



Burlington City Council Ordinance Committee

11/20/2017

BURLINGTON CITY COUNCIL ORDINANCE COMMITTEE

Monday, November 20, 2017

City Hall, Conference Room 12

149 Church St., Burlington, Vt.

6:30 p.m. – 8:30 p.m.

****MINUTES ****

Present: Chair Chip Mason (CM), Sharon Bushor (SB), Ali Dieng (AD) (arrived at 7:04 by telephone and left at 8)

Absent: none

Other City Staff: Gene Bergman (GB) (Staff Attorney), Eileen Blackwood (EMB) (City Attorney), Brandon del Pozo (BdP) (BPD)

Public: Michael Monte, Stephen Marshall, James Weatherill

CM called the meeting to order at 6:38 p.m.

1.
 - i. **Agenda:** SB moved the agenda with a change in order between 4.01 and 4.02 and the addition of a discussion in Other Business of items in the minutes to be approved. CM seconded and it was adopted unanimously 2-0.

2.01 Public Forum: Steven Marshall said he'd like to submit materials at a later date and talk during the main item. CM said that was fine.

3.01 Approval of OC Minutes of 10/24/17: SB moved to approve the October 24, 2017 minutes with one change: on the listing of the committee members, chair Council Pres. Jane Knodell to Councilor Ali Dieng. CM seconded and the minutes were approved unanimously, 2-0.

4.01. Proposed Amendments to Comprehensive Development Ordinance re ZA #18-02, Rezone St. Joseph's School

GB explained PZ's rationales for the amendment, as noted in the 10/23/17PZ memo to the CC. Michael Monte, of Champlain Housing Trust (CHT), is the owner of St. Joseph's School building now and he noted the new community use



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tenants that are now in the building. He said that their attorney concluded that some of these uses are allowed under the zoning ordinance but others not so clear. The proposed change reflects this current status and it will allow these uses to continue. CHT doesn't plan on big changes, though in 8-10 years they might put a building up on North St.

SB referred to the zoning map and asked Michael about the acreage and wondered if the whole shaded area is covered by the building. Michael said no it was not. SB said she supports the current uses but said that there are different neighborhood mixed uses that are appropriate and those that are not. She is also concerned about the 80% lot coverage that would be allowed. She understands that CHT now is a good owner but that might not always be the case. Michael said they are putting in non-profit uses and have no intention to do otherwise. For example, the senior center is being replaced by a child care center; this would allow CHT, when the amendment is warned, to come in with site plans for review. SB said she will support but she wants to continue discussing it in the future.

Action: On SB motion and CM second, the committee unanimously, 2-0, approved the amendment as written and referred it to the City Council for second reading, Public Hearing, and adoption.

4.02 Discussion of Ordinance Changes Concerning Quality of Life Issues in Downtown Core.

CM noted the process thus far and the memos that were submitted from the City Attorney & Police Department. SB asked that the minutes state the criminal process that would go into effect. GB explained that when an officer finds a person in violation of a criminal ordinance the officer issues a citation to appear in court on a certain date and time. Then the officer prepares an affidavit of probable cause for the City Attorney to review and from which to prepare an "information" to file with the court. On the date and time stated in the citation, an arraignment is held before a judge to determine if there is probable cause and if a criminal trial process has begun. The process can take several months to deal with discovery and the picking of a jury and then a trial.

Chief BdP said that the criminal process would allow the City to bring people before a judge, which is what the City would like. He said the PD agrees with the CA recommendation to repeal certain ordinances. He said 3 ordinances should be rewritten. He said they would start to enforce, as written, the urination and public consumption ordinances in the already adopted ordinances but thinks that the threshold should be higher than the 2nd offense, in line with similar cities, and suggested the threshold be 3. He suggested the term be within 6 months. He linked the criminal threshold to a failure to moderate behavior.

SB said the noise ordinance model with the restorative justice option is a model to use. She asked if urination is treated differently than defecating. The chief said no. He linked the behaviors to the drinking. He called the drinking an antecedent behavior. SB asked if the PD believes that public consumption of alcohol and urination should be criminal offenses. The chief said yes. SB noted that criminalization has collateral effects. This was confirmed by the chief. He said the people



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who are causing the most problems have criminal records already. SB does not want people who have not had criminal records to have such records and the harm that can result.

SB and CM asked about the way that this could occur and GB said the CA could look at the policy and/or the ordinances resetting the "clock" so this new system would start anew.

SB asked about other communities and when they adopted their ordinances and what they are doing with numbers and length of time. The chief noted some of this information. He noted the discretion that many municipalities have in their citation of these offenses while others have a 3 time offense threshold. SB & CM asked about the working of the restorative justice process in the Community Justice framework and GB gave a brief explanation.

The chief suggested the threshold be 3 offenses in a 6 month period.

AD said the resolution focused on drinking and peeing and asked about the few people that are causing the problems and if there are ways to solve the problems without changing ordinances. He also asked about complaints since the resolution was passed. The chief said that the PD has received many calls about these problems.

CM recalled the tasks set before the committee by the resolution. AD agreed and said he wants to focus on solutions before they bring back ordinance changes. CM said he is looking, with the NRCD committee, to bring a comprehensive product back to the council. AD also noted that there are people who may not be able to pay fines or even go to court.

CM said that the committee may bring something back that it does not support because of the resolution. He did note that the review has found that ordinances already exist that criminalize certain behaviors that are problematic.

SB noted the resolution also focused on behaviors and said she wants to make sure assaultive behavior is covered. The chief noted that these are covered by state law. He wonders how much of this behavior can be prevented by addressing drinking in public, which is an underlying cause.

SB asked about harassment and threats, and the chief noted their link to drinking. SB asked about the link with mental health. EMB said the ordinances address behavior and just because people's mental status make it hard for them to conform with better behavior doesn't mean the ordinance should not address it. We are hearing about the way the ADA also addresses mental illness.

The chief said he recognizes that criminal sanctions will not work for all but that doesn't mean we shouldn't try.



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CM opened it up to the public.

Steven Marshall said communities can set expectations and governments have the right to do that. The best solutions are cultural not legal and we should resist the model of control. The example of prohibition is one which shows the ineffectiveness of the control approach. He said he'd offer proposals that are cultural in focus and help reintegrate people into the community. He pointed to an American Bar Association "bring the court to the street" model as an example.

CM closed the public forum part of the item. He noted that the trespass pieces in the CA memo should wait until the committee deals with the resolution. The 3 offense and restorative justice piece from the noise ordinance for a draft ordinance would be prepared for the next committee meeting. SB asked the CA to address those things in the resolution that can't be addressed by ordinance change. CM agreed. SB asked that the draft be sent to the council for comment at the Dec. 11 meeting.

Action: No action was taken.

5.01 Any Other Business—Next Meeting (Downtown Quality of Life), 12/5/17 @ 530

1. ZA 17-17, Retaining Walls, ZA 18-03, Food and Beverage Processing for 12/5 before the DT, and Ch. 25 Comprehensive updating of Plumbing Ordinance for the meeting after that.

2. SB said there are times they look for comments from the PC, i.e., on the preschool ZA discussion on 10/24/17 (minutes on page 1, last sentence), and she asked for a task list of what is referred and that committee staff also ask PZ to respond to the status. She also noted an item on the replacement of the mobile homes, ZA 17-16 (see minutes page 2, item 4.03, GB proposal) that should not be lost.

6.01 Adjournment: 8:10

Committee Members: Councilor Chip Mason, Chair
 Councilor Sharon Bushor
 Councilor Ali Dieng





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