



**Regular City Council Meeting - Monday, May 11, 2020, 7:00 pm,
Remote and Virtual Access: The Regular City Council Meeting will
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BURLINGTON CITY COUNCIL

CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

May 11, 2020

MEMBERS PRESENT: Karen Paul

Max Tracy

Chip Mason

Joan Shannon

Ali Dieng

Brian Pine

Jack Hanson

Franklin Paulino

Perri Freeman

Jane Stromberg

Sarah E Carpenter

Zoraya Hightower

OTHERS PRESENT: Miro Weinberger

Eileen Blackwood

Jordan Redell

Norman Baldwin

Chapin Spencer

Suzan Molzon



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Jonathan Rose

Nicole Losch

Brian Lowe

Lori Olberg

Amy Bovee

1. CALL TO ORDER and AGENDA

The meeting was called to order by Council President Tracy at 7:05 PM and led the Council in the Pledge of Allegiance.

MOTION by Councilor Hightower, SECOND by Councilor Stromberg, to approve the agenda with the following amendments:

- **add to the consent agenda 4.11 Communication: Danny Weiss, re: Champlain Parkway with the action to "waive the reading, accept the communication and place it on file";**
- **note PDF file of presentation for agenda item 5.03 Communication: Chapin Spencer, Director, DPW, re: Champlain Parkway Project Update (per DPW);**
- **note written material for agenda 5.04 Communication: Chapin Spencer, DPW Director, re: 2020 Construction Update (per COS Redell);**
- **note PowerPoint for this agenda item (per DPW).**

VOTING: unanimous; motion carries.

2. PUBLIC FORUM

2.01 Verbal Comments

Public forum was opened at 7:30 PM

COMMENTS:

- Jedd Davis, Sue Bette, and Dara Harbour spoke as representatives of restaurateurs and business-owners in Burlington about the realities that business-owners are facing as the economic realities of the COVID-19-related State of Emergency are setting in. They noted that many businesses are in a crisis state and are working to access relief at state and federal levels, but also asked that the City do everything it can to make decisions that support restaurants and small businesses downtown as they look to reopen to some capacity in the near future.
- Ben Travers thanked the City Council and administration for their leadership during the COVID-19 crisis, and spoke



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in favor of the Champlain Parkway project and urged City Council not to delay further on the project.

- Charlie Messing noted first his support for the Pine Street Coalition with respect to the Champlain Parkway project. He also noted that many in Burlington are not wearing masks in public and are also riding bicycles on the sidewalks. He implored the City to do more in terms of enforcement and announcements around mask-wearing and maintaining a 6 foot distance from others.
- Tony Reddington spoke on behalf of the Pine St Coalition, noting that it is a grassroots organizations of people who live and work in the South End, and that they have developed redesigned guidelines for the parkway.
- Dale Tillitson thanked the Mayor and City for mask distribution and thanked the food pantry in the New North End. He suggested that the Department of Health should mandate mask-wearing as a requirement to enter grocery stores.

Public forum was closed at 7:45 PM.

3. CLIMATE EMERGENCY REPORTS

3.01 Verbal Comments

Councilor Hanson updated on a previously approved resolution regarding electric and non-fossil-fuel based heating systems for new buildings in Burlington, adding that this led to a January report by the Burlington Electric Department (BED) that laid out possible options to regulate in mid-construction and ensure that new buildings in Burlington are heated and cooled without using fossil fuels or could be easily converted to a system that doesn't rely on fossil fuels. He added that the report included a 90-day public engagement and stakeholder input process to further develop the policy, which was paused due to the COVID crisis. He finally noted that he will bring a resolution to the next City Council meeting to restart work on this issue.

Councilor Paul noted that in January the City Council moved to the Ordinance Committee a proposed ordinance regarding leaf-blowers, which would reduce noise and carbon emissions from leaf-blowers by banning their use between Memorial Day and Labor Day. She added that this item will be considered by the Committee in late May and should come back to the City Council for their consideration in June.

Darren Springer, General Manager of BED, gave an update on their Green Stimulus Proposal, which includes a number of relief measures such as suspending disconnections and waiving late fees. He also noted a loan program for residents who wish to make improvements such as installing heat pumps and energy star appliances, and an e-bike partnership with Old Spokes Home for low and moderate income residents.

4. CONSENT AGENDA

4.01 Motion to amend/adopt consent agenda taking the following actions as indicated.

4.02 Communication: C/T Office, re: Accountability List - waive the reading, accept the communication and place it on file.



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4.03 Communication: Madeline Suender, Associate Public Works Engineer, Laura Wheelock, PE, Senior Public Works Engineer and Susan Molzon, PE, Senior Public Works Engineer, re: Authorization to Award Construction Contract for CY20 Sidewalk Reconstruction Program - to authorize the Director of Public Works to execute a construction contract with SD Ireland Brothers Corporation for \$1,068,822.00 for the CY20 Sidewalk Reconstruction Program, subject to the final review and approval by the Office of the City Attorney and to authorize the Director of Public Works to increase the authorized amount, if needed, for the CY20 Sidewalk Reconstruction Program to \$1,117,000.00 through the use of \$48,178.00 in contingency funds (4.5%), and to execute necessary contract amendments up to the contingency limit, subject to the final review and approval by the Office of the City Attorney.

4.04 Communication: Caleb Manna, Excavation Inspector, DPW, re: 131 Main Street - Construction Encumbrance - The Historic Vermont House - to approve an encumbrance license for a 100' hydraulic lift and sidewalk closure on the East side of Saint Paul Street between Main and King Street to access the roof of 131 Main Street from the date of execution until August 1, 2020 and authorize the Mayor to execute a License Agreement – subject to approval by the City Attorney's Office – on behalf of the City of Burlington for a term commencing on the date of execution and terminating on August 1, 2020.

4.05 Communication: Rich Goodwin, Director Financial Operations, re: Recommendation for MM Hayes for Timekeeping System Contract - to authorize the Chief Administrative Officer to enter into a timekeeping service agreement with MM Hayes for a term of three years, not to exceed \$50,000 annually, with the potential of two, one-year renewal terms, subject to the review and approval of the City Attorney's Office.

4.06 Communication: Corey Mims, PE, Public Works Engineer, Laura Wheelock, PE, Senior Public Works Engineer and Susan Molzon, PE, Senior Public Works Engineer, re: Authorization to Accept VTrans Town Highway Class 2 Roadway Program Grant #P01920 and to Award Contract for the CY20 Street Reconstruction Program - to accept the Vermont Agency of Transportation Town Highway Class 2 Roadway Program Grant #P01920 for \$175,000 to reimburse the City for the CY20 Street Reconstruction Program, authorize \$17,500 (10% of the grant) for the local match, and authorize Chapin Spencer, Director of Public Works, to execute the grant agreement, subject to the prior review and approval of the City Attorney and to authorize the Director of Public Works to execute and amend a construction contract with S.D. Ireland Brothers Corporation in the amount of \$1,690,297.50 with an additional \$140,000.50 (~8.3%) in contingency funds for the CY20 Street Reconstruction Program, subject to the final review and approval by the Office of the City Attorney.

4.07 Communication: Steve Goodkind to City Council President Max Tracy, re: Champlain Parkway - waive the reading, accept the communication and place it on file.

4.08 Communication: Tony Redington, on behalf of the Pine Street Coalition, re: Champlain Parkway - waive the reading, accept the communication and place it on file.

4.09 Indoor and Outdoor Entertainment Permit Renewals (2020-2021): see attached list with additional condition - approve



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the 2020-2021 Indoor and Outdoor Entertainment Permit renewals as listed with all standard conditions.

4.10 Resolution: Authorization to Enter into a Three Year Agreement with Northeast Delta Dental as Dental Insurance Program Administrator/Provider (Board of Finance) - waive the reading and adopt the resolution.

4.11 Communication: Danny Weiss, re: Champlain Parkway – waive the reading, accept the communication and place it on file.

MOTION by Councilor Paulino, SECOND by Councilor Hanson, to amend/adopt the consent agenda taking the actions as indicated for items 4.01 through 4.09 and item 4.11.

VOTING: unanimous; motion carries.

MOTION by Councilor Paulino, SECOND by Councilor Hanson, to amend/adopt the consent agenda taking the actions as indicated for item 4.10.

VOTING: 11 ayes, 1 recusal [Councilor Mason]; motion carries.

City Council President Tracy recessed the City Council and called the Local Control Commission to order at 7:56 PM. City Council President Tracy resumed the City Council meeting at 8:01 PM.

5. DELIBERATIVE AGENDA

5.01 Outdoor Entertainment Permit Application (2020-2021): Farmers and Foragers, 75 Penny Lane

MOTION by Commissioner Hanson, SECOND by Commission Mason, to approve the 2020-2021 Outdoor Entertainment Permit Application with all standard conditions.

DISCUSSION:

- **Councilor Shannon asked for clarification on whether new COVID conditions applied to this and other entertainment permits. Councilor Hanson replied that the new requirements around compliance with all local, state, and federal regulations around COVID-19 apply to all entertainment permits and liquor permits, and that this is now included as a standard condition.**

VOTING: unanimous; motion carries.

5.02 Communication: Brian Lowe, Chief Innovation Officer, Innovation and Technology Department, re: Authorization to Replace the City's Enterprise Permitting System





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Chief Information Officer Lowe spoke to this item, noting that this is the next phase of restructuring the City's permitting system. He said that the new system will be easier for residents to access and includes an online platform for some permits. He added that the new software would connect to the enterprise financial system and GIS mapping system and will include integrated plan review (review of permit applications concurrently rather than linearly).

Councilor Freeman noted that the software sounds like a significant improvement from the status quo. She asked for more information about the company. Mr. Lowe replied that the selection was made after a competitive bid review process that included nine bids. Research was conducted on the company and included reference checks, and positive feedback was also received from another small city that uses this software.

MOTION by Councilor Hightower, SECOND by Councilor Dieng, to approve and authorize the Chief Innovation Officer to enter into a contract with OpenGov to implement a new enterprise permitting system for the City of Burlington with a total contract amount of \$212,800, subject to review by the City Attorney's Office.

VOTING: unanimous; motion carries.

5.03 Communication: Chapin Spencer, Director, DPW, re: Champlain Parkway Project Update

Director of Public Works Spencer, City Engineer Baldwin, Public Works Engineer Molzan, and Attorney Rose presented on this item. They welcomed new Councilors to the project, stating that this item will be an opportunity to give new Councilors context as well as the opportunity to ask questions related to the project. They also noted that they will be seeking Council approval next week for a contract related to this body of work.

Mr. Spencer outlined the goals of the project, which include increasing circulation, mobility, and safety through an I-189 and Route 7 interchange, which would also reduce truck traffic in the local street network. He noted that the state had previously managed the project, but in 1998 the City became the project manager, and the project is currently a partnership between VTrans, the City of Burlington, and the Federal Highway Administration. Mr. Spencer outlined recent milestones, including executed utilities agreements, right-of-way certifications including temporary and permanent easements, cooperative agreement amendment, successful neighborhood meetings, and an executed construction inspection contract for the project.

Mr. Spencer described cost sharing for the project as a 95/3/2 split between federal, state, and local funding. He added that there are funds and activities that are not eligible for this match rate, including soil management, some utility undergrounding, and some pedestrian enhancements, which brings the total City anticipated cost to \$3.4 million.

Mr. Rose noted legal challenges to some permits, with some having been successfully defended and others pending in



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federal court.

Councilor Dieng noted the pending legal issues and asked whether the project should be put to the Transportation, Energy, and Utilities Committee (TEUC) for further consideration. Director Spencer replied that the current requests are time-sensitive and that the contract amendment decision is scheduled for consideration next week. He suggested an update to the TEUC once an amendment is executed. Councilor Dieng asked how this project relates to the Battery Street project. Mr. Spencer replied that that is part of the Railyard Enterprise Project, which began in 2012 with the goal of enhancing street connectivity and multi-modal transportation.

Councilor Hightower asked about obligations if the project runs over its projected cost. Mr. Spencer replied that there is a cooperative agreement in place with federal and state partners which details the arrangement and funding splits. He added that the current project's design has undergone a competitive bid and extensive review. Councilor Hightower asked whether any of the above-noted ineligible costs had been incurred to date. Mr. Spencer replied that they are prospective, estimated costs based on design iterations with the community and the features the community is interested in adding to the project.

Councilor Paulino asked whether alternative funding sources could be explored for the \$3.4 million cost to the City for this project, such as the participation of South Burlington, which would see benefits from the traffic flow created by this project. Mr. Spencer replied that various funding options are being pursued, including the Petroleum Cleanup Fund, and that a portion of the Street Capital Funds are being held for this project. He also noted that South Burlington does not see the same community benefit to this project as Burlington, and that it is unlikely that they would participate.

Councilor Paulino asked for clarification on the new assessment regarding economic and social justice standards. Mr. Rose replied that since the last executive decision was issued, the Federal Highway Administration has issued new guidance on how to address environmental impacts of federal highway projects.

Councilor Shannon asked about traffic flow around King and Maple Streets, and asked whether there will be a turning lane at the intersection of Maple and Pine. Mr. Spencer replied that new features for that neighborhood include bump-outs, new public spaces, renovation of subterranean infrastructure, and that Maple Street will no longer be considered a truck route.

Councilor Shannon asked about issues being raised by the Pine Street Coalition, whether changes could be made to the Environmental Impact Study (EIS) due to the retraction of the Record of Decision (ROD), and whether changes to the EIS would delay the project. Mr. Rose noted that any changes to the EIS would essentially restart the project and trigger repayment provisions in the agreement (of around \$14 million).

Councilor Shannon asked how constrained the City is by agreements in this project and whether there is flexibility as work is conducted. Mr. Spencer replied that City secured a future flexibility letter from the State in 2016, which allows the City to



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make changes in the project corridor once the project has been completed.

Councilor Hanson asked clarifying questions about the project's on-road bicycle facilities. He also asked if the City has leeway to make changes to the proposal prior the construction. Mr. Spencer replied that the Agency of Transportation has stipulated that changes could be made that don't impact timing, cost, or permitting for the project.

Councilor Mason asked whether the only other changes permitted will be those that are required by mitigation during the environmental impact review, and Mr. Spencer replied in the affirmative. Councilor Mason noted that there is confusion in the community, as some members of the Pine Street Coalition are articulating that the withdrawal of the ROD allows changes to be made to the project now. Mr. Spencer replied that any new design asked for by the Coalition would result in the loss of the high funding contribution from state and federal partners.

5.04 Communication: Chapin Spencer, DPW Director, re: 2020 Construction Update **material to be posted later**

Mr. Spencer provided an overview of what to expect this construction season. He began by noting that all contracts have been updated to require contractors to adhere to state standards on COVID-19 safe work practices and that contract language has been added to minimize liability to the City. He noted that construction opening day is May 11, 2020.

Mr. Spencer outlined activities around paving, sidewalks, water main upgrades, wastewater and stormwater infrastructure upgrades, transportation improvements, pedestrian improvement projects, and a status update on the City Hall Park project.

Councilor Hanson asked about logistics and sequencing for the Winooski Avenue Corridor project, in terms of stakeholder engagement, parking studies, and development of a parking management plan. Senior Transportation Planner Losch requested that the timeline for data collection be revisited later in the year, when the community is less strained by COVID-19 impacts.

6. COMMITTEE REPORTS

6.01 Verbal Reports –

Councilor Paul noted an upcoming meeting for the Park, Arts, and Culture Committee (which includes Burlington City Arts, the Fletcher Free Library, Parks and Recreation, and the Community Economic Development Office [CEDO]). This will include an update on their summer programming plans and projects.

Councilor Pine noted that the Community Development and Neighborhood Revitalization Committee met last week and had discussion with Luke McGowan from CEDO on how the City will deploy additional federal community development block grant dollars in support of rental assistance for impact from COVID-19, as well as focused on how to expand, extend, and enhance protections for renters in Burlington.



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Councilor Mason said that the Ordinance Committee will meet tomorrow and the agenda includes a completion of the update to no-trespass ordinance, discussion on sprinkler systems, accessory dwelling units, first discussion of parking plan ordinance, and second discussion of updating fines, penalties, and fees associated with excavations and obstructions.

Councilor Hanson noted that the License Committee met last week and has added a condition to all licenses that requires businesses to comply with local, state, and federal rules related to COVID-19.

7. CITY COUNCIL – GENERAL AFFAIRS

7.01 Verbal Reports –

Councilor Paul thanked City Councilors for responding to the email this weekend regarding the South End Community food pickup. She noted that she, along with Councilors Mason and Shannon, will be doing a food pickup on May 16th at the Champlain Elementary School parking lot.

Councilor Dieng noted that the homeless population in the campers on North Beach have been given a deadline for leaving the campers, and asked that the Mayor include this topic during his COVID-19 update.

8. CITY COUNCIL PRESIDENT – COUNCIL UPDATES

8.01 Verbal Reports –

Council President Tracy noted that a municipal finance training will be held on Thursday to orient new council members to key concepts in municipal budgeting, which will help prepare the Council for the upcoming budget season and discussions. He also noted that Board and Commission openings will be advertised this week, applications will be due June 10th, and voting is anticipated on positions at the Council's final meeting in June.

9. MAYOR – GENERAL AFFAIRS

9.01 Verbal Reports –

Mayor Weinberger noted that he will hold another telephone town hall meeting event related to COVID-19, and will discuss a cautious restart to more normal activity. He also noted that an online application for Burlingtonians to postpone their property taxes from June to August is now live, and that the administration will be watching carefully to understand the interest in this program based on the number of people that apply between now and June 1st for the above-mentioned benefit. He added that the best way for property-owners to consider payment plans is through the abatement process, per a determination by the City Attorney's office. He finally added that the administration is likely to issue additional guidance to the Board of Tax Abatement related to COVID-19.



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Mayor Weinberger noted that the North Beach campground recovery site for relocated homeless individuals came to the end of this phase earlier today. He stated that the state chose not to extend its contract with the RV provider that had made those RVs available but instead would offer vouchers to all individuals at campground to join the hotel/motel program. He added that there is still work to be done to ensure that there are low barrier options in warmer months for the homeless and transient populations.

10. COMMUNICATION: EILEEN BLACKWOOD, CITY ATTORNEY, RE: BARGAINING **EXPECTED EXECUTIVE SESSION**

10.01 Communication: Eileen Blackwood, City Attorney, re: Bargaining **expected executive session**

MOTION by Councilor Mason, SECOND by Councilor Paul, that the City Council find the necessity to enter into executive session to discuss labor relations because premature disclosure of the City's position could put the City at a substantial disadvantage as it enters into bargaining.

VOTING: unanimous; motion carries.

MOTION by Councilor Mason, SECOND by Councilor Paul, that based on the finding, the City Council enter into executive session.

VOTING: unanimous; motion carries.

The City Council entered into executive session at 10:02 PM.

11. ADJOURNMENT

11.01 Motion to adjourn

RScty: AACoonrad