



Burlington City Council Ordinance Committee 11/26/2019

City Council Ordinance Committee – Tuesday November 26, 2019

City Hall, Conference Room 12

MINUTES

Members Present: Councilor Chip Mason (Chair), Councilor Sharon Bushor, Councilor Adam Roof

Staff Present: Kim Sturtevant (Assistant City Attorney), Caleb Manna (DPW), Mary Danko (Director, Library), David White (Director, Office of City Planning), Joy Hovestadt (Assistant City Attorney), Jay Appleton (IT Department)

Others in Attendance: Amanda Hannaford

Meeting called to order at 5:32 PM.

1. Agenda

1.01 Motion to adopt/amend agenda

Motion to adopt agenda as written.

Motion by Councilor Bushor, seconded by Councilor Roof.

Final Resolution: Motion Passes

Yes: Councilor Roof, Councilor Bushor, Councilor Mason

1. Public Forum

2.01 Public Forum

Amanda Hannaford identified herself as the Vice President of the Friends of Fletcher Free Library and read a letter in support to the Committee. She indicated support for setting balance for the Library's rules. Noting the Library's mission to inform, enrich and nurture a community of life-long learners and also acknowledging that the Library does a lot for the community. However, there is a balance, if the community expects a lot from the Library, we need to give it the ability to enforce the rules. She invited the Committee Members to spend an entire day in Library. She also noted her support for all the changes that have been done by Director Danko.



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Closed public forum at 5:38 PM

1. Minutes

3.01 Approval of Minutes of 9/30/19

Motion to approve minutes as presented per Councilor Bushor, seconded by Councilor Roof.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Bushor, Councilor Roof.

1. Committee Discussion/Possible Action

4.01 Fletcher Free Library Rules of Conduct

M. Danko introduced the amendment and explained how libraries are a different, limited, public forum. She noted that she has a kind staff, but they need the ability to deal with issues when they occur. The idea is to match conduct with consequence. They have looked at many models across the country. The proposal also includes an appeal process. Anyone can come to senior staff to discuss a consequence. The amendment identifies certain behaviors and they want to put reasonable reactions to it.

Councilor Mason noted concern with subsections (f)6 and (f)7 having a disproportionate effect on homeless persons.

Councilor Roof questioned whether the trespass is immediate or whether it is tolled to allow appeal. M. Danko responded that the trespass was immediate and holds until adjudicated, but the appeal can be addressed quickly.

Councilor Bushor questioned the connection to ACLU. Councilor Mason noted the section of the settlement agreement that states, "all city properties." M. Danko replied that the library was different because of what they do. Also, that it is different as there is a senior person there to address issues quickly.

Councilor Mason notes that issue can be addressed immediately, but then trespass issued and hearing on the appeal is up to 10 business days after. Could say until heard, trespass not take effect. If violent then would call police. M. Danko responded that 95% of the time people are compliant.



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Councilor Bushor indicated that there were other things that need some clarification. She noted that line 42 was not terribly specific, that it could be better stated. M. Danko indicated that line 55 should be stricken, that it is a duplicate.

Councilor Bushor also questioned line 57, "inconsistent with their intended use." Noting that if there was damage to Library property she could understand, but otherwise it seems vague. Councilor Mason added that lines 42 and 57 seems to be consumed in one another, that they seemed the same. M. Danko responded that "library resources" was defined in lines 22-23. Using inconsistent with intended use. She also noted that it may be a lot of nuance, but it is a policy to fall back on.

Councilor Roof indicated that the threatening use needed to be noted on trespass. M. Danko agreed.

Councilor Bushor mentioned conversations with other councilors and a concern that frequent flyers may be targeted, noting that vague language helps allow this. Want to give staff as clear directive as possible, but want to understand. Is this clear enough? If appealed, is it concrete enough to be held up? M. Danko responded that they looked at that during the 2 years they have been working on this amendment. Never target anyone, but certain level engage others. These are last resort. Goal to have all use library always, but need tools.

Councilor Bushor referenced Class C's failure to abide by posted rules and inquired into whether there were rules for personal hygiene in library? M. Danko replied that there was not currently, but want to put in reasonable rules to follow. Councilor Bushor thinks it should be in there, just not sure how to address personal hygiene, in list of rules so people would be looking for it. Just like clarity. She also questioned the prohibition on leaving personal belongings unintended in a manner that affect staff. M. Danko indicated that the personal belongings could block stairs, causing accessibility issues (ADA). She noted that they do ask people to move things—this is for when they don't get compliance.

Councilor Bushor expressed concern that Class D was a catch 22 for bicycles. She also asked about the allowance of dogs. M. Danko responded that need to have better option for all persons.

Councilor Bushor asked if there is something that says what is acceptable for wear/clothing. M. Danko responded that that there was not, that the Library would do that as a separate rules. She gave an example of food in the Library, may have areas that food is okay in one section, but not another.

Councilor Bushor then inquired about the storing or using personal materials prohibition, asking whether someone come into the library with a suitcase. M. Danko responded that they could, that it is more a concern of storing and reusing—for instance, opening and repacking.





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Councilor Bushor noted that the duration of trespass is long for people. Lines 186-190 discussing if a person willfully damages then fine not more than \$500—want staff to reconsider if they returned it not to have to pay fine. M. Danko replied that they can consider that. With respect to time, feel the time is fair. Part of job as director is to be able to protect staff and other patrons. Believe it is fair, need something with teeth to support other patrons and staff.

Councilor Bushor identified 1-4 as fitting, 5-7 not necessary fitting, really depends. Understand intent, believe staff will appreciate clarity and those being trespassed will also appreciate it.

Councilor Roof stated that he was not going to support the amendment without knowing if ACLU is okay with it. He noted that there are issues popping up in many corners of the community and that there is an obligation to regulate different in this situation for safety of patrons and staff. He then questioned how often these issues are happening. M. Danko responded by handing out a chart that tracked incidents. She noted that it only has to do with behavior, they do not know someone's social status when come in the door. The chart only reflects those that do not react immediately. Do know some, some are transient, but not all. Work with other organizations to discuss resolution.

Councilor Roof noted that if you talk to some that are actually homeless they rebuke that response. Want a way to make reasonable rules to address issues, don't want to get into status issue. Restorative justice could also be incorporated.

Councilor Mason identified two pieces—enforcement and trespass. If class a, there is a ticket and fine and/or trespass; if class C and D, able to give fine but also remove for day. Class A and B not say can remove—why not? Class C can remove from day, but also trespass can remove for day, if already can remove for the day under enforcement, then why go for all the process when they can be removed anyway? He also questioned what is happening with the sleeping issue day to day on ground. M. Danko responded that when someone is sleeping, staff does not know what is going on so they need to go through process to see if person is able to be woken up. There is a fear that the one time we don't go to wake someone up, then that is the time we will be having a medical event. Councilor Mason further inquired as to how that addressed behavior. M. Danko replied that Library staff does not want to monitor sleeping.

Councilor Mason summarized issues—propose delete line 55, further look at interim time between issuance of trespass and appeal, add restorative justice to financial consequences, and confirm whether it has it been vetted—have ACLU look at before next time. Also need enforcement component with Class C section.

M. Danko asked if the Committee wanted number 5 under Class B? Councilor Bushor responded that she saw the first 4 as serious, but would like them to internally have discussion.

1. **4.02 BCO—Chapter 27, Streets & Sidewalks—Excavations & Obstructions**





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Councilor Mason inquired as to whether the changes requested had been completed. C. Manna responded that they had included encumbrance fee, done the language changes regarding titles, and added language regarding obstructions.

Councilor Bushor asked about the changes, noting her prior concerns of amount of fees, language changes to accurately reflect current city positions/titles, and insurance questions. C. Manna responded that the goal was to upgrade the requirements which he did. Also increased insurance to \$1 million.

Councilor Bushor asked about what CU and X were in line 18. C. Manna responded that CU was for collapse and underground, x was for explosions. Councilor Bushor then asked why there were two separate coverages. C. Manna responded that it was separate general versus auto liability. Councilor Bushor expressed concern that it didn't read like that and questioned line 14. C. Manna explained it was general insurance for instance if there was a break in the street.

Councilor Bushor indicated that it still needed some cleaning up. For instance who was the administrator of the Church Street Marketplace. K. Sturtevant replied that it was the Director of Church Marketplace. C. Manna added that he didn't want to change it because not one position/person.

Councilor Bushor also asked about the traffic department. C. Manna explained it would be the traffic division.

Councilor Bushor also suggested a separate fee schedule instead of individual fees listed in ordinance, noting that it would be cleaner and easier. C. Manna responded that he was open to that.

Councilor Mason noted that they could also put the insurance requirements in a separate schedule as well. C. Manna indicated that they do that with roads.

Councilor Bushor moved to approve the amendment as revised, with the proposed language changes and separate fee schedule, and refer back it back to the full Council for second reading with a recommendation for approval. Motion seconded by Councilor Roof.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Bushor, Councilor Roof.





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D. White introduces the proposed amendment, noting it was to clean up the ordinance and bring it up to speed with current practice. Describing that the amendment makes a number of changes of who is doing what. Previously the Coordinator was the Director of P&Z, but now DPI Director. In reality, the person actually doing it currently is J. Appleton, the designee.

Councilor Mason asked whether J. Appleton was still comfortable with the proposed language after he had done the change in his Ward. J. Appleton responded that he would want to still add a few changes. Councilor Mason replied that unless say otherwise there is a concern of too much detail, if feel there should be something else that needs to be in, then okay. D. White indicated that there was a number of layers—state, city ordinance and then at end of day can have protocols.

Councilor Mason asked how the issue came up, what went on. D. White responded that there were a couple of different things, naming new buildings and then as they worked more with it, there are some of readdressing on streets as some don't comply.

Councilor Mason questioned the practical effect on the ground, citing Ledgewood. For instance Amazon doesn't know where to deliver, concern with fire response, etc. J. Appleton and Fire Chief work through it together. Reminder is what it comes down to is all about safety.

Councilor Bushor asked whether they had to change numbers in the address. Councilor Mason responded that they did need to change but there were a lot of different inputs, noting it was a bigger picture issue.

D. White explained that the amendment gives process, ability to appeal, variance added.

J. Appleton noted that in Ledgewood they needed 3 new street names right off. Now going to Redwood, need 2. Public safety issue to get to right spot. Consumer issue is have to redo everything. D. White added that they renamed Industrial Parkway because the property owners wanted to have it done. J. Appleton explained that he uses guidance from 911 Board for notification and sent letters to let people know, but that is all. He also noted that he can wiggle a little on street names, but can only go so far.

Councilor Bushor indicated that the amendment read fine, but questioned who Bill reports to, who approved what is going on and if something was happening in Ward 8 or 1 who would know. Councilor Mason responded noting the appeal process. D. White also added that renaming is council authority under the Charter. For renumbering, outreach to councilors is a good idea, but generally non-controversial. You would not know unless it was your property. Further



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noting that the Department head with the authority is appointed by the Mayor and City Council.

Councilor Bushor questioned who will know about it and how it would get disseminated to the community at large. D. White responded that in most cases they are dealing with a neighborhood association or condo association, noting they can engage NPA if street name change. A lot of back procedures, knowledge to post office.

Councilor Bushor asked if it required notification to people. Noting that if it change, then people should know and ask about the process. Councilor Mason also inquired whether you need to put in a process. J. Appleton responded with the Ledgewood example, noting that he worked through 3 associations, felt they did not pay that much attention. Next time will send out to all property owners at beginning of process, let them all know ahead of time. Then work with associations again. Gone to NPA's with Chief Locke, wherever go next will bring to that NPA.

Councilor Bushor indicated that she was concerned about notification, really looking at how communicate to the community that change has been made after the change has been made. Councilor Mason added that Councilor Bushor was asking if they should require letter and public hearing in advance. What if they have thoughts on the change. Think from a transparency perspective we should say to them that this is what is happening, will hold hearing on date/time, if can't make it here is my email. Made an effort to contact/inform. D. White suggests having procedures for coordinator. Councilor Mason asked about adding "after public hearing". J. Appleton responded that some sort of meeting was going to be needed, but technically have numbers based on distance. Not really a lot there, not a lot of wiggle room. Councilor Mason replied that we would not really say we will change. Councilor Roof clarified that the meeting would be informational rather than public hearing. Councilor Mason agreed, public meeting, not hearing—informational.

D. White referenced line 14, and asked whether they wanted to add provision that E911 coordinator provides notice/meeting or do new paragraph that comes back. Councilor Bushor responded that she wanted a new paragraph that would be in line with Councilor's Roof and Mason suggestion of an informational meeting. Councilor Mason clarified the need to distinguish between new versus modifications, don't need for new streets, need informational meeting for renaming and renumbering.

Councilor Bushor indicated that the final thing she is looking for is notification for the community to know. Councilor Mason responded that it didn't need to be baked in ordinance, but as a matter of policy beneficial to let the Ward Councilor know. Councilor Bushor indicated that she would want to know if they change a street name.

J. Appleton asked whether they could delegate part of charter regarding street name change. Councilor Mason responded that it didn't happen enough that a change in process was necessary. Councilor Bushor indicated that she did not want to delegate that.

J. Appleton indicated that there was more content he wanted to put in, want to readdress development or entire street informal agreement done with respect to 911 standard, be more vigorous. Councilor Mason requested that it be brought



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back the next meeting.

E. Blackwood joins the meeting and Councilor Mason questions here whether there was any feedback from the ACLU on the proposed Fletcher Free Library changes. E. Blackwood responded that the big concern was what happens outside in park, streets—not the library.

Councilor Mason indicated that direct input from the ACLU would be preferred.

1. **Any Other Business**

Joining Planning Commission at meetings on December 4 and 10th.

Next mtg. 12/30 @ 5:30 pm.

1. **Adjournment**

The meeting was adjourned at 7:20 pm.