Regular City Council Meeting - Monday, January 11, 2016 - 6:30 pm, Contois Auditorium, City Hall - 1/11/2016

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

January 11, 2016

□□APPROVED

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

David Hartnett – North District

Joan Shannon – South District

Selene Colburn, East District

Sharon Foley Bushor – Ward 1

Max Tracy – Ward 2

Sara Giannoni - Ward 3

Kurt Wright – Ward 4

William "Chip" Mason – Ward 5

Karen Paul – Ward 6

Tom Ayres – Ward 7

Adam Roof – Ward 8

ADMINISTRATION: Miro Weinberger, Mayor

Eileen Blackwood, City Attorney

Bob Rusten, CAO

Rich Goodwin, ACAO

Jennifer Kaulius, Mayor's Office

Brian Lowe, Mayor's Office

Lori Olberg, Clerk/Treasurer Office

Brandon del Pozo, Police Chief

Peter Owen, CEDO

OTHERS PRESENT: Dr. Harry Chen, Vermont Department of Health

Dr. John Brumsted, UVM Medical Center

Bob Bick, Howard Center

Yaw Obeng, BSD Superintendent

Nathan Lavery, BSD Finance Director

Mark Porter, BSD School Board Chairman

Kenneth Braverman, New Moran consultant

Jean Sasson

Ron Ruloff, Cathedral Square

Patrick Brown

Norm Blais

Carolyn Bates, Carolyn Street

Bob Duncan

Anna Neemic

Bill Mayers

Joan Markie-Dunkin, Northeast Justice Council of Sisters of Mercy

Ben Boucher

Individual speaking for Rachel Siegel

Steph Holdrich

Susan Harrington

Ellen Anderson

Bridget Bozak

1.0 CALL TO ORDER and AGENDA

Council President Knodell called the meeting to order at 6:30 PM on January 11, 2016 and led the assemblage in the Pledge of Allegiance.

1.01 Agenda

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

· **Note copy of 9/8/15 Drug Trafficking Resolution and Mayor's Report on the Opiate Challenge as part of Item 2.01 (Presentation on Opiates).**

· **Note amendment to Item 4.10 (Reorganization of Water Quality Division).**

· **Note Power Point presentation and amendment to Item 5.03 (Legislative Action Against Gun Violence).**

· **Add Collective Bargaining Update as Item 10.02 (Executive Session discussion).**

VOTING: unanimous; motion carried.

2.0 PRESENTATIONS

2.01 Opiates Report

Dr. Harry Chen, Commissioner of Vermont Department of Health, Dr. John Brumsted, CEO of UVM Medical Center, Bob Bick, Howard Center Director, Mayor Weinberger, and Brandon del Pozo, Burlington Police Chief reviewed the results of the report on the opiate crisis. It was noted partners in the discussion of the opiate problem in Chittenden County included State Health Department, UVM Medical Center, Howard Center, Governor's Office, Green Mountain Care Board, U.S. Attorney's Office, State's Attorney's Office, Department of Corrections, Department of Children and Families, United Way, Burlington Police Department, and Burlington Mayor's Administration. Results of the report indicate there is a serious and growing opiate problem in Chittenden County and through a sustained policing effort and better coordination among all law enforcement and public health agencies addressing opiate abuse this troubling trend can be turned around.

Dr. Chen stated with a holistic collaborative approach to the opiate crisis there can be success. Dr. Chen highlighted the following:

· The Governor is committed to fighting the opiate problem which is considered an issue of public health.

· Efforts to address the crisis have resulted in a decrease in the waiting list for treatment.

· The focus is on prevention. Having prominent police presence at events, creating tobacco, drug, and alcohol free spaces, and encouraging parents to be role models for their children and practice safe use, handling, and storage of prescription medications are three examples.

· Overdose kits are available.

Police Chief del Pozo reported on opiates and opiated related crime and activities such as sex and gun trafficking in the past year in Burlington, noting the following:

· Data on crime show in Year 2015 Burlington had two drug related homicides, robberies are up 31%, felony assaults are up, larcenies are up, overdose calls are up 103%, retail theft is up 15%.

· Ward 3 and Ward 2 show the most activity. Ward 3 dominates the calls for police services.

· Heroin calls for service show an upward trend. Heroin overdose calls are increasing each year while the number of days without heroin overdose calls to police is decreasing. Arrests for heroin have increased.

· LL Bean reported retail theft from the Burlington store is the highest for any of their stores in the region (over $250,000 stolen). Larcenies from cars (45 in one day) are concentrated where burglaries and overdoses are concentrated.

· Heroin is sold by the individual packet or in bulk. The cost is declining for the drug and the purity is spiking. The typical addict uses $50 to $100 worth of product per day. Due to the cost of heroin it is more profitable for dealers to sell in Burlington than New York City.

· Burlington Police are aware of the repeat arrests of dealers and notable persons on interest. Arrests of drug traffickers show they are violent offenders.

· A multi-state investigation resulted in seizure of 1,000 bags of heroin for sale, raw heroin, fentanyl (lethal when mixed with heroin), and weapons.

· Guns purchased legally in Vermont are being traded outside the state for heroin which is then transported into Vermont and sold. An information trail on guns needs to be done similar to the information trail compiled for cars.

· Dealers bring in heroin, crack, cocaine, anything that will sell in the state. Dealers get women addicted to heroin and then refuse to support their habit forcing them into prostitution to pay for the drugs.

· Response to the opiate challenge should include:

o Nuisance Ordinance (getting rid of known places of drug activity).

o Police substation and foot patrols on North Street to disrupt the open air drug trade (need to maintain police staff at an average of 100 officers).

o Overdose drug kits being available.

o Reducing the treatment waiting list.

o Decreasing over prescription of medications.

o Offering users help, rather than arrest, if they come forward, but dealers coming to Burlington to sell drugs and

victimize people will be prosecuted and incarcerated.

o Expanding the stat structure (compile data, effective tactics, deploy resources, follow up) to share information and have a team approach to address individual cases and overall progress.

Dr. Brumsted stated UVM Medical Center resources are being brought to address the opiate crisis. Initiatives include increasing access to medication assisted treatment ("waiting list" problem), expanding Day One Clinic outpatient substance abuse service, certifying more primary care physicians to help with transition of patients, strengthening efforts to standardize care by providers across the state, more utilization of nurse practitioners and physician assistants, and researching better treatment options. The opiate dependent population has an illness and is in great need. UVM Medical Center is focused on the problem and will continue to use resources and work with others in ways to address the problem together.

COMMENTS FROM CITY COUNCIL

· Councilor Tracy asked how citizens can help. Chief del Pozo said the police need all the information they can get on the people dealing drugs, and citizens should tell people they know who are using drugs to get the help they need before they get arrested.

· Councilor Tracy mentioned racial disparities and profiling people of color in drug arrests. Chief del Pozo said there is remarkable diversity in the drug trade in Burlington. The police will not win by profiling because they will only get a certain segment of the broad population. Drugs are pipelined from New York City and many of the criminal gangs in New York are composed of African Americans, but it is not true to say they are fueling the drug trade. The drug trade is fueled by everyone. Police cannot fall prey to profiling because that will not solve the drug problem in Burlington.

· Councilor Ayres asked what additional resources are needed by Howard Mental Health at the local and state level to enhance treatment. Bob Bick said there is not enough staff available to work on prevention, street level intervention, and with individuals not yet in treatment or on the waiting list. The problem is a workforce issue.

· Councilor Giannoni asked for an estimate of the number of people who would get on the waiting list if they knew they would get treatment (i.e. many people may not sign up because they feel the list is so long they will never get treatment). Bob Bick said currently there are 871 active participants in the program. The waiting list is at 234 which is the lowest since the treatment service began.

· Councilor Shannon asked for data on the causes of the current epidemic and what the medical community is doing to stop feeding the addiction to substitute drugs for heroin. Many people have addictions from legal prescriptions. Dr. Chen said the health care system is mindful of initial prescribing and may only prescribe what is needed and no more. Substitute opiates coupled with behavior therapy allow the individual to productively function. Bob Bick stated Howard Center is seeing more heroin addicts who started with illicit use of the drug rather than from prescription drugs. Many of the addicts take the drug to relieve physical and psychologic pain while most of us take medicine just to relieve pain.

· Councilor Colburn asked for clarification on police interaction with an addict versus an addict who becomes a dealer to support their addiction. Chief del Pozo said the police look for the dealer who comes to Burlington to victimize and destroy the dignity of Burlingtonians by dealing drugs. The message must be sent that there are consequences for destroying someone's dignity.

· Councilor Roof asked about regional responses to the opiate challenge. Chief del Pozo explained the common

nuisance ordinance says places where people use or sell drugs should be eliminated, but in Burlington there is not one such location. Work can be done with landlords and other property owners to eliminate nuisance areas.

· Councilor Wright commented there is no question of the need for treatment, education and prevention as the first line of defense. State law should allow for "throwing the book" at dealers, especially those coming from out of state. Chief del Pozo said the strongest cases are those in federal court. There is much cooperation between the U.S. Attorney for Vermont and attorneys for the southern and eastern districts of the United States.

· Councilor Bushor asked how the babies of pregnant women who are addicted are treated. Dr. Brumsted said the babies go to the neonatal intensive care and while the baby is treated there is no separation from the mother. Department of Children and Families is typically involved. Dr. Chen added there is a program for expecting mothers who are addicted to get into treatment and prenatal care.

3.0 PUBLIC FORUM

Public Forum commenced at 7:42 PM.

PUBLIC COMMENTS

Ø Jean Sasson expressed concern about the airport and comments by Gene Richards accusing Megan Emery (South Burlington City Councilor) of leading a group of anti-F35 people and disrupting a meeting. The accusation is not true. Ms. Emery has done lots of work in the community for years. Ms. Sasson said she was vocal against the F35 at the meeting because according to the current noise map her house is now in the noise zone and she must do an airport noise disclosure. The noise map the airport is doing should be done with F35 noise, not F16 noise.

Ø Ron Ruloff, Cathedral Square, said there is only one way to impact the drug problem and that is to evict the tenants who use or any with a drug record. Drug use is not a medical disease.

Ø Patrick Brown stated the voice of young people and ex-addicts need to be heard from the executive level down to the grassroots level. A forum needs to be held to hear qualitative stories on the socio-economics and how people stated using drugs. Mr. Brown announced the Dr. Martin Luther King program on 1/17/16 with the daughter of Malcom X to deliver the address. The event is free and open to the public.

Ø Norm Blais pointed out there is a book of laws to regulate cars and car safety (Vermont statutes, Title 23) and there should be a comparable approach with guns. The time is now to take action.

Ø Caroline Bates, Caroline Street, spoke in support of legislation for gun control in Burlington.

Ø Bob Duncan urged City Council to support the resolution against gun violence and to bring the matter to the state legislature so Burlington can have the safe rules and regulations the people want.

Ø Anna Neemic spoke in support of the resolution on gun safety.

Ø Bill Mayers spoke in favor of the resolution on guns to make the community safer.

Ø Jean Markie-Dunkin urged support of the resolution on gun control.

Ø Ben Boucher urged adopting gun safety regulations for high density urban areas like Burlington.

Ø A woman speaking for Rachel Siegel urged City Council to pass the gun safety resolution.

Ø Steph Holdrich, College Street, spoke in support of the resolution for gun safety and forwarding the charter changes to the state legislature.

Ø Susan Harrington said those living in chronic pain should not be dissuaded from discussing controlling chronic pain with drugs with their doctor.

Ø Ellen Anderson said she has a medical condition that requires lots of prescription medicine which is kept in a lockbox at home. Without the medicine holding down a job would not be possible. The opiate problem is real as is the concern about addiction from legal prescription use, but people who need medicine to relieve chronic pain or who have difficulty moving should not be ignored.

Ø Bridget Bozak stated opiate addiction and gun reform are related. The city is doing right to strengthen the values held.

There were no further comments and the Public Forum was closed at 8:10 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: Mapping Section

4.04 COMMUNICATION: FBC and Arc of History

4.05 COMMUNICATION: Minutes Board of Finance 11/9/15

4.06 COMMUNICATION: Minutes Board of Finance 11/16/15

4.07 COMMUNICATION: Minutes Board of Finance 11/30/15

4.08 COMMUNICATION: FIO Document

4.09 RESOLUTION: Terminate Leased Light Agreement and Amend Streetlight Tariff

4.10 RESOLUTION: Reorganization Water Quality Division

4.11 RESOLUTION: CEDO Housing Trust Fund – Additional Funds

4:12 RESOLUTION: CEDO Housing Trust Fund – Unallocated Funds

4.13 RESOLUTION: Re-determine City Equalized Education Property Value

4.14 RESOLUTION: BED Position Title – Systems Engineer

4.15 RESOLUTION: BED Position Title – Customer Care Representative

4.16 RESOLUTION: Approve BED Generic Interconnection Agreements

MOTION by Councilor Colburn, SECOND by Councilor Ayres, to accept the consent agenda (Items 4.01-4:16) noting the amendment to Item 4.10 (Water Quality Division Reorganization) and to take the action indicated. VOTING: unanimous; motion carried.

5.0 DELIBERATIVE AGENDA

5.01 School Budget Presentation

Burlington School District Superintendent, Yaw Obeng, Finance Director, Nathan Lavery, and School Board Chairman, Mark Porter gave a presentation on the BSD budget. The following was highlighted:

· There was a process followed to gather information from the public on how to address funding challenges.

· The initial budget was $2.5 million over the threshold for a tax penalty so $1.1 million in surplus revenue and $1.4 million reduction in spending was applied.

· Budget cuts totaling $454,000 are proposed in the Central Office and in departments while still maintaining programs.

· Restructuring the district continues to meet identified Board Improvement Goals.

· The proposed tax rate is $1.6828 per $100 of assessed value which is an increase of 1.72%.

· Recommendations include spending in FY17 to meet education needs of the district without exceeding the legislative cap and not exceeding $14,133.35 per equalized pupil (increase of 2.14%).

· The proposed budget is $88,069,865 (1.72% increase in the tax rate).

COMMENTS FROM CITY COUNCIL

· Councilor Wright gave kudos to the school team for the hard work and response to the legislature on academic affordability in Vermont and asked how health care will be handled if there is a change in the legislation. Yaw Obeng said the plan in place will move forward.

· Councilor Hartnett asked where the cuts will hit. Yaw Obeng said the cuts are divided somewhat equally across the high school, middle schools, and elementary schools. Councilor Hartnett asked about the Champlain School cafeteria and the high school athletic department. Mark Porter said staffing is handled by the Head of Operations.

· Councilor Mason spoke in support of keeping the World Language program.

· Councilor Paul said it would have been helpful to have the budget information available to City Council in advance of the presentation. Also, the feeder classes in foreign language to the high school will be lost with the cuts in the middle school program. Finally, collaboration between the city and school district should be sought to eliminate duplication of services wherever possible. Nathan Lavery noted the budget presentation has been posted on the school district budget website for public viewing. The most recent version of the budget can be provided to City Council starting next year. The school district is moving forward with opportunities for collaboration and cost savings. Yaw Obeng said with regard to languages discussion is beginning in the spring on a longitudinal plan for languages and other subjects.

· Councilor Bushor stated a second language is a necessity in today's world. Also, it is hoped the commitment to diversity remains full force despite the budget reduction. Superintendent Obeng said an analysis is being done on what is needed before committing resources. Sharing services and capital needs have been a goal.

· Councilor Tracy asked for an update on teacher contract negotiations. Mark Porter said the subject cannot be discussed at this time.

· Mayor Weinberger acknowledged the modest tax increase over two budget cycles which will help restore public confidence. The leadership of the administration for the school district is appreciated.

5.02 Public Comment on School Budget

There were no comments from the public on the school budget.

5.03 Encourage State Legislature to Take Action Against Gun Violence

MOTION by Councilor Ayres, SECOND by Councilor Shannon, to adopt the resolution encouraging the state legislature to take action against gun violence.

DISCUSSION: The following comments were made:

·Councilor Ayres said the voters of Burlington requested the three charter changes to reduce gun violence in the city, not necessarily to apply statewide. The constitutionality issue was raised. City Attorney Blackwood explained the measures passed by City Council were constitutional. Based on some court cases the state revised the legislation to be constitutional while still meeting many of the concerns raised.

·Councilor Roof spoke in support of barring weapons in bars and restaurants because guns have no place around intoxicated people or the people working in that environment.

·Mayor Weinberger spoke in support of the resolution to address gun violence in the city and recognized the leadership of the city to cause the state legislature to take the matter up again to deliver public safety to the citizenry.

·Councilor Wright mentioned the U.S. Supreme Court did not take up the case brought before them. Attorney Blackwood said the case was a full ban on assault weapons and it appears the court did not feel the case was a measure of clear violation of the constitution. Councilor Wright noted legal counsel to the Government Ops Committee advised there are significant constitutional questions with all three charter changes and allowing one municipality to go forward will result in a patchwork of regulations across the state. Government Ops voted 10:1 against the charter changes.

AMENDMENT by Councilor Shannon, SECOND by Councilor Mason, to revise lines 34 through 36 of the resolution to read: "Whereas since the legislature adjourned, 18 different faith organizations co-sponsored a December 13, 2015 inter-faith prayer and remembrance vigil in Burlington that was attended by hundreds of Vermonters. It was titled "A Moral Call: People of Faith Confronting the Tragedy of Gun Violence" and throughout 2016 hundreds of people of faith and goodwill will be meeting to focus on this issue in order to create positive change."

DISCUSSION ON AMENDMENT: Councilor Mason pointed out the City Attorney advised there

were no constitutional issues, and the effort to get the matter taken up in Montpelier will not end. There were no further comments on the amendment.

VOTING ON AMENDMENT: unanimous; motion carried.

DISCUSSION ON MOTION AS AMENDED: Councilor Wright clarified the state legislative committee is listening to the advice of their legal counsel. Councilor Ayres said a line needs to be drawn somewhere on the bullying the gun rights advocates typically bring to bear on elected officials. If the legislature moves forward with the charter changes and there is legal challenge then the court can decide, not the Government Ops Committee. There were no further comments.

VOTING ON AMENDED MOTION: unanimous; motion carried.

6.0 COMMITTEE REPORTS

None.

7.0 CITY COUNCIL – GENERAL AFFAIRS

Ø Councilor Wright expressed appreciation for the thank you note from the individual seeking appointment to the Church Street Marketplace committee, and mentioned the letter from the Parks Commission to City Council that was not appropriate.

Ø Councilor Hartnett agreed the letter from the Parks Commission was unprofessional and disappointing that the Parks Commission would take the time to write the letter rather than focusing on educating the public as to what is in the parks and the laws on the books. It is the duty of City Council to take time and research the smoking issue. Only a small fraction of the population spoke in support of the smoking ban so it was not a public initiative, but rather is a Parks Commission initiative and an elite group of people talking about how the city should operate the parks.

Ø Councilor Tracy agreed the letter was out of line, cowardly, and ridiculous, not even signed with full names of the commissioners. The Parks Director and Chair of the Parks Commission are asked to think about the strategy because it feels like bullying which may not yield the desired result, especially from councilors who are undecided and trying to make a well informed decision on the matter. Councilor Tracy mentioned the history book on Burlington by Vincent Feeney as a must read.

Ø Councilor Ayres commended the police force and safety officials in dealing with the recent campaign event. The city stood by the First Amendment.

8.0 CITY COUNCIL PRESIDENT – COUNCIL UPDATES

Council President Knodell announced a meeting of City Council on 1/15/16 to hold public hearings on charter changes.

9.0 MAYOR – GENERAL AFFAIRS

Mayor Weinberger announced;

- Presentation on updated plans for Burlington Town Center Mall redevelopment was held on 1/5/16 and attended by over 300 people. Another presentation will be held on 1/21/16.
- Panel presentation and keynote speaker on form based code is on 1/13/16. The keynote speaker is a national expert on land development code. Regional and local officials working with form based code in the area will attend.
- Martin Luther King events are scheduled on 1/17/16 and 1/18/16.

10.0 EXECUTIVE SESSION

10.01 New Moran Update

MOTION by Councilor Wright, SECOND by Councilor Roof, as the city is in negotiations with significant amounts of confidential information on the New Moran a finding is made that premature public disclosure would place the applicant and the city at substantial disadvantage. VOTING: unanimous; motion carried.

MOTION by Councilor Wright, SECOND by Councilor Roof, to go into Executive Session for an update on New Moran where premature public disclosure would place the applicant and the city at substantial disadvantage, and to invite the Mayor, Mayor's Office staff, City Attorney, CAO, CEDO Director, and consultant on New Moran to attend. VOTING: unanimous; motion carried.

10.02 Collective Bargaining

MOTION by Councilor Wright, SECOND by Councilor Roof, as the city is in collective bargaining negotiations with significant amounts of confidential information a finding is made that premature public disclosure would place the city at substantial disadvantage. VOTING: unanimous; motion carried.

MOTION by Councilor Wright, SECOND by Councilor Roof, to go into Executive Session to discuss collective bargaining where premature public disclosure would place the city at substantial disadvantage, and to invite the Mayor, Mayor's Office staff, City Attorney, and CAO to attend. VOTING: unanimous; motion carried.

Executive Session was convened at 9:40 PM. No action was taken following Executive Session.

11.0 ADJOURNMENT

With no further business and without objection the meeting was adjourned following Executive Session.

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