



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

August 26, 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 [via telephone for Brookfield item only]

Brian Pine – Ward 3

William “Chip” Mason – Ward 5

Karen Paul – Ward 6

Ali Dieng – Ward 7

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

Stephanie Reid, HR

Brian Lowe, IT



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

Lori Olberg, C/T

Amy Bovee, C/T

Chapin Spencer, DPW

Norm Baldwin, DPW

Martha Keenan, DPW

Davie White, Planning

OTHERS PRESENT:

Tim Tabor

Aanen Olsen

Chelsea Zegalban

Jogander Singh

Jeff Glassberg

Mike Garber

Barbara McGrew

Will Hurd

Jacob Hinsdale

Richard Vonn

Nicolas Flourish

Richard Hillyard

Michael Forlee

Caryn Long

Charlie Messing

Bruce Wilson

Charlene Foo

Noah Crosby

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



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

1.0 CALL TO ORDER and AGENDA

Council President Wright called the meeting to order at 7:04 PM on August 26, 2019.

1.01 Agenda

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

- **Note information on Item 2.01 (Burlington Asset Management Program) (CY2019 Sidewalk Program Contract)**
- **Note materials for Item 4.13 (BTV Housing Summit)**
- **Remove Item 4.19 (E911 Coordinator)**

VOTING: unanimous; motion carried.

2.0 PRESENTATION: Burlington Asset Management Program

2.01 Burlington Asset Management Program Organizational Structure and Recommendations

DPW Director Spencer, DPW Assistant Director Baldwin, DPW Project Manager Keenan, and consultant with Barton & Loguidice, Tim Tabor, gave a presentation on the city's asset management program to sustain assets in the least costly manner possible. The framework for the asset management process includes looking at the current state of assets and investment needed, level of service, identifying critical assets and items for the long term Capital Improvement Plan, operations and maintenance strategies, and long term funding strategies. Short term recommendations include:

- Create and maintain a capital and asset section under DPW Technical Services Division and draft a reorganization memo showing the new section
- Hire a full time Asset Management Administrator
- Establish an Asset Management Steering Committee with representatives from all city departments to track and prioritize asset management citywide
- Establish an asset management program metrics and benchmarks
- Do a facilities functional assessment
- Adopt an asset management policy
- Implement tools such as GIS centric computerized maintenance management software

Long term recommendations include:

- Ensure the city has the necessary resources for long term asset management support and asset management tools
- Review city resources for facility and building maintenance
- Have BTV staff monitor improvements in the asset management program and demonstrate benchmark achievements and benefits to be realized
- Evaluate moving Facilities to a new dedicated section
- Generate strong GIS centric support service

Benefits of asset management include:



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

- Protect the city's investment in infrastructure and assets
- Long term capital cost savings up to 20%
- Incorporating asset management into the Capital Improvement Plan
- Extending the life of assets
- Identifying earlier intervention on assets
- Energy savings
- Addressing the climate change challenge
- More sustainable assets

Councilor Bushor asked if there is a list of assets (buildings and structures) and needed improvements. DPW Project Manager Keenan said the 2016 Capital Plan was the first step and includes an inventory that was done at that time. Staff is working to manage the data better (presently there are 11 separate software programs containing data). Councilor Bushor said the asset management steering committee needs to be linked to City Council.

Councilor Dieng questioned why DPW is handling asset management. Consultant Tabor said DPW has the most technical resources and staff closest to the assets. Councilor Dieng said staff and the taxpayers are the most valuable assets. Consultant Tabor said the infrastructure inventory includes staff to ensure the right amount of resources are available to manage the infrastructure. Also, succession planning is done. Asset management looks at how each asset provides service to residents.

Councilor Pine questioned whether DPW is the right department for oversight and cost effective management of the inventory of assets. Consultant Tabor said the Asset Management Steering Committee will set priorities and gather input from all departments. DPW has the technical resources. DPW Director Spencer added DPW will work with the C/T Office as well.

3.0 PUBLIC FORUM

Public forum was opened at 7:34 PM.

COMMENTS

- Barbara McGrew stated activists from all over the city should be able to speak out on issues without reproach.
- Will Hurd urged the city to pass a climate emergency declaration.
- Jacob Hinsdale spoke in support of Burly Axe in the Old North End.
- Richard Vonn, Perky Planet Coffee Shop, said the street construction has continued significantly longer than what the city promised which impacts the public trust.
- Nicolas Flourish spoke of the work of Code for BTM, local chapter for Code for America.
- Richard Hillyard spoke of the Burlington Town Center development and requested Brookfield attend the NPA meetings to address the neighbors' concerns.
- Michael Forlee spoke of leachate being treated at the waste water treatment plant and then being dumped into the lake. City Council is asked to end this practice.
- Caryn Long spoke of the CityPlace development and loss of money to the city. The Mayor and City Council need to



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

demand accountability.

- Charlie Messing spoke of the F-35s, making up to Perky Planet for the loss of customer traffic, and public bulletin boards being covered with ads from places that have money to advertise elsewhere.
- Bruce Wilson and Charlene Foo spoke in support of the mall project which will enhance the marketplace, provide jobs, increase tourism. The project needs to happen. The art gallery at CityPlace will showcase artwork from all over the world.
- Noah Crosby spoke about the impact on his music business due to lack of parking. There is concern about the delay with CityPlace.

There were no further comments from the public. Public Forum was closed at 8:07 PM.

4.0 CONSENT AGENDA

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

4.02 COMMUNICATION: Accountability List

4.03 COMMUNICATION: Burlington Commission/Board Openings

4.04 COMMUNICATION: Asset Management Administrator Position

4.05 COMMUNICATION: Public Works Project Accountant Position

4.06 REPORT: Board of Assessors

4.07 COMMUNICATION: F-35, Ted Barrell

4.08 COMMUNICATION: Resignation, Public Works Commission, Bob Alberry

4.09 COMMUNICATION: Police Department, Jonathan Ryan

4.10 COMMUNICATION: Police Disarming, Denton Chaffin

4.11 COMMUNICATION: Resignation, Electric Light Commission, Sabina Haskell

4.12 COMMUNICATION: Dore & Whittier Contract Amendment, 645 Pine Street

4.13 COMMUNICATION: BTV Housing Summit Event and Feedback Summary

4.14 COMMUNICATION: Valley West Apron Repair, Airport

4.15 COMMUNICATION: FIO Document(s)

4.16 ORDINANCE: Accumulation of Garbage, Trash, Vehicles, Appliances, Furniture

4.17 RESOLUTION: Quitclaim Deed, 12-14 Johnson Street

4.18 RESOLUTION: Quitclaim Deed, 16-18 Johnson Street

4.19 RESOLUTION: E911 Coordinator Position (removed from agenda)

MOTION by Councilor Bushor, SECOND by Councilor Roof, to waive the reading, adopt the consent agenda, Items



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

4.01 – 4.19, and take the action indicated. VOTING: 11 ayes, 1 nay (Councilor Dieng); motion carried.

5.0 DELIBERATIVE AGENDA

5.01 Appointment: Special Policing Committee

MOTION by Councilor Roof, SECOND by Councilor Pine, to nominate Thomas Nececkas to the Special Policing Committee.

DISCUSSION:

- **Councilor Dieng asked if there were additional applicants. Councilor Roof said the appointment is for the domestic abuse provider. Other individuals who applied did not meet the criteria for the position that was still open.**

VOTING: unanimous; motion carried.

5.02 Indoor Entertainment Permit Application 2019-2020: Burly Axe, 294 North Winooski Ave.

MOTION by Councilor Roof, SECOND by Councilor Hanson, to approve the Indoor Entertainment Permit Application 2019-2020 for Burly Axe, 294 North Winooski Avenue, with the condition all city permits are closed out with all standard conditions.

DISCUSSION:

- **Councilor Freeman expressed concern the establishment is not inclusive or accessible to all who make up the fabric of the community. Mike Garber said people book the room at a cost of \$25/person as is done with the Escape Room. Discounts are offered for nonprofits and groups. There is also a volume discount for a league.**
- **Councilor Roof noted axe throwing has a lot of interesting cultural history and it is advantageous to be bringing that cultural piece to the community.**

VOTING: 10 ayes, one nay (Councilor Freeman); motion carried.

5.03 Update on CityPlace Project – Brookfield

Aanen Olsen, Chelsea Zegalban, and Jogander Singh with Brookfield Properties assured Brookfield will be working collaboratively with the Administration, City Council, and stakeholders to ensure a project consistent with the community's values and goals, and provide an economic return for the partnership. Working through obstacles may require additional time before construction can begin. Brookfield is working on ways to enhance the current site conditions including parking and pedestrian access. An art installation on the barriers will be done in the next 90 days. Additional funds will be donated for the parking program similar to what was done last year. The project is the subject of active litigation and it is a big, complex project. Brookfield is looking to put resources forward. More information cannot be shared at this time, but Brookfield has committed to visiting the neighborhood groups to have active dialogue.



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

Council President Wright asked if Brookfield is 100% committed to the project. Mr. Olsen said holding the update is confirmation of the commitment.

Councilor Bushor expressed concern the representatives from Brookfield on the project keep changing. The residents of Burlington are frustrated with the lack of information and lack of commitment. The lack of communication to City Council seems to indicate the project is not a priority for Brookfield. There must be information to share even if the update is as brief as the project is on track. People are worried about a potential recession in the next year and the impact on the project. Aane Olsen said Brookfield communicates every day on the project. A better job of communicating with Burlington can be done. Chelsea Zegalban pointed out several people at Brookfield have been on the project since the start. Councilor Bushor said the payment for parking by Brookfield should be more than the amount paid last year.

Councilor Pine asked for a plan for the right-of-way impacted by the project. Singh said Kevin Worden with Engineering Ventures has been engaged to develop a safe plan to implement for the public. The best will be done given the site conditions. Councilor Pine asked if there is still the commitment from the financing sources (i.e. executed term sheet). Aane Olsen confirmed this. Councilor Pine commented on the public/private partnership for the project and the difficulty to speak to the public when the private sector partner has not been an actual partner in a meaningful way. More transparency and sharing are needed. Aane Olsen said there has been a tremendous amount of 'behind the scenes' work done on the project. Brookfield will make a commitment to be more transparent going forward.

Councilor Paul observed owning the Macy's property adds a new dimension to the project and hopefully opportunities, and asked if a rough rendering could be presented to the public before the end of 2019. Aane Olsen concurred the inclusion of Macy's offers opportunities. The plan will be shared as soon as it is formulated. Chelsea Zegalban said Brookfield has always considered a phased approach with the project and is looking at all options. Singh added the project from Church Street to Macy's now offers the opportunity to phase one block at a time, and smaller contractors will have the opportunity to bid on the work to be done. Councilor Paul commented with the acquisition of the Macy's property it is hoped the redesign of the project will better fit the Burlington skyline. Councilor Paul asked if there are plans to get comments and feedback from the public. Chelsea Zagalban said Brookfield recognizes how important community engagement is and is committed to engagement in forums like those held by Devonwood. Councilor Paul asked about the medical center relationship. Aane Olsen said Brookfield is actively engaged in conversation with the medical center which is an integral part of the project.

Councilor Tracy via telephone stated the development agreement has been violated and the city should take increased action against the developer in order to merit compliance. The developer needs to commit to an open and transparent public process. The public needs to have opportunity to comment on the totality of the project. Aane Olsen reiterated Brookfield's commitment to the project and clear communications going forward.

Councilor Paulino said the success of the developer is success for the city. The developer can show commitment by making the taxpayers whole for the 12 month delay in lost property tax revenue and parking benefits for businesses. The city wants to see action, not just drawings.



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

Councilor Roof urged sharing with the community as much as possible when this can be done. Councilor Roof requested an accounting of the project and process milestones to be accomplished to move forward. Consultant Jeff Glassberg said the developer continues to be pressed for information. During the 3rd and 4th quarters of the year the right-of-way on Bank and Cherry Street should be restored. Coordination will be done with Burlington City Arts to turn the barriers into an amenity for the city. There will be continued dialogue with the hospital which could help move the process forward. Guidance will be sought from City Council on any necessary amendments to the development agreement including updating the schedule, milestones, and timeline. Work will continue with Church Street Marketplace, Burlington Business Association, and DPW on a parking initiative for the holiday shopping season. In the year ahead there will be community engagement, design, and regulatory processes to enable construction to proceed. Brookfield needs to be in a position to make the commitments and be able to share information. Councilor Roof requested a concise write up of the plan be submitted to City Council. Jeff Glassberg agreed to provide updates to City Council on activities to avoid putting the city in a position of making representation on a piece of privately owned property.

Council President Wright stated City Council and the public want regular updates and hope future updates will have more significant information.

Councilor Mason asked what is envisioned for updates and if the development agreement should be amended. Aanen Olsen said the medical center, right-of-way, and working with the community are the next steps. Brookfield is dealing with a lawsuit against the project. There are professionals and consultants working behind the scenes to push the project along. Councilor Mason asked if the project will not move forward until the litigation is resolved. Aanen Olsen said Brookfield is still working diligently on the project, but the active litigation is an obstacle that must be overcome.

Councilor Dieng stressed the need for communication and questioned how to believe the project is going forward at this point. Aanen Olsen assured Brookfield has been working hard to make the project happen. The commitment to the city and the project is reiterated. Councilor Dieng said businesses are suffering. The penalty for the developer not having a plan needs to be increased. Councilor Dieng asked if Brookfield would consider giving up the lot. Aanen Olsen said no.

Councilor Shannon spoke about temporarily creating something on the site that is not an eyesore and getting the streets back for the public. Councilor Shannon asked if Brookfield is 100% committed to getting the TIF funds and building the streets. Aanen Olsen said Brookfield is keenly aware of the deadline for the TIF funds and is working on meeting the deadlines. Brookfield can commit to restoration of the street grid as part of the project. Councilor Shannon said the city needs to see progress to remove the current, severe negative impacts by being in the right-of-way. This should be top priority. An update on this should be given the next time. Aanen Olsen said Brookfield is in active design and negotiation to bring back as much right-of-way as feasible in an expeditious way.

Councilor Hanson asked what is being worked on each day on the project. Aanen Olsen listed cost and income analysis, design, digital assets (website, Facebook) for outreach and communication. Councilor Hanson asked how Brookfield will seek to understand the community's values and goals for the project. Aanen Olsen said representatives will visit the NPAs and do as much personal outreach as possible, and work with Jeff Glassberg and the Administration to coordinate to make everyone's time more effective. Chelsea Zegalban added Brookfield is committed to community engagement and



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

understands how important this is to the City of Burlington.

Councilor Freeman asked for a perspective on the agreement with the community. Jeff Glassberg said the development agreement contains a number of features that committed the developer to deliver a range of benefits to the city such as restoration of the street grid plus a commitment of recruitment for jobs, level of affordability on the residential side higher than zoning, working cooperatively with BED on district energy service, innovative storm water treatment from the site and surrounding area, and a public art component as part of the project. Councilor Freeman asked if it is possible to have an additional agreement with the stakeholders in order to have a community driven project.

Council President Wright said the people want to hear a timeline for the project. Aanen Olsen said with phasing the project some action can be anticipated in the next year. Council President Wright asked if City Council or the Administration has done anything to create barriers that slowed the project. Aanen Olsen said no. Council President Wright asked about the relationship with Mr. Sinex and the project. Aanen Olsen said Mr. Sinex is still a partner and as a partner has certain rights and obligations. Brookfield is the development partner for the project.

Mayor Weinberger said illustrations and a timeline are needed as soon as possible as well as information on how the impact of the delays will be minimized. The comments made show the urgency of sharing more information. City Council will have further information on how to formalize, codify the process and get the project back on a critical path forward. Council President Wright added the message has been clear on how important the project is to the city and the public. The city wants to continue to be a good partner as City Council and the Administration have been throughout the process. Talk of penalties is not helpful. It is hoped Brookfield continues to work with the Administration as indicated to find ways to alleviate some of the problems downtown for businesses and the public. Despite the frustrations the city looks forward to working together to see the project happen.

Council President Wright recessed the City Council meeting at 9:19 PM to convene the Local Control Commission meeting. The City Council meeting resumed at 9:31 PM.

5.04 Public Engagement from Brookfield for CityPlace Project – Councilor Freeman

MOTION by Councilor Freeman, SECOND by Councilor Dieng, to refer the request for public engagement from Brookfield for the CityPlace Project to the CDNR Committee for further consideration.

DISCUSSION:

- **Councilor Freeman urged thinking more critically on the updates from Brookfield and the relationship with the developer.**

VOTING: unanimous; motion carried.

5.05 Public Hearing: ZA#19-04 – Trees, Junkyards, Cross-Reference Correction





Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

The public hearing was opened at 9:41 PM. There were no comments. The public hearing was closed at 9:42 PM.

5.06 Ordinance: ZA#19-04 Trees, Junkyards, Cross-Reference Correction - Planning

MOTION by Councilor Mason, SECOND by Councilor Roof, to waive the reading and adopt the ordinance ZA#19-04.

DISCUSSION:

- Councilor Mason said the amendment is to correct three elements related to tree removal standards, junkyards, and vehicle salvage yards. The Planning Commission and the Ordinance Committee both approved the amendments.
- Councilor Bushor pointed out the word "placed" needs to be correctly spelled in Line 69.

VOTING: unanimous; motion carried.

5.07 Ordinance: Fletcher Free Library Rules of Conduct – Councilors Mason, Bushor, Roof

MOTION by Councilor Mason, SECOND by Councilor Roof, to consider as a first reading and refer the ordinance to the Ordinance Committee.

DISCUSSION:

- Councilor Mason requested any comments on the ordinance be submitted to the Ordinance Committee.
- Councilor Bushor asked if the trespass element in the ordinance overlaps with the Trespass Ordinance. City Attorney Blackwood said the two at least fit together or mirror each other. Discussion continues with the ACLU on open space.
- Councilor Freeman said the ordinance seems to make it a crime to be poor or mentally ill. People should not be penalized for a failed, broken system. The new ordinance removes the restorative justice components. The change in the trespass element is good. Line 91 regarding use of the library premises for sleeping and Line 120 regarding use of personal materials for sleeping target anyone experiencing homelessness. Improvement in the ordinance is needed in these areas.
- Councilor Hanson said fines which are part of the ordinance are difficult for people in a situation of homelessness or poverty. Also, the restorative justice piece should remain.

VOTING: 10 ayes, one nay (Councilor Hanson); motion carried.

5.08 Amendment of Section 7, Appendix B of Rules and Regulations of City Council – Councilors Tracy, Shannon, Paulino

MOTION by Councilor Shannon, SECOND by Councilor Hanson, to waive the reading and adopt the resolution to amend Section 7, Appendix B of the Rules and Regulations of City Council.

DISCUSSION:

- Councilor Shannon said the Charter Change Committee looked at whether an update was needed to conflict of interest in the City Council rules. The proposed wording is consistent with past practice and the advice from the City Attorney, and offers flexibility with different situations where there are conflicts.



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

- **Councilor Hanson commented the section is “watered down” in some sense by necessity.**

VOTING: unanimous; motion carried.

6.0 COMMITTEE REPORTS

- Councilor Mason announced the Ordinance Committee will meet on 8/28/19 to discuss accumulation of trash, abandoned vehicles, appliances and prohibited furniture, and inclusionary zoning relative to institutions.
- Councilor Dieng announced HR and the Institution Committee will meet 9/10/19 to revise the Diversity, Equity, and Inclusion Director job description and discuss changes in HR policies.

7.0 CITY COUNCIL – GENERAL AFFAIRS

- Councilor Bushor said the renewed contract with Jeff Glassberg required a reporting to the Mayor and City Council so City Council needs to set up a schedule for updates.
- Councilor Bushor mentioned the vandalism to the raised bed community gardens by the hospital that occurred when the students returned. If the person who did the damage is a student then that student should be sent home immediately.
- Councilor Paul announced the Ward 6 NPA fall kickoff meeting on 9/5/19 and thanked the Mayor for including money for the NPAs in the budget.
- Councilor Paul said people are disappointed the Police Oversight Committee meeting is at 8:30 AM and would like the meetings to be held after normal working hours, perhaps in the evening. The meetings should be recorded so people can watch.
- Councilor Roof said welcome bags will be distributed to students on 9/7/19 and the UVM President will attend the November meeting of the Ward 1 NPA.

8.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

Council President Wright announced Councilor Mason is appointed to the Central Peddling District Action Committee.

9.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger reported:

- The work on St. Paul Street is nearing completion. Main Street to King Street is done. The lower block will be done by the end of September. Landscaping will be done in the fall. The outdoor seating for restaurants on St. Paul Street will add to the street life. The design of the street, curb to curb, is 22' to be safe for pedestrians and slow down traffic. The turning radii from St. Paul Street to the side streets is a challenge for larger vehicles requiring them to slow down or use a different route. When the project is done there will be fewer turns on St. Paul Street and more crosswalks and markings to guide drivers. The intersection will be similar to the King Street/Champlain Street intersection. DPW has learned from the project and will apply that learning to the work on Cherry Street, Bank Street, and Main Street.
- The second phase of the housing summit is 9/4/19. Proposals in five policy areas related to housing will be provided



Regular City Council Meeting - Monday, August 26, 2019, 7:00 pm, Contois Auditorium, City Hall 8/26/2019

to City Council in October.

- Mayor's book group conversation on 9/26/19 will be on the book "The Color of Law".
- Staff is following up on concerns about the waste water system.
- August 28, 2019 is the first day of school.
- September 7, 2019 is the opening of the first Burlington wild ways path.

10.0 ADJOURNMENT

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

The City Council meeting was adjourned at 10:22 PM.

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