



Regular City Council Meeting - Monday, July 11, 2016 - Contois Auditorium, City Hall 7/11/2016

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

July 11, 2016

APPROVED

MEMBERS PRESENT: 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

MEMBERS ABSENT: Jane Knodell (Council President) – Central District

ADMINISTRATION: Miro Weinberger, Mayor

Eileen Blackwood, City Attorney

Richard Haesler, Assistant City Attorney

Bob Rusten, CAO

Rich Goodwin, DFO

Jennifer Kaulius, Mayor’s Office



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Brian Lowe, Mayor's Office

Amy Bovee, C/T Office

Lori Olberg, C/T Office

David White, Planning & Zoning

OTHERS PRESENT:

Bruce Baker

Curtis Reed

Tom Brassard

Amy Radcliffe

Charles Simpson

Ron Ruloff

Robert Harrendon

Richard Hilliard

Matthew Ennis

Robert Stroube

Janet Carscagun

Jennese Grill

Mike Schirling

Dee Butchkin

Art Clugo

Jenny Crystal

Ann Burke

Sabrina Wing

Barbara Magrew

Ibnar Stratevus

Charles Messing

Maxine Holmes

Cynthia Rubin

Carolyn Bates



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Barbara Howman

Diane Gayer

Amelia Schlasberg

Krista Liasert

Kara Long

Jeff Nick

Michael Long

Brian Dunkill

Phil Merrick

Ross Montgomery

Kelly Devine

Susan Grossman

Nancy Kirby

Barbara Hedrick

Patrick Johnson

Maggie Standly

Austin Davis

Steve Goodkind

1.0 CALL TO ORDER and AGENDA

Bob Rusten, CAO, opened the meeting at 7:15 PM on July 11, 2016 and noted the agenda needs to be amended to include election of a temporary City Council President as the first order of business.

1.01 Agenda

MOTION by Councilor Colburn, SECOND by Councilor Paul, to approve the agenda with the following amendments to the items listed and to take the action indicated:

- **Elect Acting City Council President in the absence of City Council President Knodell.**
- **Note Additional Information on Item 2.01 (Annual PC Report).**



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- Add Item 4.23 (2nd Amendment MOU with UVMMC) to Consent Agenda.
- Add Item 4.24 (Mall Redevelopment and Rezoning) to Consent Agenda.
- Note Suggested Motion for Item 5.05 (Downtown Mixed Use Core Overlay Ordinance).
- Add Item 10.5 (Executive Session to discuss New Moran).

VOTING: unanimous [Councilor Hartnett and Councilor Shannon not present for vote]; motion carried.

1.02 Elect Acting City Council President

MOTION by Councilor Bushor to nominate Councilor Wright as Acting City Council President.

There were no other nominations. Nominations were closed.

VOTING: unanimous; motion carried.

Councilor Wright as Acting City Council President called the meeting to order at 7:20 PM and led the assemblage in the Pledge of Allegiance. Acting President Wright recessed the City Council meeting at 7:22 PM to convene the Local Control Commission and the Board of Civil Authority meetings. The City Council meeting resumed at 7:25 PM.

2.0 REPORT: Planning Commission Annual Report

Bruce Baker, Vice Chair of the Planning Commission, and David White, Director of Zoning and Planning, noted the annual report was submitted and explained there were two commissioners not present at the meeting when the annual report was considered and have not signed the report.

Councilor Bushor observed the report uses words such as "incredibly busy", "extraordinary amount of time". City Council acknowledges the Planning Commission is busy. The report is comprehensive and recaps what was done and what is outstanding that collectively needs to be done for the community.

Councilor Tracy asked when the draft PlanBTV South End will be available and the next steps after release. David White said given the current workload and summer schedule it will be September before the draft is available. There will be public input before the adoption process begins.

3.0 PUBLIC FORUM

Public Forum commenced at 7:30 PM.

PUBLIC COMMENTS

- Tom Brassard read a statement in support of the building height zoning change and mentioned the Burlington non-student population being unchanged since the 1960s as a sign of a community in decline. People want to live in



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Burlington, but housing availability and affordability is challenging. The redevelopment project offers 300 new downtown housing units. Mass, height, environmental design of the project serve the form and function that only high density development can deliver, meaning more people to support local businesses, the arts, workforce, and nonprofit economy. Height is what delivers the vibrancy of high density urbanism and bolsters the city's underfunded tax base to better maintain and repair schools, roads, water and sewer and other infrastructure needs. Everyone wants the city to flourish. The solution is not perfect for everyone, but it will get better over time because that is the creativity and spontaneity for which the community is known.

- Amy Radcliffe stated 14 stories is not consistent with PlanBTV. The plan advocates for density, but not tall buildings. Density does not mean tall buildings. The plan advocates for human scale buildings. Fourteen stories is not human scale. It is false to say tall buildings are consistent with livability. Ms. Radcliffe cited different points of view from experts in the field, noting Susan Crowfoot Leonard, Ph.D. in architecture, who says high rise buildings, box stores and malls offer the biggest return to investors, banks, and multi-national corporations. Small footprint shops and apartments yield smaller profit spread among the community. The human scale fabric is more adaptable to changing political and economic times making the community resilient and durable. The City of Paris has no building over 100' tall and supports continued retail along the street making every neighborhood walkable. Burlington can make a livable city without 14' stories.
- Charles Simpson, Coalition for a Livable City, spoke of spot zoning because the area is being rezoned for a single developer at a scale vastly out of proportion to the surrounding area. There is also a letter from an investment group that has property adjacent to the overlay district and wants to be included in the overlay. Everyone will want greater height and will use this as a precedent. The city wants affordable housing, but rather than the proposed 50 units for \$22 million in TIF money there should be a bond issue for 150 affordable units on publicly owned land between Home Avenue and Lakeside in the right-of-way for the Champlain Parkway.
- Ron Ruloff, Cathedral Square, referred to an article in the *Burlington Free Press* about a set of parents who overdosed on heroin while their child was in the car with them. Mr. Ruloff said the situation is brought about by City Council and the nonprofits taking a lackadaisical attitude toward crime. Heroin addiction is a moral failing and a criminal activity, not a medical disease. The proposed housing downtown will attract more Section 8 people and heroin addicts mixed with students.
- Robert Harrendon, Ward 4, stressed the town center requires and deserves redevelopment, but it must be done right. Burlingtonians do not just accept "vanilla planning" as is the case elsewhere. Burlingtonians care for their place and make time to be involved. Burlingtonians like the sky, lake, and mountains, not a painted version on cement walls. Burlington is small and creative enough to redevelop the town center without breaking current zoning and height limits. City Council is urged to hold onto the zoning and not treat Burlington as "Anywhere, USA".
- Richard Hilliard, Ward 1, stated the zoning change is a divisive issue and City Council is requested to defer action until due diligence is complete to ensure that the promised new jobs is a realistic number, that alternative plans not requiring a tower block which will likely be a Trojan horse for other tower blocks have been thoroughly reviewed, and that the city knows this is the best solution available and there are adequate contingency plans.
- Matthew Ennis, Winooski resident who commutes by bike into Burlington daily, spoke of moving to Vermont from Canada because Vermont is a special place and Burlington is a special place. Mr. Ennis said the development is misguided and stuck in the mentality of the 1950s. Fourteen stories is out of proportion for the city, will change the face of the city, make the city less affordable, and drive out people who cannot afford to live there. Traffic will be worse for bicyclists. Mr. Ennis urged looking at European cities for ideas about development and limiting auto traffic downtown and making the city more livable. The proposed project will make the city less livable.
- Robert Stroube, resident who relocated from Chicago, said he moved to Burlington for the aesthetics. Vermont is a beautiful state. The charm and brand of the city is defined by the way the city currently looks and feels. A decision that is not easily reversible could impact the brand and aesthetics of the city in a negative fashion. City Council is urged to take time to evaluate the decision and consider other options.
- Janet Carscagun, Old North End resident and small business owner, spoke of living in Toronto before moving to Burlington and the impact of expansion and uncontrolled development in Toronto that did not help the affordable



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housing problem and blocked the view of the waterfront and green space in the city. People cannot afford to live in Toronto now. Going up in building height means other businesses will want to do the same. The sprawl in Toronto is horrendous. There are no signs on the redevelopment project promoting the location of small businesses, but rather signs for big national chains which the residents of Burlington do not want. Going up 14 stories is not what the residents want and will not fix the affordable housing problem.

- Jennese Grill took issue with the report from the Planning & Zoning Director regarding the zoning change for height being in compliance with PlanBTV. Ms. Grill said the zoning change is not ready and it is illegal because it does not fulfill the requirements of PlanBTV, the comprehensive plan, and the goal of affordable housing.
- Mike Schirling, Executive Director of BTV Ignite, stated the goal of the organization is to grow the technology ecosystem and economy in the area. The number one challenge noted is space - housing for tech workers, space for startups, space to grow. Burlington has a vibrant technology ecosystem and vibrant innovation economy that requires space to grow its footprint and weave further into the art scene and for housing for workers to grow businesses large and small.
- Dee Butchkin spoke in support of growing the city and increasing the amount of business, but a 14 story building in the downtown is not the way. People visit Burlington because it is interesting and unique. Adding a 14 story building will make Burlington start to look like Albany, NY and no one visits Albany. Burlington does not need 14 stories to accomplish what is wanted.
- Art Clugo, PC Construction, read a statement in support of the redevelopment project, noting the employee owned PC Construction with 1200 employees of which 300 are Vermont residents endorse the redevelopment of Burlington Town Center and support the city by living, dining, and working here. The project will enhance the downtown Church Street marketplace, expand the tax base, create over 1,000 jobs, and add investment by businesses leading to more jobs. Burlington is an urban site appropriate for the development and PlanBTV. The project is thoughtfully conceived to minimize impact on neighborhoods, improve the sewer system, and reconnect roads. City Council is urged to support the zoning change.
- Jenny Crystal stated a model of the development is still not available. A proper model is needed before the project can be built. The zoning change needs to go back to Planning & Zoning. Due diligence is not done. The process has been unacceptable. The decision should be deferred. The city needs to think clearly about how this will impact Burlington five or ten years in the future. People come to the city because there are no skyscrapers, not to see skyscrapers. Ms. Crystal spoke against spot zoning and said other tower buildings will be built.
- Ann Burke said Vermont is a special place where people understand the value of the natural world and their relation to it. Up to now zoning has protected Burlington from development that would destroy the charming New England character and its gracious setting within the landscape that surrounds it. City Council is urged to stop and think again. It is not too late to consider alternatives to a massive 14 story high rise on top of the mall. City Council is asked to preserve what is truly unique about Burlington and not move the downtown zoning ordinance forward.
- Sabrina Wing asked City Council to defer the decision. The scale is against what is natural in Burlington. Ms. Wing said she chose to live in Burlington because it is stunning and moves her and makes her a better person. Ms. Wing said she can see the Adirondacks on one side and the Green Mountains on the other side. Fourteen stories is wrong for the city. It is not warm. It is not comfortable. Burlington is a city of incredible human beings and has the biggest brain trust of anywhere. There are other options that should be explored.
- Barbara Magrew requested the zoning change be moved up on the Deliberative Agenda to follow Public Forum. Ms. Magrew also requested the proposed zoning changes be remanded back to the Planning Commission so the work can be finished. Time should be allowed to do this. Members of the Planning Commission have disagreement on major issues. The Planning Commission does not have the tools needed, such as a 3-D model, to make a proper recommendation and to see how the project will actually look and other buildings that may be built. The zoning amendment should be sent to the Ordinance Committee as promised or risk another flagrant violation of the public process. Many city councilors said the public good will be gaining two streets, but the grade of Pine Street will not meet ADA accessibility and the engineering is an impossibility.
- Ilnar Stratevus read a list of 21 businesses on a signed petition to keep the zoning as is. The Planning Commission



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deliberations were interrupted at the last session and the discussion was incomplete. There has been much debate with lots of public attending the meetings. The matter needs more time because there will be lots of impact on the city. City Council is asked to delay the vote and let the Planning Commission do their due diligence without being interrupted and bullied into pushing this ahead.

- Charles Messing stated building and housing projects are horrible. Mr. Messing spoke in support of keeping the zoning and holding deliberations. City Council should not pass the zoning. According to Jane Jacobs new businesses do not come to new buildings because it costs too much. This happens in old buildings and that is why old buildings are needed. Mr. Messing said the cost estimate needs further explanation. Also, connecting the streets will demolish the building at 100 Bank Street that is one of the largest buildings in the city. City Council is urged to think more about the decision.
- Maxine Holmes, long term resident, agreed with the statements about not going forward as planned and showed a Google picture of the Burlington waterfront today which is used to introduce people to the city. The church spires are visible. Munich, Germany would not allow buildings taller than church spires when rebuilding after the war. People do not go to places with high rises, only for business. City Council is asked to reconsider and not rush the decision. If someone wants to build in Burlington they will pay to do that. The city deserves the best. Architects should be invited to do a planning of the skyline.
- Cynthia Rubin spoke in support of the redevelopment of Burlington Town Center to be vibrant. People do have doubts about the current plan conforming to PlanBTV as envisioned. Also, a 3-D model is needed and can promote real discussion going forward. Ms. Rubin said she would like to know Mr. Sinex's track record with other developments. Form based zoning is not complete yet and the city is going forward with zoning amendments. That is the cart before the horse.
- Carolyn Bates, resident, said she loves the city, lake, views, and light, and is not opposed to the town center, but the overlay proposal does not fit PlanBTV and there is only one developer so it is spot zoning. City Council needs to defer the zoning because it is so out of scale. The building could be brought down to 11 stories by moving parking more underground and up. The Planning Commission needs to finish their job and be given the tools they need, not digital models. The overlay district borders are not even set. Hotel Vermont is asking for changes to the parking garage behind it and Joan Shannon asked for a parking garage to be removed. A local developer asked to have his property in the overlay. All this should be settled before doing anything else. Mr. Sinex and the Mayor spent three years talking about redevelopment of the town center. The city should be given an equal amount of time to talk to the Mayor about this major change. Stop rushing.
- Barbara Howman said Burlington is for development appropriate for the city. People are not against the project, but want a project that spells Vermont and Burlington. Research of Don Sinex did not provide much information. It is important Sinex be vetted. Sinex needs to understand who Burlington is and Burlington needs to know who Sinex is. The city does not want him practicing with his first project in Burlington. It would be nice to sit with Mr. Sinex and have some real discussion.
- Diane Gayer expressed concern the overlay district does not support PlanBTV and public input that was received. Density is not served by vertical massing. Ms. Gayer cited her experience with cities economically failing through bad building practices and policies, recalling Denver, Colorado had a very similar proposal to build tower buildings and ended up with 20 empty high rises and an economic crash that lasted eight years. Emptiness in Burlington is possible even though the city has been forward with filling spaces. City Council was asked to phase the previous contract. The project should be sent back to the Planning Commission to do the proper pros and cons and look at what needs to occur for the overlay before moving forward. The overlay district should look at transportation oriented development because Cherry Street is involved which was the site of significant investment. Also, the project should be held to the number of affordable housing units and adhere to existing codes and policies and developing to the 2030 energy district as part of the overlay.
- Amelia Schlasberg spoke against the downtown zoning changes because Burlington is walkable, bike-able, a "small big city and big small town". Downtown revitalization should be done within current zoning requirements. The developer has not demonstrated the current heights are not enough. It does not make sense to change the zoning



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for one project that has not demonstrated it needs the changes.

- Krista Liasert opposed the zoning changes being demanded in relation to the 14 story redevelopment mall project.
- Kara Long, resident, said the residents will be paying the \$23 million for the streets. Ms. Long said she is trying to get information on TIF. PlanBTV scale is eight stories or 105' with bonuses. The report that was sent was from staff, not the Planning Commission. The Planning Commission did not get the chance to finish their job. It is not right and against state law and should be sent back.
- Jeff Nick, Church Street property owner and Chair of the Church Street Marketplace Commission, said the commission is in full support of the zoning change which is not spot zoning, but smart zoning. The property is a real problem in the center of town and is very vacant. Few retailers want to be there. It is a problem that needs to be fixed. Current zoning is really broken. The town has had residential vacancy of less than 2% for about 20 years. Housing is desperately needed. In the market today retailers and office users would like to be downtown, but cannot find space to lease. Church Street Marketplace is 100% occupied, but it is fragile and changing constantly. The city does not want to lose an opportunity and have merchants relocate. The building height is appropriate in the downtown core. It is a large area of town with low building heights. The Masonic Temple at the top of Church Street is 130' tall and sits on an elevation of 227'. The mall on Bank Street is at an elevation of 207' so there is only a 10' difference to what was built over 100 years ago. City Council is implored to move forward on the matter.
- Michael Long, resident, said he is discovering the law is not necessarily the law in Burlington. The city did not follow the law when warning the last Planning Commission public hearing and it is nothing short of fraud to claim that the zoning amendment #16-14 conforms to PlanBTV because it does not. In the housing portion of PlanBTV there is definitive, unambiguous language about allowing taller buildings and fully utilizing the permitted development envelope. This is not a suggestion, it is a mandate and not one possibility among many. ZA#16-14 does not support the permitted development envelope. It destroys that envelope and replaces it with a supersized alternative without any justification, only because the developer who is a developer, not a benefactor, has demanded special treatment. City Council is urged to vote against Z#16-14 to support rational, orderly development and restore confidence in the integrity of city government.
- Brian Dunkill, Burlington Town Center, expressed sincere gratitude to the Planning Commission and staff, particularly David White, noting everyone worked incredibly hard under a tight timeframe. Burlington Town Center looks forward to working with City Council on the overlay amendment and will make local experts available.
- Phil Merrick, employer, said housing is needed for employees earning \$15 to \$22 per hour. There is not a problem with a developer making money on a project because there is risk, years of work, and stress. Building more housing of all kinds will help the housing crisis. Housing is expensive because people are willing to pay the cost since there is nowhere else to live.
- Ross Montgomery, Kingsland Company, spoke in support of the overlay district changes and encouraged City Council to move forward in an expeditious manner. Vermont has a long standing epidemic of college graduates and young families being forced to leave for higher paying jobs elsewhere, and this is a real way to change that course. There is a high demand for all facets of the Burlington Town Center plan including retail, multi-family housing and offices. There has been a well vetted, public process and the project should move forward.
- Kelly Devine stated it is appropriate for the discussion to go to the Ordinance Committee for further vetting and discussion.
- Susan Grossman, resident, said increased building height will not help downtown thrive or make it affordable or desirable. The height will change the character. Ms. Grossman asked if the shadow of the building and giving up stepping into the sun has been studied from a wildlife standpoint. Ms. Grossman said she wants the "mom & pop" stores to thrive and the character of the city to be sustained. The streets should not be opened. A "big dig" sounds like a terrible idea. Startup businesses do not want to be on Main Street, but want to be some place that is "cool", "hip", an undiscovered different building that is not brand new. There are many people who are not in favor of what they are seeing, but are in favor of progress. The city can do better. Ms. Grossman said she looks forward to the next evolution.
- Nancy Kirby, resident and business owner, said her customers were surprise to hear about the 14 story building. Ms.



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Kirby said she put her house on the market and had one family express interest and the rest were landlords wanting to make condominiums out of the historic house. UVM and Champlain College should house their students on campus. Part of the reason there is no affordable housing in town is because the students take up the housing and the landlords let the buildings go to the wayside making neighborhood ghettos. There is concern about the speeding up of the project. The building will stick out on Church Street.

- Barbara Hedrick thanked City Council and the Planning Commission and reviewed in 2015 there were public workshops followed by 14 months of no public meetings and then public meetings in 2016. It is only in the past 62 days that the public was engaged again and that is why the public feels it was not engaged in the decision to build to 14 stories. The Mayor, Sinex, and Planning and Zoning Director are trying to bust zoning and calling the project "green" is their veneer. The 900 jobs created include 400 jobs that are already downtown and just moving to another location. The project is not "green" because a building is environmentally friendly up to six to 10 stories. Beyond that there is more cement and declining environmental return. The building is not good for housing because there are 80 students in the building. The Mayor talking about Memorial Auditorium for a UVM hockey gym shows the priority is not providing more housing. If the Mayor wanted to provide more housing then the students would be on campus and the rule of up to four unrelated residents in a house would be enforced.
- Patrick Johnson, stockholder and investor in the town as well as employer with a proven track record of investing many thousands of dollars in the community, said he paid attention to PlanBTV. If the project goes forth there is concern the nebulous nature of the document can be abused to satisfy needs that are not going to hold the value of investments.
- Maggie Standly, Ward 3, expressed concern about the process and spoke of dishonesty encountered when going through the zoning process herself which caused her to lose trust and confidence in the Administration. The Planning Commission's job is not done. It is curious that Champlain Housing Trust is just now coming out in support of the project and it is strange that Lee Buffinton, housing advocate, had to recuse and then resign from the Planning Commission. Ms. Standly said a physical model of the project is needed.
- Austin Davis said cities evolve. Mr. Davis recalled the tour of Burlington with his great-grandfather that pointed this out. When a city evolves it can be by accident or design. There is a large degree of sprawl happening. There is a 1% vacancy rate in the city. There is a structural problem in the city. A young person earning under \$30,000 encounters this every time a new lease has to be found. It is hoped the project solves the structural problem the city has. The city needs to evolve by design and be looking down the road.
- Steve Goodkind said almost everyone in Burlington wants move redevelopment, good commerce, access, and affordable housing. No one has been able to articulate what is wrong with the current zoning. No one is showing that the redevelopment cannot be achieved under the existing zoning. The zoning will enable a project that will produce 50 units of affordable housing and produce 900 jobs, but how does that work. City Council need to look hard at the current zoning before saying the zoning change is the answer. It is not certain the right questions have even been asked.
- A gentleman claiming to be an anonymous investigative journalist said it has come to his attention that there was a perceived conflict of interest and the Chair did not recuse on the Planning Commission. A complaint has been filed with the Attorney General. Research of Don Sinex said his business is in New York, but there was no information on the Secretary of State's webpage and staff said they have never had an application from a business or anyone named "Sinex". The city should do some vetting. At the Planning Commission meeting people were expressing how the project would change their lives if it goes through without responsible review. The most damaging statement was when the Director of Planning advised the Planning Commission that a lot of time cannot be spent on morality issues, but to get down to brass tacks and move forward. The gentleman said that is the most unfeeling statement anyone in any level of city government could make
- Meg Wallace, resident, said the choice has been presented as either/or – either a dead mall or a 14 story mall redevelopment project. This is a false dichotomy. The mall could be redeveloped for mixed use with height increases with a greater percentage of affordable and workforce housing with architectural sensitivity and appropriate scale in a way that works to further the city goal of diverse, vibrant, human scale neighborhoods all without zoning changes.



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The city stands to gain some, but will lose so much more. The zoning changes are not supported by the public process of PlanBTV. The vast majority support smart development, specifically redevelopment of the downtown area, increase in housing, city street grid, and what is best for the future of the city, but this is not it. This is not financially sound investment of \$22 million of public money nor is it what the majority of the citizens want for the City of Burlington.

There were no further comments. Public forum was closed at 9 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: Ambulance Fee Increase
- 4.04 COMMUNICATION: Engineering Services Agreement for Pipe Assessment and Project Rehab
- 4.05 COMMUNICATION: Contract Amendment College Street/Marketplace Garage
- 4.06 COMMUNICATION: Approval of BCA Community Fund Recommendations
- 4.07 COMMUNICATION: Planning Commission Resignation – Lee Buffinton
- 4.08 COMMUNICATION: Renewal of Agreements for Encumbrances Outside CSM
- 4.09 COMMUNICATION: Appointment of Assistant Administrative Officer
- 4.10 COMMUNICATION: Education Tax Rates FY2017
- 4.11 COMMUNICATION: CCRPC TIP FY2017-2020
- 4.12 COMMUNICATION: Public Safety Committee Report
- 4.13 COMMUNICATION: Minutes, Board of Finance 5/9/16
- 4.14 COMMUNICATION: Minutes, Board of Finance 5/23/16
- 4.15 COMMUNICATION: Sweep Accounts and Other Bank Accounts
- 4.16 COMMUNICATION: FIO Documents
- 4.17 RESOLUTION: Purchase/Lease Airport Snow Removal Equipment
- 4.18 RESOLUTION: Lease Space at 405 Pine Street, Burlington City Arts
- 4.19 RESOLUTION: Reclassify Library Director Position
- 4.20 RESOLUTION: Two Limited Service Full Time Pretrial Monitors



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- 4.21 RESOLUTION: Acting Inspectors of Election, Wards 4, 5, 7, 8
- 4.22 RESOLUTION: Quitclaim Deed, 53 Barley Road
- 4.23 RESOLUTION: 2nd Amendment MOU between City and UVMMC
- 4.24 COMMUNICATION: Mall Redevelopment and Rezoning, Steve Donahue

MOTION by Councilor Colburn, SECOND by Councilor Bushor, to accept the consent agenda (Items 4.01-4.24) including the addition of Item 4.23 (2nd Amendment UVMMC MOU) and Item 4.24 (Mall Redevelopment and Rezoning from Steve Donahue) and to take the action indicated. VOTING: unanimous; motion carried.

5.0 DELIBERATIVE AGENDA

5.01 Public Hearing: Common Area Fees for CSM FY2017

The public hearing was opened at 9:05 PM.

COMMENTS

Ron Redmond, Church Street Marketplace, reported a 1% increase in the common area fee for FY17 is proposed. Seventy percent of the revenues fund the operating budget for CSM with the balance from other fees. There was no opposition expressed at the public hearing in May and the anchor properties (Outdoor Gear Exchange and Burlington Town Center) agree to the fee.

There were no further comments. The public hearing was closed at 9:07 PM.

5.02 Common Area Fee Formula and Fees for CSM FY2017

MOTION by Councilor Ayres, SECOND by Councilor Roof, to approve the resolution on the allocation method and standards and the establishment of the common area fees for the Church Street Marketplace for Fiscal Year 2017. VOTING: unanimous [Councilor Bushor and Councilor Tracy not present for vote]; motion carried.

5.03 Special Event Outdoor Entertainment Permit Application (two days only): Monkey House, Festival of Fools Event, July 29 & 30, 2016

MOTION by Councilor Ayres, SECOND by Councilor Roof, to approve the Special Event Outdoor Entertainment Permit for two days only for Monkey House, Festival of Fools Event, July 29 & 30, 2016. VOTING: unanimous [Max Tracy not present for vote]; motion carried.

5.04 Ordinance: ZA#16-13 Subdivision Infrastructure Standard, First Reading



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David White, Planning Director, explained ZA#16-13 is a technical amendment to public street and other infrastructure standards. The Planning Commission approved the amendment.

MOTION by Councilor Mason, SECOND by Councilor Shannon, to waive City Council rules and direct the Clerk's Office to warn a public hearing on ZA#16-13 after the 15 day public notice. VOTING: unanimous; motion carried.

Councilor Bushor requested a brief recess. The meeting was recessed at 9:10 PM and resumed at 9:13 PM.

5.05 Ordinance: ZA#16-14 Downtown Mixed Use Core Overlay, First Reading

David White explained the amendment allows the creation of a downtown mixed use overlay, amends the official map to reconnect two city streets, proposes building height up to 14 stories (160'), and a number of other matters. The Planning Commission recommended approval. The Planning Commission continues to work on comments on the proposal for City Council.

MOTION by Councilor Paul, SECOND by Councilor Shannon, to do the following:

- **Waive the reading,**
- **Refer the ordinance to the Ordinance Committee,**
- **Direct the Ordinance Committee to report to City Council on 8/15/16,**
- **Schedule a work session on August 15, 2016,**
- **Ask the Mayor to schedule special meetings for work sessions on August 18 & 24, 2016 to consider the ordinance with the goal of warning a public hearing on September 12, 2016.**

DISCUSSION: The following comments were made:

- **Councilor Paul thanked all the people who spoke and attended meetings. The Planning Commission annual report showed the Planning Commission over the past year has been incredibly involved in supporting advancing projects that shape and implement the living, planning, document, the city's vision for the future, PlanBTV. Councilor Paul said she served on the Development Agreement Public Advisory Committee which held 12 publicly warned meetings beginning January 2015, worked to direct staff on public engagement for redevelopment of the mall site, and worked to represent the issues important to the public. PlanBTV urges zoning regulations that emphasize building form, facilitate in-fill, and activates the streetscape. The aim is zoning that makes development of housing easier, reducing costs and barriers. The Planning Commission held five meetings on the proposed zoning amendments with extensive public forums. Hours of testimony were heard. The Planning Commission voted to move the ordinance to City Council and will offer their individual comments. The Ordinance Committee will fully vet the ordinance and report to City Council on August 15, 2016. The ordinance is very important to the future of downtown Burlington. All public input is taken into consideration. The work sessions will welcome public input. It is a way to be open, collaborative, and transparent with the ordinance. City Council is urged to support the motion.**

AMENDMENT by Councilor Colburn, SECOND by Councilor Tracy, to postpone voting on the ordinance until August 15, 2016 or until such time as the Planning Commission has completed final recommendations in the form of a



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written report and/or proposed amendments.

DISCUSSION ON AMENDMENT: The following comments were made:

- Councilor Colburn said the Planning Commission has not fully completed its work and the timeframe is foreshortened before the Ordinance Committee to do a thorough review for an ordinance of this magnitude. Due diligence should not be abandoned. It feels like there is a push to abandon past process around the timeline of one developer. City Council is encouraged to review the proposed overlay independent of any single development. The intent of the amendment is to do that and follow current and diligent process as usual.
- Eileen Blackwood advised the Planning Commission delivered to City Council the report required under the ordinance. The letter with comments is not required and has not yet been provided.
- Councilor Shannon agreed the review by the Ordinance Committee is shortened, but the review by the full City Council will be lengthened. There have been zoning proposals in the past from the Ordinance Committee that were referred to the Planning Commission. This is not the first time the process has been reworked to better address the needs of City Council and the community
- David White said a proposal for a zoning amendment can come from anywhere (staff, Planning Commission, City Council, public). If City Council makes substantive changes to the ordinance then the Planning Commission must review the changes.
- Councilor Giannoni said it is important for the Ordinance Committee to have all comments from the Planning Commission to inform their process and decision making. Councilor Giannoni said she wants to have a final agreement she can support and follows the normal process.
- Councilor Hartnett asked what happens if the Ordinance Committee is not ready by August 15th. Eileen Blackwood pointed out the original motion says City Council will take up the matter on August 15th regardless.
- Councilor Bushor said she attended Planning Commission meetings and read all the comments. The zoning amendment is how the downtown will develop. The zoning rewrite was not the city's finest hour. Councilor Bushor asked if the Planning Commission reviewed the zoning amendment line-by-line. David White said the Planning Commission had the full text for a month or more and some members went through line-by-line. The Planning Commission as a whole typically does not go line-by-line, but focuses on areas of greatest interest or concern. Staff tried to parse out major parts of the zoning amendment. There were areas of agreement and discussion for changes, and in some cases no agreement. Comments from the Planning Commission to City Council will show the range of perspectives. Councilor Bushor asked if the Planning Commission usually refers zoning amendments to their subcommittee to report back to the full Planning Commission. David White said if the Planning Commission wants the benefit of discussion by the full body then the item will not be referred first to the subcommittee.
- Councilor Bushor explained she asked for a recess before discussing the zoning amendment to find out if a special meeting could be held once all the comments from the Planning Commission are received so City Council knows what is being referred to the Ordinance Committee. The short timeline with the Planning Commission is concerning. If referred to the Ordinance Committee the committee must be more thorough and complete in their process and have all the comments from the Planning Commission because this amendment is so important to the community, City Council, and the Administration and has to be done right. This is not spot zoning because it is an overlay and there are many in the city. The process must be right for the community as a whole and for City Council. Councilor Bushor said she does not support sending the ordinance back to the Planning Commission, but does support referring it to the Ordinance Committee though there will be great resistance if it comes back incomplete. The reason for committees is to have a more thorough, engaged process to bring about a product that then can be digested by City Council. Councilor Bushor said she does not want to deviate from the committee form of government.





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- Councilor Tracy thanked the Planning Commission for doing its best to complete the work, but the work is not complete and the full comments are needed. The Ordinance Committee would benefit to have comments in writing before voting on the matter. The Ordinance Committee will want to know how the Planning Commission addressed concerns raised by the public and what their thinking was. The Planning Commission needs to be given time to do due diligence. Councilor Tracy said it seems City Council is operating on the developer's timeline per the development agreement signed by City Council (Councilor Tracy did not sign the agreement), and it seems like spot zoning if defining the ordinance timeline based off the needs of one particular developer. It is not known when clarity from the Planning Commission will be received and when other issues relative to meeting warnings and posting of documents will be resolved. City Council is asked to follow proper procedure of having the Planning Commission complete its work and refer to City Council for a First Reading then debate whether to refer to the Ordinance Committee.
- Mayor Weinberger stated zoning changes can start in a number of ways. This zoning amendment began with City Council voting 10-1 wanting to have the Planning Commission pass a zoning ordinance that was consistent with the summary zoning that City Council approved. The Planning Commission has done that with significant vetting. As an additional assignment the Planning Commission took on sharing additional thoughts, recommendations, critiques from the full commission and individual members. That is the work that is not yet done. The proposed amendment is odd because it wants to deal with the appropriate amount of vetting, but the impact would be to stop further deliberation of vetting by City Council for a full month. City Council is urged not to support the amendment to the motion and keep the substantial amount of work that has been done moving forward.

There were no further comments.

VOTING ON AMENDMENT (by roll call): Councilor Bushor – nay, Councilor Tracy – aye, Councilor Giannoni – aye, Councilor Wright – nay, Councilor Paul – nay, Councilor Ayres – nay, Councilor Roof – nay, Councilor Hartnett – nay, Councilor Colburn – aye, Councilor Shannon – nay (3 ayes, 7 nays, one refusal, one absent); motion did not carry.

CONTINUED DISCUSSION ON ORIGINAL MOTION: Councilor Bushor asked how the meeting dates were determined and proposed doing a Doodle poll to find dates on which the maximum number of city councilors can attend. Councilor Shannon said she chose the dates based on when meetings could fit into the schedule and still meet the warning of the ordinance for September 12th.

AMENDMENT by Councilor Bushor, **SECOND** by Councilor Hartnett, to have the two dates for City Council work sessions determined by a Doodle poll so the maximum number of city councilors can attend.

DISCUSSION ON AMENDMENT: The following comments were made:

- Councilor Shannon clarified the Mayor is being asked to schedule special meetings on the suggested dates. The Mayor could offer different dates. There is no objection to the Doodle poll, but as much warning as possible should be given.
- Councilor Bushor withdrew the amendment.

CONTINUED DISCUSSION ON ORIGINAL MOTION: The following comments were made:

- Councilor Hartnett said the Mayor should have discretion to add meeting dates if necessary.
- Mayor Weinberger pointed out the charter allows the authority of the Mayor's Office to call a special meeting of City Council. It makes sense to optimize the dates.
- Attorney Blackwood confirmed the Mayor has the authority to schedule special meetings.
- Councilor Tracy asked if the Ordinance Committee must vote out the ordinance. Attorney Blackwood said the



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motion tells the Ordinance Committee to report back to City Council by August 15, 2016 and then City Council will hold work sessions to work on the ordinance.

- Councilor Tracy said it feels like the process is being adlibbed by having the First Reading on work that is not complete by the Planning Commission and referring the ordinance to the Ordinance Committee without a time certain to report back and then City Council dealing with the matter on August 15th regardless of whether the Ordinance Committee voted out the ordinance or not. There is no precedence for this. Councilor Tracy said he is having difficulty diverging from the process. There was no indication City Council would do this and there was no consultation on motions or dates prior to the meeting. It is an affront to the collegiality on City Council to want to go out of a process that has to do with a committee without consulting the committee members. It is poor form and upsetting. The timeframe is not reasonable. It is not known when the comments from the Planning Commission will be received or when city councilors can meet. There must be enough time to go line-by-line to do a thorough job and get it right. The timeline is not ideal because it is Don Sinex's timeline, not the city's timeline or the timeline the people want or the timeline the Planning Commission wants. City Council is urged to give more time to the Planning Commission to finish their work and give the Ordinance Committee time to do due diligence.
- Councilor Shannon said she does not see a divergence from the normal process. The matter is being referred to the Ordinance Committee. The only divergence is the ordinance will come back to City Council for deliberation by the full council. This is seen as a more thorough and engaged process. All councilors want to contribute to making modifications to the ordinance and be part of the discussion rather than just the three members of the Ordinance Committee. If the subcommittee votes down the ordinance and does not refer back to City Council it is within City Council rules to take the ordinance back for review. Councilor Shannon said she would prefer to have the ordinance stay with the full council for deliberation, but the rules do not allow this. Rather than deliberate in one meeting there will be several work sessions.
- Councilor Hartnett recalled there have been other circumstances where City Council has not followed what has come out of committee. There is respect for the process and what comes out of committee will be respected, but that does not mean the matter cannot be taken up by the full council.
- Councilor Colburn said it feels like a work around the Ordinance Committee like was done with the Planning Commission. Councilor Colburn said she wants to see a version of redevelopment of the mall, but the process is not serving that at all. It is too hasty and sending the wrong message on how City Council will deliberate the issue.
- Councilor Bushor recalled in the past doing everything as a full council and deciding that was not the best way so subcommittees were created. Many important decisions were made on City Council with the Waterfront Committee and the Parks Art and Culture Committee, for example. Councilor Bushor said she frequently attends committee meetings to weigh in and hopes other councilors do the same.

There were no further comments.

VOTING ON ORIGINAL MOTION (by roll call): Councilor Bushor – aye, Councilor Tracy – nay, Councilor Giannoni – nay, Councilor Wright – aye, Councilor Paul – aye, Councilor Ayres – aye, Councilor Roof – aye, Councilor Hartnett – aye, Councilor Colburn – nay, Councilor Shannon – aye (7 ayes, 3 nays, one recusal, one absent); motion carried.

5.05 Diversity, Equity and Inclusion Committee

MOTION by Councilor Hartnett, SECOND by Councilor Colburn, to approve the resolution for a Diversity, Equity and Inclusion Committee and waive the reading.

DISCUSSION: The following comments were made:



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- **Curtis Reed stated the work by the Mayor's Office and City Council needs to extend to the various city boards and commissions to bring in more diverse voices and work with those voices in a way that is equitable.**
- **Councilor Bushor suggested the Vice Chair of committees should be included and the training should be part of the orientation of members.**
- **Councilor Hartnett said the Chair can designate another person to attend the training and it does not have to be the same person each year. The training should be held annually. The report can be to the Chair or committee privilege as to how to handle the report.**
- **Councilor Giannoni said all have been exposed to conversation that comes out of the tragedies in the news lately. Many white liberal communities feel they are doing this right, but are still causing a lot of harm. It is an ongoing difficult conversation that hopefully will continue. Councilor Giannoni said thanks for bringing the matter forward and continuing the work.**
- **Mayor Weinberger said the best hope is that the city has actively taken the Police Department in a new direction and is implementing 21st Century policing reforms. Curtis Reed has been a key advisor to the city and the Vermont Mayors Coalition at the state level. So far the state training system of police is not serving the best interest of the Burlington Police Department or the Vermont State Police or law enforcement in general and this has to change.**

There were no further comments.

VOTING: unanimous; motion carried.

6.0 COMMITTEE REPORTS

- Councilor Giannoni reported the Public Safety Committee set three topic areas to work on in the next year: community response to mental health crises and addiction in the community, speed safety, and sexual assault.
- Councilor Mason said the Ordinance Committee will meet July 20, 2016 to discuss zoning amendments and the vehicle-for-hire fee structure.
- Councilor Colburn reported the Community Development and Neighborhood Revitalization Committee will meet on July 26, 2016.

7.0 CITY COUNCIL – GENERAL AFFAIRS

- Councilor Tracy invited all to the Ramble in the old north end on July 30th. Activities are free of charge.
- Councilor Colburn spoke of the possibility of events like those that occurred in Louisiana and St. Paul happening in Burlington. Racial bias in traffic stops has been documented. The work being done on 21st Century policing is applauded. Goals and meaningful targets to change the statistics should be set.

8.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

Acting City Council President Wright reported City Council President Knodell is recuperating well and expects to return at the next City Council meeting.

9.0 MAYOR – GENERAL AFFAIRS



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- A speedy recovery is wished for City Council President Knodell.
- Thanks are extended to Parks & Rec and the Waterfront Department for the fireworks and events on July 3rd.
- The Dallas police faced with an active shooter were challenged by the open carry law in Texas. Vermont has a similar law. The Administration is looking into the matter for the city.
- The Mayor's Book Group met at Arts Riot. The event was well attended with a wide variety of opinions expressed on the issues of the day. Comment was made on antisocial behavior stemming from taller buildings which was refuted by residents of Decker Towers and Cathedral Square, both tall buildings.
- City Council is invited to the white paper release of the Capital Plan and how it is funded. The support of City Council is critical. Next step is the initial work session on August 15th.

10.0 ADJOURNMENT and/or EXECUTIVE SESSION

10.5 New Moran

MOTION by Councilor Bushor, SECOND by Councilor Roof, to find that premature disclosure of a contract matter relating to New Moran would place the city at substantial disadvantage. VOTING: unanimous; motion carried.

MOTION by Councilor Shannon, SECOND by Councilor Ayres, based on the finding of premature disclosure placing the city at a disadvantage to go into Executive Session to discuss a contract matter relating to New Moran and invite the Mayor, Mayor's Office staff, City Attorney and City Attorney's staff, CEDO staff, and Ken Braverman to attend. VOTING: unanimous; motion carried.

The regular meeting was adjourned and Executive Session convened at 10:44 PM.

Rscdy by tape: MERiordan