



Burlington City Council Ordinance Committee 8/7/2019

City Council Ordinance Committee – Wednesday August 7, 2019,

Community Room, Fletcher Free Library

MINUTES

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

Staff Present: Kim Sturtevant (Assistant City Attorney), William Ward (Director DPI), Caleb Manna (DPW), Mary Danko (Library), Eileen Blackwood (City Attorney)

Others in Attendance:

Meeting called to order at 5:37 PM.

1. Agenda

1.01 Motion to adopt/amend agenda

Motion to adopt agenda as written.

Motion by Councilor Roof, seconded by Councilor Bushor.

Final Resolution: Motion Passes

Yes: Councilor Adam Roof, Councilor Sharon Bushor, Councilor Mason

1. Public Forum

i. Public Forum

No speakers.



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Closed public forum at 5:37 PM

1. Minutes

- i. Approval of Minutes of 7/31/19

Motion to approve minutes as modified per Councilor Bushor's comments by Councilor Roof, seconded by Councilor Bushor.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Bushor, Councilor Roof.

1. Committee Discussion/Possible Action

- i. **Burlington Code of Ordinances Sec. 8-28a – Fees (proposed changes)**

W. Ward Introduced the proposed amendment explaining that when an applicant comes in they have to say an estimated cost and then give the actual cost after. The number, \$10,000, came from Ned Holt. \$10,000 is a good number because most change orders. The change limits amount staff needs to review, a lot of staff time is spent for small amounts of refund. Would like to add one piece.

Councilor Mason asked how to make sure applicant comes back?

W. Ward responded that they have to close out the permit. Also, suggested a threshold to prevent unnecessary cost. If actual cost are within \$2,500 of original estimated cost can waive.

Councilor Bushor asked whether it applies if it less than \$10,000?

W. Ward explained that the threshold is a commence sense approach, spending more on processing than receiving.

Councilor Mason asked about permit reform and whether they had to come back again?



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W. Ward responded that it could be done at once during closure. Noting that it helps keep things practical.

Councilor Bushor asked about ways to enforce, whether the documents identify what happens if there is falsification.

Councilor Roof asked if there would be an issue if applicant wanted refund even not allowed one?

Councilor Mason responded that it wouldn't come up.

Councilor Bushor noted that this proposal came to them without going through the normal route and asked Director Ward if he felt that members of public want it to go through process?

W. Ward responded that he did not, felt it is a win-win, less aggravation for all. Will put memo with it explaining details. Customers want to make it go quicker, fewer steps. Also suggest change "estimated" to "actual" and add language to the effect of, "if the actual costs are within \$2,500 of the original estimated costs, no additional fee or refund shall be required."

Councilor Bushor moved to approve the amendment as revised and refer the amended version of 8-28(a), back to the full Council for public hearing with a recommendation to place in all stages of passage, seconded by Councilor Roof.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Bushor, Councilor Roof.

1.
 - i. **Burlington Code of Ordinances Ch. 27 – Streets and Sidewalks (proposed changes)**

C. Manna introduced the amendment, indicating that he would go through each proposed change. First, increase insurance to be reflective of typical coverage now. Also change, personal and advertising injury.

Councilor Bushor asked what personal and advertising injury is.





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Councilor Mason requested staff to check in with the City's insurer.

C. Manna described change number 2, small changes that we don't pull excavation permit for ie: tree removal, telephone poles, resurface driveways. Not want to charge \$1/foot for simply resurfacing.

Councilor Bushor indicated that the intent was fine, but the language doesn't read right, should reword "as approved by the Director of Public Works"--need rework.

Councilor Mason asked for questions on proposed change #3, there were none.

Councilor Bushor had a question on #4—process not supposed to exclude City Council, excavation inspector can now extend permit on weekly basis for another 30 days, what happens for permits that didn't have timeline, how address those that require City Council approval?

C. Manna responded that it is a problem when small projects hit delays, the amendment is intended to allow wiggle room for projects that hit delays or not able to get approval.

Councilor Bushor asked about Church St. marketplace?

C. Manna indicated that they do their own.

Councilor Bushor indicated that she thought it should say what happens after 30 days. If opportunity to give some sort of direction what happens thereafter it would be good.

Councilor Mason agree, after 60 days, back to CC.

Councilor Mason asked about any questions on #4, there was none.

Councilor Mason asked about questions for #5.





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Councilor Bushor asked if the fee was enough.

C. Manna indicated that they just rounded up.

Councilor Mason asked whether \$20 was okay without full analysis.

----Councilor Roof stepped out 6:11 pm---

C. Manna indicated that they were just looking to modernize.

Councilor Bushor responded that she was okay to leave at proposal as written.

Councilor Mason offered #6 for questions.

Councilor Bushor questioned the removal of the City Hall Park language and whether it was removed simply because it can happen anywhere.

C. Manna indicated that was the reason, it was noted by the attorney's office that could be other places.

C. Manna indicated that the change for #7 was in line with charge for excavation. The change for #8 was because tractors are taller.

--Councilor Roof back at 6:13 pm--

C. Manna agreed that number #9 regarding signs could be pulled from this amendment and looked at during review of zoning signs amendment.

Councilor Bushor moved that the amendment go to the full Council for first read with amended language, no referral



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included. Seconded by Councilor Roof.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Bushor, Councilor Roof.

1.

i. **Trespass Ordinance-Introduction/discussion of proposed changes**

Eileen Blackwood introduced item. Passed out Ploof Settlement Agreement re: changes in trespass law and need for additional due process. Ploof case about individual who got trespass notice at City Hall Park and then within short period went back and got charged with trespass violation. #5 of Agreement has conceptual changes. The proposal is to create a whole new ordinance section with how to issue notices of trespass on City property. Attorney Blackwood reviewed the elements that the ACLU and City had agreed should be in the new section and where there are still disagreements.

Councilor Mason inquired on the timing, and if appeals would go to 8 different commissions, should there just be a single appeal panel to hear all?

1.

i. **Library Ordinance-Introduction/discussion of proposed changes**

Councilor Bushor indicated that it was troubling that some of the individuals are homeless and the ordinance presumes email or other address. M. Danko indicated that the notice can be handed out.

E. Blackwood added that need to have notice handed with info in notice of how and where to appeal. She noted that they are still discussing timeline of how long to issue a trespass. Additionally, there is no stay of enforcement in the library as proposed because the due process provided is very robust. With regard to

preponderance, the ACLU wants it to be our burden to demonstrate.

Councilor Mason noted that he appreciated ACLU challenges and asked why different ordinances? The current City Hall Park ordinance will go away. The Library ordinance will be replaced. Have not addressed Marketplace ordinance yet. Libraries have different laws around country from other public spaces. Think will bring trespass to the Council on Aug. 26, Library likely go on Aug. 12.





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Councilor Bushor asked if the book mobile was covered? Also asked for clarity under prohibited acts, class b, possessing and prohibiting marijuana—whether you can consume or eat because it is claimed therapeutic? M. Danko responded that there would be no consumables because small children can pick up.

Councilor Bushor asked about the return section—if after 30 days need to pay \$500—what if pay replacement cost? M. Danko indicated that she would look at that.

Councilor Mason suggested for line 138 and 142 to add “by” director. He also noted that line 156 doesn’t necessary line up to stay language? Then he questioned whether it is effective on issuance because no stay on appeal? Yes, because of more robust pre-issuance process.

Councilor Bushor asked whom Appeal of Rule 75 is to? E. Blackwood responded to the superior court.

Discussion of process to move ahead.

1. **Any Other Business**

- i. Next Meeting and Items to review

Councilor Mason reported that the Church Street commission asked him to take up some changes to ordinances. He indicated that his preference would be to have a large group discussion. Reached out to Mayor’s office, Brian Pine for CNDR.

Councilor Roof agreed that is a better idea than coming here first, but what are we saying to commissions.

Councilor Mason hoped message sent is thank you for bringing to our attention, think it needs to be addressed.

Councilor Roof feels that the larger issue is that people do not understand the process/expectations.

Councilor Mason indicated that he appreciates the Commission’s concerns.





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Councilor Bushor added that if Commission has concerns, they should send communications to Council, and not send to other Committees as it precludes rest of Councilor's understanding of what is going on. More emergent issues should go to Mayor or President of CC, rest of time commissions should send issues to CC and follow process.

Councilor Roof agreed and thinks other Commissions/Commissioners understand how referral to council works.

Upcoming items:

- ZA 19-10 Inclusionary Zoning—further review
- ZA 19-06 Art. 7 Signs

Next mtg. Aug. 28—5:30 pm.

1. **Adjournment**

6.01 Motion to Adjourn

Motion by Councilor Roof, seconded by Councilor Bushor.

Final Resolution: Motion Passes.

Yes: Councilor Chip Mason, Councilor Adam Roof, Councilor Sharon Bushor.

The Ordinance Committee meeting adjourned at approximately 6:52 pm.

