

Resolution Relating to

MARCH 6, 2018 ANNUAL CITY MEETING –
ADVISORY BALLOT QUESTION RE VERMONT
AIR NATIONAL GUARD BASING OF F-35s
AT BURLINGTON INTERNATIONAL AIRPORT

RESOLUTION _____

Sponsor(s): Councilors Hartnett,
Wright, Knodell

Introduced: _____

Referred to: _____

Action: _____

Date: _____

Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Eighteen

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, on January 17, 2018, a petition containing signatures from five percent (5%) of registered
2 voters was submitted to the City asking that the question below be placed on the March ballot; and

3 WHEREAS, the City’s charter provides that upon receipt of a petition signed by five percent of the
4 legal voters, the mayor shall insert in the warning for that annual city meeting any special article for any legal
5 purpose beyond the jurisdiction of the city council; and

6 WHEREAS, ballot questions should be as clear as possible in their intent so voters are not
7 unintentionally misled, and concerns have been raised about the proposed question with respect to its claim of
8 support of the Vermont Air National Guard and the realistic possibility of an alternative mission; and

9 WHEREAS, alternative clarifying language that meets the petitioners intent should be proposed to
10 avoid any voter confusion; and

11 WHEREAS, the Vermont Secretary of State’s Office has long advised that it is within the discretion of
12 the municipality whether to place an advisory question on the ballot, and the City’s charter language supports
13 that discretion; and

14 WHEREAS, the Vermont League of Cities and Towns has long understood that voters may only
15 demand a vote on issues over which the legislature has given the voters specific authority; and

16 WHEREAS, Vermont towns have declined to put advisory questions on the ballot if they are not
17 legally required to do so and they do not intend to do what the petition requests; and

18 WHEREAS, however, on Dec. 12, 2017, a Superior Court Judge in the Civil Division, Chittenden Unit
19 of the Vermont Superior Court issued a ruling in the case of *Skiff v. South Burlington School District*, No. 560-
20 6-17 Cncv, distinguishing the Vermont Supreme Court cases that have held that whether or not to include
21 advisory questions on the ballot is for the discretion of the municipality; and

22 WHEREAS, the judge ruled that because the action being requested involved municipal business and
23 did not seek to have voters take an action that could only be taken by someone else, but instead involved an
24 opportunity for the voters to instruct their elected officials to do something that the elected officials have the

25 authority to do, Article 20 of the Vermont Constitution would likely require them to place the question on the
26 ballot for an advisory public vote; and

27 WHEREAS, that ruling has been appealed to the Vermont Supreme Court, but the Court has not yet
28 acted on it; and

29 WHEREAS, the question presented by the petition asks the voters to advise the City Council to request
30 certain actions related to the operations of a tenant of the municipally-operated Burlington International
31 Airport; and

32 WHEREAS, the City Council is bound by grant assurances and lease provisions that would make such
33 requests problematic, although it arguably has the authority to make the requests presented;

34 NOW, THEREFORE, BE IT RESOLVED that the following advisory question, as clarified by the
35 City Council to avoid the concerns of voter confusion, be placed on the ballot for the March 6, 2018, Annual
36 City Meeting:

37 “Shall we, the voters of the City Burlington, advise the City Council to:

38 1) request the cancellation of the planned basing of the F-35 at Burlington International Airport, and

39 2) request instead low-noise-level equipment with a proven high safety record appropriate for a

40 densely populated area, recognizing there may not be alternate equivalent equipment?”

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43 lb/EBlackwood/Resolutions 2018/Advisory Ballot Question re Air National Guard F-35s (3-6-18 Annual City Meeting)

44 1/25/18