



Special City Council Meeting - Tuesday, September 8, 2020, 6:00 pm. Please click the link below to join the webinar:
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BURLINGTON CITY COUNCIL

CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

September 8, 2020

MEMBERS PRESENT: Karen Paul

Max Tracy

Chip Mason

Joan Shannon

Ali Dieng

Brian Pine

Jack Hanson

Franklin Paulino

Perri Freeman

Jane Stromberg

Sarah E Carpenter

Zoraya Hightower

OTHERS PRESENT: Miro Weinberger

Katherine Schad

Eileen Blackwood

Jordan Redell

Tyeastia Green



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1. CALL TO ORDER and AGENDA

The meeting was called to order by City Council President Tracy at 6:05 PM.

MOTION by Councilor Paul, SECOND by Councilor Stromberg, to amend and adopt agenda to add Resolution: Protesters And Public Safety (Councilors Paul, Shannon, Mason, Paulino, Carpenter).

VOTING: unanimous; motion carries.

MOTION by Councilor Paul, SECOND by Councilor Pine, to amend the agenda to move Resolution: Protesters And Public Safety (Councilors Paul, Shannon, Mason, Paulino, Carpenter) to item 4.02.

VOTING: unanimous; motion carries.

2. PUBLIC FORUM (2 HOURS)

2.01 Verbal Comments

Forum opened at 6:09 PM.

COMMENTS:

- Ashley Laporte spoke in support of firing officers Bellavance, Corrow, and Campbell from the Burlington Police Department. She encouraged the City Council to listen to the BIPOC community members who will also demand the same.
- Ariana Cano spoke about the protests occurring at Battery Park, saying that the demands of the protestors to fire the officers in question are reasonable. She asked the City Council to consider these demands, which are a bare minimum of what should be done.
- Catarina Campbell thanked community BIPOC organizers for confronting pervasive racism and violence and echoed their demands to fire abusive officers from the BPD, continue to require officer body camera use in Chittenden County, and continue to steward the restructure of public safety per the Racial Justice resolution of June 2020.
- Sarah Noel said that she stands with the nonviolent demonstrations in Battery Park and echoed the demands to fire officers Campbell, Corrow, and Bellavance.
- Sophie Cassel spoke in support of the protests occurring in Battery Park and urged the City to fire abusive officers.
- Becky Laird spoke in support of the demands to terminate the employment of abusive officers.
- Lauren Akin spoke about how the encampment at Battery Park is an inspiration to the community, saying that they





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are building systems of care, collaboration, and creativity outside of institutions. She stressed that the City Council should protect that creative and innovative space and let that creation continue.

- Andrea Coles spoke in support of the protesters in Battery Park and echoed their demands to terminate the employment of officers Corrow, Campbell, and Bellavance. They stressed the importance of body cameras. They said that funds should be taken from the BPD and redistributed to fund health care and other community supports.
- James Lent spoke about the resolution to consider whether to allow protests at Battery Park to continue, and pointed out that protesters are only protesting until they are listened to and demands are met.
- Leda Nutting spoke in support of the demands to remove officers Corrow, Campbell, and Bellavance from the police force. She also pointed out that while she agrees with the use of body cameras, those same cameras and footage did not prevent the violence of those officers. She said that Burlington needs to change the legal standards of excessive force.
- Jess Vos spoke in support of the protesters at Battery Park and their demands to fire abusive officers in the BPD.
- Mackenzie Murray spoke in support of the demands of the protesters in Battery Park.
- Hannah Loso spoke in favor of the protesters in Battery Park and urged the City Council to support their demands.
- Haley Fenn spoke in support of the protest and echoed the Racial Justice Alliance's demands to dismiss the abusive officers in the BPD. She urged the City to be a role model against police brutality for the rest of the country.
- Meaghan Diffenderfer echoed the demands to support the Racial Justice Alliance and the protests in Battery Park. She spoke about public safety, saying that she has felt very safe with the protesters right outside her home, and additionally said that the police union should hold its officer members accountable to their actions, not protect them blindly.
- Denise Casey spoke in support of the Battery Park protesters and the demands of the Racial Justice Alliance and BIPOC community. She said that the officers in question are being protected at the cost of the protection of the rest of the community. She urged the Mayor and City Council to execute a separation agreement with the officers and put pressure on the police department to ensure transparency.
- Erinn Simon spoke in support of the Battery Park protesters and amplify the demands of the Racial Justice Alliance to fire officers Corrow, Campbell, and Bellavance. She urged the City Council to hold the Police Department accountable to the safety of the community.
- Maggie Graham spoke about police use of force as a public health crisis. She said that though the dismissal of violent officers would cost the City money, it has costed the BIPOC community so much to continue to feel unsafe in their community.
- Julia West spoke in support of the Racial Justice Alliance and its call to terminate officers Corrow, Campbell, and Bellavance.
- Emily Fishman spoke in support of the demands to fire officers Corrow, Campbell, and Bellavance, and urged the City Council to take action to ensure this.
- Ben Brownell spoke in support of the demands to fire abusive officers from the BPD. He urged the City to stand up to the police union.
- Emma Sopchak spoke in favor of the demands of the Battery Park protests and Racial Justice Alliance. She spoke of the incredible support and organization of the Battery Park protests, and said that it should be considered a failure of government that the protesters have had to remain at Battery Park for the last fifteen days.
- Kelly Taylor spoke in support of the protester in Battery Park and all community members who are fighting against racial injustice.
- Read Frost spoke in support of the protests at Battery Park and called for the dismissal of officers Corrow, Campbell, and Bellavance.
- Con Chilson echoed the demands of the protesters at Battery Park, calling for the firing of officers Corrow, Campbell, and Bellavance.
- Josh Shamoon echoed the demands of the BIPOC community to fire the above-mentioned abusive officers. He particularly supported the demands for transparency and the use of body cameras.



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- Chelsea Naftelberg spoke in support of the ongoing peaceful protests at Battery Park and the demands of the Racial Justice Alliance. She also asked for the BPD to ensure transparency by the wearing of body cameras and the making available of footage to the public.
- Jenna Pacitto spoke in support of the protesters' demands in the firing of abusive officers, defunding the police, and refunding health care and housing, as well as requiring body cameras to be worn at all times by officers.
- Grace Grundhauser echoed the demands of the nonviolent protests at Battery Park.
- Maxwell Solter spoke in support of the demonstrations at Battery Park and called on City Council to protect the protesters and the encampment.
- Claire Fagan called on the City to dismiss the abusive officers from the BPD, and said that they must weigh the cost of firing these officers against the safety and livelihood of black people and people of color in the community.
- Abby Hodson thanked the other speakers at public forum and City Council for holding space, and thanked the protesters for their weeks-long vigil at Battery Park.
- Lorean Galarza spoke in support of the demands to fire officers Corrow, Campbell, and Bellavance, for body cameras to be required and footage to become part of the public record.
- Liam Mulroy spoke in support of the demands to terminate officers Corrow, Campbell, and Bellavance from the Burlington Police Department. He also called for the City to follow through on the demands made in the Racial Justice resolution in June of 2020.
- Marcie Gallagher called for the removal of the abusive officers from the Burlington Police Department, though it may cost the City in terms of reaching a settlement with them. She said that no financial cost outweighs the safety of Black people who have been oppressed by the government for centuries.
- Reeve Flynn vocalized support for the protesters in Battery Park and additionally expressed support for their demands.
- Tabitha Trahan called for the firing of officers Corrow, Campbell, and Bellavance, citing their violent records, and urged the City Council to have the police union revise their policies around officer violence.
- Lydia Kern reiterated the demands of the Battery Park protesters and the Racial Justice Alliance.
- Emiliano Void spoke in support of the protesters at Battery Park and echoed the demands of the Racial Justice Alliance.
- Adria Suhr voiced support for the protesters at Battery Park and also called for support for the demands of the Racial Justice Alliance regarding the abusive police officers at the BPD.
- Alana Redden called for the termination of Corrow, Campbell, and Bellavance, and said that there is a political cost and risk to inaction on the part of the Mayor and City Council. She echoed the demands of the Racial Justice Alliance regarding the firing of those abusive officers and the requirement for body cameras.
- Mackenzie Marsacci echoed the demands of the Battery Park protesters, and suggested that the City could start holding the police accountable for their actions by requiring the use of body cameras at all times and for the footage to become public record.
- Jabari Jones supported the demands of the Black perspective, the Racial Justice Alliance, and the demands of the Battery Park protesters. He said that the City is hiding behind the bureaucracy of the cost of a settlement in their inaction, and that this allows officers to commit violent actions with impunity.
- Meg Smith spoke in support of the protests in Battery Park and the demands of the protesters, specifically around the firing of officers Corrow, Campbell, and Bellavance. She expressed support for body cameras for all officers and for public access to the footage.
- Kailey Ware spoke in support of the protests at Battery Park.
- Jeannie Bartlett spoke in support of the Battery Park protesters and their demands to fire officers Corrow, Campbell, and Bellavance.
- Quinn DiFalco spoke in solidarity with the Battery Park protesters, demanding that officers Corrow, Campbell, and Bellavance be terminated from the Burlington Police Department due to their abuse of power through violent provocation.





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- Paige Van Patten spoke in support of the protesters and the demands of the Burlington community, who do not feel safe as long as abusive officers sit on the police force.
- Danielle Shaw echoed the demands of the Racial Justice Alliance and thanked community organizers and organizers of color for their work on these issues. She expressed disappointment that the Mayor's office and City Council have not engaged with these issues to the level needed.
- Andy Blanchet urged City Council and the Mayor to execute a separation agreement for officers Campbell, Corrow, and Bellavance using every tool and resource possible.
- Cora Smith echoed the demands that the City Council and the Mayor do everything they can to ensure that Corrow, Campbell, and Bellavance are terminated from the Police Department for the sake of community safety.
- Sarah Lincoln expressed support for the protests at Battery Park and called for officers Corrow, Campbell, and Bellavance to be terminated from the police department. She also asked that this specific issue not distract from the larger goal of dismantling systemic racism. She also said that body camera footage should be made available to the public.
- Marisha Lemoine expressed disappointment that racism has not been seen as a public health crisis until now, and also expressed disappointment that Black and BIPOC people are still not being heard, and still do not feel safe in Vermont.
- Emma Redden implored the City Council to ensure the safety of residents of Burlington and prioritize the safety of Black community members and urged them to heed the demands of the Battery Park protesters to terminate the abusive officers from the Police Department.
- Maisie Wormser expressed dismay that police officers are allowed to abuse their power and that changing that is too overwhelming to the system. She also stressed that none of the instances of police violence in question warranted the level of violence that occurred.
- Mark Hughes noted the number of open positions and RFPs pertaining to racial equity, inclusion and belonging department in the City, but yet a refusal to acknowledge and respond to the problem of police violence in the community.
- Zoe Frolik echoed the demands of the Battery Park protesters, for the violent officers to resign or be terminated, for the City Council and Mayor to value the lives of BIPOC community members over money and ensure equal protection under the law for all.
- Brynne Martin reiterated the demands of the Battery Park protests, calling on the City to terminate the abusive officers from the Police Department.
- Kimberly Chadwell stated her support for decriminalizing camping in Battery Street Park, because that ordinance discriminates against the homeless as well as the current protesters who are also part of the Burlington community.
- Em Kueppers voiced support for the protests occurring in Battery Park and the demands that officers Corrow, Campbell, and Bellavance be terminated from the police force.
- Pam Laser gave full support to the protesters in Battery Park and their demands.

Forum closed at 8:10 PM.

3. DISCUSSION WITH BIPOC LEADERS WHO HAVE VOLUNTEERED TO SPEAK – TIME CERTAIN 8:00 PM –

3.01 Discussion with BIPOC Leaders Who Have Volunteered to Speak - time certain 8:00 pm

Jess Laporte, Isabella Canete, and Zanevia Wilcox issued a statement to the City Council on behalf of BIPOC community and leaders, some of whom have been protesting in Battery Park since August 25 regarding the eradication of racism in the Burlington Police Department and more immediately regarding the termination of officers Corrow, Campbell, and





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Bellavance. They outlined further demands, including that the officers not be rehired by another state or local department or agency in Chittenden County, that the use of body cameras by officers be mandatory and that footage be made available to the public, and that the police department should be further defunded and those funds reinvested in the BIPOC community in areas such as healthcare and housing. They expressed deep gratitude for those who are contributing in overt and less apparent ways to the BIPOC community and protesters. They echoed the importance of trust between the police and members of the community, and implored the City to look beyond legal and financial challenges and remove the abusive officers from the force.

4. COMMUNICATION: EILEEN BLACKWOOD, CITY ATTORNEY, RE: LEGAL ISSUES RE: FIRING POLICE OFFICERS

4.01 Review of Legal Memo Concerning Three Officers

City Attorney Blackwood provided an overview of the legal memo regarding the termination of the three police officers in question, giving her legal opinion that the City cannot take further action against the officers without exposure to significant legal actions and substantive damages. She noted that only the police chief has the authority to hire and fire police officers and that the Mayor nor City Council has that authority. She outlined the Constitutional provisions that grant officers and other city employees due process. She introduced the concept of *res judicata*, which states that once something has been adjudicated, the government cannot take further action arising out of that same instance. She said that officers can only be terminated for just cause, which requires an employer to point to violation of specific policies or rules. She summarized language in the union contract, saying that once the measure of discipline is determined and imposed, the City cannot increase it unless new facts or circumstances become known. She finally outlined the legal standard for excessive use of force, which states that an officer's use of force is not excessive if it is objectively reasonable under the circumstances.

Councilor Pine noted that the City Council frequently seeks outside legal opinion when considering bigger decisions and asked whether the Administration would entertain that option. City Attorney Blackwood was noncommittal on the Administration's view of that option but did confirm that there were no legal issues with City Council seeking independent legal review.

Councilor Freeman asked for an overview of the City's process around severance agreements and terminations. City Attorney Blackwood replied that the City can sever its relationship with an employee either through firing or through that employee's resignation. She added that if an employer did not have the grounds or did not want to fire an employee, they could approach the employee to entertain a form of severance agreement. She further noted that severance agreements are often offered when the employer has some basis by which they could fire the employee but was reluctant to go through the firing and dispute process.

Councilor Hanson agreed that policies and contracts with the police union need to be renegotiated and addressed at a systems level, but emphasized that the goal of this discussion is to arrive at a mutually-agreed-upon separation and additionally to take action to ensure that the Battery Park encampment isn't being fined or broken up.

Councilor Carpenter asked about a comment made during public forum that the Attorney General said that the Mayor had





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the power to fire officers and asked City Attorney Blackwood to weigh in. City Attorney Blackwood replied that the charter makes it explicit that the police chief has sole authority to hire and fire officers. She added that City Council would normally not get involved in imposing discipline or firing of City employees.

Councilor Mason asked for clarification on the term meeting of the minds in the context of severance agreements. City Attorney Blackwood clarified that in a severance agreement, both employer and employee need to agree on all terms within.

Councilor Dieng asked about the current status of demands from the protesters and what the administration is currently doing. Mayor Weinberger replied that a discussion around this will be held during Deliberative Item 4.02.

4.02 Resolution: Protesters And Public Safety (Councilors Paul, Shannon, Mason, Paulino, Carpenter)

MOTION by Councilor Paul, SECOND by Councilor Carpenter, to waive the reading and adopt the resolution.

DISCUSSION:

- Councilor Paul said that the community is looking to the Council to be active, committed leaders for change. She noted that the racial justice resolution affirms the Council's support for dismantling systemic racism, and that work on that has begun. She further noted that this resolution reaffirms that and recognized the right for all in the community to feel safe.
- Councilor Hanson emphasized the importance of ensuring that the protesters are allowed to stay at the encampment by waiving the requirements in the City's anti-camping ordinance. City Attorney Blackwood noted that not enforcing the ordinance for this group of protesters sets a precedent that this ordinance can be waived for other protesters or encampments in future.

MOTION TO AMEND by Councilor Hanson, second by Councilor Freeman, to add after line 34, "BE IT FURTHER RESOLVED that the City continue to refrain from enforcing anti-camping regulations against those who are camping at Battery Park on a temporary basis; and"

DISCUSSION OF AMENDMENT:

- Councilor Hanson noted that thusfar the City has not enforced the anti-camping ordinance and that the Council should take the position of continuing to waive enforcement of that ordinance to protect First Amendment rights to free speech.
- Councilor Shannon cautioned that if an exemption is made on the grounds of First Amendment rights for this encampment, then that exemption would need to be made regardless of content, including hate speech, in future.
- Councilor Pine asked whether language is needed to continue non-enforcement of anti-camping ordinances, if the ordinance is currently not being enforced anyway. Mayor Weinberger replied that the Administration has not been enforcing the anti-camping ordinances for First Amendment reasons, but noted that there are





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public safety and public health reasons for not allowing camping in public spaces and that the situation in Battery Park has the potential to deteriorate. He cautioned the Council against the amendment language, noting that it could tie the hands of the City to deal with safety issues should counter-protests and conflict emerge.

- Councilor Hightower pointed out that special treatment for this group of protesters and movement is necessary to achieve equity in order to change the status quo. She suggested that language could be added to improve the amendment to ensure public safety and public peace.
- Councilor Paulino said it is unclear what problem the amendment is trying to solve. He echoed concern that if this is exempted from the ordinance, then other acts of civil disobedience of a similar nature would be allowed as well.
- Councilor Freeman expressed concern about the focus on a privileged public health perspective that benefits those in positions of power, which undermines the declaration that racism is a public health emergency. She said that the Council needs to take a position on whether the ordinance should be enforced for this set of protests.
- Councilor Stromberg noted that the protesters are sacrificing their personal safety during this pandemic for the long-term safety of the community.
- Mayor Weinberger expressed willingness to continue to engage with BIPOC leaders and work toward eradicating systemic racism while ensuring the safety of all community members.
- Councilor Pine asked the Mayor to commit to monitor for safety but not break up the encampment without consulting with the Council. Mayor Weinberger replied that the Administration and Chief of Police will continue to use their discretion to determine action at Battery Park.

VOTING ON AMENDMENT (by roll call): Councilor Carpenter – nay, Councilor Dieng – nay, Councilor Freeman – aye, Councilor Hanson – aye, Councilor Hightower – aye, Councilor Mason – nay, Councilor Paul – nay, Councilor Paulino – nay, Councilor Pine – aye, Councilor Shannon – nay, Councilor Stromberg – aye, Council President Tracy – aye (6 ayes, 6 nays); motion fails.

MOTION TO AMEND by Councilor Hightower, SECOND by Councilor Freeman, to strike “Now, therefore be it resolved” and replace with “whereas,” on lines 31, 35, 38, 41, 46; and strike lines 55-66.

DISCUSSION OF AMENDMENT:

- Councilor Hightower noted that the “whereas” amendments are for clarity and that the proposed deletion of the last two clauses address the misconception that the protesters are interfering with emergency response.

VOTING ON AMENDMENT (by roll call): Councilor Carpenter – aye, Councilor Dieng – aye, Councilor Freeman – aye, Councilor Hanson – aye, Councilor Hightower – aye, Councilor Mason – aye, Councilor Paul – aye, Councilor Paulino – aye, Councilor Pine – aye, Councilor Shannon – aye, Councilor Stromberg – aye, Council President Tracy – aye (12 ayes, 0 nays); motion carries.

DISCUSSION OF RESOLUTION AS AMENDED:





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- Councilor Hanson questioned the benefit of passing this resolution as amended prior to the next City Council meeting, as it will require examination and work by the Charter Change committee, which will not meet prior to the next City Council meeting.
- Councilor Carpenter said that this resolution as amended is the start of a conversation about options for making changes in how police discipline is managed.

VOTING ON RESOLUTION AS AMENDED: unanimous; motion carries.

5. COMMUNICATION: EILEEN BLACKWOOD, CITY ATTORNEY, RE: DISCUSSION REGARDING PERSONNEL MATTERS (VERBAL) **EXPECTED EXECUTIVE SESSION**

5.01 Communication: Eileen Blackwood, City Attorney, re: Discussion Regarding Personnel Matters (verbal) **expected executive session**

MOTION by Councilor Pine, SECOND by Councilor Freeman, that the Council find the necessity to enter into executive session to discuss personnel matters, premature disclosure of which could place the City at a significant disadvantage.

DISCUSSION

- Councilor Hanson said it would be beneficial to invite the BIPOC leaders into the executive session to participate in the discussion. City Attorney Blackwood noted that she would be limited in the legal advice she is able to give to her client (the City) if there are parties other than the client, staff, legal counsel, or the subject of discussion present during executive session. She said that inviting outside entities into executive session would waive attorney-client privilege. She said that outside entities would be welcome to give their input but leave executive session prior to discussion.

VOTING: unanimous; motion carries.

MOTION by Councilor Mason, SECOND by Councilor Freeman, to enter into executive session, based on that finding, to include Chief of Staff Redell, Director Green, and the City Attorney's Office.

DISCUSSION:

- Councilor Hanson asked whether the BIPOC leaders would like to join the executive session for a portion of the time, and they replied in the affirmative.

MOTION TO AMEND by Councilor Hanson, SECOND by Councilor Hightower, to also include BIPOC leaders Jess Laporte, Zanevia Wilcox, and Isabella Canete in executive session.





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DISCUSSION OF AMENDMENT:

- **Councilor Hanson said that if the leaders of this demonstration were to voice an opinion on an acceptable resolution to this issue, that has an impact on how this body might move forward to resolve these personnel matters.**
- **Councilor Mason outlined the normal process**
- **Councilor Pine asked if a two-part executive session could occur, where the BIPOC leaders participate in the first part and then the attorney-client privileged portion happens afterwards. City Attorney Blackwood replied that yes, that would be appropriate.**
- **Councilor Shannon asked on what basis the Council can go into executive session to hear from members of the public. City Attorney Blackwood replied that the law permits the invitation of individuals with information that is needed to make the decision in question.**
- **Councilor Paulino clarified Attorney Blackwood's statement, saying that it is appropriate to invite individuals with specialized knowledge of the issue at hand into executive session, as they can help determine whether the level of discipline is appropriate.**
- **Councilor Carpenter said that the intent of the current executive session would be to receive guidance from Attorney Blackwood and then proceed with options for moving forward and negotiation with the Battery Park protesters and BIPOC leaders.**
- **Councilor Shannon asked the BIPOC leaders if they had information that they can only give to the Council during executive session. Ms. Wilcox replied in the affirmative.**

VOTING ON AMENDMENT (by roll call): Councilor Carpenter – aye, Councilor Dieng – aye, Councilor Freeman – aye, Councilor Hanson – aye, Councilor Hightower – aye, Councilor Mason – nay, Councilor Paul – nay, Councilor Paulino – nay, Councilor Pine – aye, Councilor Shannon – nay, Councilor Stromberg – aye, Council President Tracy – aye (8 ayes, 4 nays); motion carries.

VOTING ON MOTION AS AMENDED (by roll call): Councilor Carpenter – aye, Councilor Dieng – aye, Councilor Freeman – aye, Councilor Hanson – aye, Councilor Hightower – aye, Councilor Mason – nay, Councilor Paul – aye, Councilor Paulino – nay, Councilor Pine – aye, Councilor Shannon – nay, Councilor Stromberg – aye, Council President Tracy – aye (9 ayes, 3 nays); motion carries.

The City Council entered into executive session at 10:52 PM.

The City Council exited executive session at 1:02 AM.

6. ADJOURNMENT

6.01 Motion to adjourn





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MOTION by Councilor Pine, SECOND by Councilor Mason, to adjourn the meeting.

VOTING: unanimous; motion carries.

The City Council meeting adjourned at 1:04 AM.

RScty: AACoonrad