Regular City Council Meeting - Monday, February 8, 2016 - 7:00 pm - Contois Auditorium, City Hall - 2/8/2016

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 8, 2016

APPROVED

MEMBERS PRESENT: Jane Knodell (Council President) – Central 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

MEMBERS ABSENT: David Hartnett – North District

ADMINISTRATION: Miro Weinberger, Mayor

Eileen Blackwood, City Attorney

Gregg Meyer, Assistant City Attorney

Bob Rusten, CAO

Rich Goodwin, ACAO

Jennifer Kaulius, Mayor's Office

Brian Lowe, Mayor's Office

Lori Olberg, Clerk/Treasurer Office

Jesse Bridges, Parks & Rec

OTHERS PRESENT: Dan Sinex, BTC

Jesse Beck, BTC

Sherida Paulsen, BTC [via teleconference]

William Fellows, BTC

Marianne Ward

Sandy Wynne

Andrew Simon

Maggie Standley

Joanne Hunt

Ruby Perry

[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 7:28 PM on February 8, 2016 and led the assemblage in the Pledge of Allegiance.

1.01 Agenda

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

· **Note written material for Item 2.01 (Vehicles for Hire Ordinance)**

· **Amend action for Item 4.11 (Administratively Approved Zoning Permit ZP16-0511CA/Appeal Process)**

· **Remove Item 4.15 (Use of Conservation Legacy Fund) and place on Deliberative Agenda as Item 5.02 and note revised version of resolution**

· **Note revised version of communication for Item 4.16 (Manhattan Drive West Project)**

· **Add Item 4.19 (Downtown Parking Covers Extension 152 Cherry Street) to Consent Agenda**

· **Renumber original Item 5.02 (Town Center MOU) to Item 5.03**

VOTING: unanimous; motion carried.

2.0 PRESENTATION

2.01 Vehicles for Hire Ordinance

Councilor Mason reviewed the history of the rewrite of the Vehicles for Hire Ordinance, noting multiple public hearings were held to gather input. The ordinance will be before City Council for adoption at the 2/16/16 meeting.

Assistant City Attorney, Gregg Meyer, highlighted the following relative to the ordinance:

· The new draft consolidates the existing ordinance by eliminating redundancies.

· Airport related operations are removed from the document except the notation that vehicles for hire operating out of the airport are required to have citywide licenses.

· The new ordinance:

o Establishes a part-time enforcement officer.

o Allows T&C vehicle business models to operate lawfully in the city.

o Allows T&C and other vehicle for hire businesses to do their own background checks and vehicle inspections with certification that the checks have been met submitted to the city and the city has the right to audit for compliance. The audit is separate from the MOUs approved by City Council to address audits by companies doing self-background checks.

o Allows price setting between the companies and passengers before a ride is executed. Surge or advance pricing can be used with full disclosure and agreement before the ride takes place.

· Governance is with a five member vehicle for hire board appointed by City Council and the Mayor with three and two year staggered terms. People involved in the vehicle for hire industry or the public using the service can be considered for membership on the board.

· Taxi Administration is located in the City Clerk’s Office. There is a part-time taxi administrator.

· Goals of the new ordinance include:

§ Equal playing field;

§ Increasing the supply of transportation options in the city;

§ Improving the vehicle for hire governance structure in the city;

§ Protecting the public.

Councilor Shannon commented the issues of consumer safety, fairness to drivers/companies, and improving the process have been addressed by the new ordinance.

Councilor Bushor agreed the new ordinance is superior in comparison to the old ordinance. Councilor Bushor acknowledged the work on the document by Attorney Meyer.

3.0 PUBLIC FORUM

Public Forum commenced at 7:30 PM.

PUBLIC COMMENTS

Ø Marianne Ward, new north end resident, read a statement about the politics and manipulative, confusing and flawed process on the vote for the pilot study on changes to the roadway to accommodate bikes, and urged completing the four year study on Shelburne Street which was abandoned. Ms. Ward pointed out the vote by City Council on the pilot does not reflect that three councilors stipulated voting in the affirmative only if new north enders have the final say. New north enders are being forced to play by different rules.

Ø Sandy Wynne provided far trade goodies from the Peace & Justice and Fair Trade Network, noting the history of Burlington becoming a 'fair trade town' that demonstrates shared values of fair wages, safe working conditions, environmental responsibility, and respect for human dignity. All are urged to buy and use fair trade products. Mayor Weinberger was invited to give the welcoming address at the Fair Trade Federation Spring Conference in Burlington on April 26-28, 2016.

Ø Andrew Simon spoke against use of the conservation funds for 12 acres of Burlington College property, noting the Conservation Board had grave doubts about some aspects of the deal such as storm water features on public land serving private property as well as other negative impacts on the "urban wild" and North Avenue. Mr. Simon said more discussion and public process should have taken place.

Ø Maggie Standley expressed dissatisfaction with the handling of an ongoing noise issue by Planning & Zoning, commenting there appears to be a disconnect with zoning between information from others and the applicant. A request to reopen the public hearing on the matter was denied though there was important new information that would clarify the tangled situation.

Ø Joanne Hunt spoke against using the Conservation Legacy Fund for the purchase of 12 acres of land. Ms. Hunt spoke against the development that will destroy the "urban wild" behind Burlington College, noting the over 50 people in attendance at the last meeting were against the development and those in favor are employed in the housing industry. Ms. Hunt stressed that city councilors need to pay attention to what their constituents are saying. Residents in the north end will be stunned by what the development will do.

Ø Ruby Perry spoke about City Council finding a way to make decisions for the globe rather than the bottom line because global climate change is local. The development of the Burlington College property is developer driven. There was no creative discussion of the role of natural areas. City Council is requested to pay attention to city boards and the public and the real knowledge and information on global climate change.

There were no further comments. Public Forum was closed at 7:50 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: MS Walk, April 2, 2016

4.04 COMMUNICATION: 2015 ECOS Annual Report

4.05 COMMUNICATION: State Dept. of Taxes Acknowledgement of Petition for Redetermination of Values

4.06 COMMUNICATION: North Avenue Demonstration Project with Striped Bike Lanes

4.07 COMMUNICATION: CEDO Public Engagement Specialist – Phet Keomanyvanh

4.08 COMMUNICATION: BHA Board of Commissioners Appointment –Dawn Moskowitz

4.09 COMMUNICATION: Allocation of Contingency Funds – VNA Family Room

4.10 COMMUNICATION: Burlington Charter Changes

4.11 COMMUNICATION: Administratively Approved Zoning Permit –ZP16-0511CA/Appeal Process

4:12 COMMUNICATION: Final Grand List Summary, Tax Book Report, Errors List

4.13 COMUNICATION: Development/Construction Permitting Review – Contract Authorization and Fund Transfer

4.14 COMMUNICATION: FIO Documents

4.15 RESOLUTION: Use of Conservation Legacy Fund for 12 Acres on Former Burlington College Parcel

4.16 RESOLUTION: Amend Project Budget and Contract for Manhattan Drive West Temporary Slope Rehabilitation Project

4.17 RESOLUTION: Award Contract to Stantec Consulting Engineers for Redesign of Rental Car Quick Turnaround Facility at Airport

4.18 RESOLUTION: Amend Champlain Parkway Design Contract with Clough Harbor & Associates, LLP

4.19 COMMUNICATION: Downtown Parking Covers Extension 152 Cherry Street

MOTION by Councilor Colburn, SECOND by Councilor Mason, to accept the consent agenda (Items 4.01-4:19), noting revision to Item 4.11 (ZP16-0511CA/Appeal Process), Item 4.16 (Manhattan Drive West Project), and Item 4.19 (Downtown Parking Cover Extension), and removing Item 4.15 (Use of Conservation Legacy Fund) from the Consent Agenda and adding to the Deliberative Agenda as Item 5.02, and to take the action indicated. VOTING: unanimous; motion carried.

5.0 DELIBERATIVE AGENDA

5.01 Presentation: Burlington Town Center Redevelopment Plan

Councilor Mason recused himself based on his firm's involvement with the project. Don Sinex, Jesse Beck, Sherida Paulsen (via teleconference), and William Fellows gave a presentation on the Burlington Town Center (BTC) redevelopment. The following was highlighted:

· The project started a year and a half ago with a public review process on what should be done with the BTC property. There was consensus the site does not work well for the community at the present time.

· Five to six major design iterations have been done. Housing is a key component as are other city objectives in PlanBTV.

· Elements of the redevelopment include lower level retail, second level retail, three levels of parking above the retail, six levels of office structure, two levels of housing, and public amenity space. The Cherry Street side of the development will have two levels of office space and eight levels of residential space. On St. Paul Street there will be three levels of retail space and four levels of office space. St. Paul Street will be an open air corridor for connectivity. Pine Street will have a glass covered arcade to the Macy block.

· A variety of office space will be offered. Retail will be a mix of tenants with store fronts that open to the street. Streetscape and pedestrian activity on the street will be created.

· The residential component will bring life and needs to the site 24/7. There will be 264 units of housing on the Cherry Street side plus 10 units of residential at the top of the office building on Bank/St. Paul Street. Twenty percent of the 274 units will be affordable (55 units). The housing will be designed for senior and young professional workforce. The market will drive the number of units in each category. It is possible students from the area colleges may live in some of the units, but the housing is not student dorm housing. Most likely the units will be rentals, but there may be 10 units that are purchased.

Councilor Tracy mentioned the rumor that if the project cannot be started by January 2017 the developer will leave. Mr. Sinex pointed out the project team has worked diligently over the past year and a half to engage with the Administration and the public. Every deal has a life, but this project is not near that point. The project team will continue to work with the city. The project must go through permitting and all the necessary steps so there is ample time for discussion and changes as appropriate. Councilor Tracy asked if the developer is open to deep and thorough review by City Council. Mr. Sinex confirmed this. Councilor Tracy asked why Pine Street and St. Paul Street are not both thoroughfares. Mr. Sinex said St. Paul Street offers connectivity. The city asked the project team to rethink Pine Street and this is being done, but the developer does not control Pine Street.

Councilor Shannon commented the development is an opportunity to have profound value for the community and will be transformative which is both good and bad. The general view of the public has been optimistic. To better understand the impact on the city it would be helpful to impose the new vision over the existing vision. There is concern about the impact on the skyline by the development. Massing of the parking garage, the Pine Street arcade, and the Macy façade should be given consideration if possible. Jesse Beck said a human scale walk through rendering is in process with perspectives and views. Sherida Paulsen explained having the right massing is critical to making the development as aesthetically and architecturally pleasing as the rest of the downtown area.

Councilor Bushor concurred there is value in the proposal and having building height in this location. Voting with full knowledge is key so seeing a 3-D rendering to determine how much of a 'tunnel' looking toward the lake is created would be helpful. The mix of development is good. Housing with smaller spaces (studio apartments) would be good for people who work in the city and want to live in the city. Councilor Bushor asked about parking for residents of the housing units and if the project will purchase cars that can be utilized by tenants when needed. Mr. Sinex said the parking garage has 950 spaces above ground. In connection with the shared/smart parking project in the city there will be adequate parking. Councilor Bushor spoke positively about the covered arcade on Pine Street and that the developer has listened to comments and changed the project to make a space that is Burlington and not New York City.

Councilor Roof asked about existing parking spaces and proposed spaces. Don Sinex said there are up to 575 existing parking spaces and 948 spaces proposed. There will be bike parking in the garage with a shower and amenities for bicyclists. The buildings will be LEED certified. Councilor Roof asked if there will be an increase in retail space. Mr. Sinex said up to 60,000 s.f. of retail space will be added. There will be a daycare center as part of the retail use and a state-of-the-art five screen cinema (these two amenities are 45,000 s.f. of the 60,000 s.f.). The focus of the project has been on housing and three types of office space. Sherida Paulsen added the public said there is need for service retail and a mix of vibrant store fronts providing retail amenities to the downtown area. The space allows for this variety to co-exist. Councilor Roof asked about the relationship between the University Mall development and the BTC development. Don Sinex said both centers have co-existed for the past 35 years and serve distinct market places.

Councilor Colburn asked if a mix of student housing is envisioned. Mr. Sinex said the apartments will be market units. Students may be a part of the market. Councilor Colburn mentioned sustainability and energy efficiency standards. Mr. Sinex said the goal is LEED Gold at a minimum and the project team is searching for a path to Platinum which is very difficult and expensive to achieve. Jesse Beck added there are "green" systems incorporated into the building (geothermal, photovoltaic hot water system, energy envelope to increase thermal values, double/triple pane windows). A checklist will be done to ensure the development is sustainable.

Councilor Giannoni mentioned the need for a hardware store and affordable department stores in the downtown area. Also, the Pine Street arcade offers a gathering space for people. Mr. Sinex said there are some hardware stores interested in locating downtown. National retailers have a larger draw than local and regional retailers. There will likely be a mix of national, regional, and local retailers. A community room the size of a basketball court that can be divided into smaller spaces for community use is also in the plan.

Mayor Weinberger said issues in the development agreement will be discussed with Mr. Sinex in Executive Session. Success of the project depends on the partnership between the property owner and the city and areas where public and private meet. The two step process includes the MOU (what the agreement covers) and the full development agreement which will cover the project schedule, housing issues, building height, public improvements that require public investment, sustainability, livable wage/labor issues, and other matters as they arise. There will be more public discussion before a decision is made. The final document will be available before the vote.

5.02 Conservation Legacy Fund Use for Acquisition of 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 Mason, to waive the reading and adopt the resolution to authorize use of the Conservation Legacy Fund for acquisition of 12 acres of former Burlington College land.

<u>DISCUSSION</u>: The following comments were made:

- **Councilor Bushor mentioned her advocacy of open space as witnessed by her efforts to bring forth the Open Space/Conservation Legacy Fund to allow the community to have development and open space that goes with the quality of life in Burlington. Councilor Bushor spoke in support of using $500,000 from the fund and using an additional $500,000 if needed which will leave $1 million in the fund as of June 30, 2016. Every year the fund balance accrues and the $500,000 does not have to be paid out all at once so there will be money for another project. Regarding the storm water concern, the Purchase & Sales Agreement now has a clause that says storm water is managed on the development site. Councilor Bushor pointed out if the proposal does not move forward there will not be 12 acres to preserve. The property was purchased by a private party. The acquisition will preserve the open land for current and future generations.**

- **Councilor Shannon clarified a vote in support is not against the environment. To preserve the entire parcel was not offered to the city and the city has limited funds to purchase the land which is developable. There is going to be greater density concentrated in one area, but the overall number of units will not exceed what would be allowed if the entire parcel were developed. The appraised value of the acreage is $2.95 million and the city is paying $500,000 with potential to pay another $500,000 so the city has leveraged city dollars well. Additionally, the resolution was presupposed in the previous MOU that was approved.**

- **Councilor Colburn asked if the agreement to manage storm water on the development site is binding. Jesse Bridges said the desired outcome and intent of the storm water ordinance is to manage storm water on the development site. The additional offset is typically off site so there could be potential use of some open space for features that enhance the open space. Any uses must be done in a collaborative process with the city involved in the design.**

- **Mayor Weinberger expressed continued support for the project.**

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 Colburn – aye, Councilor Shannon – aye (9 ayes, 2 recusals, 1 absent); motion carried.

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

5.03 Burlington Town Center MOU (expected Executive Session)

Council President Knodell suggested the Executive Session to discuss the Burlington Town Center MOU be postponed until the end of the regular meeting.

6.0 COMMITTEE REPORTS

Ø Councilor Giannoni requested feedback on topics of discussion for the Public Safety Committee that include bike/ped safety, opiate and other addictions, sexual abuse, needle disposal.

Ø Councilor Shannon announced Burlington Telecom Advisory Board (BTAB) gathered public input on criteria of the sale of BT. The next meeting is 2/10/16 and the final meeting to prepare the document is 2/18/16. The document will be on the City Council meeting agenda for action on 3/7/16.

7.0 CITY COUNCIL – GENERAL AFFAIRS

Ø Councilor Colburn commented positively on the effort at the State House on gun safety and the Burlington charter changes. The legislature restored the budget amount in the Governor's Budget for Safe Recovery. The Administration gave an update on the effort to advocate for Safe Recovery and syringe exchange funding and is urged to follow the measure to the vote. *Vermont Digger* had an article on the challenges of the opiate epidemic. There is incredible need in Chittenden County.

Ø Councilor Tracy mentioned municipalities outside of Vermont are also dealing with the issue of contaminated soils in city parking lots so Burlington is not alone. Councilor Tracy said an update on the permit reform effort is needed. [Council President Knodell said the item is on the next meeting agenda.]

Ø Councilor Giannoni recognized the effort by residents in the old north end to do a creative community building project called the "wall of kindness" where clothes and shoes for those in need can be left at the wall for taking.

Ø Councilor Roof requested feedback from city boards and the community on how to better make appointments and improve communications in the city. [Council President Knodell said this item will be on a future agenda for discussion.]

Ø Councilor Wright reminded everyone of Town Meeting in three weeks and urged all to vote on the charter changes, North Avenue issue, and the Presidential Primary. Councilor Wright discouraged people from harassing any bicyclists on North Avenue and to have respectful debate that sticks to the facts and issues.

Ø Councilor Ayres announced the North Avenue Task Force is meeting 2/9/16 in the Miller Center. CCTV will host a public forum on the North Avenue issue on 2/12/16 with two speakers for and two speakers against the changes.

8.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

Council President Knodell announced celebration of the Committee of Chairs in Contois Auditorium will be held at 6 PM on 2/16/16 and on 2/22/16 at 6 PM there will be an information session on the ballot questions.

9.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger noted:

- City Council approved $100,000 transfer to hire consultants to work on permit reform and $10,000 from the Contingency Fund for the VNA Family Room
- The additional Assistant City Attorney made a difference with the charter change effort put forth by the city.
- Fire Chief Steve Locke is now on board.
- The Mayor is attending NPA meetings prior to Town Meeting.

10.0 EXECUTIVE SESSION

Councilor Mason recused himself.

MOTION by Councilor Bushor, SECOND by Councilor Shannon, to find that premature disclosure of the negotiation of a contract with BTC would put the city at a substantial disadvantage. VOTING: unanimous; motion carried.

MOTION by Councilor Bushor, SECOND by Councilor Shannon, to go into Executive Session to discuss the Burlington Town Center MOU and to invite member of the City Attorney's Office, Attorney Jeremy Farkus, members of the Mayor's Office, members of the CEDO staff, members of Planning & Zoning staff, and Mr. Braverman to attend. VOTING: unanimous; motion carried.

Executive Session was convened at 9:48 PM.

MOTION by Councilor Bushor, 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 10:55 PM.

11.0 ADJOURNMENT

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

The meeting was adjourned at 10:55 PM.

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