

Ordinance Committee
Thursday, May 2, 2024 at 4:00PM
Bushor Conference Room, City Hall and Remote via Zoom

DRAFT MINUTES

Members Present: Councilor Shannon (Chair), Councilor Bergman, Councilor Brown McKnight

Staff Present: Kim Sturtevant (Assistant City Attorney)

Public Present:

Meeting called to order at 4:00 PM.

1. Adopt the Agenda

1.01 Adopt the Agenda

Motion to Adopt Agenda as drafted.

Motion by Councilor Bergman, seconded by Councilor Brown McKnight.

Final Resolution: Motion Passes

Yes: Unanimous

2. Adopt Draft Minutes from January 24, 2024

2.01 Adopt Draft Minutes from January 24, 2024

Motion to Adopt Minutes from January 24, 2024.

Motion by Councilor Bergman, seconded by Councilor Brown McKnight.

Final Resolution: Motion Passes

Yes: Unanimous

3. Public Comment

Sharon Bushor: The trespass issue has been before the Committee before. I wanted to know what training the non-police staff would go through once this ordinance is finalized. I feel it's also important to get the word out to the business community to inform them of the new rules and how it will work. The graffiti ordinance is too short and does not address issues of hate. I think expanding Part C to include hateful or discriminatory graffiti would be appropriate. Also the penalties would need to be reevaluated.

4.0 Discuss of Draft Trespass Ordinance Changes

Councilor Shannon asked Attorney Sturtevant about the status of the draft trespass ordinance. Attorney Sturtevant said she will circulate the draft changes thus far to the Committee. The draft changes allow other City staff like Urban Park Rangers to enforce the ordinance. References to other ordinances were cleaned up as well.

Councilor Shannon asked if there was any draft changes on the issue of allowing tenants to ask for trespass notices for individuals in entryways or common spaces in their residences. Council Bergman said it depends. In a residential building with multiple units neither the landlord nor individual tenants have sole authority over the ability to trespass people in entryways. There was some recent issues with this. He doesn't think this issue is an issue with City ordinance and doesn't think the City has the authority over this area.

Councilor Shannon asked if there was a procedural way for the police to enforce a trespass order at an apartment building assuming all tenants agree. An example would be if someone is sleeping in the doorway and they are not a guest of any tenant.

Councilor Bergman said it would depend if they were in lawful possession of the property and all were in agreement.

Councilor Brown McKnight asked if the City could define lawful possession in ordinance as being all tenants are in agreement.

Councilor Bergman said the City could probably clarify aspects of state law but there would be the question of authority to do so.

Councilor Shannon said there has been two issues that have arisen from this problem. First is in residential buildings with tenants that are not the owner of the property. The second is in commercial areas where workers are not the owners of the property they work in.

Councilor Bergman said for the commercial example it would come down to police procedure and training. Would the police enforce an order that came from a landlord or manager of a property or would it have to be the property owner itself? There is ambiguity on this issue and officers will have to use discretion.

Councilor Shannon said the obvious next step would be to have Chief Murad speak to the Committee about the issues he and his officers see in this respect.

Councilor Bergman said the Committee should also look at the language in ordinance 1-9 regarding enforcement as well. He said that he does not think that non-City officials like contracted security guards can or should be enforcing trespassing notices. The state statute that the City relies is 24 V.S.A. § 1977 and that statute says a trespass ticket is a civil case and shall be signed by a "municipal official." He said he doesn't want to authorize private security to enforce trespass orders through issuing of tickets.

5.0 Discussion of Potential Graffiti Ordinance Changes

Attorney Sturtevant said that there are some appeals of tickets for graffiti right now. The City Attorney's Office has been looking at other language on this and the draft language mirrors language that was upheld by the Washington State Supreme Court.

Councilor Bergman said there would be constitutional issues to criminalize the speech, but that penalty enhancements should meet muster. He cited 13 V.S.A. § 1455 as the criminal enhancement for hate motivated crimes. Graffiti tickets are civil matters, but the City could match up the language in that subsection.

Councilor Shannon asked if there are cutoffs for certain dollar amounts that could be sent to the Community Justice Center (CJC).

Attorney Sturtevant said yes, there are waiver provisions for restorative justice.

Councilor Bergman said it would be good to revisit those provisions to be more flexible and clear.

Councilor Brown McKnight said the Parks, Arts, and Culture (PAC) Committee is also discussing graffiti and it would be helpful to have a review of all of our processes related to graffiti so everything lines up.

Councilor Bergman said Joe Magee in the Mayor's Office is the point person coordinating issues related to graffiti currently. He also added that state law has changed and now allows municipal fines up to \$800 instead of the previous \$500. There is room for a penalty enhancement.

Councilor Shannon summarized that the Committee wants the draft language from the Attorney's Office and invitations sent to Chief Murad and Director Ward to hear their thoughts on this issue.

6.0 Review and Discussion of Proposed Ordinance Changes Recommended by the Dog Task Force

Councilor Shannon said the Dog Task Force clearly put a lot of work into their report, but wondered if the Committee would put this on hold while other issues are before Committee.

Councilor Bergman said it would be important to get comments from the Clerk/Treasurer's Office since some of the recommendations involve licensing.

Councilor Brown McKnight said she would bring up these issues with the PAC Committee.

Councilor Shannon asked Attorney Sturtevant to inform the relevant departments of this report and to have recommendations back to the Committee by August 30th.

7.0 Short Term Rental Update

Attorney Sturtevant said there is still a pending appeal on this issue. The claim was brought in Superior Court and the active claim is about the authority of the City to put the language in the minimum housing code. The Department of Permitting and Inspections have been registering the rentals and in contact with owners that have not registered. Director Ward would have more information on this.

8.0 Future Meeting Schedule

The next Ordinance Committee meeting will be May 16th from 3:30 to 5:15PM.

9.0 Adjournment

Motion to adjourn by Councilor Shannon, without objection.

Final Resolution: Motion Passes

DRAFT