolution adopting the Comprehensive Development Ordinance, ZA#16-14.**DISCUSSION:** The following comments were made:

- Councilor Shannon stated the resolution covers adopting the ordinance and warning the vote on the November 8th ballot. There has been much discussion in the ordinance in previous meetings. The ordinance raises the height limit in the DMUC to 160' and it has been said does so without public benefit, but the reason to allow the height is because of public benefits included in the ordinance such as LEED standard, storm water treatment, prescriptive architectural standards, buildings over 105' which could be built under current zoning without any affordable housing, but now must include mixed use and affordable housing, active uses on the ground floor so there is an engaging downtown streetscape, and return of the grid by reconnecting Pine Street and St. Paul Street. The TIF creates opportunity to buy back the streets. The ordinance will be warned for public vote on the November 8th ballot instead of warning the ordinance for 21 days before going into effect. The ordinance and the TIF go hand-in-hand in this case. It is certain City Council will work hard to ensure voters have the information needed to make an informed decision.
- Mayor Weinberger stressed the work has not been rushed. The work began two years ago with unanimous support of the MOU with Devonwood in 2014. Eighteen months later with a 10-1 vote City Council supported the predevelopment agreement followed by a vote to approve the new zoning and warn a public hearing. The zoning amendment will now go to the voters. To do a citywide referendum would have been too late to put the matter on the November 8th ballot and would have required a special election per state law. Putting both votes on the ballot now will save costs and voters having to come out for a special election. There will be no delay in the timeline. The city will address the issue of early voting. The existing zoning was created long before PlanBTV. The point of PlanBTV was to consider changes going forward to ensure different outcomes. The new zoning was informed by PlanBTV and has high environmental, green building standards, high requirements for protecting the lake, prescriptive design standards to ensure good buildings and vibrant, active street life, and includes reconnecting roads that were cut off during urban renewal. The net sum of the debates are communities have the opportunity to say "yes" or "no" to moving forward, and saying "no" makes the country less equal. Study after study is showing this. When the city says "no" to more housing this does not keep out the rich people, but forces out the poor and disenfranchised. There is much talk about diversity, inclusion, and equality. This is an opportunity in a tangible way by creating more homes



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in the city to be more equitable and inclusive. It is not often there is the opportunity to vote on the dramatic progress of reducing carbon footprint, cleaning up the lake, fixing the errors of urban renewal, having good architecture, and inclusion. City Council and the voters are urged to vote the right way.

- Councilor Paul thanked the people for attending the meetings and making comment, and acknowledged the large number of people who also communicated to City Council outside of coming to a meeting. There is no doubt the people love Burlington. Councilor Paul spoke in support of the zoning change and going to the voters for a community vote, and spoke in support of all that the overlay can bring to Burlington which is opportunity for more housing, more office space, new ground level retail experience. More offices will help the stores and restaurants and will bring in tax revenue and more, like district energy. The city has changed zoning 22 times in the last three years in response to small and large development. Examples include North Ave. Co-Op, City Market expansion in the south end, YMCA relocation, mix of uses on Pine Street to allow Arts Riot. Effective governing means listening and weighing points of view, honoring Burlington's past and embracing responsible change for the future for generations that are not even born yet. To honor the past the city must embrace the future. The zoning change will allow many community needs to be honored and met.
- Councilor Colburn thanked all the people on all sides of the issue who attended meetings and connected with City Council throughout the process. It is good the question is going to the voters. Councilor Colburn said she is opposed to the amendment because scale of the project is an issue. Opposing the scale does not mean opposing progress, affordable housing, economic development, diversity, inclusion or equity. These can be accomplished in the downtown through infill development at a more iterative and human scale. It would have been good to see the density with a more modest height or within current zoning, but the developer did not try to model that so retail, housing, and office space possible under current zoning or at a more modest height is not known because the developer was not pushed to show it. Information on the feasibility of the project and the capacity of the developer is just being received. The logic of the scale that is of concern is that the developer wants it and at the end of the day that is not good enough. There are many great things potentially in the town center project, and it is good people will vote on whether this is the right way for the project to move forward and to get a version of the project that the majority of Burlington residents support.
- Councilor Hartnett thanked all the citizens and his colleagues, especially Jane Knodell for leading through the process. Opinions are respected, but having one councilor call the process a charade was taken as a personal insult. City councilors worked hard and gave lots of time. It is hoped going forward to get beyond this. Councilor Hartnett spoke in favor of the ordinance and overlay, even a bigger area for the overlay. If the project was a 160' mall the vote would be "no", but it is a neighborhood being brought back to Burlington that was ripped apart 35 years ago. It is still painful today for them. Regarding people not moving to Burlington because of the skyscraper, people do not want to move when there are articles in the newspaper saying the public schools are crumbling and enrollment is down. People do not want to live in Burlington and that needs to change. The city needs young professional people who can walk to work at Dealer.com, for example. The city needs the medical center and Champlain College. If the vote is "no" the city will not get another chance for the next 20 to 25 years. It will be too late. All are urged to support the ordinance.
- Councilor Wright thanked the public who came out to speak. Salute to an engaged citizenry that has the best interest of Burlington in mind. There will be vigorous and educational debate in the next weeks leading up to the vote. Councilor Wright recalled Bernie Sanders when he was Mayor proposed a high rise plan on the waterfront that was defeated so it not certain Bernie Sanders would oppose the project. For the plan, the site has been identified as the appropriate location for growth and some additional height. It is important to move forward with this. If not will be a signal that Burlington does not want to grow and businesses will look to move out of the city which is exactly what the city does not want. The mall is dying. It is old, outdated, and not workable any more. It is hoped the voters do not pass by this opportunity to bring in housing, jobs, and a mix of retail. The city must grow the tax base so people can continue to afford to live in Burlington.





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- Councilor Bushor said the process has been an education and a series of steps in frustration and an evolution. Councilor Bushor said she has not heard opposition to growth or more dense development in the downtown. What was heard was use PlanBTV and do not do the overlay or create the overlay with a smaller footprint and not as much mass and height or do the overlay as proposed. Councilor Bushor said she does not support the overlay zoning amendment because the project is too tall and too dense. The zoning amendment should be a stand-alone from the project and should go out to the community for a vote. Councilor Bushor said she does not appreciate the resolution that says either vote "yes" for the overlay or "no" for the public vote. There should be two separate resolutions.

AMENDMENT by Councilor Bushor, **SECOND** by Councilor Colburn to divide the question with lines 1, 2, 3, 14, 15, 16 ending at the word "overlay" as the resolution to adopt the bylaw amendment and lines 4-13 and 14-17 for the ballot.

DISCUSSION ON AMENDMENT: City Attorney Blackwood advised the question cannot be divided because there cannot be a public vote without first adopting the amendment.

VOTING ON AMENDMENT (by roll call): Councilor Bushor – aye, Councilor Tracy – aye, Councilor Giannoni – nay, Councilor Wright – nay, Councilor Paul – nay, Councilor Ayres – nay, Councilor Knodell – nay, Councilor Colburn – aye, Councilor Shannon – nay, Councilor Hartnett – nay (3 ayes, 7 nays [Councilor Roof not present for vote]); motion did not carry. The amendment failed.

CONTINUED DISCUSSION ON MOTION:

- Councilor Giannoni agreed with having a public vote and advocated for people to consider all parts of the zoning amendment, not just the building height.
- Councilor Tracy thanked everyone for the effort. Regarding redevelopment of the mall in keeping with the character of Burlington and furthering necessary community benefits, the amount of affordable housing is not satisfactory and the height is not in keeping with what has been discussed with form based code and having harmonious transition. Councilor Tracy said he is opposed to the ordinance, but supports going to the ballot.
- Councilor Ayres spoke in strong support of the project and the zoning overlay as an opportunity to restore the sense of connection with the old north end. There is the possibility of businesses fleeing the city if Burlington does not embrace what it means to be Vermont's urban center. Councilor Ayres said he does not want to see the state destroyed by sprawl and flight from urban areas like what occurred in New Jersey and wants to give young people opportunity to work and grow and raise their families in the state. City Council cannot shirk social responsibility and moral responsibility as Vermont's urban core to create affordable housing for the people, create livable wage jobs for young people so they can stay. That is at the core of supporting the overlay and moving the city forward with a project that holds so much promise.

There were no further comments.

VOTING (by roll call): Councilor Bushor – nay, Councilor Tracy – nay, Councilor Giannoni – aye, Councilor Wright – aye, Councilor Paul – aye, Councilor Ayres – aye, Councilor Roof – aye, Councilor Hartnett – aye, Councilor Knodell – aye, Councilor Colburn – nay, Councilor Shannon – aye (8 ayes, 3 nays); motion carried.

5.0 ADJOURNMENT

MOTION by Councilor Hartnett, **SECOND** by Councilor Wright, to adjourn the meeting. **VOTING:** unanimous;





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motion carried.

The meeting was adjourned at 9:42 PM.

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