



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

MINUTES SUBJECT TO CORRECTION BY BURLINGTON CITY COUNCIL. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE CITY COUNCIL.

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

February 16, 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 [via teleconference]

Adam Roof – Ward 8

ADMINISTRATION: Miro Weinberger, Mayor

Eileen Blackwood, City Attorney

Richard Haesler, Assistant City Attorney

Bob Rusten, CAO

Rich Goodwin, ACAO



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

Jennifer Kaulius, Mayor's Office

Brian Lowe, Mayor's Office

Amy Bovee, Mayor's Office

Lori Olberg, Clerk/Treasurer Office

Beth Anderson, CIO

Jesse Bridges, Parks & Rec

OTHERS PRESENT:

Ormand Kekic

Rachel Bushey

Jill St. Thomas Benoit

Debra Black

Matthew Rider

Bryan Parmelee

Charles Simpson

Ruby Perry

Ron Ruloff

Charlie Herrick

Joanne Hunt

Courtney McMahan

Philip Pezeshki

Alan Adiem

Oliver Quayle

Sandy Yusen

Jon Normandin

Mohamed Abdullah

Matt King

Andrew Knapp

Kathy Zell



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

Zach Hughes

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

1.0 CALL TO ORDER and AGENDA

Council President Knodell called the meeting to order at 7:07 PM on February 16, 2016 and led the assemblage in the Pledge of Allegiance.

1.01 Agenda

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

- **Add Item 1.02 (City's 150th Year Celebration) and note revised version.**
- **Remove Item 5.03 (Outdoor Entertainment Permit for The Switchback Beerworks, 160 Flynn Avenue) and place on the March 7, 2016 Deliberative Agenda.**
- **Note revised version of Item 5.04 (Agreement for 12 Acres of Former Burlington College Parcel).**
- **Note revised version of Item 5.06 (Vehicle for Hire Ordinance) and Mayor's communication and proposed amendment to the ordinance.**

DISCUSSION: Councilor Paul noted both she and Council President Knodell will recuse on Item 5.04 (Agreement for 12 acres of former Burlington College parcel).

VOTING: unanimous [Councilor Ayres not present for vote]; motion carried.

1.02 City's 150th Year Celebration

Mayor Weinberger read the resolution for the city's 150th year celebration thanking the contributors for the Contois Auditorium improvements.

MOTION by Councilor Shannon, SECOND by Councilor Bushor, to adopt the resolution as read.

DISCUSSION: Councilor Wright thanked Councilor Shannon for her perseverance in getting chairs for Contois Auditorium. Councilor Shannon pointed out the plaque on each chair has the donor's name. The chairs



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

reflect the many people who contributed in many ways. Contributions can still be made. There were no further comments.

VOTING: unanimous [Councilor Ayres not present for vote]; motion carried.

2.0 PRESENTATION

2.01 Update on Information Technology and Network Security Activities

Beth Anderson, CIO, highlighted the following:

- Information was gathered on how the departments operate and the needs and goals with technology.
- A plan was developed to keep systems and data secure. A new firewall was implemented and dated systems were retired.
- An in-depth assessment of the security system will be done to identify vulnerabilities.
- User training will be done.
- An in-depth assessment of the network infrastructure was done and adjustments were made. A plan was done for best practices.
- A full time, dedicated help desk staff person was hired to help with end user needs.
- Staff is exploring where consolidation of infrastructure and staffing can be done for efficiencies.
- Staff is working to have a platform in place to take advantage of new opportunities to better serve city staff and the community.

Councilor Bushor commented the CIO position has paid for itself. Councilor Bushor asked if there was opportunity to speak to the school district on collaborating and sharing appropriate information. Beth Anderson said she is in contact with the school district's IT Director.

Councilor Colburn asked about use of the data by the city and the public. Beth Anderson said she is exploring what other cities have done around open data and how to build a program and put a plan in place.

2.02 Update on Permit Reform

Beth Anderson reported:

- An independent consultant, Matrix Consulting Group, was hired to identify best practices for the permit process. Another consultant was hired for the historic preservation piece of the permit process. Contracts are being negotiated and the work will begin in March and completed by August.
- The work includes:



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

- o Doing a targeted survey
- o Holding three public forums
- o Forming two focus groups
- o Interviewing staff
- o Reviewing current practices and comparing to best practices
- The final proposal will outline best practices and recommendations on how to get there followed by implementation.

There was comments/discussion as follows:

- Councilor Wright asked if there will be "one stop shopping" functionality. Ms. Anderson said staff wants to hear ideas from the consultants.
- Councilor Bushor asked who finalizes permit reform. Mayor Weinberger said ultimately City Council does, but other bodies will have input.
- Councilor Tracy suggested doing the easy fixes first. Beth Anderson stated bigger impact items take longer and easy fixes can be implemented sooner.
- Councilor Hartnett urged getting input from the people building projects. Ms. Anderson said that is the consultant's plan so people do not feel they are complaining to those they must ask for help from in the future.
- Councilor Colburn pointed out homeowners are concerned about the permitting process as well as the professional builders.

3.0 PUBLIC FORUM

Public Forum commenced at 7:36 PM.

PUBLIC COMMENTS

- Ø Rachel Bushey, Uber driver, spoke in support of having Uber in Burlington, noting she has had no issues as a female driver for the company. Passengers can report any problems to Uber. The background check on drivers must show a clean record.
- Ø Jill St. Thomas Benoit spoke in support of having Uber in Burlington, noting she has been driving on the Uber platform since last July and feels Uber serves a valid purpose. Ms. St. Thomas Benoit said she is a foster parent and retired after 25 years in another career, but as an Uber driver she is also a city guide and concierge of sorts directing people to places around the city. Ms. St. Thomas Benoit said she is a former taxi driver in Boston.
- Ø Debra Black said as a retired school nurse driving for Uber supplements her income so she can do what she wants and go where she wants. She had heard no complaints from passengers about Uber, only raves.



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

- Ø Matthew Rider said he is an Uber driver in addition to a full time job in order to save money to return to college. Mr. Rider spoke in support of Uber service in the city and said he acts as a concierge for the city driving lots of students, local, and tourists. Lots of compliments about Uber over other services are heard.
- Ø Bryan Parmelee said he is a musician, audio engineer, and digital production specialist as well as a Burlington City Arts board member. Mr. Parmelee thanked City Council for supporting Burlington City Arts and what BCA adds to the community (BCA education programming has tripled to 3,517 students).
- Ø Charles Simpson spoke against the Burlington College land plan and the encroachment on the 'urban wild' by storm water mitigation and housing. Also, if Vermont Land Trust defaults the city could be on the hook for \$3 million (per Paragraph 6 of the agreement). The 12 acres of open space for wildlife habitat and open park space is too small.
- Ø Ruby Perry read a statement against using public funds through the Purchase & Sales Agreement to legitimize the largest housing development the city has seen. Ms. Perry said the limited vision and desire for profit is creating a new breed of public/private business deals in which the public loses. The public has not been involved in creative ideas on how the land to be held for public use should be designed and used. The land should be the land of the people. There is not public support for the project only support from housing developers.
- Ø Ron Ruloff spoke about riots and demonstrations that could happen in Burlington and the ability of the police to control the crowds. Burlington does not want to be a target for any of the groups organizing demonstrations.
- Ø Charlie Herrick expressed disappointment in the process and the Administration turning its back on the local transportation industry. The local taxi companies asked for stricter security standards and instead the Administration deregulated the industry. A licensee can cheat the system and the city will not get a complete list of drivers for an audit. The city does not know the number of drivers that are driving. Deregulation creates a system that is unsafe. The ordinance mentions a fee schedule, but Attorney Meyer said the fees will be set by the board. It seems as if the Administration is "winging it" as they go.
- Ø Joanne Hunt spoke against the Burlington College land deal and asked what could have changed City Council's mind or slowed the process. Ms. Hunt expressed frustration at the lack of opportunity for dialogue with City Council and the people making the decision. There has not been input in favor of the project except by City Council and the housing developers.
- Ø Courtney McMahan spoke in support of Uber as an Uber rider once a day. Ms. McMahan said she never felt safer in a cab than with Uber and gets to every location on time. Uber has a place in town and should stay. City Council is urged not to postpone the vote.
- Ø Philip Pezeshski urged City Council to resist Michels iron law of oligarchy where an organization is run by a leadership class that serves whoever has access to information and centralizes its power with little accountability to the public it claims to represent. This trend is apparent in the use of up to one and a half million dollars in public funds for land the public controls or will be used as storm water abatement by a private developer. After community input on two occasions the draft agreement with the project partners was not made public until after Executive Session by the Board of Finance, and after demonstration and appeals to delay the vote City Council unanimously accepted the agreement. Of 14 citizens in favor, 12 are from the city, the state, or partners. The Conservation Board had to repeat its vote and then voted unanimously to move ahead. Mr. Pezeshski said power tends to corrupt and absolute power corrupts absolutely.
- Ø Alan Adiem spoke in support of Uber and being an Uber driver. Uber is a big opportunity and safe.
- Ø Oliver Quayle submitted a written note in support of Uber.
- Ø Sandy Yusen read a statement from Champlain College in support of the Vehicle for Hire Ordinance and Uber and other technology based taxi services to operate in Burlington as a broad range of transportation solutions for employees and



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

students that are affordable, convenient, safe, functional, and environmentally friendly. Goals of the college include decreasing the number of cars on campus and having a commitment to innovation, technology, and sustainability. Uber provides students with an alternative form of transportation. Students use Uber regularly and some are drivers. Provisions in the ordinance address background checks and safety issues.

Ø Jon Normandin spoke in support of Uber and being an Uber driver. Mr. Normandin said he uses his Tesla charged with solar electricity to teach people about solar power and to support Uber.

Ø Mohamad Abdullah spoke in support of Uber and being an Uber driver which allows him to have time to pick up his children from school and attend school himself.

Ø Matt King spoke in support of Uber and being an Uber driver which provides extra income to his full time work for the state. Mr. King said every ride is quick, easy, and gives people an option so they can get home safely.

Ø Andrew Knapp said safety is the priority and as an Uber driver he helps people get home safe because that is what he would want for his own children. Uber lets people interact with others they would not interact with otherwise. Uber service should stay in the city.

Ø Ormand Kekic said he is a former cabdriver for nine years who switched to Uber. Mr. Kekic said he has heard no complaints. Uber is easy to work for, the service is fast, and drivers do a good job.

There were no further comments. Public Forum was closed at 8:15 PM.

4.0 CONSENT AGENDA

4.01 PROCEDURAL:	Amend/Adopt Consent Agenda and Take Action(s) as Indicated
4.02 COMMUNICATION:	Accountability List
4.03 COMMUNICATION:	Solar Electric Generation Project, Sunset Cliff Road
4.04 COMMUNICATION:	Ethan Allen Park Resolution
4.05 COMMUNICATION:	Letter to South Burlington Officials from Airport
4.06 COMMUNICATION: Divestment Investigation	Letter of Gratitude to State House of Representatives for Fossil Fuel
4.07 COMMUNICATION: Music Office Partnership Proposal	Big Heavy World Foundation FY2017 Appropriation Request and
4.08 SPECIAL EVENT PERMIT (one day):	Swan Dojo, 19 Church Street #1, February 12, 2016
4.09 COMMUNICATION:	Sweep Accounts & Other Bank Accounts
4.10 COMMUNICATION:	General Fund Revenue Unaudited, December 2015
4.11 COMMUNICATION:	Minutes Board of Finance January 11, 2016



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

- 4.12 COMMUNICATION: Minutes Board of Finance January 25, 2016
- 4.13 COMUNICATION: Public Safety Committee Listening Tour Report
- 4.14 PERMITS: Indoor and Outdoor Entertainment Permit Renewals
- 4.15 COMMUNICATION: FIO Document
- 4.16 RESOLUTION: Appoint Acting Inspectors of Election, Wards 2, 3, 4, 5, 6, 7, 8
- 4.17 RESOLUTION: Pay Increase for Election Workers
- 4.18 RESOLUTION: License Agreement Portion of Pine Street ROW at 747 Pine Street
- 4.19 RESOLUTION: License Agreement for Stone Wall on Portion of ROW
- 4.20 RESOLUTION: Budget Amendment FY2016 CEDO Consultant Account
- 4.21 RESOLUTION: Amend Contract for Development Services for PIAP and BTC Projects

MOTION by Councilor Colburn, SECOND by Councilor Tracy, to accept the Consent Agenda (Items 4.01-4.21) and to take the action indicated. VOTING by roll call: Councilor Bushor – aye, Councilor Tracy – aye, Councilor Giannoni – aye, Councilor Wright – aye, Councilor Mason – aye, Councilor Paul – aye, Councilor Ayres – aye, Councilor Roof – aye, Councilor Hartnett – aye, Councilor Knodell – aye, Councilor Colburn – aye, Councilor Shannon – aye; (unanimous); motion carried.

5.0 DELIBERATIVE AGENDA

5.01 Indoor Entertainment Permit 2016-2017: Swan Dojo, 19 Church Street #1

MOTION by Councilor Roof, SECOND by Councilor Tracy, to approve the Indoor Entertainment Permit 2016-2017 for Swan Dojo, 19 Church Street #1 with all the standard conditions. VOTING by roll call: Councilor Bushor – aye, Councilor Tracy – aye, Councilor Giannoni – aye, Councilor Wright – aye, Councilor Paul – aye, Councilor Ayres – aye, Councilor Roof – aye, Councilor Hartnett – aye, Councilor Knodell – aye, Councilor Colburn – aye, Councilor Shannon – aye; (unanimous)[Councilor Mason not present for vote]; motion carried.

5.02 Indoor Entertainment Permit 2016-2017: Negril, LLC d/b/a What Ales You, 152 St. Paul Street

MOTION by Councilor Roof, SECOND by Councilor Tracy, to approve the Indoor Entertainment Permit 2016-2017 for Negril, LLC d/b/a What Ales You, 152 St. Paul Street with all the standard conditions. VOTING by roll call: Councilor Bushor – aye, Councilor Tracy – aye, Councilor Giannoni – aye, Councilor Wright – aye, Councilor Mason – aye, Councilor Paul – aye, Councilor Ayres – aye, Councilor Roof – aye, Councilor Hartnett – aye, Councilor Knodell – aye, Councilor Colburn – aye, Councilor Shannon – aye; (unanimous); motion carried.

5.03 Outdoor Entertainment Permit 2016-2017: The Switchback Beerworks, Inc., 160 Flynn Avenue

Removed from agenda and placed on the March 7, 2016 Deliberative Agenda.



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

5.04 Acquisition Authority and Agreement for 12 Acres on Former Burlington College Parcel

Council President Knodell and Councilor Paul recused themselves. Councilor Wright facilitated the meeting.

MOTION by Councilor Bushor, SECOND by Councilor Roof, to waive the reading and adopt the resolution regarding acquisition authority and agreement for 12 acres on the former Burlington College parcel.

DISCUSSION: The following comments were made:

· Councilor Bushor said it is not easy to be an elected official and hear people are disappointed in the process and feel they are not heard or had the opportunity to be heard. Regarding the 12 acres of land, the city would have liked more, but the reality is the city does not own the land and with the agreement the city will have housing which is needed and open space. The deal is not terrible. The storm water issue has been corrected in the agreement and will be on the developer's land. It is hoped people will come to appreciate the open space that is preserved.

· In response to a question on the payment by Vermont Land Trust and the city, Bob Rusten commented on ability to cure and having no residual rights to the property in the event of no cure.

· Councilor Shannon asked about the public land being used for storm water mitigation with approval by City Council. Jesse Bridges explained an easement would be required and an easement on public land requires approval by City Council. In addition the entire project has to be reviewed and permitted. Councilor Shannon commented having storm water runoff is not inherently bad. Some of the land is ravine. There is a bluff with nice views. The land is beautiful. The property line was moved slightly and provides access to the land between the ravine and one building that has been moved farther from the lake. The road was moved from the exterior on public land to the interior on the development land. The fence installed by the developer will not necessarily be a problem either. Councilor Shannon stated there is not always the choice to conserve all the land, but the city did a good job preserving the wildlife corridor in the area, access to the lake, views from the bluff, and access to the open space. Conditions will change with tall buildings abutting the land. There will not be the expansive experience that is there today.

There were no further comments.

VOTING by roll call: Councilor Bushor – aye, Councilor Tracy – aye, Councilor Giannoni – aye, Councilor Wright – aye, Councilor Mason – aye, Councilor Ayres – aye, Councilor Roof – aye, Councilor Hartnett – aye, Councilor Colburn – aye, Councilor Shannon – aye; (10 ayes, 2 recusals [Knodell, Paul]); motion carried.

Council President Knodell and Councilor Paul returned to the meeting. Council President Knodell resumed facilitation of the meeting.

5.05 Drone Enforcement

MOTION by Councilor Giannoni, SECOND by Councilor Colburn, to waive the reading and adopt the resolution on drone enforcement.



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

DISCUSSION: Councilor Giannoni explained the resolution asks the Public Safety Committee to look at what comes out of the State House bill that has language on drones to see if the city wants to add anything specifically for Burlington. There is concern about covering public activities with drones and drones carrying nonlethal weapons, such as tear gas. There were no further comments.

VOTING by roll call: Councilor Bushor – aye, Councilor Tracy – aye, Giannoni – aye, Councilor Wright – aye, Councilor Mason – aye, Councilor Paul – aye, Councilor Ayres – aye, Councilor Roof – aye, Councilor Hartnett – aye, Councilor Knodell – aye, Councilor Colburn – aye, Councilor Shannon– aye; (unanimous); motion carried.

5.06 Vehicle for Hire Ordinance

Councilor Wright assumed facilitation of the meeting.

MOTION by Councilor Mason, **SECOND** by Councilor Bushor, to waive the reading, suspend the rules, and place the Vehicle for Hire Ordinance in all stages of passage.

DISCUSSION: The following comments were made:

Councilor Mason stated public hearings were held and a verbal report from Attorney Meyer was received on the ordinance. It should be noted that the interim operating agreement was not unanimously supported by City Council; there were four members who dissented. The amendments are responsive to increasing the supply of transportation options in the city, improving governance of the regulatory system, protecting the public, and increasing enforcement of an equal playing field in the vehicle for hire market. The ordinance allows for other transportation network companies to operate lawfully in the city. There is a new app for digital dispatch. Use of more technology going forward is anticipated. The ordinance is half the length of the previous version and removes rules applying to the airport. Administration is at city hall. Membership and structure of the vehicle for hire board is similar to others applied by the city. The vehicle for hire companies conduct the background checks which the city can audit two times a year. The driver background checks must be done by the accredited National Association of Background Screeners and as a baseline include national and local criminal record checks, vehicle record check, sex offender record check, and national sex offender registry check. The vehicle for hire company must certify the background checks have been done under penalty of perjury. All drivers must post their identification in the vehicle, on the website or on the phone app. Companies doing their own background checks and vehicle inspections must enter into an MOU with the city approved by City Council and supply additional records to the city upon request. All vehicle for hire companies can set their own prices, but the driver and passenger must agree pre-ride. Traditional taxis can pick up street hails at rates set by City Council. The ordinance applies to all vehicles for hire. The fare schedule is the same as in the current ordinance and was not a part of the discussion by the Ordinance Committee. The taxi board is discussing the fare schedule. The Ordinance Committee commented on the draft MOU, but the regulatory structure was not in place for referral to City Council for a vote. If the Vehicle for Hire Ordinance is adopted then Uber or any T&C doing the own audits must enter into an MOU approved by City Council.

Mayor Weinberger stated the ordinance will create a regulatory framework under which transportation companies can legally operate in Burlington and will improve Burlington's transportation system to meet the needs of the public. There have been many complaints about the previous system (not enough vehicles to serve the city, long wait times, inconsistent pricing) that are addressed by the new ordinance. Public safety and driver oversight will be improved. The ordinance codifies creation of an enforcement officer, substantial driver background checks



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

on an annual basis, review of drivers by passengers, and having more vehicles operating in the city to help passengers get home safely. A complete rewrite was done to ensure the rules apply equally across all T&C businesses so there is a level playing field. The ordinance shows the city is using transportation innovation which positively impacts the city's environmental footprint and shows the city support of innovation entrepreneurship.

Councilor Roof said the introduction of Uber catalyzed the update of the ordinance and will improve transportation options in Burlington. The effort and civil discourse on the ordinance is appreciated. The ordinance establishes regulations for vehicles for hire and positions the community on how to handle changes to the transportation industry in the future. Burlington will be better prepared to adapt to the disruptive forces of innovation.

Councilor Bushor pointed out Section 30-14 (impersonation) bans people who impersonate others from driving in the city forever and Section 30-20 (reporting & audits) allows the city to audit driver and company background checks two times per year. With Uber there will be a percentage of drivers in the audit. If an issue comes forward the city can audit more frequently. Cab companies that have served the city for the past 20 years also need to survive with Uber in town. Cabs are not metered so if there is great demand a company can raise prices. Some people will have to wait a long time for a cab because they will not be able to afford surge pricing.

Councilor Knodell noted Section 30-19.A.4 about sharing data that is referred to in Section 30-20.C is not in the document. Attorney Meyer will follow up on the matter. Attorney Meyer noted T&C companies have entered into agreements with cities to provide data. Non-T&C operators did not want to share this type of information. The ordinance tried to strike a middle ground.

AMENDMENT by Councilor Tracy, SECOND by Councilor Colburn, to make the following changes to the ordinance:

- **Strike lines 208-214;**
- **Amend lines 204 - 207 to read: "The city will conduct the background check. The applicant shall submit the nonrefundable background fee established by the board and as noted on the attached schedule 1 with the application. The city is to conduct the background check prior to issuing a license.";**
- **Renumber Section 30.1.A.3 as "2";**
- **Strike "whether conducted by the Administration Office or the business licensee" in Section 30-10.B;**
- **Strike "if the background check is being conducted by the Administration Office" in Section 30-10.C;**
- **Replace Section 30-11.B with "as part of each background check each driver shall certify that he or she";**
- **Strike "driver background checks" in Section 30-20.A;**
- **Strike "driver and" in lines 30, 392, and 394;**
- **Renumber Section 30-20.A.1 & 2 as "1" and "2".**

DISCUSSION ON AMENDMENT: The following comments were made:

Councilor Tracy agreed the city should look at trends in technology and update the ordinance to accommodate, but there may be consequences and some may not be safe. There have been lawsuits against Uber for gross negligence. Texas and South Carolina are investigating Uber on negligence with background checks. To deregulate the background check piece is unfortunate and poorly conceived, and will create less transparency than



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

what the city is trying to achieve. Uber could provide records of clean background checks only. Uber will not say how many drivers they have and the concern is the city could miss something and crimes will be committed. The amendment keeps the system as it currently stands with the city doing background checks and a third party accountability mechanism. This is a better standard for public safety than having the private sector regulate itself.

Councilor Knodell spoke in support of the amendment because it is the city's job to protect public safety. With the city doing the background checks the city will know they are done and done right. The self-certification system laid out as a necessary condition for Uber to continue doing business in Burlington has not been requested by any other local company or T&C. The one operator (Uber) who operated in violation of the ordinance for many months is asking to do self-background checks. The MOU and fee schedule and how the audit is done will be worked out later.

Councilor Colburn spoke in support of the amendment, stressing it is not worth giving up what has been best practice around public safety and background checks. Uber operates around the country and the business model appears to be that they come to a municipality and ignore the local regulations, arguing they are not subject to them. They bring in a huge lobby to bully local regulators into giving them what they want. Uber is essentially a billionaire corporate bully. It is hoped the drivers that say Uber is working for them will be saying the same in two or three years because the trajectory of the company has been wage fall off. There are class action suits against Uber for livable, workable wages. Drivers are unionizing. The work on the ordinance is appreciated, but bowing to conditions set by Uber is setting a precedent on who is calling the shots in the community.

Kathy Zell, General Manager of Uber New England markets, and Zach Hughes, Operations Manager for Uber New England, stated of the over 70 jurisdictions that have regulated ride sharing nearly all have rejected city run background checks because Uber operates with a different business model. Drivers are part-time and having a time intensive city run background check process would not work and would undermine the goals of innovative services like Uber to continue to grow. If the ordinance is passed with the amendment it would be very difficult to impossible to operate in the City of Burlington.

Mayor Weinberger agreed the city has fundamental responsibility for public safety and that is taken very seriously, but this can be achieved differently in different situations. A balance must be achieved between the real world and the situation. The city is setting the standards all drivers must meet and will test to determine if the standards are met and who will do the background checks to determine if the requirements are met. A third party nationally accredited provider will do the background checks ordered by the city to be reviewed by the city versus the business licensee doing this. There are a number of safeguards in place to ensure the background checks are done, such as annual certification under penalty of perjury, auditing by the city two times a year or on complaint, assigning liability to the business if the background checks are not done. Complaints have not been heard about Uber and T&Cs in other markets not doing employee background checks. The city sets the standards for the background checks. With the T&C option there will be a better transportation system in the city, drunk drivers will be off the road, passengers will get home safely, car ownership will be reduced (in support of the Climate Action Plan), and low income residents will be getting essential service at low cost. Uber was pushed to accept the current city system, but will withdraw service if forced to do background checks as suggested by the amendment.

Councilor Mason stated focusing on the singular issue of background checks misses the public safety benefit the T&Cs and Uber bring to the marketplace including decreasing drunk driving, safe transportation of a vulnerable population when the bars close, ability to track a passenger on route from point A to point B, driver review and rating system, 24/7 support by Uber, and cooperation with police.

Council Bushor spoke against the amendment, but noted a vote for the ordinance is not putting people at risk. The city needs to be the recipient of the background checks, but not necessarily the one to do the background checks. Others can be accountable for the task. The city does not control background checks for CCTA bus service,



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

for example. There needs to be safety checks to ensure the background checks are being done correctly and that is the purpose of the audit.

There were no further comments.

VOTING ON AMENDMENT by roll call: Councilor Bushor – nay, Councilor Tracy – aye, Councilor Giannoni – aye, Councilor Wright – aye, Councilor Mason – nay, Councilor Paul – nay, Councilor Ayres – nay, Councilor Roof – nay, Councilor Hartnett – nay, Councilor Knodell – aye, Councilor Colburn – aye, Councilor Shannon – nay; (5 ayes, 7 nays); motion did not carry. Amendment defeated.

CONTINUED DISCUSSION ON MOTION: The following comments were made:

- Councilor Shannon stated the revised ordinance is a significant improvement of the governance of taxis.
- Councilor Knodell said the issues of background checks and a level playing field are still outstanding. Regarding pricing, T&C and non-T&C operators now have flexibility in pricing with the exception of street hails. Councilor Knodell asked about costs associated with T&C and non-T&C operators. Councilor Mason said the Ordinance Committee did not receive an analysis, but insurance requirements are the same other than there is an increase to \$1 million for T&Cs and \$500,000 for regular taxis. Attorney Meyer explained existing non-T&C operators have the same requirements of \$500,000 for a commercial policy that is written in the ordinance now. Private ownership/commercial use T&Cs must have \$1 million in insurance coverage. Uber drivers have their own personal insurance coverage and whether this covers commercial use of the private vehicle is not always clear. Municipalities across the country with Uber and T&Cs allowing use of private vehicles for transportation require \$1 million in coverage to make sure there is an overall amount of coverage. It is the understanding that the policy is purchased by the company to cover the vehicle operators in the Uber operation. Councilor Knodell said she is not convinced there is a level playing field. The fees will come to City Council for adoption. There are many benefits to the T&C model, but the regulatory integrity of the city should not have to be sacrificed to get the benefits that could be attained by working with the local companies. ZabCab uses phone based technology and works with local cab companies. The preferred path is working with local businesses and creating local entrepreneurship.
- Councilor Mason noted the last sentence in Section 30-20.C should be deleted.

There were no further comments.

VOTING by roll call: Councilor Bushor – aye, Councilor Tracy – nay, Councilor Giannoni – aye, Councilor Wright – aye, Councilor Mason – aye, Councilor Paul – aye, Councilor Ayres – aye, Councilor Roof – aye, Councilor Hartnett – aye, Councilor Knodell – nay, Councilor Colburn – nay, Councilor Shannon – aye; (9 ayes, 3 nays); motion carried.

Council President Knodell resumed facilitation of the meeting.

6.0 COMMITTEE REPORTS

Ø Councilor Mason announced the Ordinance Committee has a hearing on the Mask Ordinance on 2/23/16.



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

7.0 CITY COUNCIL – GENERAL AFFAIRS

Ø Councilor Wright reminded everyone of Town Meeting in two weeks and urged all to vote. The passing and great loss to the city of Dick Bove and Mimi Gutchell was mentioned.

8.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

No report.

9.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger noted:

- The funeral for Dick Bove was well attended. The words by his son, Mark Bove, were eloquent. All agree there was no other chef in Bove's than Dickie Bove.
- Local Government Day last week showed an interesting and active legislative session. TIF reform to support downtown redevelopment and municipalities not being solely responsible for keeping the lake clean were discussed.
- The Mayor is attending NPA meetings prior to Town Meeting.
- Red Cross blood drive, Contois Auditorium, 2/19/16.

10.0 EXECUTIVE SESSION

MOTION by Councilor Shannon SECOND by Councilor Wright, to find that the city will be at a substantial disadvantage with premature disclosure of negotiations between the city and New Moran. VOTING unanimous; motion carried.

MOTION by Councilor Shannon, SECOND by Councilor Roof, to go into Executive Session to discuss negotiations between the city and New Moran, and to invite member of the City Attorney's Office, members of the CAO's Office, members of the Mayor's Office, members of CEDO staff, and Ken Braverman to attend. VOTING: unanimous; motion carried.

Executive Session was convened at 10:05 PM.

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

Executive Session was adjourned and the regular meeting reconvened at 10:37 PM.



Regular City Council Meeting - Tuesday, February 16, 2016 - Contois Auditorium, City Hall - 2/16/2016

11.0 ADJOURNMENT

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

The meeting was adjourned at 10:37 PM.

RScty: MERiordan