Regular City Council Meeting - Monday, March 27, 2017, 6:00 pm, Contois Auditorium, City Hall
3/27/2017

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

March 27, 2017

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

Bob Rusten, CAO

Eileen Blackwood, City Attorney

Rich Goodwin, DFO

Jennifer Kaulius, Mayor's Office

Brian Lowe, Mayor's Office

Katie Vane, Mayor's Office

Lori Olberg, C/T Office

Chapin Spencer, DPW

Noelle MacKay, CEDO

Jesse Bridges, Parks & Rec

Gene Richards, Airport

Nic Longo, Airport

Marie Friedman, Airport

OTHERS PRESENT: Ron Ruloff

Charles Simpson

Meaghan Emery

Tim Barritt

James Leas

Ted Wimpey

Eileen Andreoli

1.0 CALL TO ORDER and AGENDA

City Council President Knodell called the City Council meeting to order at 6:03 PM on March 27, 2017 and led the assemblage in the Pledge of Allegiance.

1.01 Agenda

MOTION by Councilor Colburn, SECOND by Councilor Hartnett, to approve the agenda with the following amendment(s):

- **Note written materials for Item 3.01 Airport Presentation**
- **Remove Item 5.15 from Consent Agenda and place on the April 17, 2017 Deliberative Agenda – License Agreement with Manhattan Pizza**
- **Add to Item 5.16 on Consent Agenda – Renewal Certificate, City of Burlington**
- **Correct information in Item 5.19 in Consent Agenda – Construction Contract Municipal Parking Garage Repairs**
- **Add City Council as Co-Sponsor for Item 6.01 – April as "Fair Housing Month"**
- **Add Councilor Shannon as Co-sponsor for Items 6.02 & 6.03– Amendment to Sections 8 and 9 of Appendix B, Rules and Regulations of City Council**

VOTING: unanimous; motion carried.

2.0 EXECUTIVE SESSION: Update on New Moran Negotiations

MOTION by Councilor Bushor, SECOND by Councilor Ayres, to find that premature disclosure of discussion of the financial operations and negotiations with New Moran would place the city at a disadvantage. VOTING: unanimous [Councilor Shannon not present for vote]; motion carried.

MOTOIN by Councilor Mason, SECOND by Councilor Bushor, based on the finding of premature disclosure placing the city at a disadvantage to go into Executive Session to discuss negotiations with New Moran and to invite the Mayor, members of the Mayor's Office, the CAO, City Attorney's Office, and the CEDO team to attend. VOTING: unanimous; motion carried.

Executive Session was convene at 6:10 PM.

MOTION by Councilor Wright, SECOND by Councilor Roof, to adjourn Executive Session and reconvene the regular meeting. VOTING: unanimous; motion carried.

Executive Session was adjourned and the regular meeting reconvened at 7:08 PM.

3.0 PRESENTATION: History of Noise Mitigation Programs at Airport

Mayor Weinberger briefly listed the many positive achievements at the airport including Moody's upgrade of the outlook for the airport from "stable" to "positive", the signed lease with the airlines for long term financial stability helping to mitigate financial risk in operating the airport, restoring the tax payment by the airport to a fair level, and progress toward ending the home purchase program and the shift toward the noise mitigation program.

Airport Director, Gene Richards, and Airport Director of Planning & Development, Nic Longo, gave a presentation of the progress being made at the airport and the noise mitigation programs. The following was highlighted:

- Moody's has upgraded the outlook for the airport from "stable" to "positive". The airport team worked hard to achieve this upgrade.
- A five year lease has been signed with the airlines for a long term financial arrangement which mitigates some financial risk in operating the airport. The lease is an unprecedented improvement for the airport. The airlines that signed the lease are JetBlue, Delta, United, and American Airlines.
- Airline services are growing. A 5% increase in enplanements is projected over the next fiscal year.
- The airport has received substantial FAA funding.
- The collaborative tax settlement with South Burlington restores the tax payment by the airport to a fair level.

- Progress has been made toward ending the home purchase program which is in the final stages. The program was started because many houses were built too close to the airport and were removed. The shift now is to noise mitigation.
- The sound mitigation process has been going on for decades. Jones Payne Group is the overall project management consultant. The airport is seeking sound mitigation measures rather than land acquisition. There have been many public outreach meetings on sound mitigation.
- The airport gets direction from the FAA for airport operations and must follow FAA rules and regulations. 14 CFR Part 150 is airport noise compatibility planning which is a process defined by the FAA. There are many components including a noise exposure map (NEM) and noise compatibility program (NCP) as well as a land use/re-use plan. The final plan must have good representation of the residents within the noise contour.
- The noise program at the airport began in 1990. The airport is moving into a sound insulation process. The NCP process will have an advisory committee and public input to the plan. Once the FAA approves the NCP then the airport can apply for grant funding to implement the program.
- Grant funding will be sought to update the noise exposure map (NEM) which will cover the F-35 aircraft.

[Note: The following discussion was held following Public Forum, but is shown in the minutes as part of the presentation on the airport.]

Councilor Bushor mentioned information on the airport and the noise program was presented to the Board of Finance. Minutes from the meetings are available for viewing. Nic Longo stated all draft documents go to the FAA for approval plus there are different checkpoints for the noise program. The FAA provides the regulatory aspect of the project. The airport has a good working relationship with the FAA and meets several times a year. Councilor Bushor asked if sound insulation is available now. Gene Richards said this measure is not available until approved by the FAA. The airport received a grant and will go through the process. If sound insulation is one of the tools approved by the committee then this will move forward. Councilor Bushor asked if insulation of acoustic windows and doors in exchange for an aviation easement is mandated. Gene Richards said the FAA indicated this is not a requirement.

Councilor Bushor noted the Airport Commission has a member from South Burlington who hopefully is giving direct feedback to the community. Gene Richards said over the last two months airport staff has spent over 200 hours communicating with South Burlington and answering questions. All questions and answers are posted online. The airport is trying to be transparent and post all that is happening on the website. The airport commissioner from South Burlington, Pat Nowak, is diligent in asking questions and gathering information. Airport staff meets with the South Burlington administration and elected officials whenever asked.

Councilor Tracy asked how noise from the F-35 airplanes will be addressed. Gene Richards said the Mayor asked the airport to expedite a new map. Specs from the Air Guard are needed. The process is to apply for funds from the FAA then go out to bid so it will be 18-24 months before a map is in hand. Theoretically there could be a map in hand before the F-35 aircraft arrive at the airport. There will not be a tool to deal with the noise until the noise problem is defined. It is the airport's intent not to buy any more houses (this is in sync with South Burlington). Sound mitigation and noise insulation are possibilities. The consultant will study all options. Nic Longo added the mapping process has been expedited. The original date to seek a grant was in 2019 to redo the map and include the F-35 data. Mitigation money is not available until the aircraft are here. Even with the F-35 there is no guarantee the airport will get the money from the FAA. The airport is

required to finish the land acquisition program which will allow getting more federal funding for work at the airport (runways, aprons, and such). The airport is the largest transportation network in the state and will seek every benefit available. Councilor Tracy requested when the map is available that City Council and South Burlington City Council have a conversation. Councilor Tracy said he is opposed to expanding the home acquisition program.

Councilor Hartnett stated Burlington is not insensitive and knows how valuable neighborhoods and affordable housing are. Burlington went through urban renewal and lost housing in the past. Burlington cares and wants to be a good landlord. Councilor Hartnett asked how it will be ensured that what the people of South Burlington want is done. Gene Richards said at the meeting with the FAA $3,000 was spent trying to get the community there. Only 20 people from the actual neighborhood showed up and of that 20 there were seven people who wanted their houses purchased. There were other people at the meeting from the media and politicians. The meeting was advertised in the South Burlington newspaper. With 960 homes involved it would have been nice to have more people attend the meeting with the FAA. Interest needs to be built in the program. A consultant has been hired to assist with this.

Councilor Wright asked about the comment of setting a maximum sound level at the airport and Burlington being in violation of a requirement to let homeowners know about noise levels before moving forward. Nic Longo explained the airport is highly restricted due to federal regulations. The airport must be accessible to private, public, military, and commercial aircraft at all times. The airport has worked with multiple real estate agencies that use real estate disclosures. The airport does not have land use jurisdiction. Land use is controlled at the local level. The airport will continue to work with real estate companies and South Burlington leadership to implement real estate or other disclosures that are logical to the area. Gene Richards added the sound maps are available to all. The program is voluntary and offered to every homeowner. The consultants disclose the details of the program when working with the homeowners.

Councilor Shannon said as a realtor disclosures are up to the homeowner. There are disclosures available specific to airports. Councilor Shannon asked if a survey was done to get feedback from the 960 homeowners. Gene Richards stated part of the process will be direct communication with each homeowner by the consultants. Many methods of communication will likely be used. There is concern that a small group of people are speaking for the large group so the airport through the consultant is trying to reach the homeowners directly.

Councilor Giannoni commented on South Burlington City Council being more a part of the conversation.

4.0 PUBLIC FORUM

Public forum was opened at 7:33 PM.

COMMENTS

- Charles Simpson spoke of the 2015 noise contour map that shows small businesses, hundreds of houses, and a public school are impacted by noise from the airport. The Mayor and City Council have the power to enact an

ordinance that sets a maximum sound level for the airport and the Air Force would have to respond. The noise is not from the four major air carriers, but is from the Air Force. The contours were drawn to include the F-16 noise, but there will be four times the noise with the F-35 planes which will be here before 2020 even though the map indicates or claims the sound configuration is for 2020. The Mayor and City Council should insist upon an accurate and up to date sound configuration map that includes the planes on order and to be delivered.

- Meaghan Emery said she is representing the City of South Burlington as Vice Chair of the South Burlington City Council. South Burlington City Council wants to be included in the discussion and formally invited to meetings and take part when Burlington formally is applying for and agreeing to a grant particularly if the funds are for taking down affordable housing in South Burlington. Moody's positive evaluation of the airport is good. It is recognized that the airport provides economic development to the region and South Burlington benefits from that, but South Burlington residents have asked South Burlington City Council to stop the buyouts. The residents want to return to normalcy and some kind of certainty. The neighborhood of homes along Airport Drive is adjacent to the South Burlington city center. The consultant hired by South Burlington urged preserving the neighborhood, but now 150 of the houses have been lost. A total of 200 houses will be taken with the new NCP program. Ms. Emery said she would like city reps to be part of the sound mitigation project team and be formally invited to City Council when discussing and approving grant applications. Regarding FAA rules and regulations, the decisions come from the airport requests and City Council approval of these requests going forward to the FAA. There is no imposition on the part of the FAA with regard to noise mitigation at the airport. South Burlington would like to have a place at the table. Regarding the future noise compatibility program and sound insulation, South Burlington is not convinced that this is the way the residents want to go. Many residents will not benefit from the program. There will likely be avigation agreements which mean residents who suffer from noise have no legal recourse. There is question the programs are voluntary in the way residents are facing financial choices and being surrounded by development that is not compatible with residential. The residents feel pressure. The 65 DNL line impacts 961 affordable houses with children and young professionals who are desperately needed. Imagine the impacts if South Burlington had 800 acres in Burlington's city center and operated a commercial trucking operation 24/7 that required removal of 200 homes.
- Tim Barritt, South Burlington City Council, stated the airport is economically vital to the region and is the economic engine, but there is a noise compatibility problem. Measures to decrease sound without taking down houses are berms and sound containment walls, but these were not thoroughly researched with the last NCP. These measures could work for the airport and adjacent community (Chamberlin) so houses do not have to be insulated and affordable housing remains intact. There is lack of affordable housing in Chittenden County. Every house taken down detracts from the stock. There is no housing being built in South Burlington today in that price range.
- Eileen Andreoli referred to the real estate disclosure statement on houses in the 65 DNL contour on the NEM and questioned why the airport has not implemented the disclosure statement for the past 20 years.
- Ron Ruloff opined the city is attempting to make marijuana and narcotics use a legal past time in Chittenden County and in Burlington with the development of affordable housing for medically disabled people including those who are narcotics addicts. Street narcotic dealerships will be set up in the center of town. City Hall has already been declared a safe zone with sharps containers which attract more dealers and addicts to the area to push heroin and other narcotics use to high school and college students. There will be soaring crime in the area if this is allowed.
- James Leas spoke of the noise mitigation programs at the airport not including any noise reduction. The programs have been land acquisition programs. The airport allowed, encouraged, and promoted ever louder military jet noise so the airport and Burlington would have the basis for grants to acquire valuable land near the airport entrance. The land will be acquired with zero cost to Burlington because of the grant money. The airport does not have the skill or experience at real noise mitigation. The FAA Director said sound insulation does not work when the windows are open or if the residents go outside. Burlington and the airport received $57 million from the FAA and acquired 200 homes in South Burlington so far. All the houses were affordable homes. Noise at the airport and per the Air Force is dominated by the F-16 planes. The 44 houses up for acquisition and demolition are part of a new grant. Each additional house that is demolished is more tax revenue lost to South Burlington in addition to families having to

leave their affordable homes. That is the leverage the City of Burlington exerts on South Burlington to change the zoning of the now vacant land from residential to commercial. The program has been to the pecuniary advantage of Burlington and developers including the Mayor, and is an example of use of public office for private enrichment. Burlington could tell the Air Guard tenant to cut the noise down and stop with the fighter jets.

- Ted Wimpey, Director of CVOEO Fair Housing Program, spoke about April being fair housing month and announced the upcoming community meal and film on the struggle of a community of African Americans in Southern Georgia that won a settlement due to discrimination and created a model for a cooperative farm and land trust housing. The Fair Housing Act was passed in April 1968.

There were no further comments. Public Forum was closed at 8:01 PM.

Burlington City Arts Director discussed designing a new city flag and recommended having a coordinator to lead the engagement in the community. Guidelines need to be drafted for the design. A panel should be assembled to review and winnow down the submissions. Finalists will go to a community vote. The final design could be selected by December so the new flag would be available for First Night.

Mayor Weinberger presented a plaque in honor of the service of Councilor Colburn as the city councilor for Ward 1 and the first ever East District city councilor.

5.0 CONSENT AGENDA

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

5.02 COMMUNICATION: Accountability List

5.03 COMMUNICATION: Elected Candidate Annual City Election

5.04 COMMUNICATION: Results Questions on Ballot Annual City Election

5.05 COMMUNICATION: Step Placement, Amy Czuhanich

5.06 PERMITS: Indoor Entertainment Permit Renewals 2017-2018

5.07 COMMUNICATION: Budget Amendment 405 Pine Street Fit-Up

5.08 PERMIT (one day): The Archives, 191 College Street, March 31, 2017

5.09 PERMIT (one day): The Growler Garage, 747 Pine Street, April 7, 2017

5.10 COMMUNICATION: Step Placement, Dan Desanleau

5.11 COMMUNICATION: FIO Document(s)

5.12 RESOLUTION: Transfer Funds and MOU for The Neighborhood Project

5.13 RESOLUTION: Bill of Sale, Kiosk at Cherry/Church Street

5.14 RESOLUTION: Appoint Acting Inspectors of Election Ward 2

5.15 RESOLUTION: License Agreement with Manhattan Pizza for Tables/Chairs in Right-of-Way [item removed from Consent Agenda and put on 4/17/17 Deliberative Agenda]

5.16 RESOLUTION: License Agreement with DEW to Obstruct Portion of Right-of-Way, Flynn Avenue/Briggs Street and Renewal Certificate City of Burlington

5.17 RESOLUTION: MOU with Lyft

5.18 RESOLUTION: Regular Part-Time Marketplace Maintenance Worker Position

5.19 RESOLUTION: Construction Contract for Municipal Parking Garage Repairs

5.20 RESOLUTION: Reclassify/Retitle Graphic Designer & Webmaster Position

MOTION by Councilor Colburn, SECOND by Councilor Roof, to adopt the Consent Agenda, Items 5.01 – 5.20, with removal of Item 5.15 (License Agreement with Manhattan Pizza), added information to Item 5.16 (License Agreement with DEW), and correction to Item 5.19 (Construction Contract for Municipal Parking Garage Repairs), and to take the action indicated. VOTING: unanimous; motion carried.

6.0 DELIBERATIVE AGENDA

6.01 Proclamation of April as "Fair Housing Month"

MOTION by Councilor Colburn, SECOND by Councilor Giannoni, to adopt the resolution proclaiming April as "Fair Housing Month.

DISCUSSION:

- **Councilor Colburn stated the resolution honors the Fair Housing Act of 1968. Events to be held on April 1, 2017 and April 15, 2017 at North End Studios were mentioned. Councilor Colburn read the resolution into the record.**

VOTING: unanimous; motion carried.

6.02 Amendment to Section 8 of Appendix B, Rules and Regulations of City Council

MOTION by Councilor Wright, SECOND by Councilor Moore (Giannoni), to approve the amendment to Section 8 of Appendix B (Mayoral veto) of the rules and regulations of City Council.

DISCUSSION: Councilor Wright stated the Charter Change Committee asked the City Attorney to draft language for a rule change to avoid a charter change.

VOTING: unanimous; motion carried.

6.03 Amendment to Section 9 of Appendix B, Rules and Regulations of City Council

MOTION by Councilor Wright, SECOND by Councilor Moore (Giannoni), to approve the amendment to Section 9 of Appendix B of the rules and regulations of City Council.

DISCUSSION: Councilor Mason explained the rule change allows City Council to have one subsequent meeting to reconsider an action.

VOTING: unanimous; motion carried.

7.0 COMMITTEE REPORTS

- Councilor Tracy reported the Transportation Committee discussed the bike/ped master plan. The plan will be online. Also, Rob Green is drafting language to expand the toter program.
- Councilor Colburn reported the Community Development and Neighborhood Revitalization Committee is recommending a task force be created to draft recommendations on the inclusionary zoning report. The Consent Agenda includes the final report from the divestment working group. The recommendations pertain to the Burlington Employees Retirement System. The holdings are 98% divested of the top 200 companies on the carbon underground. The funds should be leveraged in those industries to get a seat at the table on climate risk. The cost is $1,000 and a liaison is needed.
- Councilor Moore (Giannoni) reported the Public Safety Committee heard a presentation by Councilor Roof on sexual assault prevention and bar licensing. Also, comments from the Police Commission were received. Thanks are extended for all the work that has been done.
- Councilor Mason reported the Ordinance Committee will meet on March 29, 2017 to consider Fletcher Place rezoning.

Council President Knodell recessed the City Council meeting at 8:55 PM to convene the Local Control Commission. City Council meeting resumed at 8:56 PM.

8.0 CITY COUNCIL – GENERAL AFFAIRS

- Councilor Wright spoke positively of Councilor Colburn's hard work and contribution to City Council and her passion on the issues.
- Councilor Roof expressed respect for the work done by Councilor Colburn, adding he learned much. Councilor Roof said he will attend the Board of Finance meeting on 4/17/17 to move forward the sexual assault prevention as part of the bar licensing and will propose a budget.
- Councilor Tracy said Councilor Colburn will be missed. Councilor Colburn showed leadership on the issues of housing and opiates and did her work in a collaborative way.
- Councilor Moore (Giannoni) expressed thanks for the ways Councilor Colburn has expanded her thinking on issues. Councilor Moore (Giannoni) reported on the informative presentation by the Fire Department on preparedness and preventing tragedy.
- Councilor Ayres said Councilor Colburn brought compassion to City Council especially with people struggling with opioids and affordable housing opportunities. Councilor Colburn has also been a champion for people in organized labor seeking a fair wage and adequate work conditions. That is Councilor Colburn's hallmark and the standard she set.
- Councilor Mason stated BERS adopted a policy on divestment. Councilor Mason also spoke of Councilor Colburn as

being passionate, committed, and open to dialogue. Councilor Mason said he looks forward to working with Councilor Colburn in her new role.

- Councilor Bushor said Councilor Colburn is the glue for the East District, bringing people together and offering a depth of knowledge and skill.
- Mayor Weinberger thanked Councilor Colburn for her service to the city especially for the work on the Housing Action Plan. Councilor Colburn has the ability to communicate and find common ground, and provided leadership on the opioid issue.
- City Council President Knodell wished Councilor Colburn the best.
- Councilor Colburn expressed thanks and appreciation to City Council, city staff, the Mayor, and the voters. Councilor Colburn said she is looking forward to being a bridge to the legislature for Burlington. Welcome was extended to new City Councilor, Richard Deane. The loss of Matt Young and his work with the homeless in the community was mentioned.

9.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

- Thanks were extended to the city councilors for the hard work over the past year and for the appointment as Council President.

10.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger reported the following:

- The passing of Matt Young and the Howard Street Outreach Program was mentioned. The outreach program has become best practice and a model for other communities.
- State of the City address is 4/3/17 and newly elected council members will be sworn in.
- Mayor's book group is reading "Dreamland", a book on the opioid epidemic.
- City staff handled the major storm on March 14, 2017 very well. Complaints that were received are being reviewed.
- The MOU with Lyft was approved. The new ordinance allows new parties to enter the market and make the transportation system stronger. There will be an update for City Council soon.
- A delegation from Yaroslavl will visit Burlington in April 2017.
- The latest column in the North Avenue News had an endorsement of city council and school board members by the Mayor which should not have been published. An apology has been posted and the column removed. Steps are being taken to avoid the same mistake in the future.

11.0 UPDATE: UVM negotiations (Executive Session)

12.0 UPDATE: Burlington Town Center litigation (Executive Session)

13.0 UPDATE: Litigation of permit proceedings with So. Burlington relative to the airport (Executive Session)

MOTION by Councilor Bushor, SECOND by Councilor Ayres, to find that public disclosure of the content of the UVM negotiations would be adverse to the city's interests. VOTING: unanimous; motion carried.

MOTION by Councilor Bushor, SECOND by Councilor Shannon, based on the finding of premature disclosure of the content of the UVM negotiations being adverse to the city's interests to go into Executive Session and invite the Mayor, Mayor's Office staff, CEDO Director, CAO, and the City Attorney to attend. VOTING: unanimous; motion carried.

MOTION by Councilor Bushor, SECOND by Councilor Shannon, to find that premature disclosure of ongoing litigation regarding Burlington Town Center would put the city at a disadvantage. VOTING: unanimous; motion carried.

MOTION by Councilor Bushor, SECOND by Councilor Shannon, based on the finding of premature disclosure of ongoing litigation regarding Burlington Town Center putting the city at a disadvantage to go into Executive Session and invite the Mayor, Mayor's Office staff, CEDO Director, CAO, and the City Attorney to attend. VOTING: unanimous; motion carried.

MOTION by Councilor Bushor, SECOND by Councilor Shannon, to find that premature disclosure of an update on litigation of permit proceedings with South Burlington relative to the airport would put the city at a disadvantage. VOTING: unanimous; motion carried.

MOTION by Councilor Bushor, SECOND by Councilor Shannon, based on the finding of premature disclosure of litigation of permit proceedings with South Burlington relative to the airport putting the city at a disadvantage to go into Executive Session and invite the Mayor, Mayor's Office staff, CEDO Director, CAO, and the City Attorney to attend. VOTING: unanimous; motion carried.

Executive Session was convened at 9:32 PM.

MOTION by Councilor Wright, SECOND by Councilor Hartnett, to adjourn Executive Session. VOTING: unanimous; motion carried.

Executive Session was adjourned at 10:02 PM.

14.0 ADJOURNMENT

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

The meeting was adjourned at 10:03 PM.

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