



Burlington City Council Ordinance Committee *Revised Agenda to Provide for Virtual and In-Person Access to the Meeting*** 6/16/2021**

City Council Ordinance Committee – Wednesday, June 16, 2021

Via Zoom

DRAFT MINUTES

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

Staff Present: Kim Sturtevant (Assistant City Attorney), Tim Devlin (Assistant City Attorney), Eileen Blackwood (City Attorney), Bill Ward (Director, DPI), Doreen Kraft (Director, BCA), Chris Burns (BED), Darren Springer (Director, BED), Sara Katz (BCA)

Others in Attendance: Sharon Bushor

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 Hanson, Seconded by Councilor Mason.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Hanson

2. Public Forum

2.01 Public Forum

Sharon Bushor: Sent communication to share with the committee. No comment on Livable Wage, seems appropriate.



Burlington City Council Ordinance Committee *Revised Agenda to Provide for Virtual and In-Person Access to the Meeting*** 6/16/2021**

Percent for Public Art—like, but landscape garden not included unless integral part of art. Question of who maintains it? Heating systems—don't know where it defines renewable gas? What is the source, what is it? Maybe define somewhere else. Not sure why saying in new building?

(Councilor Hightower joined at 5:37)

In waivers, not sure what it is saying—percentage?

Closed public forum at 5:38 PM.

3. Minutes

3.01 Approval of Minutes of 5/27/21

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

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Mason, Councilor Hightower

4. Committee Discussion/Possible Action

4.01 B.C.O-BUILDING AND BUILDING CONSTRUCTION--Energy Conservation, Addition of Renewable Primary Heating System, Ch. 8, Art. VI

D. Springer understood that the Committee had some questions that they could help with and they had some suggestions for the Committee. Councilor Mason requested that they start with the suggestions. D. Springer suggested more specific language in Lines 22 & 23 regarding design heating load, specifically:

.....(a) A "renewable primary heating system" shall mean a heating system that meets at least eighty-five percent (85%) of the building's design heating load calculated per the CBES energy code (Section C403.1) ~~heating load~~ and is fueled by:

And also language regarding electric resistance units and the CBES energy code in Line 24:

.....(i) Electricity (with the exception of electric resistance units prohibited by the CBES energy code (Section C403.2.3)) ; or



Burlington City Council Ordinance Committee *Revised Agenda to Provide for Virtual and In-Person Access to the Meeting*** 6/16/2021**

C. Burns noted that they tie all building energy in new construction to CBES so appropriate, they are not talking about electric resistance.

Councilor Hightower asked whether carbon price of \$100 was anywhere else or new and how 1% was established. D. Springer replied that \$100 in State and have incorporated it in some City procurement as well. For 1%, want to make sure cover inflation, 1% one way to do it, probably other ways to do it as well. Councilor Mason asked how it is done in the procurement process. D. Springer replied that he was not sure, relatively new procurement process but could do 2 ways, one based on science and technology or by number. Councilor Hanson indicated that he rather have it based on science. Mentioned that state also worked on this? D. Springer replied that the PUC have looked at it. He also noted that other cities have a higher number, NY higher--\$200. We've looked at other purposes and \$100 per ton was significant. Councilor Hanson suggested replacing 1 % to review annually based upon what state/fed. doing and update. Councilor Mason indicated that he wasn't sure he understood, concern onerous on committee or others to do that annually. If externally prepared data like CPI or otherwise? Councilor Hightower suggested it just go up automatically, annually by CPI or PUC. Councilor Hanson expressed a concern with going through ordinance committee, would like to delegate it. E. Blackwood noted concern that some things can be delegated and some cannot. Can say it is this or can come back. Concern, can think about more, but first impression concern. Councilor Hightower suggested choosing a higher escalator. C. Mason noted that they can put in resolution to report back. Like automatic increases with a reporting that would demonstrate it was still good. Councilor Hightower feel can use CPI now, moving forward it may have more carbon pricing and then can do it. Councilor Mason asked what CPI has been? Switch to CPI and have report back in resolution.

Councilor Mason question as drafted, apply carbon price with any escalator and a yes or no. With any new building there will be a renewable penciled and the waiver will be there. D. Springer responded that for renewable gas it is a methane product sourced from landfills, wastewater treatment facilities and farms.

K. Sturtevant and T. Devlin requested to add definition of renewable gas.

Councilor Hanson asked that if they were really close, like a dollar, would BED be able to use incentive to flip back? D. Springer replied that the way he reads waiver, it includes tier 3 waivers, don't think in position to include any other incentives just to address waiver issue. Councilor Hanson indicated that there isn't a lot of logic of tier 3--4 a lot of logic. D. Springer replied that they can do custom. Councilor Hanson asked whether we should leave a little wiggle room for scenario that within 2 percent of cost. Councilor Mason responded that he didn't disagree, but don't understand how works in application. Councilor Hanson responded that if greater cost and within 2 Percent can do. Councilor Mason replied that it would just move the cliff, still have a number. Councilor Hanson indicated that it would capture slightly more buildings. Councilor Mason asked whether the place to capture that be what is included in waiver not the waiver. Less clunky to put in waiver threshold. Councilor Hanson asked about language "may grant a waiver" and whether it was discretionary. E. Blackwood responded that there was some discretion but sets forth criteria, if not grant needs to be fair. Must treat all equal when look at but have discretion if meet standard. Councilor Hanson indicated that he didn't want to get too hung up on that issue.

Councilor Mason asked if there were any other questions or comments.



Burlington City Council Ordinance Committee *Revised Agenda to Provide for Virtual and In-Person Access to the Meeting*** 6/16/2021**

Councilor Hanson moved to refer the ordinance as amended (changing language in lines 23-25, adding CPI and adding a definition for renewable gas) back to the full council with a recommendation to suspend the rules and place in all stages of passage. Seconded by Councilor Hightower.

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Mason, Councilor Hightower

4.02 B.C.O.-OFFENSES AND MISCELLANEOUS PROVISIONS--Percent for Public Art, Section 21-120 through 21-123

E. Blackwood introduced the ordinance noting that it sets out how percentage of project set aside for public art in capital projects. Sets forth definition. Sara Katz working on guidelines. If project small and amount not enough to fund go into a fund, part of the purpose is to make sure maintenance available.

D. Kraft noted that the ordinance has been a long time coming. Wanted to bring forward, codify and clarify how happens. Sara looked at a lot of other ordinances. Importance of having, airport-federal need in place, helpful for future capital projects.

S. Katz noted they were already implementing in a number of projects, Great Streets for example. Not a shock, but redefining so not dependent on relationship with people worked with in past.

E. Blackwood walked through the ordinance starting with Section 21-120 purpose, 121 definitions—guidelines, capital project (include reconstruction, renovation but not repair or maintenance because of budget constraints), eligible budget, public art—permanent or long standing, fund, administrator and committee (can be public members, majority must be residents or taxpayers). 122 defines the eligible projects/exceptions and require 1% set aside. Project manager also consulted. Determination of eligibility by COA and the Executive Director. 123 sets up what money can be used for. 124 Guidelines, board established, council review. Last piece makes clear that the city owns public art funded by the ordinance.

Councilor Hightower asked about creating a new city committee that will be citizen lead. But not same people actually selected artist. S. Katz indicated that the panel is set up each time, generally citizen committee. Hightower responded that she was not sure how many projects, a lot can recycle people, not a lot of use of a committee? S. Katz responded only so many projects can handle with staff, so multiyear program in tandem with capital projects. If not in year, then move into another. Some projects not capital project related so can be set on a different timeline. Citizen committees—there are some times when committee can function on smaller ones, but try to have committee reviewing in area that art going up in. Hanson asked if the process was already in place. S. Katz responded that it was. They are working from guidelines in 1999 and updating as needed/change. New guidelines evolution of process using for 20 years. D. Kraft noted that they had



Burlington City Council Ordinance Committee *Revised Agenda to Provide for Virtual and In-Person Access to the Meeting*** 6/16/2021**

never established how to fund maintenance so new ordinance and guidelines take care of that. In beginning need to assess current ones and condition. Mason asked if the maintenance fund would be utilized for existing as well as new projects. S. Katz responded that there was not enough money set aside to cover all. C. Mason asked how many projects, how often city funds involved in a project, what are type of projects that would apply to. D. Kraft--DPW new Shelburne road turnabout, airport missed hotel money, a lot of money road—Great Streets did without guideline, when CityPlace is done, 1% city funds—separate conversation with developer. S. Katz noted they hadn't missed much as haven't missed too many because of relationship, but how divide up with maintenance. Mason asked if only apply to city part, may try to get more or part from developer. Mason gave the example of the roundabout—where go? Will say in agreement but smaller it may go to another site that appropriate for public art investment. S. Katz noted that there may be a place where not appropriate for public art so may put somewhere else. Mason walked through the math—roundabout, 5% city contribution ie. 10 mil., so of that amount there needs to be 1% additional, so 10 mil. plus 1%? E. Blackwood replied that if 5% city then trying to get full 100% total with contributors. \$ built into cost of project. There are always parts not matched completely, this will be that. If partners not contribute, then city still only 1%. Not a significant source of revenue.

Motion by Councilor Hanson to approve the proposed ordinance amendment and refer it back to the full Council for second read and a recommendation for approval.

Seconded by Councilor Hightower.

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Mason, Councilor Hightower

4.03 B.C.O.--OFFENSES AND MISCELLANEOUS PROVISIONS--Chapter 21, Article VI Livable Wages, Sections 21-81 Definitions and 21-84 Enforcement

E. Blackwood introduced the item. Livable wage ordinance includes a designated accountability monitor, no longer doing it, suggest retool to allow for-profit business or individual hired or retained to be able to do it.

Councilor Hanson asked about the worker center letter sent when quit role with suggestions around it--do you feel it addresses the concerns in letter? E. Blackwood responded yes and no, depends on how it is done. Best if can hire one or two part time employees to do it. Councilor Hanson asked if she shared the concerns raised. E. Blackwood indicated that they interacted with departments but ask department and say not sure when going to start or not. Still bugs to work out.

Motion by Councilor Hightower to approve the proposed ordinance amendment and refer it back to the full Council for second reading with a recommendation for approval.



Burlington City Council Ordinance Committee *Revised Agenda to Provide for Virtual and In-Person Access to the Meeting*** 6/16/2021**

Seconded by Councilor Hanson.

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Mason, Councilor Hightower

1. Any Other Business

--Prequalification

--Short Term Rentals, work session likely come to us

Councilor Mason asked about the timing given summer schedules and the public. Councilor Hanson asked about the full council reviewing it now, noting that as a committee they have spent time with it already. Councilor Hightower indicated that she felt it ended abruptly with the Planning Commission. Councilor Mason noted that he thought the issue most debated is owner occupancy. Feel it will come to ordinance committee for at least one meeting. If felt like we couldn't bring back then wouldn't, but feel like it will come back. Councilor Hanson noted that he wants to get council in here and hear comments. Councilor Mason believes a work session to be in person and at least 1 hr. would be best. Not easy to fully grasp. Not sure where Council is. Slot in and get referred to ordinance committee. One before summer if possible and then fall. Councilor Hanson asked to clarify--one council work and then to us? Councilor Mason indicated that was his preference.

Next meeting TBD.

1. Adjournment

Motion to Adjourn by Councilor Hanson, seconded by Councilor Hightower.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Hanson, Councilor Hightower

The meeting was adjourned at 7:01pm.





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