



Regular City Council Meeting - Monday, February 6, 2017, 7:00 pm, Contois Auditorium, City Hall 2/6/2017

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 6, 2017

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

David Hartnett – North District

Joan Shannon – South District

Selene Colburn, East District [via teleconference at 7:44 PM]

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 Blackwell, City Attorney
Rich Goodwin, DFO
Jennifer Kaulius, Mayor's Office
Brian Lowe, Mayor's Office



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Katie Vane, Mayor's Office

Amy Bovee, C/T Office

Lori Olberg, C/T Office

Brandon Del Pozo, Police Chief

David White, Planning & Zoning

Jesse Bridges, Parks & Rec

OTHERS PRESENT:

Ron Ruloff

Liz Curry

Rachel Siegel

David Clemons

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

1.0 CALL TO ORDER and AGENDA

Council President Knodell called the City Council meeting to order at 7:15 PM on February 6, 2017 and led the assemblage in the Pledge of Allegiance.

1.01 Agenda

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

- **Add amendments to Item 4.02 – Police Commission task force.**

VOTING: unanimous; motion carried.

2.0 PUBLIC FORUM

Public forum was opened at 7:28 PM.

COMMENTS



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- Ron Ruloff, resident, again mentioned contacting the Chinese consulate and spoke of the city seeming to think affordable housing is the key to raising money to make up for money lost in the pension fund, the BT scandal, and so on, all of which were ill considered. Mr. Ruloff said there is question as to the competency of City Council as a group. There are two derelict buildings - Moran Plant and Memorial Auditorium – both of which need to be demolished. There is no sense in reality in the plans of City Council. The public record of accomplishments in finance for the city is not impressive.
- Liz Curry spoke in support of the Police Commission task force which will allow the community to vet the models to ensure needs and complex issues of the community and how police are engaging in these are being addressed.
- Rachel Siegel, Ward 3, spoke in support of the task force for the Police Commission. Ms. Siegel reviewed background information on the establishment of the task force.
- David Clemons, Burlington Police and Police Union, gave a brief historical perspective on disciplinary proceedings in the police department, noting he is not aware of any problems or issues or police corruption. Civilian complaints come to the department in many ways. Mr. Clemons offered to answer any questions and provide clarity on procedures at the department.

There were no further comments. Public Forum was closed at 7:43 PM.

3.0 CONSENT AGENDA

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

3.02 COMMUNICATION: Accountability List

3.03 COMMUNICATION: Minutes 11/14/16 City Council

3.04 COMMUNICATION: Minutes 11/14/16 Local Control Commission

3.05 COMMUNICATION: Minutes, 11/14/16, Board of Finance

3.06 COMMUNICATION: Minutes, 11/28/16 Mayor Presiding

3.07 COMMUNICATION: Minutes, 11/28/16 City Council

3.08 COMMUNICATION: Minutes, 12/12/16 City Council

3.09 COMMUNICATION: Minutes, 12/12/16 Local Control Commission

3.10 COMMUNICATION: Minutes, 12/19/16 City Council

3.11 COMMUNICATION: Minutes, 11/14/16, Board of Finance

3.12 COMMUNICATION: Minutes, 11/21/16, Board of Finance

3.13 COMMUNICATION: Minutes, 12/5/16, Board of Finance

3.14 COMMUNICATION: Minutes, 12/19/16, Board of Finance

3.15 COMMUNICATION: Step Placement, Andrew Desforges

3.16 COMMUNICATION: State of Vermont v James Schlosser





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- 3.17 COMMUNICATION: Appropriation Request, Big Heavy World
- 3.18 COMMUNICATION: Design Contract Amendment #10, Clough Harbor
- 3.19 COMMUNICATION: FIO Document(s)
- 3.20 ORDINANCE: ZA#17-09, Major Impact Review
- 3.21 RESOLUTION: License Agreement, H.P. Cummings Construction
- 3.22 RESOLUTION: Concession Agreement Amendment, Hudson Group
- 3.23 RESOLUTION: Office Lease, Main Street Project Services
- 3.24 RESOLUTION: Part-Time Vehicle-for-Hire Compliance Officer Position

MOTION by Councilor Bushor, SECOND by Councilor Roof, to adopt the Consent Agenda, Items 3.01 – 3.24 with amendment to Item 3.22, and to take the action indicated. VOTING: unanimous; motion carried.

4.0 DELIBERATIVE AGENDA

4.01 Smoking Prohibition at City Parks

MOTION by Councilor Hartnett, SECOND by Councilor Paul, to waive the reading and adopt the ordinance prohibiting smoking in city parks.

DISCUSSION: The following comments were made:

- Councilor Hartnett pointed out the prohibition is a partial ban on smoking in the city's public parks as a compromise by the PACC. Informal surveys done at Burlington High School and in neighborhood parks showed support for a ban in the following parks: Pomeroy, Roosevelt, Schmanska, and Calahan. There was not support for banning smoking in City Hall Park. The proposal is not much different from the ban in place now disallowing smoking on the beaches or within the 25' or 50' buffer of a playground or athletic field. The existing ban is not enforced and there are no signs posted. It is hoped the proposed ban will be used to educate people and not be used to do a full ban. The proposal is a fair compromise. There are parks where smoking is allowed in designated smoking areas.
- Councilor Bushor asked who manages the athletic fields in the school department and maintains the smoking buffer. Jessie Bridges said school grounds are 100% smoke free. The schools maintain their own athletic fields. The Parks Department maintains a number of fields as school athletic fields because the schools do not have their own fields. All property managed by the Rec Department will be smoke free except the five parks that are called out with designated areas for smoking. Staff is already discussing areas to be designated.
- Councilor Bushor suggested amending Line 20 in the ordinance to read "Additionally, the Director of Parks and Recreation shall designate specific areas within those parks."
- Councilor Bushor asked about having a public hearing before adopting the ordinance per usual practice. Councilor Mason pointed out the first reading and hearing were held already and this would be considered the second reading and passage. Eileen Blackwood added the ordinance is going through the process. Any substantive changes go back to the Ordinance Committee. The Parks Commission held public meetings and reviewed the ordinance which was sent to City Council as requested at the first reading. Councilor Bushor commented it would have been helpful to have a history of what happened when the ordinance was referred



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to Parks and Rec.

- Councilor Hartnett noted according to Gene Bergman a public forum is not needed because a zoning ordinance is not being changed. Jesse Bridges noted the previous ordinance before City Council that was referred to the Ordinance Committee was never voted by City Council and was referred back to the Parks, Arts, and Culture Committee (PACC) so in essence this is an amendment to that ordinance revision. There were many PACC meetings and Park Commission meetings on the ordinance with multiple opportunities for feedback from the schools and students. There has been lots of conversation and public hearing and public agendas on the topic over the last year. Councilor Bushor asked if the public was present at the PACC for the amended ordinance. Councilor Hartnett said the PACC did not call a public meeting on the topic, but did have public input.

AMENDMENT by Councilor Bushor, SECOND by Councilor Paul, to amend Line 20 of the ordinance to remove "it shall be within the discretion of" after "additionally" and replace with "the two" and to amend Line 21 to use the word "shall" after the word "Recreation" to read: "Additionally the Director of Parks and Recreation shall designate specific...."

DISCUSSION ON AMENDMENT: The following comments were made:

- Councilor Shannon said the language was worked out over many meetings and seems acceptable as it exists so there is question as to why the language now needs to be changed.
- Councilor Paul said the amendment makes sense and spells out the intent more clearly.
- Councilor Tracy said he favors the compromise, but leaving it up to discretion is not clear enough so clarity in the language is needed.

There were no further comments.

VOTING ON AMENDMENT (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 – ayes, Councilor Knodell – aye, Councilor Colburn – aye, Councilor Shannon – nay (11 ayes, one nay); motion carried.

DISCUSSION ON ORDINANCE LANGUAGE AS AMENDED: The following comments were made:

- Councilor Mason expressed appreciation for the work done to get to a compromise, but noted based on anecdotal experience it is likely City Council will revisit the issue again in the future.
- Councilor Shannon stated having a smoking ban makes a difference in the parks. Signs need to be posted or replaced if missing and it is up to the public to tell people they cannot smoke in the parks. The ordinance is not enforced by the police or the Parks Department. The compromise is appreciated as the issue continues to evolve.
- Councilor Wright commented on how long the issue has been ongoing and that the current city councilors cannot bind future city councilors.
- Councilor Paul echoed the remark about how long the issue has been ongoing, but a compromise was made by PACC though it was difficult to find common ground for everyone. Thanks goes to Jesse Bridges for his effort to find a compromise. Regarding the ban in areas with private property, bills for the boat slips sent to slip owners and boat owners will include information saying the boat docks are smoke free and all people with boats must refrain from smoking while in dock.
- Mayor Weinberger thanked Jesse Bridges and all who worked to find a compromise.

There were no further comments.



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VOTING: unanimous; motion carried.

Council President Knodell called for a two minute recess after which the meeting resumed.

4.02 Task Force to Assess Responsibilities of Police Commission

MOTION by Councilor Giannoni, SECOND by Councilor Tracy, to waive the reading and adopt the resolution to appoint a task force to assess responsibilities of the Police Commission using civilian oversight models with the following amendments:

- **Line 10 to read: "Whereas, The Police Commission is currently conducting public outreach regarding the Burlington Police Department's and State of Vermont's Fair and Impartial Policing policies;"**
- **Line 17 to read: "Now, Therefore Be It Resolved that the Burlington City Council requests that once the Police Commission's community outreach is complete, the Council President working with the Mayor will appoint a task force on the role of the Police Commission in an inclusive society to look at the responsibilities of civilian oversight bodies such as the State Police Advisory Commission (SPAC), and;"**
- **Line 22 to read: "Be It Further Resolved that the Council allocate \$5,000 from the Councilor Initiatives Fund to be used to hire a facilitator to staff and support the task force;"**
- **Line 26 to read: "Be It Further Resolved that the Council asks the task force to report back to City Council and the Burlington Police Commission with recommendations for review and consideration within six months after starting its work."**

DISCUSSION: The following comments were made:

- **Councilor Giannoni said the purpose of the resolution is to include community voices when considering the role of the Police Commission. Councilor Giannoni said she has learned a lot about privilege, discrimination, bias, power and control and wants input from communities most impacted by police and societal bias. Councilor Giannoni said she personally has had positive interaction with police, but not everyone does. There has been concern expressed about the resolution that people will be overly critical of the police, but criticism should be expected and if there is to be a strong relationship between the community and the police some very difficult conversations are necessary. It is important to hear the community's experience with police, both local and elsewhere. The Police Commission started the process of gathering feedback on fair and unbiased policing policy and use of force. The Police Commission has not officially voted in support of the resolution, but positive feedback has been received. It is important to have a task force separate from the Police Commission to get honest feedback from people who might be intimidated or jaded by the Police Commission's link to the Police Department. It is also important to understand the challenging job police officers have every day. An important part of the conversation is how the Police Commission can better support police officers in doing their job and doing the job the city expects them to do in an equitable fashion. Feedback on the role of the Police Commission is needed from the community. The Public Safety Committee has not discussed the role of the Police Commission. The Police Commission parallels the role of the State Police Advisory Commission, but the city should dig deeper to see if the model can be improved for Burlington. With regard to the Diversity and Equity Plan, the goals of equity and inclusion must be iterative. There is always room to grow and improve. More inclusion and equity means being open to change, criticism, and community voices.**
- **Mayor Weinberger read a letter from Curtis Reed, diversity and equity advisor to the city, saying the task force is redundant to the Police Commission and State Police Advisory Commission.**



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- **Police Chief Del Pozo stated to increase the level of trust between the people and the police the right levels of accountability, oversight, discipline, and transparency are needed. SPAC provides that transparency. Burlington Police Department (BPD) has been performing well up to this point. BPD in good faith is making strides in diversity, equity, transparency, accountability, and in the realm of discipline is transparent and accountable the way SPAC provides. Regarding diversity, the most diverse class of recruits has been hired including people born in Africa, Vermont born people of color, women, Asians. Chief Del Pozo spoke of the Diversity and Recruiting Hiring Report and helping to rewrite the police exam to afford more opportunity to applicants of color. The application and recruitment process has been changed to support diversity of applicants by changing the order of the process (i.e. if an applicant cannot pass the test, but shows promise then the applicant will move through other parts of the process to see if the test can then be nailed down). The result cumulatively is a more diverse force. BPD has made strides in transparency even when it spurred criticism. Car stop data is published quarterly and analyzed by the department. The need for innovation and change and to account for actions is acknowledged. Productivity and hit rate in car stop searches has reached a level of parity between races in Burlington. Regarding use of force data, a comprehensive dump of data was done. Regarding strides in accountability, anyone can file a complaint online and each complaint and the rundown can be viewed. With the disciplinary process there is no compromise. The department will acknowledge deficiencies and successes and be held accountable for actions. SPAC is hand-in-hand with the level of transparency BPD has tried to bring. The police force is being asked to trust the Chief, take new risks, to know they can work with pride and not feel exposed. Chief Del Pozo expressed concern that going further than SPAC will suggest to the force that what they are doing is not good enough. To say the department has done all this and the task force has to show the way forward will erode the bond of trust between the Chief and the officers where in every level BPD has been leading the state in reform.**
- **Mayor Weinberger stated the Administration supports moving forward with the recommendation, but creating a task force would not be good use of the public's time or good use of valuable police resources. The resolution allows action with respect to SPAC and allows the police to remain focused on meeting public safety needs and new demands of the 21st Century. Mayor Weinberger cautioned against dealing a setback by creating a new process.**
- **Councilor Tracy stated the task force is opportunity to engage in open conversation and to bring more light, more transparency, and continue the good work of the police, not cut off the work. There are disparities playing out across the state which uses the SPAC model so why limit the department to that model when there is opportunity to look at other methodologies. The country is in the midst of a new civil rights movement and to not look at new and innovative strategies beyond the status quo is so not Burlington. Burlington is about pushing the envelope, trying new things, to being open to being vulnerable to changes. The voices of LGTB individuals and people of color need to be elevated. People from the refugee community need to be elevated. The tremendous advice of the ACLU needs to be taken into account. The voices need to be elevated and given a formal seat at the table. Any watering down of the resolution is a step backward for Burlington and the people looking at City Council as a body to create change.**
- **Councilor Paul asked for a point of order that everyone be reminded to address the Council President when speaking.**
- **Councilor Wright asked for an explanation of the "watering down" reference. Councilor Colburn explained the resolution is asking to engage marginalized communities in discussion about community oversight and having a hand in shaping the community oversight. The communities represented in the resolution do not feel they have been engaged in conversation. The itemization of reforms in the Police Department is appreciated, but robust conversation with the community on a model of oversight is needed particularly when the Police Commission supports the task force to help shape their role moving forward.**
- **Councilor Roof asked that Ms. Longmore, Police Commission, address outreach by the Police Commission to the community and civilian oversight. Ms. Longmore said the work being done is related to fair and impartial policing policy. Feedback from the community was that more public input is needed so public forums are**



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being set up. Not much is being heard about the good things that have happened. When talking about restoring or improving the trust that parts of the community have for the Police Department any case where there is a conflict presents an opportunity. Burlington has a history of doing this as a community. Burlington is a small city that is changing so there is real opportunity to engage the community and create some trust with these groups.

- Councilor Bushor said her interpretation of the resolution is not putting the police under a microscope - there are incredible people in the Police Department – but rather to seek a structure that goes beyond the existing people on the Police Commission and BPD to ensure in charter language the role of the Police Commission and facilitating outreach and being the interface between the community and the Police Department to make it better and bring people together. Everything that is done references the Diversity and Equity Strategic Plan and this is consistent with what the plan says to explore. At a minimum the conversation should continue if there is no agreement on the task force by the entire City Council.
- Councilor Hartnett pointed out the numerous task forces and subcommittees already in existence to review policies on fair and impartial policing and the Police Department. BPD does outreach and has transparency and has open its doors to the community. Community groups must do the same and include the police.
- Councilor Giannoni stressed the goal of the task force is to seek out and get feedback from communities that historically and presently are saying they do not have great experiences with police.

AMENDMENT by Councilor Giannoni, SECOND by Councilor Bushor, to refer the resolution and all amendments to the Public Safety Committee to draft language that would be acceptable to City Council (i.e. a compromise that more of the council could support).

DISCUSSION ON AMENDMENT: The following comments were made:

- It was confirmed that the Public Safety Committee has not discussed the task force.
- Councilor Roof noted his concerns with the resolution and task force include who makes the recommendations and the consultant/facilitator fee.
- Councilor Colburn spoke in support of referring the matter to the Public Safety Committee for further discussion. The resolution is not trying to create a task force to examine policing policies or to have direct oversight over the police or critique or scrutinize policing, but will review community oversight models and look at recommendations from the Diversity and Equity Plan and how those may be implemented with the Police Commission. More conversation is needed to find a path forward that will garner more support.

There were no further comments.

VOTING (by roll call): Councilor Bushor – aye, Councilor Tracy – aye, Councilor Giannoni – aye, Councilor Wright – nay, Councilor Mason – aye, Councilor Paul – nay, Councilor Ayres – nay, Councilor Roof – aye, Councilor Hartnett – nay, Councilor Knodell – aye, Councilor Colburn – aye, Councilor Shannon – nay (7 ayes, 5 nays); motion carried.

5.0 COMMITTEE REPORTS

- Councilor Shannon reported Burlington Telecom Advisory Board held a public meeting on the process for sale of BT. There will be a second meeting on 2/8/17 to discuss the process for attracting buyers. Public input is wanted. There will be some kind of sale. The city could become a partner.
- Councilor Wright reported the Charter Change Committee discussed the Mayor veto issue and the issue of reconsideration.
- Councilor Roof reported CDNR had a meeting and presentation on the inclusionary zoning report by the consultants. The meeting was well attended with lots of opportunity to ask questions.



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6.0 CITY COUNCIL – GENERAL AFFAIRS

- Councilor Roof announced the Penguin Plunge raised over \$500,000 this year.

7.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

Council President Knodell announced:

- On 2/10/17 a delegation of Members of Parliament from Tajikistan will have dialogue with city councilors who can attend the event sponsored by Vermont Council and World Affairs.
- The joint City Council and School Board dinner is 2/13/17 at the Sustainability Academy. Discussion will include post-high school outcomes for youth who do not go on to college and building a school to the livable wage pipeline.

8.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger reported the following:

- Communication was received from Public Works Director, Chapin Spencer, providing an update on progress with the Champlain Parkway.
- Groundbreaking for the new City Market is 2/8/17.
- Mary Danko began her work as the new Fletcher Free Library Director with a human origins exhibit 2/18/17 through 3/17/17. There is a long list of events to take place at the library.
- The meeting with the School Board and City Council on 2/13/17 is at the Sustainability Academy.
- Board of Finance has a meeting on 2/13/17.

9.0 EXECUTIVE SESSION and/or ADJOURNMENT

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

The meeting was adjourned at 9 PM.

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