



Burlington City Council Ordinance Committee * IN-PERSON & REMOTE*** - Bushor Conference Room (Room 102) 5:00 PM 10/20/2021**

City Council Ordinance Committee – Wednesday, October 20, 2021

Via Zoom and In Person at Bushor Conference Room, City Hall

DRAFT MINUTES

Members Present: Councilor Mason (Chair), Councilor Hanson, Councilor Hightower

Staff Present: Kim Sturtevant (Assistant City Attorney), Meagan Tuttle, Laura Wheelock, Larry Lackey, Norm Baldwin, Chapin Spencer

Others in Attendance: Gene Bergman, Sharon Bushor, Barbara Headrick, Jon Adams-Kollitz, Larry Moquin

Meeting called to order at 5:04 PM.

1. Agenda

1.01 Motion to adopt/amend agenda

Motion to adopt agenda as written.

Motion by Councilor Hanson, Seconded by Councilor Hightower.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Hanson, Councilor Hightower

1. Public Forum

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Gene Bergman spoke in favor of no parking minimum and TDM. Important to increase, expedited process—we have used before for 4 unrelated and CityPlace changes. Totally allowed by statute. Important because planning is slammed. Not the



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only ones. Staffing needs reason why need to do this process. Important policy that shouldn't be held up.

Sharon Bushor agreed with overworked and under staffed, but public process important. Have Planning Commission and question why bypass them. Feel Planning Commission role is to vet zoning ordinances. Not so much policy but process.

Closed public forum at 5:20 PM.

1. Minutes

3.01 Approval of Minutes of 9/22/21

Motion to approve minutes by Councilor Hightower, seconded by Councilor Hanson.

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Mason, Councilor Hightower

1. Committee Discussion/Possible Action

4.01 B.C.O. - Prequalification of Construction Contractors-Responsible Contractors, Secs. 21-68, 21-73, 21-76 & 21-77

K. Sturtevant went over attorney guidance.

L. Wheelock started to discuss changes and referenced lines 35 & 36 and 40-42, changed timeline to be consistent, a lot of projects bid in spring.

Councilor Mason questioned for the subcontractors underneath, whether concern that have to pay for year, not just project and enforce; not just tied to city project way beyond what Montpelier did—is that the intent? Not sure how 12 months factor in? In part changes modeled on Montpelier, livable wage. L. Wheelock responded that it may be better to change language, bracket it. Councilor Mason replied that maybe tweak definition that only apply to wages paid to that specific project. Concerns with how may be interpreted. C. Spencer indicated that the first question is what trying to fix? Challenge to bid environment lately. Bid responses challenging this year. Need to protect public good but need to not limit ability to get work done, try to strike balance. In past years only one bidder on sidewalks. L. Lackey agreed. Burdensome for smaller contractors to do this.



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N. Baldwin noted that it was an opportunity to look at streamline some of processes. Right now everyone in charge and no one in charge. What frequency update prequalification. When have to submit. Challenge when have to submit.

Councilor Mason noted two issues were administrative, where lives, recognition that current process not efficient. Should be one place to review. Legitimate but separate conversation.

Councilor Hanson indicated that he felt like we are getting into debating but still don't understand redlines.

1. Mason asked about subsection 7—once prequalification, it lasts 12 months? L. Wheelock responded that if provide letter with new bid within 12 months then don't need to do the prequal. again. All staff that follow allow. Hightower asked whether it means that have letter and then on contractor to give in new application. L. Wheelock responded, yes, there are cracks because everyone in charge and no one in charge.

Councilor Mason how many contractors and where information lives? L. Wheelock responded that it is currently on "s" drive and all departments have access. Councilor Mason asked why each within each department. C. Spencer responded that other organisms have contract division. City doesn't. Councilor Mason noted that it seemed inefficient. Table for now, can have conversation with administration. Go back line by line.

Councilor Mason would support change to exclude BSD. Motion by Councilor Mason to amend to change line 16 to delete "including the BSD," seconded by Councilor Hanson, unanimous.

Councilor Mason referenced removal of a typo, "a" from line 18.

Councilor Mason asked about line 33, whether to change \$100,000 to \$200,000? Noting it was the threshold from State and City of Montpelier? L. Wheelock indicated that Board of Finance threshold was \$50,000 and City Council was \$100,000. Noting it may impact the departments of parks or maintenance the most. N. Baldwin noted that an issue to be careful of is if you go beyond \$100,000 because of subcontractors. Councilor Mason responded that he wanted to understand if it was good for us. Fine with \$100,000.

Councilor Mason noted bigger question of applicability to this ordinance when applied, just when contract pending, scope of project or one year? Councilor Hanson also added when say have to be meeting requirements for year prior to receiving our approval and applying work?

Councilor Hightower noted if prequal. have been doing, want to keep doing, don't want to change this. Councilor Mason



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disagreed, requiring all contractors and subcontractors to pay prevailing wages will result in less contractors.

Councilor Mason noted concern on baseline, if read as intended, if want to be contractor in city have to pay prevailing for now and next 12 months. Concern if happen want to tweak--come up with policy and then ask City attorney to come up with language.

Councilor Hightower questioned the ability to handle when multiply projects? Contractors are set up to pay just for Burlington job but if ask for info can provide certified payrolls. L. Wheelock responded that application does have provision to show wage rates. Feel like contractors are paying pretty well right now. Currently pavers, even who before couldn't pay high, really paid well now because can't keep workers.

Jon Adams-Kollitz—agree has been a long time since not paying livable wage. If trying to not reduce pool then important to not prevent younger companies to bid on project.

Councilor Hanson asked if 12 month approval not need to reapply, but need to meet for 12 months for all projects. L. Wheelock noted that it may be helpful to hold on this provision and look at rest. Councilor Mason responded that he believed the intent that 12 months then do not have to keep redoing, if certified then good for 12 months not look back. If all agree, can ask City Attorneys to fix language. Councilor Hanson and Councilor Hightower agree. Councilor Hanson--don't need to say look back 12 months, but do want paying across the board, not just this one project. Councilor Hightower--think that is hard if someone submit bid and held to standard and may not get city project not to pay them. Councilor Hanson--maybe can tweak but if already have another project and not paying, would need to pay midstream. Councilor Mason responded, don't believe midstream, as long as agree during project time then need change. Question are subs and contractors paying same rate across board? As drafted if audit books and can kick them off if they are not paying same on other projects. L. Wheelock noted that the private world is different than the public world. Not sure how kick off, we work with national and Canadian companies so that could be complicated. C. Spencer added that is for larger project, challenge not have facilities team here to speak to smaller projects. Councilor Mason also noted if national organization, not going to give you all this information.

Larry Moquin ordinance should not have anything to do with what contractors are doing on private contractor. Purpose should be that workers getting paid. If put in contracts in Burlington fine. Understand concern. This makes level playing field.

Councilor Hightower Line 41 remove "the longer of" the government.

Councilor Mason requested lines 35 & 36 clarified that it is forward 12 month, not back, once approve can be good for 12 months. Jon Adams-Kollitz added prequalification for calendar year—Jan to Dec. Agreed by Councilors.



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N. Baldwin noted concern with "governmental funded." Councilor Mason change Line 42, City funded, line 29 City –agreed by Councilors. Jon Adams-Kollitz noted concern with donations. L. Lackey noted Federal money. Councilor Mason responded that since flow through airport then okay. L. Wheelock noted that VTrans 100% in some projects. Councilor Mason responded that they still would have State requirement.

Councilor Mason referenced line 86, noting 3 different wage ranges, can get language to KS. Montpelier language to specified work project. Language from Councilor Mason.

Line 110 Councilor Mason asked a policy question, applicable threshold for subcontractor? Councilor Hanson going from \$7,500 to \$100, 000. Councilor Hightower \$100,000 above. Councilor Mason for sub. L. Wheelock amendment for 25% percent or \$100,000 whichever is lower. Need because ability to participate under subcontractor. Councilor Hanson concern that it becomes work around. Councilor Hightower asked what about major sub? 25% take lower amount. Councilor Hanson responded that was a lot better. Councilor Mason noted that the subcontractor still has to pay prevailing wage, just does not have to submit paperwork. Councilor Hightower responded that felt great with 25% or \$100,000, even lower bar. Councilor Mason agreed. Councilor Hanson asked what is compelling them to comply? L. Wheelock responded that the livable wage, city monitors, also federal requirements still required. Councilor Mason noted under Sec. 21-70 clerk still determines. Councilor Hanson questioned whether project lead still on hook. Councilor Mason responded yes. Councilor Hanson indicated he was good.

Councilor Mason referenced subsection 21-71(a). L. Wheelock indicated that prequalification application takes requirement and adds enormous burden on it. Cadillac of applications. Application originated from state of Vermont and have a team to review it. Idea to amend is to bring back to staff ability to amend.

Add into line 110 lesser of 25 % and \$100,000.

Councilor Mason Line 133 liquated to strike. Larry Moquin suggested changes. Subsection 21-72.

Councilor Mason to work with City Attorney's office and bring back to Committee.

4.02 B.C.O. – Elimination of Minimum Parking Requirements

M. Tuttle- explained typical process for zoning ordinance amendments. Other ways can happen. Bring to PC but need to have another hearing. City place, did arrange at City Council but did not have language to direct same with STR.





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Councilor Mason asked what the reason, why different process? Concern? Why not follow different process. Councilor Hanson responded that two shared priorities across City. Two priorities, concern broadly across. This process went through very extensive process from 2019 from housing process to. Wasn't really controversial not really controversial for downtown one. In end non-controversial. Same small crowd. Unanimous vote. Priority, publically vetted. Significant city wide but from understand new development is already happening in that area. Alternative streamline.

M. Tuttle noted that TDM apply, minimum go to all City.

Councilor Mason questioned whether to go to more process? Noting that PC lives and breathes this and would he value their input. Worried no one care and then move forward and concern after of process.

Councilor Hanson indicated that most of larger projects have TDM, but removing parking all Burlington. Already been through this process and arguments all same. Councilor Mason responded that if already done, than should move quickly. Councilor Hanson, don't trust that, already lived through and don't trust.

Councilor Mason may be alone, but not sure why not go through regular process. Councilor Hanson responded why not? Councilor Hightower noted that can have informal ask to PC to look at by date. Councilor Hanson responded that can talk to Planning Commission but trying to make it quicker.

M. Tuttle noted that both are a staff lift. Question where does bulk of policy happen. Reservation anytime talk parking controversial. May be different with constituents, but may work different if don't get input at the beginning. Councilor Mason-- agree as process in past has bitten them. Councilor Hanson--first time around a lot of people not sure up. Councilor Mason--feel need to make effort because large policy question. Councilor Hanson--doubt change mind on process.

Councilor Hightower suggested the Committee ask PC to come and discuss. M. Tuttle responded that if going to engage PC, invite them to joint meeting will be best. PC have meaty agendas coming. Asking to attend a mtg. off normal meeting agenda best.

1. Hanson walked through the ordinance. Expansion of what passed last year. Changing requirements of new construction. Eliminates min. parking requirement. Development of certain size, logic outside zone harder to get on public transit so developer help to change.
1. Mason asked if there was no concern that TDM ahead of consultant? Hanson responded that he drafted a resolution for City Council. \$50,000 looking at existing employers and institutions, interact. To really do it may be a charter change. Bigger leap, reg. employers. Mason asked if there was any information. on the last year. Hanson responded



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yes, developments that have developed complying. Also projects in cue that could not have been built that are being built that wouldn't have been able to happen. 288 Main Street. Seems policy working as intended.

M. Tuttle noted that she had heard some successes, but at tipping point, manageable at this point but if see many more projects under that may be issue. TDM study help see models for funding and managing help with operating. Feel TDM expansion should wait until study. Other thing was updating impact fees. Believe looking at both would be helpful.

Councilor Mason asked if impact fee need charter change? M. Tuttle responded that it might if change role.

Councilor Hanson indicated he was worried about waiting for TDM. M. Tuttle responded that she was not worried about removing parking requirement. Other work doing will dovetail with removal parking. TDM split and help inform changes.

Councilor Hanson indicated that he hoped TDM will be on its own without need requirement parking.

Councilor Mason asked that after study comprehensive TDM then apply city wide. Councilor Hanson responded yes.

Councilor Hanson noted GMT transit passes to all tenants and employees paid 1st year (not matter because paid now) and then 50% 9 years. May change. Carshare VT free membership and then 50% off. Have to manage parking and unbundle parking. Bicycle parking, carshare, enforcement need to sign off and improve. Just expanding it Citywide and having lower threshold citywide. Getting rid of minimums and unbundling effective. Availability of parking and cost of parking most important. Saving a lot by not building parking. Seem supportive and benefited by it.

Councilor Mason noted remembering a lot of discussion of TDM of what should be. Next steps—PC hearing invite? Invite S. Gustin too.

Public Comment:

Barbara Headrick: Recollect comment from Councilor Hanson that same people show up. Different for downtown versus rest of City because of multi-level garages. Think responsible to look at rest of Burlington where not have same level of support. Concern zoning amendment cause parking congestion on street and then discourage bicycle Sec. 8.3.5 technical issue. Referenced her email.

Sharon Bushor: Hard time hearing, still not clear about Planning Commission participation. Point still remains, fast track





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precludes process. Getting agenda done helpful for you but precludes process. If joint and then no joint then should have a couple of public hearings and not combine so will have more opportunity to hear. Sometimes councilors create and others have to deal with. Understand climate crisis but need to meet people where they live. Should be sufficient public process. Need to hear both sides if two sides, not just move forward with what you think right thing to do.

Councilor Mason noted process to get to Planning Commission to attend. Pushing out to broader audience to get involvement. Warned meeting not best way to get out. Councilor Hightower asked about NPA. M. Tuttle responded that in past done differently, NPA's, ask councilor to include in updates, need to have a plan how to work through and brainstorm how work through. Councilor Hanson noted he did not have issue with more public, still can get notice out.

M. Tuttle responded that they were able to come to joint process with City Council direction from housing summit, trying to do that. Only hesitation of only couple of hearings that we haven't heard from that base. Councilor Hanson responded that he felt they have basis. At housing summit and feel public feedback was in favor for this direction.

Councilor Mason noted that he shared the same hesitation, will discuss M. Tuttle. Not a multi month process unless make it that way which may not be bad. If able to get facts out always better than people showing up at last meeting frustrated. Go to PC to see about joint meeting. Brainstorm with M. Tuttle how to get word out. May go to NPA's.

1. Any Other Business

Next meetings: 10/27 for STR

1. Adjournment

The meeting was adjourned at 7:20 pm.

