



Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room 9/19/2016

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

BURLINGTON POLICE DEPARTMENT

BURLINGTON, VERMONT

MINUTES OF MEETING

September 19, 2016

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

David Hartnett – North District

Joan Shannon – South District

Selene Colburn, East District

Sharon Foley Bushor – Ward 1

Max Tracy – Ward 2

Sara Giannoni, Ward 3

Kurt Wright – Ward 4

William “Chip” Mason – Ward 5

Karen Paul – Ward 6

Tom Ayres, Ward 7

Adam Roof – Ward 8

ADMINISTRATION: Miro Weinberger, Mayor

Eileen Blackwood, City Attorney

Gregg Meyer, Assistant City Attorney

Rich Goodwin, DFO

Jennifer Kaulius, Mayor’s Office

Brian Lowe, Mayor’s Office





Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room 9/19/2016

Katie Vane, Mayor's Office

Amy Bovee, C/T Office

Lori Olberg, C/T Office

Chapin Spencer, DPW

Martha Keenan, DPW

Megan Moir, DPW

Jesse Bridges, Parks & Rec

OTHERS PRESENT: Ibna Avilix

Chris Rice

Charles Herrick

Charles Simpson

Margaret Murray

[Note: Minutes reflect the order of the published agenda.]

1.0 CALL TO ORDER and AGENDA

City Council President Jane Knodell called the meeting to order at 7:20 PM and led the assemblage in the Pledge of Allegiance.

1.01 Agenda

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

- **Add Item 3.06 (Special Event Permit) to Consent Agenda.**
- **Note Final Document for Item 4.01 (Infrastructure Plan for a Sustainable City).**
- **Note Final Document for Item 4.03 (New Revenue Borrowing) and Amendment to Item 4.03 (General Obligation Bonds).**
- **Note Amendment to Item 4.04 (New Vehicle for Hire Business License and Fees).**

VOTING: unanimous; motion carried.

2.0 PUBLIC FORUM





Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room 9/19/2016

Public Forum commenced at 7:25 PM.

PUBLIC COMMENTS

- Charles Simpson spoke of expenditures for City Park, Memorial Auditorium, the Sinex project, the school budget and warned that residents can expect a substantial tax increase over the next 10 year period, sooner than later, because the Mayor and City Council are desperate for signature projects manifested as progress to take the sting out of the tax increase and to be passed onto renters and owners as higher costs. The predevelopment agreement recommends underground parking. PlanBTV celebrates the mall opened to the street, enlivening the streets. The rationale to spend TIF money is for street improvements, but the new mall will not open to the street. City Council should stand behind PlanBTV and the predevelopment agreement and insist the underground concourse be deleted and turned into two layers of underground parking. This would also provide three additional above ground layers for affordable housing.
- Charlie Herrick expressed concern for the Vehicle for Hire fee being proposed as another concession to a company unwilling to be transparent with the city. If the company was regulated the way the other taxi companies are the city would have a surplus of money to create the infrastructure that is wanted. Rules are being changed and City Council is looking for a new way to create a fee and local transportation companies to shoulder a portion of the burden. A second concern is the lack of enforcement in the industry. There are companies in the city operating without registration or regulation. These companies have contracts with the city, agreements with UVM, and publicly advertise their illegal service. The only way for a level playing field is immediate and comprehensive enforcement in the industry.
- Chris Rice, attorney representing Uber, expressed appreciation for the collaborative, open, and inclusive process. The end product with one exception is something Uber appreciates and supports. The exception is the fee. The company opposes the fee because it is out of line with what is seen in other jurisdictions. The work done by City Council on the topic is appreciated, especially the six month look back on the fee so it may be possible to reconsider or reconfigure. Uber looks forward to serving the residents of the city going forward.
- Margaret Murray said she attended the Board of Finance meeting and heard the city will give \$21.7 million to someone the city knows little about (the developer) who is not releasing his tax returns or personal wealth. This may not have a bearing on the mall itself, but the citizens would like to know the people involved with public tax dollars will have some of their own money on the table as well. If spending \$21 million is allowed to buy back streets that were paid for over the past 22 years the city should look seriously at what the city is getting and who the city is dealing with. There has been no information on any partners and this information was to be known before the predevelopment agreement was signed. On another matter the meeting on the charter changes only covered parking garages and meters, but not the waiver for personal hardship. There are now six out of 12 department heads who do not live in Burlington and have "skin in the game".
- Ilnar Avilix said he wanted to know about the street work and the numbers and the guarantee and how to fund repairs to Burlington public schools and maybe a new high school. Mr. Avilix said the pace is underscored by going to City Hall for the meeting only to discover the meeting was moved to the Police Department and the overlay district is not on the agenda. Mr. Avilix requested that City Council look at the comment in *Vermont Digger* and have time to address concerns other than the mall.

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





Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room 9/19/2016

3.02 COMMUNICATION: Champlain Parkway Proposed Design Contract Revised Amendment #9

3.03 COMMUNICATION: Flynn Avenue MOU

3.04 COMMUNICATION: AmericCorps Formula Grant Agreement

3.05 COMMUNICATION: Senexen/Aqua-Pipe Relined Water Main Life Expectancy

3.06 PERMIT (four days): Oktoberfest, September 22-25, 2016, Waterfront Park

MOTION by Councilor Colburn, SECOND by Councilor Tracy, to adopt the Consent Agenda Items 3.01 – 3.06 as amended (add Item 3.06 Special Event Permit, Oktoberfest, 9/22-9/25) and take the action indicated. VOTING: unanimous; motion carried.

4.0 DELIBERATIVE AGENDA

4.01 Presentation/Discussion: Capital Plan

Mayor Weinberger said the citizens are fortunate to live in a beautiful city with strong public infrastructure and be the beneficiaries of the investment by prior generations that now our generation has the opportunity to continue to manage and to steward the public assets to hand to future generations better than they are today.

Bob Rusten stated the revised Capital Plan is in response to City Council and further information that has been gathered. The following was noted:

- There is no increase recommended in the meals tax, but there is an increase recommended in the rooms and alcohol tax (2%) beginning December 2016 which will generate \$2.3 million from FY17 to FY21.
- Revenue will be reduced due to the transfer of \$100,000 per year FY18-FY21 to promote the city so there will be more visitors generating additional revenue.
- The amount of \$250,000 will be used from the Traffic Fund in the FY17 budget and eliminate the remainder proposed in FY18-FY21.
- The revenue stream is reduced by \$2.5 million so the non-property tax, non-bonding amount of \$5 million has been eliminated. Curb work in FY21 that is started will be level funded (saves \$250,000). The contingency fund is eliminated (saves \$600,000). Part of the FY22 budget will be taken to finish the bike path so \$500,000 of the \$1 million is moved into FY22 (saves \$500,000). Parks projects will be moved into further years due to staffing capacity and being able to complete the projects (\$531,000 moved out into further years). Transportation expansion was cut by \$400,000. The net effect is a decrease in revenue by \$4.7 million, decrease in expenses by \$2.3 million, and an increase in one expense by \$400,000 for promotion of the city (\$100,000 per year for four years).
- The decrease of \$2.8 million of revenues to fund the program increases the borrowing needed to \$27.5 million. Based on the assumption of growth in the grand list of .8% for two years and .7% thereafter the impact on a median valued house of \$231,500 for FY18 increases from \$14.97 to \$26.33 and in FY27 from \$127.28 to \$105.42.
- Options were researched of three bonds interest only or principal and interest on the bonds higher in the early years and less in the outer years.
- The water revenue bond for \$8.34 million is to address water pipes that are 75 years old. The pipe work will go along with the street work. Impact on water bills will be 8.4% increase over five years.





Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room 9/19/2016

- Delaying the projects has a cost. The purchase of the fire truck will increase by \$60,000 after November 15th. Not approving funding in the fall severely impacts the next construction season. Work cannot be bid without funding in place.

Councilor Mason asked for explanation of the contingency reduction. Bob Rusten said expenses are significant FY17-FY21. The projects are prioritized and lesser need projects put toward the end of the fiscal year or deferred. Not every project must be bid out at the same time.

Councilor Bushor asked about the fire truck purchase. Martha Keenan said the Fire Department did an RFP to replace two trucks at the end of their life. The price on the trucks increases after November 15th. The ladder truck will be replaced in FY18 and Engine 6 in FY19. Councilor Bushor commented on feedback from a resident who had concern about purchasing the trucks at the same time which will mean replacement at the same time. Also, there is reservation about whether residents can afford the purchases and understanding of the need to act immediately with the purchase of two fire trucks.

Councilor Tracy asked about discretion in use of the funds and if there are other processes necessary to expend funds. Bob Rusten explained contracts over \$50,000 and less than \$100,000 are approved by the Board of Finance. Contracts greater than \$100,000 are approved by both the Board of Finance and City Council. Approval for borrowing is needed from City Council. The yearly budget goes to City Council and includes projects in FY18 and FY19.

Councilor Roof asked about the order time for a fire truck. Martha Keenan said it takes six to 12 months to build a fire truck. The Fire Department specifies what is wanted and puts in the order with 10% down.

Councilor Giannoni asked about the money for promotion of the city. Mayor Weinberger said based on visits to other cities investment in promotion was observed to generate substantial new revenue. Accepting the 10-Year Capital Plan is directional. The money would not be spent until City Council takes action and City Council would not take action until the bonding passes on the gross receipts tax. Councilor Hartnett asked where the money spent on promotion comes from now. Mayor Weinberger said there is not a comparable public investment to what other cities do. There is statewide promotion that brings some business to Burlington. There is strong interest by various stakeholders and there would be some private investment as well. Hoteliers and bar/restaurant owners have said if the rooms and alcohol tax needs to increase they want to see this kind of financing.

City Council President Knodell asked about the plan for new borrowing and when there will be a single plan. Bob Rusten said a number of different kinds of borrowing were reviewed (i.e. 12 year bonds for certain items or 20 year bonds for certain items). Interest only is for the first five years and then principal and interest is paid. This is a more costly option because in the outer years the principal is being paid off. It makes sense to do interest only bonds if significant growth is expected in the grand list to help spread out the cost. A higher interest rate is paid with interest only bonds. Mayor Weinberger said the resolution does not get into the details of how the borrowing will be done. There is some debt retiring three years out from now. The goal was to keep the impact as less as possible on taxpayers so staff looked to see if it made sense to do some interest only borrowing to bridge to when the debt retirement happens to help keep the payments lower



Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room 9/19/2016

in the initial years. After further thought staff would not recommend the interest only plan because the overall affordability can be kept at less than \$10 per month in property taxes in all but one year for the median property owner.

MOTION by Councilor Paul, SECOND by Councilor Mason, to approve the 10-Year Capital Plan as proposed.

VOTING: unanimous; motion carried.

4.02 Revenue Bonds for Water System Improvements

MOTION by Councilor Bushor, SECOND by Councilor Paul, to waive the reading and adopt the resolution for the revenue bonds for water system improvements.

DISCUSSION: The following was noted:

- Councilor Wright asked what will happen if the bonds are not passed. Megan Moir said there will continue to be water breaks. When streets are paved there is risk the water main will break which will cause patching to be done and then potholes to form undermining the sustainable roadway investment. There will be more "brown water" when the system is disturbed by the breaks and there will be service disruption.

There were no further comments.

VOTING: unanimous; motion carried.

4.03 General Obligation Bonds for Capital Projects

MOTION by Councilor Paul, SECOND by Councilor Giannoni, to waive the reading and adopt the resolution for the general obligation bonds for capital projects.

DISCUSSION: The following was noted:

- Councilor Paul said the 10-Year Capital Plan has been discussed for the past year and in order to maintain the ability to attract citizens and visitors to the city and retain and encourage economic development, build homes, and start businesses sound and secure infrastructure is need. Bonding is one aspect of the total financing plan for the Capital Plan that has been two years in the making. Responsibility for funding the plan will be shared with a number of parties including institutions and visitors. The ballot question is on the November 8th ballot. The time is ideal because the economic climate is ideal for bonding and construction projects can be thoughtfully planned for more competitive and better bids. Councilor Paul read the ballot question.

AMENDMENT by Councilor Wright, SECOND by Councilor Hartnett, to change the date of the vote to the March annual city meeting.

DISCUSSION ON AMENDMENT: The following comments were made:

- Councilor Wright said the plan is justified. There is money for the bike path, sidewalks, and deferred maintenance. Everything is worthwhile, but the increase to taxpayers is significant. There should be the best possible debate before the vote. The presidential vote, the TIF vote, and the revenue bond for the water





Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room 9/19/2016

system are all on the November ballot. Focus is needed on educating the public on the TIF vote. It would be better to put the Capital Plan to vote in March on town meeting day and focus on local issues now.

- Councilor Bushor concurred with the timing of the vote. Most of the plan can wait except the fire trucks. If the public wants to proceed with the TIF vote there will be two money items on the ballot and people may not support this.
- Mayor Weinberger stressed there are real impacts to delaying the plan. The budget was passed knowingly with a substantial hole in the capital budget with the expectation of going to the voters with the bond vote. Much if not all of the construction season will be lost on major capital projects (bike path, sidewalk, curbing, road work, water distribution investments). It is not unique to have community issues on the November ballot because it is known there will be the most voters coming to the polls.
- Councilor Hartnett asked if there are cost projections for November versus March. Bob Rusten said the interest rates will likely go up rather than down so delaying borrowing could mean a higher interest rate. Cost of vehicles will go up. The longer the delay to replace a vehicle the longer without the benefit of better gas mileage and reduced maintenance costs. Delaying construction is likely to increase costs. Delay is not likely to save money and will likely cost significantly.
- Councilor Wright said if the Capital Plan goes to vote and fails then Plan B is City Council is asked to approve the gross receipts tax. Mayor Weinberger said many stakeholders benefit from the plan which is constructed so different stakeholders share in the burden to maintain the infrastructure. If the bonds are not successful then the entire plan will be reconsidered. Individual elements may not come forward in isolation. Councilor Wright said any city councilor can move the gross receipts tax forward and if passed will provide enough money to do a number of projects even without the Capital Plan moving forward.

VOTING ON AMENDMENT (move vote to March): two ayes (Councilor Wright, Councilor Bushor), 10 nays (Councilor Giannoni, Councilor Tracy, Councilor Colburn, Councilor Roof, City Council President Knodell, Councilor Hartnett, Councilor Shannon, Councilor Mason, Councilor Paul, Councilor Ayres); motion does not carry. The amendment fails.

CONTINUED DISCUSSION ON ORIGINAL MOTION: The following was mentioned:

- Councilor Wright said it is important for the voters to weigh in and the March vote is preferred, but the majority of City Council wants the vote in November. The Capital Plan is worthwhile.
- Councilor Colburn spoke in support of the plan which addresses a number of needs such as improvement to sidewalks and deferred maintenance on public buildings.
- Eileen Blackwood noted lines 14 & 15 recommend approval with the November 8th date. The wording "at the city's special meeting to be held November 8" will be removed.
- Councilor Hartnett requested a worksheet on cost projections to see the cost of a delay in the vote. Mayor Weinberger said it is impossible to have a precise number. There is about \$9 million in the budget currently with no funds, largely for bike path, streets, and sidewalks. Construction bids vary. Early in the winter yields better bids. There could be a 10% difference in cost of construction and 10% of \$9 million is real money.
- Councilor Tracy thanked the Administration, Board of Finance, and city staff for the effort with the Capital Plan. The process has been collaborative and it is hoped there is a unified strategy to educate voters to bring the plan forward in November and show the cost to voters of action or no action. There are real benefits to the plan, day-to-day, quality of life benefits if the plan is enacted.
- Councilor Wright emphasized a campaign is necessary to educate voters on the TIF vote and other items in the Capital Plan. There are other issues of concern that will come into play. If the vote is passed taxes will increase which needs to be countered by growing the tax base with BTC.
- Councilor Bushor said the concern is whether people can afford the plan. The voters will decide. There are items that meet needs in the community and other items that might have to be postponed to reduce cost.





**Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room
9/19/2016**

There were no further comments.

VOTING: unanimous; motion carried.

4.04 Update to Vehicle for Hire Business License and Related Fees

MOTION by Councilor Mason, SECOND by Councilor Roof, to waive the reading and adopt the resolution on the update to the Vehicle for Hire business licenses and related fees for the fiscal year starting July 1, 2016.

DISCUSSION: Councilor Mason gave a brief history of the Vehicle for Hire Ordinance and the fee structure, noting the following:

- Each vehicle for hire business will pay \$125 and twenty-five cents for each ride originating/terminating in the city plus \$50 for a background check and \$5 photo fee.
- Moving to a per-trip fee is in line with other cities.
- The cost to implement and enforce the ordinance is \$110,000 which was used to determine the fee structure.
- In six months the Taxi Licensing Board will revisit the per-trip fee and make a recommendation to City Council if the fee needs to be adjusted.
- There was no testimony in favor or opposed at the Ordinance Committee.
- The fee structure and ordinance has the support of the Taxi Licensing Board. The vote by the Ordinance Committee was 2:1.

AMENDMENT by Councilor Bushor, SECOND by Councilor Colburn, to add to the end of Line 47: "subject to City Council approval".

DISCUSSION ON AMENDMENT: Councilor Bushor said the wording was added because the additional administration fees are vague. City Council should be informed of the fees. There were no further comments.

VOTING ON AMENDMENT: unanimous; motion carried.

DISCUSSION ON MOTION AS AMENDED: The following comments were made:

- Councilor Bushor said the goal is to make the playing field level for all taxi companies so the base fee is set at \$125 no matter the number of cars owned by the company. The per-trip fee does not price anyone out of the market. Passengers will pay the fee as an upfront cost. Larger companies will have more trips so more per-trip fees will be paid and that balances out the \$125 charge. The fees can be re-evaluated in six months to see if any adjustments are needed.
- Councilor Tracy said he had hoped the Ordinance Committee would make changes, but this did not happen. The fee structure (per-trip fee) is not grounded in a market study, but is a "guess and check" policy which is not a great way to fund the enforcing arm of the taxi system. The existing taxi system is funded through the driver fee, but Uber will not declare the number of drivers in the city. Existing companies in town have not indicated a problem with the fairness of the existing fee structure. Uber and the Uber business model has a problem with the fee structure so the city is changing the way of doing business to conform to the needs of an out of state, multi-billion dollar company that leaves if it does not like how business is conducted. This is not the way to do business in Burlington or the precedent to be set for other larger companies that come into Burlington.
- Councilor Roof clarified the Taxi Licensing Board versus the Vehicle for Hire Board created the ordinance and there was unanimous support from the Taxi Licensing Board, but not the Vehicle for Hire Board. Bill Keogh





Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room 9/19/2016

and Jeff Munger are long time members of the Taxi Licensing Board and both support the ordinance. Regarding enforcement, all agree there is need for enforcement, but enforcement cannot start until fees are collected. The job description for the enforcement position will be reviewed at the next Vehicle for Hire Board meeting. Regarding "guess and check" versus a market study approach, there is no other way to study the market. The city will be in a position to review the situation in six months. There is a geo-fence around the airport. The number of rides by Uber to and from the airport are known. The same system will be used in Burlington to get an understanding of the market and have quality data to make any needed adjustments. Kudos are given to Attorney Gregg Meyers and the CAO for the fee structure. What is evident across the country and in the vehicle for hire industry is when a policy isolates and cushions a certain industry over time the industry will have a whiplash reaction as a byproduct of innovation. The ordinance puts the city in the position to do business with other vehicle for hire companies, not just Uber. Enforcement will be an important aspect.

- Councilor Giannoni said she does not feel confident the fee structure is not debilitating to smaller companies.
- Councilor Hartnett said it does not fit well that the city cannot find out the number of Uber drivers in Burlington.
- Councilor Mason pointed out Uber said it would not pay a per-driver fee and the city could have carried forward with the fixed amount. Expenses increased because an enforcement officer was added. Continuing with the existing system may not have fully funded the cost of the program. The fee structure is intended to provide the funding mechanism for increased enforcement. Uber is unveiling a driverless taxi in Pittsburgh and this may be the future for Uber so getting per driver information is the wrong direction. Regarding equity, the system is more equitable because every driver is paying a flat twenty-five cent fee and the cost on the business covers the cost of conducting diligence on the business, not the driver.
- Councilor Tracy said on the equity front it is easier for technical companies to administer because the data is easy to access. Those companies with paper system or cash will have a higher administrative burden to track and report per ride data. Also, it seems the city is granting a privilege to Uber when Uber claims elements of their business model as proprietary (drivers names, identification, and such), but trip data from local taxi companies is not considered proprietary.
- Councilor Hartnett questioned how the right fee amount can be determined if the number of Uber drivers is not known. Uber needs to provide this information.
- Councilor Roof assured there will be a better understanding of how much driving is done, not who is driving. Knowing how many trips is more important for establishing the fee structure than who is driving. The city has the opportunity to learn more about the impact on infrastructure by the vehicle for hire industry.
- City Council President Knodell agreed the city should know the number of drivers and who is driving commercially in Burlington. The system is predicated on not having that information if a business does not want to provide the information. The development of the policy has been designed to accommodate one particular business which is not appropriate.

There were no further comments.

VOTING: 7 ayes, 4 nays (Councilor Tracy, Councilor Colburn, Councilor Giannoni, City Council President Knodell); motion carried.

4.05 Update to Authorization of MOU with Rasier, LLC (Uber) re: Audit Procedures

MOTION by Councilor Mason, SECOND by Councilor Bushor, to waive the reading and adopt the resolution on the update of the authorization of the MOU with Rasier, LLC (Uber) regarding audit procedures pursuant to the Vehicle for Hire Ordinance.





Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room 9/19/2016

DISCUSSION: The following comments were made:

- **Councilor Mason said the ordinance has a provision that allows any company to enter into an MOU with the Administration allowing for audit rights to be memorialized in an MOU instead of the ordinance. The city can audit two times per year for background checks, vehicles meeting the standards in the ordinance, and proof of insurance coverage. The MOU with Rasier is for information on at least 25 drivers from Uber. The city can do a full audit at any time.**
- **Councilor Tracy said the MOU is not adequate to assure public safety because the city does not know where the 25 drivers are from since Uber refuses to provide data on operators in the City of Burlington.**
- **Councilor Roof said regarding proprietary information any car for hire company regardless of size has the ability to withhold proprietary information and can enter into an MOU given proprietary concerns.**
- **Assistant City Attorney, Gregg Meyer, explained the reason the audit was taken out of the ordinance and made a separate requirement is because different companies have different information to audit and different ways to get the information the city needs to collect so a negotiated MOU is the best approach. The MOU has much stricter audit procedures than any the Uber Company has been operating under.**
- **Councilor Roof recalled the Police Chief said the process meets his standard of acceptability in consideration of public safety.**
- **Councilor Bushor said everyone wants to know the drivers, but a wall was hit with Uber. All companies will have background checks, vehicle safety checks, and adequate insurance. The agreement is better than what was in place before. Uber needs to disclose the number of drives in the future or the MOU is up for revision.**

City Council President Knodell left the meeting at 8:50 PM and Councilor Wright facilitated the meeting.

- **Councilor Giannoni asked what would trigger a full audit and if a full audit would require a list of drives. Gregg Meyer explained any report of criminal behavior or complaints about drivers gives the city the right to request all information about drivers and to do an audit to confirm compliance with the ordinance. For any criminal context the police can request and receive all documents necessary to pursue an investigation of the criminal behavior.**

There were no further comments.

VOTING: 8 ayes, 2 nays (Councilor Tracy, Councilor Colburn)[City Council President Knodell and Councilor Shannon were not present for the vote]; motion carried.

5.0 COMMITTEE REPORT

- **Councilor Giannoni announced the Public Safety Committee meeting on 9/22/16 to discuss the community's response to the mental health crisis.**
- **Councilor Colburn announced the Community Development Neighborhood Revitalization Committee meeting on 10/18/16 to review the report from the consultant on the inclusionary zoning ordinance.**
- **Councilor Hartnett announced the PACC meeting on 9/20/16 to discuss the smoking ban.**

6.0 CITY COUNCIL – General Affairs

No report.





**Special City Council Meeting - Monday, September 19, 2016 - 7:00 pm, Burlington Police Department, 1 North Avenue, Community Room
9/19/2016**

7.0 CITY COUNCIL PRESIDENT - Council Updates

No report.

8.0 MAYOR – General Affairs

No report.

9.0 ADJOURNMENT

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

The meeting was adjourned at 9:10 PM.

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