



Regular City Council Meeting - Monday, May 13, 2019, Contois Auditorium, City Hall 5/13/2019

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

May 13, 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

Brian Pine – Ward 3

William “Chip” Mason – Ward 5

Karen Paul – Ward 6

Ali Dieng – Ward 7

Adam Roof – Ward 8

ADMINISTRATION: Beth Anderson, CAO

Rich Goodwin, DFO

Eileen Blackwood, City Attorney

Jordan Redell, Mayor’s Office

Olivia LaVechia, Mayor’s Office

Brandon del Pozo, BPD

Deanna Paluba, HR

Brian Lowe, IT



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Lori Olberg, C/T

Amy Bovee, C/T

Chapin Spencer, DPW

David White, CEDO

OTHERS PRESENT:

Sarah Reeves,

Kevin Rogers

Charlie Manning

Kenzie Hines

Julie Mauga

Betsy McGavisk

Trish O'Kane

Bria Yazic

Eli Pine

Wei Wong

Barbie Alsop

Richard Vaughn

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

1.0 CALL TO ORDER and AGENDA

Council President Wright called the meeting to order at 7:08 PM on May 13, 2019 and recessed to convene the Liquor Control Commission meeting. The City Council meeting was reconvened at 7:11 PM and the assemblage recited the Pledge of Allegiance.

1.01 Agenda

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

- **Note information for Item 3.05 (Bike Path Rehab Construction)**
- **Note document for Item 3.11 (Airport Lease for TSA Office Space)**

VOTING: unanimous; motion carried.



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2.0 PUBLIC FORUM

Public forum was opened at 7:21 PM.

COMMENTS

- Kevin Rogers, ER physician and former law enforcement officer, spoke of the recently filed excessive force lawsuit against BPD and evidence of violence by officers, and the hope City Council provides adequate civilian supervision.
- Charlie Manning spoke of keeping the College Street shuttle and the police cooling things down so no one get hurt.
- Kenzie Hines read a list of demands from Black Lives Matter of Greater Burlington including the removal of specified police officers and release of body camera footage to the public.
- Julie Mauga spoke of police brutality and in support of the demands of Black Lives Matter of Greater Burlington.
- Betsy McGavisk spoke of police training and treatment of human beings, and spoke in support of the Black Lives Matter of Greater Burlington demands.
- Trish O'Kane spoke in support of the demands of Black Lives Matter of Greater Burlington and justice for all, and people of color not fearing the police.
- Bria Yazic spoke of gross use of violence by police.
- Eli Pine spoke of use of excessive force by police especially against people of color, and support for the termination of the police officers mentioned.
- Richard Vaughn, store owner, spoke of the adverse impact on his business by the extended length of construction on St. Paul Street.
- Barbie Alsop spoke of police brutality and the Black Lives Matter of Greater Burlington demands, and suggested an independent civilian review board be created.
- Wei Wei Wong spoke of living in Vermont and contributing to the community, and said the police need to be held accountable for their actions. Ms. Wong expressed support for the demands of Black Lives Matter of Greater Burlington.

There were no further comments from the public. Public Forum was closed at 7:57 PM.

3.0 CONSENT AGENDA

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

3.02 COMMUNICATION: Accountability List

3.03 PERMIT: Indoor Entertainment Permit Renewals 2019-2020, Elks Club and Vermont Comedy Club

3.04 COMMUNICATION: Right of Entry Agreement, NECR

3.05 COMMUNICATION: Burlington Bike Path Rehab Phase 3a Construction

3.06 COMMUNICATION: Step Placement, Scott Flax

3.07 COMMUNICATION: Access to Public Bathrooms, Kelly Devine

3.08 COMMUNICATION: Housing Report, Sally Wynne

3.09 COMMUNICATION: Planning Grant, Continuum of Care



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- 3.10 COMMUNICATION: Airport Marketing Contract, Hagan Associates
- 3.11 COMMUNICATION: Lease, TSA Office Space
- 3.12 COMMUNICATION: Attendance Record, Electric Commission
- 3.13 COMMUNICATION: CityPlace Update
- 3.14 COMMUNICATION: FIO Document(s)
- 3.15 RESOLUTION: Quitclaim Deed, 72 West Road
- 3.16 RESOLUTION: Updated Emergency Operations Plan
- 3.17 RESOLUTION: 2019 Burlington One Year Action Plan
- 3.18 RESOLUTION: Staff Position Changes, BED
- 3.19 RESOLUTION: Northeast Delta Dental FY2020 Insurance
- 3.20 RESOLUTION: Planning for Citywide Integrated Water Quality Management
- 3.21 RESOLUTION: Upgrade Waste Water Plant Disinfection System
- 3.22 RESOLUTION: Upgrade Main Plant SCADA/PLC System
- 3.23 RESOLUTION: Industrial Pretreatment Program
- 3.24 RESOLUTION: Upgrades to Various Waste Water Treatment Plant Infrastructure
- 3.25 RESOLUTION: Upgrade Various Waste Water Pump Stations

MOTION by Councilor Bushor, SECOND by Councilor Paulino, to adopt the Consent Agenda and take the actions indicated for Items 3.01 through 3.25. VOTING: unanimous; motion carried.

4.0 DELIBERATIVE AGENDA

4.01 Presentation: BPD Use of Force Policy, Training, and Reviews – Chief del Pozo

Police Chief del Pozo reviewed data and discussed the use of force and policies in the Police Department, noting use of force by officers is to ensure safety and control beyond compliant handcuffing. Officers report use of force incidents. Use of force has been trending down. Chief del Pozo reviewed elements of the current policy on use of force including de-escalation and verbal commands, and reviewed the ICAT training (Integrating Communications, Assessments, Tactics) and implicit bias training completed by all BPD officers. The tools contained in the Emergency Response Vehicle used to minimize use of force contact were reviewed as well as the civilian complaint reporting system and use of body camera footage. The footage cannot be altered by officers. The Police Commission reviews the footage for every incident. Defense attorneys receive the footage.

Mayor Weinberger spoke in support of forming a focused and well-designed public engagement process going forward



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guided by a group that represents the whole community and includes the police as a partner. The process should look at critical policing issues. City Council is encouraged to support the engagement process with resources and expertise.

Councilor Roof assured there is a resolution being developed to address the engagement process. Councilor Roof asked about the delay in camera video being released. Chief del Pozo explained the process that is followed, noting if there is a lawsuit the footage cannot be released until the matter is settled.

Councilor Pine referred to the recent events with the police and asked what is going on. Councilor Pine asked if there are general concepts of constraint in the police union contract. Chief del Pozo said there are no clear answers. Officers have been working excessive hours due to training time. In his tenure there has been a broadening of the amount of discipline in the department. City Council is urged to look at the Vermont State Police guidelines for offenses.

Councilor Bushor asked about the experts from Maryland and New Hampshire who were consulted on use of force policy. Chief del Pozo said one individual is a lieutenant in the Baltimore Police Department and one is a retired, licensed investigator. Councilor Bushor asked if officers receive a psychological evaluation when there is an excessive force incident. Chief del Pozo said the officer receives a counseling session with a licensed clinical social worker. Councilor Bushor asked about serious injury in the reported excessive force incidents. Chief del Pozo will gather the information. Councilor Bushor asked if sections of the body camera footage are ever randomly selected for viewing. Chief del Pozo said the union contract has a provision about random selection of footage.

Councilor Dieng spoke of the role of the Police Department to reach out to City Council members in a timely manner and that there has been no change to the Use of Force Policy even after loss of life during Chief del Pozo's tenure. Councilor Dieng said he will not support re-appointment of Chief del Pozo.

Councilor Hanson asked if all officers have body cameras and the policy for releasing footage to the public. Chief del Pozo said all officers have cameras and any substantive enforcement must be filmed. If there is a criminal investigation the State's Attorney does not want the footage released until charges are done or dropped. Once defense attorneys have the footage, they can do with it what they want. Councilor Hanson asked what happens if there are violations of the Use of Force policy. Chief del Pozo said the City Attorney, HR, and the Police Commission are consulted and the factors reviewed.

Councilor Tracy called for more transparency in light of the disturbing trend in the Police Department, and asked how the department makes sure people who have trauma from the police receive the services they need. Chief del Pozo said there is a Community Affairs Liaison Officer who works with the officers and the public, and the officers try to speak to the families.

Councilor Mason asked about the precedent for the data. Chief del Pozo said prior incidents of use of force were researched.



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Councilor Freeman mentioned patterns of violence and abuse nationally range from 24% to 40% of the population. Chief del Pozo said the department has a Domestic Violence Officer who reviews all cases. The department dismissed an officer who had a domestic violence issue. Councilor Freeman asked about the training at the Police Academy being a para-military environment. Chief del Pozo said it is difficult to attract potential police officers to Vermont when they must spend 16 weeks away from their family, but the department needs to make sure officers have discipline and can follow instructions and be able to perform under pressure. This does not have to be through a para-military model. BPD would like to have some say in the curriculum. Councilor Freeman said other demands of Black Lives Matter of Greater Burlington are public funding for community resources and social workers to limit the ratio of officers to the general population, and body camera footage released immediately. Chief del Pozo agreed with releasing as much footage as possible as soon and as cheaply as possible. The department does street outreach and has hired a social worker. Having more social workers would be a relief to police officers, but it will not solve the intractable mental health problems in the community. Councilor Freeman asked Chief del Pozo to characterize his role with police violence issues going forward. Chief del Pozo said he would continue to gather input from the community, government, and police.

Councilor Paulino said he would want an update a year from now on having a Howard mental health triage member embedded in the Police Department and an incentive program for police officers to have a strong connection to the community. Chief del Pozo agreed there is benefit to having officers reside in the city. Councilor Paulino asked Chief del Pozo if he supports a fair and impartial component to the Police Commission. Police Chief del Pozo confirmed this.

Councilor Shannon thanked Chief del Pozo for working with City Council and the commitment to working on issues to move forward.

Councilor Paul spoke of the great strides that have been made, but there is still room for improvement in policing and the opioid crisis. There is no rest until everyone feels safe.

Councilor Pine asked about diversity in the Police Department. Chief del Pozo said he has tried to entice people of color to come to Vermont, but it has been challenging and success has been marginal.

Councilor Dieng stressed the focus of the conversation needs to remain on the use of force and discrimination by the police.

Councilor Freeman asked about movement toward unarmed police officers to help dismantle the culture of violence and militarization. Chief del Pozo said he will not advocate for police officers to patrol without a gun when guns are readily available and unregulated in Vermont.

Council President Wright asked for clarification of the 30,000 incidents of which 193 were some type of force, but not



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necessarily excessive. Chief del Pozo said drawing a gun when executing a search warrant, for example, or pointing a taser is reported as a use of force incident. Council President Wright stated he does not respond to any questions from speakers during Public Forum and he did see the video which was disturbing, but there are ongoing lawsuits and the case cannot be discussed. Burlington has an excellent police force with members doing good work every day. There are many incidents where the police showed restraint. Mistakes are made and people get hurt, but the city does not have a renegade department engaging in violence. The vast majority of officers are good people doing an incredibly difficult job.

Chief del Pozo offered to meet with any city councilor to provide insight into the department. The Police Commission is briefed on every incident and views body camera footage. City councilors can take advantage of that.

4.02 Presentation: CSWD FY2020 Budget Proposal

CSWD Executive Director, Sarah Reeves, reported the TEUC discussion focused on the recycling fee and answering questions from the people in attendance. Councilor Tracy clarified the committee focused on the change in the compost program and fees for recycling when fees for trash are not being changed. Sarah Reeves explained the user fee for trash received at the DOCs is being increased (bag fee and fees for special items), but the trash tax charged to haulers (solid waste management fee) charged to haulers is not being increased. CSWD staff is trying to identify and address gaps in outreach and education on recycling and re-use. There must be a balance on what is charged because not everyone can afford to hire a hauler and the fees cannot be too high for trash. CSWD is trying to build incentive with the fees.

Councilor Tracy said City Council needs to work with the Burlington representative to CSWD on changing the economic formula for the recycling charge.

Councilor Bushor noted there is no charge for trash brought to CSWD along with organics beyond the \$1.50 per five-gallon fee for organics. Staff at the DOCs need to be stronger in making sure compost and trash are separated. Councilor Bushor asked if other communities have approved the CSWD budget, and mentioned the need for the Burlington representative to better communicate with City Council prior to the vote on the budget. Sarah Reeves said after visiting eight of the 18 member communities to date, four have approved the budget. A total of 10 communities must approve the budget for official adoption.

MOTION by Councilor Paulino, SECOND by Councilor Dieng, to approve the FY2020 CSWD budget proposal.

DISCUSSION:

- **Councilor Hanson said he feels the budget does not carry out the #1 goal of CSWD to reduce waste. The increase in the trash fee at the DOCs is not proportional to the recycling component. The tip fees are being increased on compost ahead of the mandatory requirement so it will be more expensive for people to follow the law. This is moving in the wrong direction. Investing in more education is good.**

MOTION by Councilor Mason, SECOND by Councilor Shannon, to suspend the rules at 10:34 PM to complete action



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on Item 4.02 (CSWD FY2020 Budget) and to hear the Mayor's closing remarks. VOTING: unanimous; motion carried.

- Councilor Pine asked about haulers going to other transfer stations which would cause a drop in revenue to CSWD. Sarah Reeves said if the haulers go to the Casella landfill in Coventry with trash from Chittenden County then money comes back to CSWD. The MRF fee is being increased to \$65/ton for haulers which is half of the amount of the tip fee at Coventry. There could be some peeling off to the Rutland MRF, but the tip fee there is \$80/ton plus transportation costs.

AMENDMENT by Councilor Pine, **SECOND** by Councilor Dieng, to approve the FY2020 CSWD budget proposal, and toward the goal of reducing trash, increasing recycling and composting, to direct Burlington's representative on the CSWD Board to advocate for a comprehensive rate study to evaluate ways the District can further financially discourage landfilling solid waste and incentivize recycling, composting and waste diversion, and to report back to City Council prior to presenting the CSWD FY21 budget.

AMENDMENT by Councilor Shannon, **SECONDED** by Councilor Mason, to add "re-use" to the incentive list.

VOTING ON AMENDMENT(S): unanimous; motion carried.

CONTINUED DISCUSSION ON MOTION AS AMENDED:

- Mayor Weinberger said he cannot recall this kind of debate on the CSWD budget in the past and it is not right or fair or the way Burlington should be engaging with other municipalities on the co-governance of a vital government function. To consider voting against this vital government function seems totally last minute and unfair. The issues the CSWD Executive Director is trying to report on have been widely known and heavily reported on for months yet there has not been any proactive effort to help CSWD deal with these very challenging international issues. At the last minute not supporting the budget sends the wrong message and undermines the professional staff and Burlington representatives involved.
- Councilor Mason pointed out the costs of recycling and composting have been going up and been subsidized for an inordinate amount of time. This is the new reality. It is not an appropriate time to send a message that Burlington is not going to approve the budget. The rate design study is a good step.
- Councilor Hanson said the budget was not brought to City Council's attention until now and the job of city councilors is to evaluate and make a decision.

VOTING (by roll call): Councilor Bushor – aye, Councilor Hanson – nay, Councilor Dieng – aye, Councilor Paulino – aye, Councilor Freeman – nay, Councilor Mason – aye, Councilor Paul – aye, Councilor Pine – aye, Councilor Roof – aye, Councilor Shannon – aye, Councilor Tracy – nay, Council President Wright – aye (9 ayes, 3 nays); motion carried.

5.0 COMMITTEE REPORTS

- Councilor Bushor announced the Ordinance Committee will meet 5/14/19 to discuss the ELM zoning amendment.
- Councilor Pine announced the CDNR will meet 6/6/19 to discuss The Neighborhood Project, housing and quality of life issues.
- Councilor Roof announced the Public Safety Committee will host a town hall on 5/22/19 on living homeless, and the Local Control Committee will meet 6/5/19 to discuss the food truck policy.
- Councilor Tracy announced the TEUC discussed the GMT route fare changes (College Street shuttle), the CSWD



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budget, lighting update, crosswalks, Colchester Avenue bike lanes, construction update, e-bikes and scooters. Next meeting is 5/23/19 to further discuss e-bikes and scooters.

- Councilor Shannon announced the PACC reviewed projects including Memorial Auditorium, Moran, infrastructure improvements at Waterfront Park, and the Starr Farm Dog Park.

6.0 CITY COUNCIL – GENERAL AFFAIRS

No reports.

7.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

No updates.

8.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger reported:

- Milestones in the effort to improve water services include major contracts approved to upgrade the waste water facilities and pump stations

9.0 ADJOURNMENT

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

The City Council meeting was adjourned at 10:47 PM.

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