



# Regular City Council Meeting - Monday, February 11, 2019, 7:00 pm, Contois Auditorium, City Hall 2/11/2019

**BURLINGTON CITY COUNCIL**

**CONTOIS AUDITORIUM, CITY HALL**

**BURLINGTON, VERMONT**

**MINUTES OF MEETING**

**February 11, 2019**

**MEMBERS PRESENT:** Kurt Wright (Council President) – Ward 4

Jane Knodell – Central District

David Hartnett – North District

Joan Shannon – South District

Richard Deane – East District

Sharon Foley Bushor – Ward 1

Max Tracy – Ward 2

Brian Pine – Ward 3

William “Chip” Mason – Ward 5

Karen Paul – Ward 6

Ali Dieng – Ward 7

Adam Roof – Ward 8

**ADMINISTRATION:** Miro Weinberger, Mayor

Beth Anderson, CAO

Rich Goodwin, DFO

Eileen Blackwood, City Attorney

Jordan Redell, Mayor’s Office

Olivia LaVecchia, Mayor’s Office

Lori Olberg, C/T





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Amy Bovee, C/T

Chapin Spencer, DPW

David White, CEDO

Meagan Tuttle, Planning & Zoning

**OTHERS PRESENT:** Charles Simpson

Barb Alsop

Ron Robere

Charles Messing

Meghan Wood

Carolyn Long

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

## **1.0 CALL TO ORDER and AGENDA**

Council President Wright called the meeting to order at 7:15 PM on February 11, 2019 and led the assemblage in the Pledge of Allegiance.

### 1.01 Agenda

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

- **Add Item 2.02 (Resolution on Hate Speech)**
- **Move Item 4.07 (TIF District Reports) to Deliberative Agenda as Item 5.07**
- **Note materials for Item 4.12 (St. Paul Street Contract)**
- **Remove Item 4.14 (CEDO Director Market Factor Adjustment)**
- **Note materials for Items 5.03 and 5.04 (Municipal Plan)**
- **Remove Item 4.16 (ZA#19-07) to Deliberative Agenda as Item 5.06**

**VOTING: unanimous; motion carried.**

## **2.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES**

### 2.01 Verbal Reports





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City councilors recognized Councilor Bushor in her retirement from over a half century of work at the medical center, and mentioned the over 30 years of service on City Council. Words describing Councilor Bushor included genuine, compassionate, always prepared, wonderful, attention to detail, dedication, diligent. Councilor Bushor said health care and city council are similar by being responsible to people's needs. Being recognized for the work and contribution is appreciated.

### **2.02 Condemning Hate Speech – City Council**

**MOTION by Councilor Mason, SECOND by Councilor Paul, to adopt the resolution condemning hate speech.**

#### **DISCUSSION:**

- **Councilor Mason read the resolution on condemning hate speech and verbal assault on any member of the community.**
- **Councilor Dieng said it is not consistent to have the resolution and still have the mural.**
- **Councilor Hartnett said the leader of the city need to speak out when there is hate speech happening anywhere in the city.**
- **Councilor Shannon urged standing together and not tolerating hate speech or any attack on a community member.**
- **Council President Wright said there should be zero tolerance for bigotry or hatred in the community.**

**VOTING: unanimous; motion carried.**

### **3.0 PUBLIC FORUM**

Public forum was opened at 7:30 PM.

#### **COMMENTS**

- A gentleman in the audience expressed concern about bike share and electric scooters in the city creating a safety issue for bicyclists and motorists, and urged planning and thorough assessment be done before moving forward.
- Barb Alsop pointed out the design of City Hall Park was done by the spouse of a city employee. The contract was very large. An ethics officer needs to review all contracts.
- Charles Simpson spoke of street safety and treatment of intersections. The city is urged to do roundabouts.
- Ron Robare urged having an ambulance stationed on North Avenue along with a police substation. Dave Hartnett is thanked for his service on City Council.
- Charlie Messing said the credibility of City Council is at stake. St. Paul Street and Pine Street cannot be reconnected unless the Free Press building is removed.
- Meghan Wood expressed frustration with the decisions of Mayor Weinberger and City Council on CityPlace, BT, and park projects.
- Carolyn Long expressed frustration with the electric scooters and the City Hall Park project.

There were no further comments. Public Forum was closed at 7:48 PM.

Council President Wright recessed the City Council meeting at 8:09 PM to convene the Local Control Commission. The City





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Council meeting reconvened at 8:20 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: City Hall Park Redevelopment - BBA
- 4.04 COMMUNICATION: DID Charter Change – Rich Price
- 4.05 COMMUNICATION: CHP Improvements
- 4.06 COMMUNICATION: J.Hutchins, Inc.Contract
- 4.07 COMMUNICATION: TIF District Reports
- 4.08 COMMUNICATION: 2019-2020 Indoor/Outdoor Entertainment Permit Renewals
- 4.09 COMMUNICATION: Dump Truck (Z15) Replacement
- 4.10 COMMUNICATION: Property Lease - Aviatron
- 4.11 COMMUNICATION: Airline Lease – Frontier Airlines
- 4.12 COMMUNICATION: St. Paul Street Contract
- 4.13 COMMUNICATION: Appendix B Amendments, City Council Rules
- 4.14 COMMUNICATION: CEDO Director Market Factor Adjustment (removed from agenda)
- 4.15 COMMUNICATION: FIO Document(s)
- 4.16 ORDINANCE: ZA#19-07 (moved to Deliberative Agenda Item 5.06)
- 4.17 RESOLUTION: Risk Management Services Agreement – Hickok Boardman
- 4.18 RESOLUTION: Easement – 311 North Avenue

**MOTION by Councilor Knodell, SECOND by Councilor Bushor, to adopt the Consent Agenda with the noted amendments and take the actions indicated for Items 4.01 through 4.18. VOTING: unanimous; motion carried.**

## 5.0 DELIBERATIVE AGENDA

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## **Regular City Council Meeting - Monday, February 11, 2019, 7:00 pm, Contois Auditorium, City Hall 2/11/2019**

### **4.01 Presentation: The Neighborhood Project Final Report November 2018**

Removed from agenda.

### **4.02 Public Hearing: Charter Changes March 5, 2019 Annual City Meeting**

The public hearing on charter changes for consideration at the annual city meeting was opened at 9:12 PM. There were no comments and the public hearing was closed.

### **4.03 Charter Change to Eliminate Business Personal Property Tax**

The public hearing on the charter change to eliminate the business personal property tax was opened at 9:12 PM. There were no comments and the public hearing was closed.

### **4.04 Charter Change to Create Department of Permitting and Inspections**

The public hearing on the charter change to create a Department of Permitting and Inspections was opened at 9:12 PM. There were no comments and the public hearing was closed.

### **4.05 Charter Change to Strengthen and Restructure Downtown Improvement District**

The public hearing on the charter change to strengthen and restructure the DID was opened at 9:13 PM.

### **COMMENTS**

Walter Cady spoke of the lack of communication to the public and the need for voter education on the charter change. Mr. Cady urged removing the charter change from the ballot, tabling the discussion, and treating the citizens as equal partners in the democracy.

Betsy McGavisk spoke of the public process for the park and the DID, stressing that more time is needed to gather more public input. City Council is urged to remove the charter change from the ballot.

Casey Gilbert spoke of the very positive experience with the DID in Portland, Maine, and the 501(C)4 model.

Kara Massari, business owner on Church Street, spoke in favor of the DID being on the ballot in March and small businesses pooling their money to make the community more vibrant.





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Springer Harris read a statement by Richard Price in support of the expanded DID. Mr. Harris spoke of the work of the DID advisory committee and expressed his support of the DID proposal.

Sarah Beal clarified misinformation with the DID proposal relative to businesses paying to support the DID to make a better downtown and the city having more, not less, control.

Solvey Overby said the language for the DID proposal was not thought through and the charter change is not ready to be presented. The proposal should not be on the ballot until people have had a chance to read and understand the charter change. The DID can be expanded without a charter change. This option should be discussed.

Annie McAney spoke of the need to look at the DID in the context of discrimination against homeless people.

Larry Lewack said the flaw in the DID proposal is handing over control to a nonprofit group without accountability to the taxpayers. CSM and the city already do a good job with the downtown. Expanding the scope and size of the current district can be explored, but the proposal is not ready to be put on the ballot at this time.

Phelan Fretz, ECHO, spoke in favor of moving ahead with the DID expansion. Burlington is struggling to align the waterfront with downtown. The expansion of the DID will play a great role in this.

Laura Soloman urged taking the DID off the ballot because people know very little on the issue. More public education is needed. There is concern about having poor public policy with this type of governance.

Brian Cina, businessman, said he cannot pay more for services that are already received, and urged looking for other ways to improve the downtown without creating more bureaucracy.

Julie Macuga spoke against the DID expansion and selling the downtown to the highest bidder.

There were no further comments. The public hearing was closed at 10:05 PM.

4.06 Charter Change: Strengthen and Restructure DID (revised)





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**MOTION by Councilor Roof, SECOND by Councilor Shannon, to waive the reading and adopt the resolution on the charter change to strengthen and restructure the Downtown Improvement District (DID).**

### **DISCUSSION:**

- Councilor Roof said there were changes made to the proposal based on the comments heard. All are thanked for the hard work on the matter.
- Councilor Bushor said the proposal has improved each step of the way, but is still not ready for the March ballot.
- Councilor Tracy said the process has been rushed and people were not able to fully weigh all the options.
- Councilor Hartnett observed there are competing markets all around Burlington. The city needs to compete and have a downtown that benefits all. This is an opportunity to let the voters decide.
- Councilor Knodell expressed concern about creating a complicated governance process.
- Councilor Dieng said the proposal is problematic, and asked about the difference between a 501(C)4 organization versus a 501(C)6 organization. City Attorney Blackwood said the type of nonprofit will be determined by the entity.

**MOTION by Councilor Mason, SECOND by Councilor Knodell, to suspend the rules to only complete action on Items 4.06 (DID), 4.07 (City Hall Park), 4.09 (Zoning Amendments), 4.10 (ZA#18-07 Conditional Use Exemptions), 4.13 (ZA#19-05 (Density Calculations), 4.14 (Increase Maximum Tax Rate). VOTING: unanimous; motion carried.**

### **CONTINUED DISCUSSION on Item 4.05 (DID):**

- Councilor Dieng spoke against giving the downtown to a private entity. Also, the name "DID" should be changed to "Business Improvement District". A model that works for the city needs to be found. More time is needed to talk to the public.
- Councilor Pine said the DID was expanded in the past. Burlington needs to develop a vibrant urban center. The proposal should be on the ballot and more debate held to find a middle ground.

**AMENDMENT by Councilor Tracy, SECOND by Councilor Dieng, to remove lines 6 through 9 in the Whereas clause, and add "removed from the ballot this annual city meeting on March 5, 2019" on Line 13 after the word "be".**

### **DISCUSSION OF AMENDMENT:**

- Councilor Dieng spoke of connecting the downtown to the waterfront, and the need for more input from the community.
- Councilor Knodell spoke in favor of not moving forward with the charter change at this time.

**VOTING ON AMENDMENT (by roll call): Councilor Bushor –aye, Councilor Deane – nay, Councilor Dieng – aye, Councilor Hartnett – nay, Councilor Knodell – aye, Councilor Mason – nay, Councilor Paul – nay, Councilor Pine – nay, Councilor Roof – nay, Councilor Shannon – nay, Councilor Tracy – aye, Council President Wright – nay (4 ayes, 8 nays); motion did not carry. The amendment did not pass.**

### **CONTINUED DISCUSSION ON ORIGINAL MOTION:**

- Councilor Bushor said the revised language of the charter change is an improvement.
- Councilor Tracy pointed out the language includes a livable wage.

**VOTING: unanimous; motion carried.**





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### 4.07 Concise Summary of Charter Change Amendments on Ballot & Warning (Charter Change Committee)

**MOTION by Councilor Shannon, SECOND by Councilor Deane, to waive the reading and adopt the resolution on concise summary of charter change amendments on the ballot and on the warning. VOTING: unanimous; motion carried.**

### 4.08 Advisory Question: City Hall Park (Councilors Bushor, Dieng, Knodell, Pine, Tracy)

**MOTION by Councilor Dieng, SECOND by Councilor Knodell, to waive the reading and adopt the resolution on the advisory question on the ballot pertaining to City Hall Park.**

#### **DISCUSSION:**

- Councilor Dieng spoke in favor of the park which will help bring people into the city, and urged everyone to work together with the elected officials.
- Councilor Mason said since 2014 public input has been gathered and \$500,000 plus many hours of staff time have been spent on the plan which has been modified based on input. The design was approved. It is time to move the project forward.
- Councilor Paul mentioned as a result of the effort by people many trees are being saved. The park is a community asset and there is something in the plan for everyone. There is concern about the ever increasing number of ballot advisory questions. A vote by City Council needs to be the word to the people. City Council voted on the park plan after a seven year process.
- Councilor Bushor stated there was public dissatisfaction with the park plan from the beginning. The 3,300 people who signed the petition have a voice. As proposals change City Council needs to decide whether to change the decision.
- Councilor Pine said City Council needs to represent the voice of the people and listen to constituents.
- Councilor Shannon pointed out more feedback and information on this issue was gathered then with other issues. A minority group should not be allowed to undo all the work that has been done. The process should not be disrupted. It is time to move forward with the park.
- Councilor Deane spoke in support of the park design and moving forward with the project now, not putting an advisory question on the ballot.
- Councilor Hartnett said there is a problem with the language of the ballot question editorializing the issue rather than being a direct question. Also, there have been untrue accusations made against city employees with regard to the trees and that is not acceptable.
- Councilor Knodell said the ad hoc committee tried to come up with a compromise with the park plan. The ad hoc process did not go far enough. The answer to the ballot question will provide more clear direction on what to do next.
- Councilor Roof spoke in support of the park plan, acknowledging the decision is not easy. There is concern with the language of the ballot question which should have objective neutrality. A process that clarifies such standards and expectations is needed.
- Councilor Tracy spoke in support of putting the question on the ballot. People want answers and want to know they are being heard. If the plan is as good as it is then the vote in March will affirm this.
- Councilor Dieng cautioned that mistrust will grow if the question is not allowed on the ballot. City Council needs to respect the democratic process. The City Attorney helped with the language of the resolution. What the constituents have said must be respected.



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- Mayor Weinberger said as a result of the advocacy of the park group there will be more trees. The project represents a multi-department, multi-agency effort. A grant was received eight years ago to re-envision the park, have a public input process, and save public spaces. City Council is urged to make the park a reality.
- Council President Wright said the language of the resolution is important. There have been occurrences when City Council changed the language on a ballot question. A bad precedent was set last year by allowing a poorly worded ballot question. That precedent needs to be stopped with an impartial, basic, neutral question on the ballot. The question should not be double barreled where one portion can be answered differently than another portion of the question. The City Attorney cannot say what City Council will do. The City Attorney can only give legal advice.

**CALL THE QUESTION** by Councilor Hartnett, **SECOND** by Councilor Mason. **VOTING** (on call the question): unanimous; motion carried. Debate ceased.

**VOTING (by roll call):** Councilor Bushor – aye, Councilor Deane – nay, Councilor Dieng – aye, Councilor Hartnett – nay, Councilor Knodell – aye, Councilor Mason – nay, Councilor Paul – nay, Councilor Pine – aye, Councilor Roof – aye, Councilor Shannon – nay, Councilor Tracy – aye, Council President Wright – nay (6 ayes, 6 nays); motion did not carry.

4.09 Public Hearing: Ordinance Amendments ZA#18-07 (Conditional Use Exemption), ZA#18-08 (Form District 5 Boundaries), ZA#19-02 (Residential Density), ZA#19-05 (Density Calculations)

The public hearing on the proposed ordinance amendments was opened at 12:04 AM. There were no comments. The public hearing was closed.

4.10 Ordinance Amendment: ZA#18-07 (Conditional Use Exemptions) – Planning and Ordinance Committee

**MOTION by Councilor Mason, SECOND by Councilor Bushor, to waive the reading and adopt the resolution for the amendment to ZA#18-07 – Conditional Use Exemption.**

### **DISCUSSION:**

- Councilor Mason explained the amendment clarifies that conditional use applications are not exempt from conditional use review.

**VOTING: unanimous; motion carried.**

4.11 Ordinance Amendment: ZA#18-08 (Form District 5 Boundaries) – Planning and Ordinance Committee

Removed from agenda.

4.12 Ordinance Amendment: ZA#19-02 (Residential Density) – Planning and Ordinance Committee

Removed from agenda.





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4.13 Ordinance Amendment: ZA#19-05 (Density Calculations) – Planning and Ordinance Committee

**MOTION by Councilor Mason, SECOND by Councilor Bushor, to place in all stages of passage and adopt the ordinance ZA#19-05 (Density Calculations) as drafted. VOTING: unanimous; motion carried.**

4.14 Increase in Maximum Tax Rate for General City Purposes – Board of Finance

**MOTION by Councilor Knodell, SECOND by Councilor Paul, to waive the reading and adopt the resolution to increase the maximum tax rate for general city purposes.**

### **DISCUSSION:**

- Councilor Knodell reported the Board of Finance unanimously approved the resolution which increases modestly the maximum possible tax rate for general city purposes by 1.25 cents and uses the half cent of authorized taxing authority not yet used. The result is an increase to the effective tax rate of 1.75 cents. On a house with an assessed value of \$235,000 the impact is an additional \$40 per year. The Board of Finance is working on next year's budget already and has whittled down the tax increase from 5.3 cents to 1.75 cents by trimming spending and using funding sources other than the property tax. One source of funds is excess money in the unassigned fund balance. Thanks are extended to the Mayor and CAO for the work on the proposal.

Councilor Mason facilitated the meeting so Council President Wright could make comment.

- Councilor Bushor echoed the thanks to the Administration, adding City Council has the taxing authority, but the goal is not to use it all.
- Council President Wright said the Administration heard the suggestions from the Board of Finance and together the proposal was drafted. Ways to expand the tax base need to be found.
- Councilor Dieng asked for an explanation of the \$40 increase per year in taxes. CAO Anderson said the tax increase is to cover increases in costs. Councilor Dieng said City Council should explore asking the departments to cut their budgets rather than asking the residents to pay more taxes. Raising taxes is not needed right now. The taxpayers should not be asked for money when City Council knows there will be money coming in from BT.
- Mayor Weinberger said the Administration has not asked for a property tax increase in the past eight years. Despite expenses going up the cost of government has been held at less than the cost of inflation and services have been expanded. The city has a healthy fund balance and what is proposed is to use some of that money.
- Councilor Paul said it is not responsible budgeting to ask department heads to make 20% budget cuts and still provide essential city services. Using some of the unassigned fund balance is responsible and a prudent way to spend the money. The Board of Finance did discuss the BT settlement, but that has not yet occurred and the question must go before the voters now. The question can go on the ballot, but the city is not obligated to carry out the increase if other funding is found.
- Councilor Hartnett expressed preference to use more fund balance in light of the school tax, water increase, streets and sidewalks in the city being in such bad shape all facing the taxpayers.
- Councilor Knodell said the potential increase has been whittled down by a third. All contracts are approved by City Council and the city must be certain of the ability to pay for these contracts.





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**VOTING: 10 ayes, 2 nays (Councilor Dieng, Councilor Hartnett); motion carried.**

Councilor President Wright resumed facilitation of the meeting.

## **5.0 COMMITTEE REPORTS**

No reports.

## **6.0 CITY COUNCIL – GENERAL AFFAIRS**

No report.

## **7.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES**

No report.

## **8.0 MAYOR – GENERAL AFFAIRS**

No report.

## **9.0 ADJOURNMENT**

**MOTION by Councilor Knodell, SECOND by Councilor Tracy, to adjourn the meeting. VOTING: unanimous; motion carried.**

The meeting was adjourned at 12:35 AM.

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