



Regular City Council Meeting - Monday, January 22, 2018, 6:00 pm - 7:00 pm, Conference Room 12, City Hall *Special City Council Worksession re: City Council Rules and Procedures*; 7:00 pm, Contois Auditorium, City Hall, *Regular City Council

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

January 22, 2018

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

David Hartnett – North District

Joan Shannon – South District [arrived 6:12 PM]

Richard Deane – East District

Sharon Foley Bushor – Ward 1

Max Tracy – Ward 2

Sara Moore – Ward 3

Kurt Wright – Ward 4

William “Chip” Mason – Ward 5

Karen Paul – Ward 6

Ali Dieng – Ward 7

Adam Roof – Ward 8

ADMINISTRATION: Miro Weinberger, Mayor

Beth Anderson, Interim CAO

Rich Goodwin, DFO

Eileen Blackwood, City Attorney

Brian Lowe, Mayor’s Office

Katie Vane, Mayor’s Office

Lori Olberg, C/T



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Amy Bovee, C/T

OTHERS PRESENT: James Lockridge

Steve Marshall

Abbie Tycocki

Patrick Johnson

Margaret Bozik

Jimmy Leas

Julie Masuga

Gloria Flinn

Brian Pine

Leslie Mackenzie

Matt Oberg

Jessica Bridges

1.0 CALL TO ORDER and AGENDA

City Council President Knodell called the City Council meeting to order at 6:11 PM on January 22, 2018

1.01 Agenda

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

- **Note presentation for Item 3.01 (Fire Chief on Torrey Hall Fire)**
- **Note revised Item 5.08 (BTC Bank Street and Cherry Street Design)**
- **Note amendment to Item 6.02 (Quality of Life Ordinances)**
- **Note revision to Item 6.03 (Support of Burlington Homeless Community)**

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

2.0 SPECIAL WORK SESSION



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2.01 Council Rule 7: Member Responsibilities – City Attorney

There was discussion of the following:

- Roberts Rules augmenting City Council rules
- Layers of rules with the legislature, Roberts Rules, and City Council rules
- Disclosing conflicts of interest and reasons for recusal
- Model conflict of interest policy by VLCT
- Expectation to cast a vote unless there is a conflict of interest
- Having the option to vote "no" if this is felt to be in the best interest of the city
- Staying seated at the table during the meeting unless there is an emergency
- Reading and agreeing to abide by the rules of official conduct
- Treating staff and the public with courtesy and respect.

Councilor President Knodell noted there will be further discussion of the rules with the new sitting City Council after the annual meeting elections.

2.02 Councilor/City Employees Relationship – City Attorney

City Attorney Blackwood pointed out city councilors are elected officials and policy makers as well as the employer of city employees. Councilors need to be careful with social media interactions with city staff. Any complaints received from constituents about city employees should go through the HR process. If regional dispatch is approved then the dispatchers will transition from employees of the city to employees of another entity and bargain the terms of employment there. It is an awkward position for the dispatchers to be speaking to City Council about regional dispatch now. The dispatchers should be speaking to their union reps.

Councilor Dieng asked about the relationship with BT employees. City Attorney Blackwood said that will depend on the agreement that is signed.

Councilor Roof asked the risk to the city if the rules are violated. City Attorney Blackwood said there is a grievance process.

2.03 Update on Public Records Case Law and Open Meeting – City Attorney

City Attorney Blackwood advised personal email and text messages about city business are public record and subject to the Freedom of Information Act. People emailing and texting should be made aware of this and should communicate with city councilors through the city email. Changes to the Public Records Law proposed by the legislature will have an impact on City Council.

Councilor Bushor asked about correspondence marked confidential. City Attorney Blackwood said the correspondence is



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public record. Further clarification is needed on confidentiality. All records as a city councilor should be kept. Councilor Hartnett said it is disrespectful to constituents to publicize their correspondence. Councilor Shannon pointed out there were private exchanges without publicizing before social media was in place. There are times when people want to talk to a city councilor privately.

2.04 Councilor Questions/Comments on Council Rules

Councilor Dieng suggested having a Council President and Vice President. Council President Knodell will add this item to the list of discussion items.

Councilor Hartnett suggested a set number of meeting call-ins be allowed per member per year. City Attorney Blackwood pointed out state law allows attendance by phone provided all members can hear and be heard.

Councilor Mason suggested the conflict of interest and codes of ethics be reviewed at the commission level.

Items for further future discussion include:

- Conflict of interest
- Requirement to vote
- Council President and Vice President positions
- Call-in to meetings and roll call vote

With no further business the work session ended at 7:06 PM. Following a short recess City Council meeting resumed at 7:16 PM.

3.0 PRESENTATION: Torrey Hall Fire

3.01 Lessons Learned from Torrey Hall Fire – Fire Chief Locke and Fire Officers

Fire Chief Locke and Deputy Chief Collette stated the Torrey Hall fire on UVM campus was labor intensive and involved five aerial apparatus and 12 fire and medical agencies assisting in fighting the fire. The building loss was \$2.8 million. Fire loss was \$600,000. The irreplaceable collection in the building was saved. Buildings under construction are high risk for firefighters due to lack of a fire suppression system being in place and access to the building being hindered by construction fencing. The mansard roof on the Torrey building allowed the fire to travel into and spread through the void space, but the crew was well trained for this type of fire and performed well despite the hot and humid weather that made it more difficult wearing all the equipment and gear.

Council President Knodell asked about regional dispatch. Fire Chief Locke said regional dispatch is expected to work the



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same as the current system in receiving alarms and sending out calls to resources for mutual aid. With the Torrey fire there were numerous calls to additional centers. Other fire agencies covered the city while BFD was fighting the Torrey fire.

Councilor Deane asked if the requirements for "hot work" were followed at UVM. Fire Chief Locke said there was suppression equipment and the rules were followed exactly. The building structure was old and an ember got behind the copper and the fire started. Councilor Deane asked if insulation contributed to the voracity of the fire. Deputy Chief Collette said there was ice and water shield, not insulation.

Councilor Bushor acknowledged the firefighters from Fire Station 3. Fire Chief Locke said the firefighters do great work every day in a labor intensive job. Councilor Bushor mentioned the size of the equipment needed in the city due to building heights. Fire Chief Locke said the size of the fire station, especially the older stations, and the size of the doors are limiting factors with equipment.

Councilor Moore asked for an opinion on regional dispatch. Fire Chief Locke said he is a proponent of regional dispatch which will allow efficiency in moving resources around the county as needed.

Councilor Dieng asked if the BFD budget and number of employees will change with regional dispatch. Fire Chief Locke said the regional dispatch will move the units around the county. BFD still needs the resources to deliver the right number of firefighters to the scene. No reduction in staffing or budget is anticipated as a result of regional dispatch as it relates to BFD. Councilor Dieng asked if BFD could have handled the fire at UVM alone. Deputy Chief Collette said due to the additional responses that occurred once on the scene additional help was necessary. Councilor Dieng asked if it is faster for the other fire stations in the city to respond rather than waiting for Essex Fire Department to arrive. Fire Chief Locke said all Burlington resources were on scene within five minutes from the time of call. Essex Fire Department backfilled at the stations. Fires are labor intensive and big fires require a lot of personnel. Burlington firefighters are responding to fires every day and that wears out resources.

Mayor Weinberger commented the presentation by Fire Chief Locke and Deputy Chief Collette was a great opportunity for the public and City Council to see the impressive response to the fire by BFD and all the crew members.

4.0 PUBLIC FORUM

Public forum was opened at 7:40 PM.

COMMENTS

- James Lockridge urged support of the resolution for an advisory question on the ballot to generate revenue for the Housing Trust Fund to help people continue to be able to call Burlington home. City Council is also urged to learn more about the hurt and harm caused by the parade mural to citizens of color and others who are marginalized. The mural should be removed and replaced with one that unites the community.
- Steve Marshall urged support of the amendment to the ordinance on public waste elimination. More time should be



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given for an effective change. The city needs to plan for public facilities for people to eliminate waste. Tickets issued by the police should say where the infraction occurred and where the nearest bathroom was located so the city can collect information on where the need is the greatest.

- Abbie Tycocki requested additional context on the carried interest option with BT and having a year from the close of the transaction to enter into the membership purchase agreement (line 21).
- Patrick Johnson urged City Council to vote against Proposition 2 (1% tax on houses greater than \$500,000) because the tax is unnecessary and driven toward individuals rather than multi-unit profit driven landlords who can pass on the cost to tenants. As property values increase even starter homes can be close to \$500,000. Not charging the 1% tax may incentivize small landlords to keep lower rents and stop purchasing larger and more units.
- Margaret Bozik, Champlain Housing Trust, reported the Homeless Alliance has worked to provide the homeless with more streamlined access to resources. The community will have better data on homelessness and will use the data to direct people to the appropriate resources.
- Jimmy Leas spoke against the F-35 at Burlington Airport and in support of letting the people vote on the matter.
- Julie Masuga spoke of the petition against the F-35 and in support of letting people vote on the matter.
- Gloria Flinn said the 1% sales tax on properties to go toward affordable housing seems arbitrary and will make housing less affordable. Home owners pay lots of tax now and will have to pay this additional 1% tax when their house is sold.
- Brian Pine spoke in support of the Housing Trust Fund question on the ballot since federal funding support for affordable housing has decreased significantly and the Housing Trust Fund creates permanent affordable housing.
- Leslie Mackenzie spoke on the 1% sales tax on property to support affordable housing and recognized the concern for affordability, but the resolution has not been vetted fully or allowed some process. City Council is urged to take a more holistic approach and look at opportunity to improve the economic climate to allow more housing (affordable, workforce, and upper middle class) and increase the grand list.
- Matt Oberg, real estate broker, said the 1% sales tax will not benefit anyone in Burlington and will drive away anyone with the means to pay taxes. It is unfair to discriminate against a segment of the population the city should encourage to invest in Burlington. The affordable housing crisis is due to zoning and permitting, both of which need reform in Burlington. According to developers nearly 40% of the cost to build houses is the permitting process.
- Jessica Bridges spoke about funding for the affordable housing program and that there should be a vetting process. Industry professionals should be involved. A plan can be developed that will surpass what is being proposed in its current form.

There were no further comments. Public Forum was closed at 8:10 PM.

5.0 CONSENT AGENDA

- 5.01 PROCEDURAL: Amend/Adopt Consent Agenda and Take Action(s) as Indicated
- 5.02 COMMUNICATION: Accountability List
- 5.03 COMMUNICATION: Errors & Omission List FY2018
- 5.04 COMMUNICATION: State Dept. of Taxes Tentative Redetermination Estimates
- 5.05 COMMUNICATION: Tyler Technologies Agreement Amendment
- 5.06 COMMUNICATION: FHWA Grant for Rte. 127 Slope/Shoulder Repair
- 5.07 COMMUNICATION: ECHO TIF Project Update and Lease



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5.08 COMMUNICATION: BTC Bank and Cherry Street Design Consultant

5.09 COMMUNICATION: November 2017 Financials

5.10 COMMUNICATION: Sweep Accounts and Other Bank Accounts

5.11 COMMUNICATION: FIO Document(s)

5.12 RESOLUTION: Capital Lease-Purchase Agreement, Key Government Financing, Inc.

5.13 RESOLUTION: Customer Service Associate and Cemetery Position

5.14 RESOLUTION: BT Customer Service Sales Associate Position

MOTION by Councilor Roof, SECOND by Councilor Bushor, to adopt the Consent Agenda and take the action indicated for Items 5.01 through Item 5.14. VOTING: unanimous; motion carried.

There was a brief recess. The meeting resumed at 8:25 PM and the Pledge of Allegiance was recited by the assemblage.

6.0 DELIBERATIVE AGENDA

6.01 Ordinance: Offenses and Miscellaneous Provisions\Ordinance to Repeal – City Attorney; Ordinance Committee

MOTION by Councilor Mason, SECOND by Councilor Bushor, to consider this the first reading and refer to the Ordinance Committee for hearing.

DISCUSSION:

- Councilor Mason noted this is the first reading, not the second, on a number of ordinance changes that grew out of the Quality of Life ordinance issues.
- Councilor Bushor stated the Ordinance Committee discussed behavior, not speech, and the ordinance addresses behavior.

There were no further comments.

VOTING: unanimous; motion carried.

6.02 Ordinance: Offenses and Miscellaneous Provisions\Quality of Life Ordinances – City Council

MOTION by Councilor Mason, SECOND by Councilor Wright, to suspend the rules, place in all stages of passage, and approve the changes.

DISCUSSION:

- There was discussion of public elimination of waste and availability of public bathrooms.
- Councilor Mason explained changes to the ordinance were made and passed on recommendation from the Police Department. The changes soften the criminal violation and add the restorative justice element.





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- Councilor Wright noted this is one step to addressing the issue.

AMENDMENT by Councilor Tracy, SECOND by Councilor Moore, to send the changes to the Public Safety Committee for review.

DISCUSSION ON AMENDMENT:

- Councilor Tracy said the city is trying to create an accountability and reasonableness mechanism to address the problem of public elimination of waste. Giving greater access to public bathrooms is a way to do that.
- Councilor Roof assured the Public Safety Committee will look at the matter.
- Councilor Shannon pointed out referring delays action on enforcing the rule on public urination/defecation which needs immediate enforcement.
- Councilor Wright urged acting on the work done by the Ordinance Committee to show the community that City Council can take action on the matter. The Public Safety Committee will be coming at the issue from a different point of view.
- Councilor Hartnett said it is common sense to adopt the ordinance changes now to address the small segment of the population causing the problem.
- Councilor Moore noted the number of tickets issued for public elimination of waste decrease in winter so there is more time to resolve how to address the situation where someone is unable to get to a bathroom in time.
- Councilor Bushor said the open container portion of the ordinance is important and getting lost in other behaviors to control. The ordinance as amended is more lenient due to the restorative justice element.
- Councilor Mason agreed to send the matter to the Public Safety Committee since the ordinance was improperly warned as a second reading.
- City Attorney Blackwood pointed out the police can still write tickets for criminal behavior with or without the ordinance, but this allows issuing a civil ticket and then ticketing for a criminal offense if the behavior continues.
- Council President Knodell stated the proposed changes facilitate enforcement.
- Councilor Dieng urged allowing the Public Safety Committee to come up with recommendations for public bathrooms. Businesses in the city should allow use of their bathrooms to anyone.

VOTING ON MOTION AS AMENDED (send to Public Safety Committee): 9 ayes, 3 nays; motion carried.

6.03 Resolution: Support Burlington Homeless Community – Public Safety Committee

MOTION by Councilor Roof, SECOND by Councilor Hartnett, to waive the second reading and adopt the resolution with the amendment to Line 73 to include providing a progress report to the full City Council in six months.

DISCUSSION:

- Councilor Roof reviewed the seven recommendations from the committee including increasing the capacity of low barrier shelters and looking at options, standardizing processes between agencies, reviewing the encampment removal policy, increasing opportunities for engagement in the community, increasing public restroom access in the downtown, increasing communications with the Homeless Alliance and City Council, and adding funding in the budget.
- Councilor Hartnett spoke in support of having more Housing Retention Specialists in the county to expand outreach and get answers to the crux of the problem of homelessness.



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There were no further comments.

VOTING: unanimous; motion carried.

6.04 Resolution: BT Carried Interest Options – City Councilors

MOTION by Councilor Paul, SECOND by Councilor Roof, to waive the reading and adopt the resolution on the city's carried interest options.

DISCUSSION:

- Councilor Paul explained this will allow converting funds from the BT sale proceeds to carried interest in the new entity per Section 8.09 of the Asset Purchase Agreement. A work session and two public forums will be held in January prior to the vote in February in order to meet the deadline. The city can have up to 33% carried interest, but will not have enough proceeds to do this so other avenues to reach that percentage must be discussed. Line 21 of the resolution says the decision on carried interest must be decided by the later of one year after signing the Asset Purchase Agreement which was December 3, 2017 or 60 days after delivery of the Certificate of Public Good to Schurz, and chances are good the latter will be December 31, 2018. The resolution says to try to make a decision 60 days before the end of the year.
- City Attorney Blackwood clarified the timeline is one year from the closing on the sale, not the signing of the Asset Purchase Agreement, so if the closing is in October the city would have one year from then to finalize.
- Councilor Mason said with a work session on 1/29/18 the decision by City Council can be made on 2/12/18 to roll over sale proceeds, but not necessarily a decision on the amount of investment percentage of carried interest.
- Councilor President Knodell said there will be a public hearing on whether to invest in carried interest or not.
- City Attorney Blackwood said a decision on carried interest will influence what is filed with the Public Utilities Commission. The 60 day timeframe is involved with when the petition must be filed (within 60 days of signing the Asset Purchase Agreement) and with the later of 60 days after the Public Utilities Commission makes a decision or one year from closing.
- Councilor Hartnett asked if more time can be requested to decide on carried interest. City Attorney Blackwood said a petition must be submitted to the Public Utilities Commission on what is wanted. If the city wants to stay involved then that would be included in the Certificate of Public Good. If may be possible to figure out how to gain more time if that is what the city wants.

There were no further comments.

VOTING: 11 ayes, one nay (Councilor Hartnett); motion carried.

6.05 Resolution: Ballot Question on Funding Perpetually Affordable Housing – City Councilors

MOTION by Councilor Tracy, SECOND by Councilor Moore, to waive the reading and adopt the resolution to have an advisory question on the ballot regarding a local option to fund perpetually affordable housing in Burlington.

DISCUSSION:

- Councilor Tracy said the question is advisory on a way to address the housing crisis in Burlington and affordability. The question is how to generate more funding for the Housing Trust Fund which is a tool to



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provide affordable housing for people who fall 15% or more below median income.

- Councilor Roof clarified the vote is to put a question on the ballot, not to impose a tax. There is question if City Council has the authority to impose this tax and there likely would be public process with the state and a change to the city charter. The 1% amount and \$500,000 house value are too specific at this point in time.
- Councilor Moore said the advisory question is asking the community to have the conversation on investing to make a dent in affordability in Burlington. Having the question on the ballot is public process.

AMENDMENT by Councilor Moore, SECOND by Councilor Bushor, to amend lines 24-27 of the resolution to read:

- “Shall the voters of the City of Burlington in order to help the city’s nonprofit housing organizations to build more affordable housing throughout the city advise the city to adopt progressive local option revenue the proceeds of which shall be used exclusively to benefit the city’s Housing Trust Fund?”

DISCUSSION ON AMENDMENT:

- Councilor Tracy said the amendment captures the spirit of the question.

There were no further comments on the amendment.

VOTING ON THE AMENDMENT: 10 ayes, 2 nays (Councilor Wright, Councilor Shannon); motion carried.

DISCUSSION ON MOTION AS AMENDED:

- Councilor Shannon said the resolution was ill conceived and poorly vetted. The issue is important and deserves more thoughtful process. The upward pressure on home prices comes from all people who want to live in Burlington and people seeking houses in the \$200,000 to \$300,000 range so the language in the resolution is not accurate. A process that brings more people to the table for discussion is needed first. The resolution should explain the steps to be taken.
- Councilor Mason expressed frustration with how the resolution got to City Council. There should have been meaningful discussion of this major policy issue at the committee level and then go to the voters with options.
- Council President Knodell said there will be community conversation on going forward or not and then City Council will work with the Administration to determine how to organize that work.
- Councilor Moore stated public feedback at this stage is important.
- Councilor Wright agreed the matter should go to committee. Removal of the 1% number from the resolution is appreciated.

There were no further comments.

VOTING ON MOTION AS AMENDED (rewrite of lines 24-27 in the resolution): 9 ayes, 3 nays (Councilor Shannon, Councilor Wright, Councilor Hartnett); motion carried.

Mayor Weinberger said the Housing Trust Fund has done important work. The funding has been increased (basically doubled) for the fund. Recent activities (inclusionary zoning, neighborhood project) lead to the question of increasing funding further.



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6.06 Ordinance: Plumbing Chapter 25 Revisions – DPW and Ordinance Committee

MOTION by Councilor Mason, SECOND by Councilor Bushor, to waive the second reading and adopt the ordinance.

DISCUSSION:

- Councilor Mason said the revisions are an update to the plumbing code to align with state statute. The Ordinance Committee unanimously passed the revisions.
- Councilor Bushor pointed out with the new ruling there cannot be drinking fountains in restrooms.

There were no further comments.

VOTING: unanimous; motion carried.

6.07 Ordinance: Changes to the Retirement System – BERS

MOTION by Councilor Mason, SECOND by Councilor Bushor, to waive the second reading and adopt the ordinance.

DISCUSSION:

- Councilor Mason said the changes for nonunion employees pertain to interest paid on accrued contributions and vesting, and the annual cost of living increase of 2.75%

VOTING: unanimous; motion carried.

6.08 Resolution: Quitclaim Deed, 28 Nicklaus Circle, South Burlington

MOTION by Councilor Shannon, SECOND by Councilor Mason, to waive the reading and adopt the resolution.

DISCUSSION:

- Councilor Shannon said the \$25 fee to prepare the required documentation falls short of the cost of the attorney's time. The City Attorney is requested to submit a fee request to the Board of Finance for consideration.

VOTING: unanimous; motion carried.

7.0 COMMITTEE REPORTS

- Councilor Tracy announced the TUEC is meeting 1/23/18 to discuss consolidated trash pickup and BED net zero.
- Councilor Hartnett announced the PACC is meeting 1/24/18 at the Sailing Center to receive an update on the bike path and Memorial Auditorium.
- Councilor Rook announced the CDNR is meeting 1/25/18 to discuss the Housing Action Plan (Home Share Vermont, developments in the Neighborhood Project).



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8.0 CITY COUNCIL – GENERAL AFFAIRS

- Councilor Bushor reported Public Works is filling in the serious potholes by the cemetery on Colchester Avenue.
- Councilor roof reported bystander Intervention training begins 1/26/18 as part of the sexual assault prevention initiative.
- Councilor Dieng recognized the good work of snowplow drivers in keeping the streets and sidewalks safe for travel.

9.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

No report.

10.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger mentioned the following:

- Recognized the DPW crew on handling the winter storms this year.
- St. Joseph's Cathedral has opened a low barrier youth shelter. Lots of work is going on with city partners on this.
- Progress is being made with ECHO on the waterfront improvements.
- Board of Finance authorized moving forward with design of six blocks of new infrastructure on Cherry Street and Bank Street.
- RFP is out for high quality early childcare. Further updates are forthcoming.

11.0 ADJOURNMENT

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

The meeting was adjourned at 9:47 PM.

RScty: MERiordan