



BURLINGTON CITY COUNCIL ORDINANCE COMMITTEE

11/13/2014

City Council Ordinance Committee

Thursday, November 13, 2014

MINUTES

Attendance

Committee: Councilor Karen Paul (KP) (arrived at 615 pm), Councilor Sharon Bushor (SB), Chip Mason (CM) (chair).

Other City personnel: Bill Ward (Code Dir.) (BW), Richard Haesler (ACA) (RH)

Committee Staff: Sr. Asst. City Attorney Gene Bergman (GB)

Public: Jason L'Ecuyer, Pat Kearney

CM convened the meeting at 5:35 pm

1. Agenda & Minutes of 11/13/14

SB moved to amend the agenda to switch items 3 & 4, CM 2d, and the adoption of the agenda as amended was unanimous (2-0). They deferred consideration of the minutes until KP arrives. At 7:20 SB moved and KP 2d the minutes as amended (next meeting is on "Tuesday," Nov. 18, not Wednesday), which was unanimously were adopted.

1. Public Forum:

Jason L'Escuyer said he supports the proposed changes to the Housing Board ordinances that they are voting on. He explained that the change in 14 day certified mail requirement is to help the mom and pop landlord and pointed to case where there was damage of \$6k that was lost by landlord due to failure to send the notice by certified mail. He read an email from Kirstin Daigle, the board's chair, on behalf of the entire board asking for additional revisions to the housing ordinances regarding notices for evictions and rent increases—they are asking that the ordinance be changed to match state law.

CM asked RH for his comments on the additional changes. RH said he has not reviewed them and CM asked RH to bring



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them back to the HBR to draft an ordinance for first reading.

1. Chapter 18 –Housing--Deposits

CM asked the committee to go through the proposal section by section. SB asked for its genesis. RH noted that board first proposed changes that would go beyond the state law but then altered that to conform to state law, then expressed a desire to go beyond the state law and then agreed to keep their proposal in harmony with state law.

RH said the first section on the term of office for board members, a 5 year term, is very long and the cases are hard so the board seeks to reduce the term to 3 years. CM noted that changes to 18-39 and 18-40 are stylistic. SB asked RH to clarify who the clerk of the board is and when informed that the clerk is a staff member of the City Attorney's Office said it should be stated that it is an employee of the city attorney's office. The committee decided to have the clerk be designated by the City attorney and to add the public records requirement of 18-41 to 18-40 & delete 18-41.

CM moved to 18-51, the time to set hearings. RH explained that the 15 day rule is not possible to meet and the change is needed. The committee agreed with the proposed changes. There is no issue with the 18-52 or 18-55 proposal. For 18-57, the committee added a comma after "inspect" and changed "educed" to "introduced".

CM noted that the first proposed change to 18-120(c) is to clarify that the 14 day period to return the deposit commences at the discovery when the apartment is vacated, thereby switching the burden to the tenant to disprove the discovery. The committee agreed with this proposed change. The proposal also seeks to allow the board to find actual notice instead of written notice of the right to have a hearing in the interest of justice in exceptional circumstances. The committee disagree with proposal since it allows for only oral notice. RH noted that there is no criteria for deciding what is in the interest of justice and what an exceptional circumstance is. The committee decided unanimously to delete it.

The board proposed to delete the certified mail requirement in 18-120(c); the purpose of the certified mail requirement was to have proof and this board would like to be allowed to determine the credibility of the parties. CM noted that email should be allowed and no committee member has a problem with the change.

On the double damages proposal in 18-120(c), the committee agreed. The last change, in 18-120(e), to allow filing for a request for a hearing to the clerk of the board was agreed to by the committee.

Action: SB moved to have the ordinance referred back to the council for 2d reading as amended, with a recommendation for approval as amended. KP 2d the motion and it passed unanimously.



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1. Chapter 18—Housing—Certification of Compliance

BW noted a technical problem with the first reading ordinance in 18-30; it doesn't reflect the changes that the council adopted recently regarding the increase in the fee. GB said he'd fix that technical problem.

BW gave an overview of the proposal. He noted that he hasn't received negative comments on it and he has spoken with the owner's association's lawyer and a number of individual landlords. The definition of skilled manner gives the ordinance clarity as to the definition, which is referred to in section 18-70. BW said the changes are meant to match the actual administrative practices of the office and close the loopholes. The bulk of the proposal is to allow for a 5 and 4 year COC for properties with no or few problems. SB asked for the thinking behind the thresholds. BW said 5 non-major or life threatening violations is a small number of violations. Between 5& 10 violations would receive a 3 year COC, the current term for a COC generally. BW said that failure to fix violations in the time set by the order would lead to a 2 year COC. The trigger date to the periodic inspection eliminates the loophole for people who don't fix things in the time set. The committee unanimously agreed to a technical clarification to page 3 line 76 to add "up to 10" between "contains" and "violations".

BW noted that he added "fireworks" to 18-120(a)(4). It was unanimously agreed to change the last sentence of this subsection by deleting "In such a case, the" and stating "A suspension issued pursuant to subsection (a)(4)."

BW noted the office practice is not to issue "interim" certificates and this is proposed to be deleted. The committee was fine with the rest of the proposed changes and inserted an administrative fee of \$50 for the work associated with relocation.

SB noted the line 23 typo "be" should be "been".

Action: KP moved to refer back to the council for 2d reading as amended with a recommendation of adoption, SB 2d, and the committee approved it unanimously.

1. Any other business: Next Meetings & Items to Review

The committee will be meeting on Tuesday the 18th to discuss urban agriculture.

1. Adjourned: 7:22 pm

