



Regular City Council Meeting - Monday, April 11, 2016, 7:00 pm - Contois Auditorium, City Hall - 4/11/2016

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

April 11, 2016

APPROVED

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

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

ADMINISTRATION:

Miro Weinberger, Mayor

Eileen Blackwood, City Attorney

Richard Haesler, Assistant City Attorney

Bob Rusten, CAO

Rich Goodwin, ACAO



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Jennifer Kaulius, Mayor's Office

Brian Lowe, Mayor's Office

Amy Bovee, C/T Office

Lori Olberg, C/T Office

Police Chief, Brandon del Pozo

Jesse Bridges, Parks & Rec

Dan Cahill, Land Steward

Peter Owens, CEDO

Davie White, Planning & Zoning

OTHERS PRESENT:

Dr. Stephanie Sequino, PhD, UVM

Sherida Paulson, BTC

Dan Sinex, BTC

Jesse Beck, BTC

William Fellows, BTC

David Spillane, BTC

Ron Ruloff, Cathedral Square

Kelly Devine, Burlington Business Association

Tom Torti, Lake Champlain Chamber of Commerce

Brian Boardman, realtor

Joey Berkstein, Seventh Generation

Zandy Wheeler, business owner

Mark Sherman, Outdoor Gear Exchange & Bigger Boat

Charles Winkleman, preschool teacher

John Cronin, resident

Richard Dean, Ward 1 resident



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1.0 CALL TO ORDER and AGENDA

Council President Knodell called the meeting to order at 7:05 PM on April 11, 2016 and led the assemblage in the Pledge of Allegiance.

1.01 Agenda

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

- **Note checklist for Item 4.30 (contract for land records management system)**
- **Amend action for Item 4.34 (request to assist with Ph.D. dissertation project)**
- **Note checklist for Item 4.41 (contract for Taxiway Gulf at airport)**
- **Add Item 4.49 (City Council Standing Committees 2016-2017) to Consent Agenda**
- **Add Item 4.50 (CCTA Board resignation, Pablo S. Bose, Ph.D.) to Consent Agenda**
- **Add Item 4.51 (openings on city commissions/boards) to Consent Agenda**
- **Note amendment to Item 5.07 (protecting bees and pollinators).**

VOTING: unanimous; motion carried.

2.0 PRESENTATION

2.01 Dr. Stephanie Sequino: BPD Racial Disparities in Traffic Policing

Dr. Sequino presented statistics on a study focused on racial disparity in traffic stops with officer discretion. The following was noted:

- Blacks are 4.5% of the population and 8% of the stops and 18% of investigatory stops. White drivers are 28% of the tickets.
- Search rate for black drivers is three times greater than white drivers. Contraband (drugs, alcohol, cigarettes if under-aged) being found is lower for black drivers than white drivers.
- Race data are missing from the data collected by police. There are some officers who stop black drivers more than other officers. Black males are stopped more often, and the black search rate by Burlington Police is three times greater than white search rate by Burlington Police. Vermont State Police rate is even higher.

There was discussion of the data. Police Chief del Pozo noted the raw data are posted on the BPD website, and will be posted quarterly to view trends throughout the year. BPD supervisors will see the presentation by Dr. Sequino and officers will reflect on their own data. Training will be scheduled and transparency will continue. Dr. Sequino agreed with



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increasing awareness and training of officers, and recommended developing an early warning system to identify officers with high stop rates and high search rates in combination with other indicators of problematic behavior. Data are an important tool. There is no single strategy.

Councilor Colburn asked about other data sets being looked at in terms of bias. Chief del Pozo said accessibility of the complaint system for the public was an issue, but complaints can now be given to City Council, Justice Center, the Mayor's Office, or the police department. Traffic stops are the principal interaction in Burlington. Dr. Sequino agreed traffic stops are the most frequent interaction and tell what is likely to be the quality of other interactions with the police.

Councilor Tracy stated the drug war impacts on communities of color and Burlington needs to be sure not to continue the bias. Chief del Pozo stated drugs are a public health crisis, not a law enforcement problem. Law enforcement is a component. The struggle against the crack epidemic and earlier heroin epidemic was largely at the expense of the minority communities in a destructive way, but drug dealing and consumption is one place the city has achieved racial parity. Building a case and arresting are not focused on any particular race. Dr. Sequino commented the data are saying there is some evidence of targeting black drivers.

3.0 PUBLIC FORUM

Public Forum commenced at 7:35 PM.

PUBLIC COMMENTS

Ø Ron Ruloff, Cathedral Square, spoke of the lack of statistics on "ancient, junk cars" on the street (no mufflers and such) that cause the police to stop the driver. Mr. Ruloff mentioned his past experience of sleeping in his old van rather than a tent to avoid being attacked by lunatics being brought here by Rita Markey and other so called "non-profits". Mr. Ruloff said the most prejudice people in New York City are Puerto Ricans and Dominicans and this view is shared by many people in New York City including black people. Mr. Ruloff recalled an outburst by Julio Perez, a black Puerto Rican from New York City professing to bring harm to white people. The people at the VCAM studio did nothing out of fear of being labeled a racist. Mr. Ruloff opined the statistical analysis on policing is "garbage" and a waste of time for BPD and City Council to consider.

Ø Kelly Devine, Burlington Business Association, spoke in support of the BTC redevelopment project. Redevelopment of the mall is a critical need in the downtown. Creation of 275 units of housing, 300,000 s.f. of office space, renewal of the urban street grid will all help grow economic vitality. Downtown employees play a critical role in the vitality of the downtown. The housing units are sorely needed.

Ø Tom Torti, Lake Champlain Chamber of Commerce, spoke in support of the BTC project. Business people and tourists are looking for the downtown urban experience. The process has been good and City Council is urged to continue supporting the project.

Ø Brian Boardman, realtor and resident, spoke in support of the BTC project and more housing in the downtown because there is great demand. A variety of housing is needed: studios, lofts, open floor plans, one, two, and three bedroom units. City Council is urged to support the project.



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Ø Joey Berkstein, General Manager of Seventh Generation, spoke in favor of the BTC redevelopment projects to help address the housing crisis in Burlington. Affordable housing for employees working in Burlington is vital. There is nothing more sustainable than an urban development bringing more people into the urban core with closer access to shared transportation and the ability to walk to work, to play. The BTC project is an incredible opportunity for the city to live into the vision created by PlanBTV to live, work, and play. City Council is urged to support the project.

Ø Zandy Wheeler, SkiRack, stated the city needs a growing tax base in order to afford the schools, fire department, police department wanted by the people and to be reasonable with tax increases. Intelligent, positive growth that includes mixed use housing, offices, retail, places to eat are vital for a growing vibrant town like Burlington. It is expensive to build downtown, but it is a very ecological thing to do. The more infill, the less sprawl. Urban renewal cut the city in half with disconnection of streets and separation of communities. Vacancy rates and the purchase price of the mall is evidence the mall is a failure and not an economic success. Unless action is taken there will be a bigger cavity in the downtown than there is now.

Ø Mark Sherman, Outdoor Gear Exchange and Bigger Boat, LLC, read a statement expressing concern about Phase 2 of the BTC project adversely impacting the state approved 170 kilowatt solar installation on the roof at 41 Church Street. Mr. Sherman expressed reservations about the scale of the BTC project which is out of scale with Burlington. The proposed scale appears to be a means to pay for the expenses of the development and not necessarily for what is good for the city. Burlington's retail and downtown economy is strong due to investment incrementally in expansion. Commercial space that is available matches the residential and tourist traffic. Burlington has maintained its small town feel. Cherry Street will be a wind tunnel with the new building and not attract people to Church Street as intended. Church Street from the mall northward will be in shadow, especially in winter. The boutique office proposed on Church Street is out of character for the street. The massive structure will make any deterioration in the city more obvious. There will be impacts on existing businesses during the construction process. City Council is urged to look for a more incremental solution that better fits the hometown vibe that made Burlington the most vibrant aesthetically pleasing downtown. Mr. Sherman cautioned against replacing a dinosaur with a behemoth with no guarantee of occupancy. There has to be a better way to do this.

Ø Charles Winkleman, preschool teacher representing 12 preschoolers, read requests from the children to stop using chemicals that hurt the bees and other pollinators. Artwork done by the children was shown. City Council is urged to support the resolution.

Ø John Cronin, resident, spoke in support of the BTC redevelopment and the opportunity for economic growth in the community and for philanthropy. Housing is needed to address the problem of homelessness. City Council is urged to support the BTC project.

Ø Richard Dean, Ward 1 resident, spoke in support of the BTC redevelopment project and urged the city not to be afraid of significant change that will offer many needed opportunities. City Council is urged to be bold and act decisively in support of the future of Burlington.

There were no further comments. Public Forum was closed at 8:03 PM.

4.0 CONSENT AGENDA

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

4.02 COMMUNICATION: Accountability List



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- 4.03 COMMUNICATION: Minutes 12/7/15 City Council
- 4.04 COMMUNICATION: Minutes 12/21/15 Local Control
- 4.05 COMMUNICATION: Minutes 12/21/15 City Council
- 4.06 COMMUNICATION: Minutes 12/21/15 Board of Civil Authority
- 4.07 COMMUNICATION: Minutes 01/4/16 Special City Council Work Session
- 4.08 COMMUNICATION: Minutes 01/4/16 City Council
- 4.09 COMMUNICATION: Minutes 01/4/16 Board of Civil Authority
- 4.10 COMMUNICATION: Minutes 01/11/16 City Council
- 4.11 COMMUNICATION: Minutes 01/15/16 City Council
- 4.12 COMMUNICATION: Minutes 01/15/16 Local Control
- 4.13 COMMUNICATION: Minutes 01/25/16 City Council
- 4.14 COMMUNICATION: Minutes 01/25/16 Board of Civil Authority
- 4.15 COMMUNICATION: Minutes 01/25/16 Mayor Presiding
- 4.16 COMMUNICATION: Minutes 2/8/16 City Council
- 4.17 COMMUNICATION: Minutes 2/8/16 Board of Civil Authority
- 4.18 COMMUNICATION: Minutes 2/16/16 Local Control
- 4.19 COMMUNICATION: Minutes 2/16/16 City Council
- 4.20 COMMUNICATION: Minutes 2/16/16 Board of Civil Authority
- 4.21 COMMUNICATION: Minutes 2/22/16 Public Information Hearing 3/1/16 Annual City Meeting
- 4.22 COMMUNICATION: Minutes 3/7/16 City Council
- 4.23 COMMUNICATION: Minutes 3/7/16 Full Board of Abatement
- 4.24 COMMUNICATION: Minutes 3/7/16 Board of Civil Authority
- 4.25 COMMUNICATION: Minutes 3/21/16 Special City Council Work Session
- 4.26 COMMUNICATION: Minutes 3/21/16 Local Control
- 4.27 COMMUNICATION: Minutes 3/21/16 City Council
- 4.28 COMMUNICATION: Minutes 3/21/16 Full Board of Abatement
- 4.29 COMMUNICATION: Minutes 4/4/16 Organization Day
- 4.30 COMMUNICATION: Contract for Land Records Management System



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- 4.31 COMMUNICATION: FY16 Street Reconstruction Program
- 4.32 PERMIT (one day): Special Event Outdoor Entertainment Permit – Citizen Cider, 316 Pine Street
- 4.33 COMMUNICATION: Door Access/Security System Municipal Buildings
- 4.34 COMMUNICATION: Assist with Ph.D. Dissertation Project, Matt Bothurem
- 4.35 COMMUNICATION: Homicide, Duane Webb
- 4.36 COMMUNICATION: Livable Wage Rates FY2017
- 4.37 PERMITS: Indoor and Outdoor Entertainment Permit Renewals 2016-2017
- 4.38 COMMUNICATION: FIO Documents
- 4.39 RESOLUTION: Marketing and Administrative Coordinator
- 4.40 RESOLUTION: Crime Prevention and Analysis Specialist
- 4.41 RESOLUTION: Contract with Stantec Consulting Services for Taxiway Gulf at Airport
- 4.42 RESOLUTION: Contract with Stantec Consulting Services for Taxiway Alpha at Airport
- 4.43 RESOLUTION: Limited Service Full Time Associate Parks Project Coordinator
- 4.44 RESOLUTION: Reorganization HR Department
- 4.45 RESOLUTION: Eliminate Meter Shop Foreman and Create Additional Working Foreman
- 4.46 RESOLUTION: Update LEOP
- 4.47 RESOLUTION: Budget Amendments FY16 Stormwater Capital and Vehicle/Equipment Repairs Budget
- 4.48 RESOLUTION: Contract with Green Mountain Pipeline Services for Relining Stormwater Pipes
- 4.49 COMMUNICATION: 2016-2017 City Council Standing Committees
- 4.50 COMMUNICATION: CCTA Board Resignations, Pablo Bose, Ph.D.
- 4.51 COMMUNICATION: Annual Openings, City Commissions/Boards

MOTION by Councilor Colburn, SECOND by Councilor Roof, to accept the consent agenda (Items 4.01-4:51) with the following:

- **Note checklist for Item 4.30 (contract for land records management system)**
- **Amend action for Item 4.34 (request to assist with Ph.D. dissertation project)**
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Add Item 4.51 (openings on city commissions/boards) to Consent Agenda

VOTING: unanimous; motion carried.

City Council President Knodell recessed the meeting at 8:04 PM to convene the Local Control meeting. The meeting resumed at 8:18 PM.

5.0 DELIBERATIVE AGENDA

5.01 Indoor Entertainment Permit Renewal 2016-2017: Zen Lounge, 165 Church Street

Councilor Mason recused himself based on his firm's involvement with 165 Church Street, LLC.

MOTION by Councilor Ayres, SECOND by Councilor Roof, to approve the Indoor Entertainment Permit Renewal 2016-2017 for Zen Lounge, 165 Church Street.

DISCUSSION: There was mention of the license review by the state liquor control board and that only the state can issue a liquor license. The city has jurisdiction on the entertainment permit. There was discussion of postponing action until the decision by the state is known.

AMENDMENT by Councilor Hartness, SECOND by Councilor Wright, to postpone a decision on the permit until the 4/25/16 City Council meeting.

DISCUSSION ON AMENDMENT: Councilor Tracy said he is not in support of renewing the entertainment permit so a message can be sent that the poor behavior and management by Zen Lounge needs to stop. Eileen Blackwood advised the ordinance says the entertainment permit is dependent on having an alcohol license so the entertainment permit is tied in with the state decision on the liquor license. Relative to due process, there are no findings that any particular conduct by Zen Lounge has occurred and there should be such findings before a permit is denied.

VOTING on motion as amended (postpone action to 4/25/16): 9 ayes, 2 nays (Tracy, Roof), one recusal (Mason); motion carried.

5.02 Indoor Entertainment Permit Application 2016-2017: Foam Brewers, LLC, 112 Lake Street

MOTION by Councilor Ayres, SECOND by Councilor Roof, to approve the Indoor Entertainment Permit Application 2016-2017 for Foam Brewers, LLC, 112 Lake Street.

DISCUSSION: It was noted hours of indoor entertainment are 11 AM to 2 AM each day.

VOTING: unanimous; motion carried.

5.03 Outdoor Entertainment Permit Application 2016-2017: Foam Brewers, LLC, 112 Lake Street

MOTION by Councilor Ayres, SECOND by Councilor Roof, to approve the Outdoor Entertainment Permit





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Application 2016-2017 for Foam Brewers, LLC, 112 Lake Street.

DISCUSSION: The noise restrictions that apply to Waterfront Park do not apply, but Foam Brewers is aware of the limits and will abide by promises made to the neighbors. City Council can revisit the permit if complaints are received. There were no further comments.

VOTING: unanimous; motion carried.

5.04 BTC Project Update

Sherida Paulsen, BTC project, reviewed the areas of consensus to date: (1) greater density on the site, (2) mix of uses from residential to office to expanded retail, (3) amount of parking required, (4) scale and break-up of the site, (5) connectivity on St. Paul Street and Pine Street, and (6) more streetscape. A study was done of the shadows that will be cast with the increased building height during spring, fall, summer, and winter at 9 AM, Noon, and 3 PM. In sum:

- Fall and Spring, 9 AM, modest increase in amount of shadow currently occurring on Cherry Street. Other shadow is primarily on the project.
- Summer, 9 AM, limited shadow on the south side of Cherry Street. There is shadow on Bank Street in the area of water quality treatment area from new office building.
- Winter, 9 AM, entire downtown in shadow currently. Project adds shadow in between existing shadows from existing buildings. Shadow is cast on project itself. Solar panels on the top of project building not impacted.
- Fall and Spring, Noon, shadow on both sides of Cherry Street currently. New shadow cast on portion of park by cathedral.
- Summer, Noon, existing shadow along south side of Cherry Street. New shadow cast on new building side.
- Winter, Noon, shadow on Cherry Street to the cathedral. New shadow by the cathedral and beyond between existing shadow cast by buildings.
- Fall and Spring, 3 PM, Cherry Street is in shadow. The new building and St. Paul Street/Cherry Street intersection have increased shadow.
- Winter, 3 PM, there is little shadow on Cherry Street and new shadow on roof tops.
- Summer, 3 PM, there is limited shadow cast. New shadow is cast on the project and roof of the state office building and roofs of other buildings.

Sherida Paulsen reviewed the design process (architectural concept refined to schematics and design and then to construction documents). The design detail will be developed with public input.

City Council asked about the following:

- Having a physical model so people can see the scale in a model - Sherida Paulsen said typically a 3-D model is done far into the design phase. Technology is used to show scale until it is appropriate and of value to invest the resources, time



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and materials to do a model. A model of the project is complicated and has to show the grade changes of the city. What is shown now are accurate photo montages based on the city's digital model that explains the heights of the buildings relative to other items. The 3-D model will be an abstracted representation of the project showing abstracted versions of plantings and other elements. The model will be built at the end of the design process to show what the buildings really will look like. Models are used primarily as marketing materials. The model is diagrammatic and will show scale of the building in context of other buildings which will make the new buildings appear to "pop out". The 3-D model is not an accurate way to evaluate a project of this scale. The consultants can look at ways to provide a better visualization. The time to build the model of the type needed to make a judgement is four to five weeks, but answers are needed now on items to move the project forward.

- A remedy to buildings having continuous loss of sunlight due to the project – Sherida Paulsen said an animation can be done to show the progression of shadows throughout the day.
- Significant new shadow on the Outdoor Gear building and potential to impact the sustainability of the solar energy project on the building roof – Sherida Paulsen said the Outdoor Gear building has additional shadow on the roof. Ways to manipulate the massing can be investigated to not impact the solar installation. Cherry Street shadow is largely there throughout the year. Only in high summer is the shadow just on the south sidewalk.
- Having owner occupied housing and not just rental housing in the project – Sherida Paulsen said the apartment units have different types of rental opportunity.

Councilor Tracy reiterated the request for a model that shows massing that does not appear so curated. Also, request is made that the materials be presented in a more coherent fashion so the public has a better understanding of the shadows.

5.05 Addressing the Opiate Crisis and Creation of Community Stats Person

Police Chief del Pozo stated tackling the public health crisis of opiates needs acute coordination across law enforcement, social services, public health services, and a data driven approach. The requested position will provide the city in collaboration with the county and United Way a means to get a good, ongoing estimate of the opiate crisis in a way that can inform decision making. Presently, stats are countywide overdose rates and the wait list. Once data are compiled then policies, tactics, strategies, and procedures can be drafted and the value the Howard Center brings to the table can be leveraged.

5.06 Creation of Limited Service Full Time Opiate Policy Operations Manager Position

MOTION by Councilor Bushor, SECOND by Councilor Wright, to waive the reading and adopt the resolution to create a limited service full time Opiate Policy Operations Manager position.

DISCUSSION: Councilor Bushor noted the Board of Finance unanimously approved the position and recommended approval by City Council. Councilor Colburn emphasized using a harm reduction lens and having a commitment to those principles. The success of the position is dependent on the ability to identify what needs to be fixed and move others to take action. Those people working on the front lines have identified the many gaps that exist. How the position is working needs to be continually assessed to see if the investment is being made in the right place. Chief del Pozo mentioned the Department of Justice grant application that was submitted, noting





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the grant has a mandatory evaluation component. There were no further comments.

VOTING: unanimous; motion carried.

5.07 Protecting Bees and Other Pollinators

MOTION by Councilor Colburn, SECOND Councilor Shannon, to waive the reading and adopt the resolution to protect bees and other pollinators.

DISCUSSION: It was noted the resolution recognizes the importance of pollinators in maintaining the ecosystem and food supply. Next steps include education of the public. There were no further comments.

VOTING: unanimous; motion carried.

5.08 Update on Former Burlington College Park and Bike Path Improvements

Jesse Bridges, Parks & Rec, and Dan Cahill, Land Steward, gave an update on next steps with the former Burlington College park land and bike path improvements that include zoning changes, option for affordable housing, closing on the property, work to close out the loan for the property, application for grants, improvements to the urban reserve and connection to the beach and bike path. Over 500 trees will be planted to restore the sandplain forest in the urban reserve. Native species will be encouraged. Public input will be gathered on the future use of the stone house. Community gardens will be expanded. Water, storage, and fence will be added. The trail and bike path will be ADA accessible.

Councilor Wright asked how people will know when they can provide input. Jesse Bridges said there is public input opportunity at every phase of review for zoning and permitting.

Councilor Tracy asked about access to the beach and bike path during construction. Jesse Bridges said there will be interim disruptions. Traffic will be detoured to North Avenue.

6.0 COMMITTEE REPORTS

Ø Councilor Hartness announced the PAC will meet at 6:15 PM on 4/12/16.

7.0 CITY COUNCIL – GENERAL AFFAIRS

Ø Councilor Wright extended congratulations to Councilor Hartnett for receiving the Bill Fleury Award for 35 years as an umpire and dedication to youth sports.

Ø Councilor Colburn noted April 12th is Equal Pay Day which highlights how far into the year women on average must work to earn what men earned in the previous year. There has been good conversation about the issues of gender equity and diversity in city government, and it is hoped the conversations continue and include what to do to advance equal pay.



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Ø Councilor Shannon reported on her recent visit to Ithaca, New York to view how parking is handled. There is some residential parking in some areas of the city, but no block can be all residential parking. Some parking is always reserved for public parking.

Ø Councilor Hartnett announced the school board meeting on 4/12/16 at 7 PM.

8.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

Council President Knodell announced the committees for 2016-2017 are unchanged from the previous year, and City Council karaoke night at St. John's Club is April 15, 2016. Everyone is invited.

9.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger noted:

- The additional flag at City Hall is in recognition of International Franco.
- Free Cone Day at Ben & Jerry's is April 12th.

10.0 EXECUTIVE SESSION and/or ADJOURNMENT

Councilor Mason will recuse for the BTC item and Councilors Knodell and Paul will recuse for the former Burlington College land item.

MOTION by Councilor Shannon, SECOND by Councilor Roof, to find that premature disclosure of the discussion of the BTV Pre-Development Agreement and negotiations regarding the former Burlington College land will put the city at a substantial disadvantage. VOTING: unanimous; motion carried.

MOTION by Councilor Shannon, SECOND by Councilor Roof, based on the finding about premature disclosure to go into Executive Session to discuss the Burlington Town Center Pre-Development Agreement (Councilor Mason recused) and negotiations on the former Burlington College land (Councilors Knodell and Paul recused), and to invite all consultants, the Mayor, members of the Mayor's Office, the City Attorney, CAO, Planning & Zoning Director, CEDO staff as designated by the Director to attend. VOTING: unanimous; motion carried.

The regular meeting was adjourned and Executive Session was convened at 9:44 PM.

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