



Burlington City Council Ordinance Committee ***Virtual Meeting*** 1/14/2021

City Council Ordinance Committee – Thursday January 14, 2021

Via Zoom

MINUTES

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

Staff Present: Kim Sturtevant (Assistant City Attorney), Tim Devlin (Assistant City Attorney), Lisa Jones (City Attorney's Office), Bill Ward (Director, Department of Permitting and Inspections) Jennifer Green (Burlington Electric Department), Chris Burns (Burlington Electric Department), Patti Wehman (Housing Manager, Department of Permitting and Inspections).

Others in Attendance: Julie Macuga, Jane Stromberg, Natalee Braun, Kane Sherlock, William Keeton, Ethan Wax, Cora Smith, Sharon Bushor, Gene Bergmann, Sean Melinn,

Meeting called to order at 5:02 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 Hanson, Councilor Mason, Councilor Hightower

1. Public Forum

i. Public Forum

Julie Macuga: Speaking in favor of weatherization, resident in ward 2, renting in drafty unit. Hope to see Vt. Gas do less



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fracking. Industry does not account for methane leaking. More we can do to phase out fossil fuels and keep tenants warm.

Sharon Bushor: Looked at old and new and cut and paste. Line 68, heat paid by owner one of the exceptions. Understand trying to provide relief to tenants, but bigger picture, still benefit from weatherization. Line 89 \$2,000 cap, old version 7 times energy savings per year or cap of \$1,300. Like to know where it came from—is it the right number? Rational of excluding properties that not rented during 5 month period of Nov. 1 to Mar. 31? R values are the same, not sure how frequently changed, want to be reassured that happened. Original was a reporting mechanism, don't see that in end version, liked having a reporting system. Think it would be good to track and have a reporting mechanism. 18-20 inadequate?

Kane Sherlock: Resident Ward 5. Urging mandatory weatherization in all rental units in the City. Tenants some of the most vulnerable. Should be universal and not watered down. Like to see collaboration between Landlords, City and Tenants.

Natalee Braun: Not a fan of knocking on doors to sign petitions so happy to hear that people in favor of this. Met no rental that was not enthusiastic about it. Many favorable results, health, ahead with climate crisis. When come out of pandemic and political crisis will have climate emergency in our face. Wonderful to get ahead of it.

Sophie Aronson: Resident Ward 1, UVM student, have a lot of anxieties about starting to rent in Burlington. Think Burlington City Council needs to act quickly to address affordability, and weatherization is one key step. Also, think it is important that there is progress reports. Think important that it be enforced and done completely.

Ethan Waxman: Resident Ward 5 and renter. Speaking in support of weatherization and making the process mandatory. Winters are hard in Vermont. Concerning that Landlords and property owners are not already accountable. Cost should not be a factor.

Cora Smith: Ward 8, UVM student. Very nervous about winter. Been very fortunate that always have warm space, well insulated. Thought it would already be mandated. Cold winter in Vermont. Have friends with apartments that are cold.

Sean Melinn: Work for regional weatherization organization, non-profit. Have seen firsthand positive effects for clients and see need to have that made available to them through grant program. Support initiative. Should have program with it that makes attainable for landlord/landowner.

Closed public forum at 5:24 PM.

1. Minutes



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i. Approval of Minutes of 12/3/20

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

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Mason, Councilor Hightower

1. Committee Discussion/Possible Action

4.01 BCO Ch. 18 changes re Energy Efficiency and Weatherization in Rental Housing

Chris Burns introduced the amendment. Balance of burdens, keep an eye on affordability, cost up, burden to tenant up. Also look at what can do to existing buildings. U value and R value changes, but look at RBES if looking at gut rehab or new construction so can do wholesale changes easier. Look at new and existing. Value not change as can only do so much to existing. For affordability not talk about replacing window or heating, look at surfaces. Attention to air sealing by adding insulation to available cavities. Did not go second level of thicken wall, etc. that is not a \$10,000 fix. This is traditional weatherization.

Councilor Mason asked if the issues identified in the February 24th memo were put into the ordinance form. Tim Devlin responded that yes, it was certainly the goal that they were. Standards migrated in, redefined who qualifies and who doesn't, and refined cost cap scheme and when standards activated.

Councilor Mason asked that if this is in the Minimum Housing regulation what happens if they don't comply. Bill Ward responded that the owner gets a notice of non-compliance which sets out the issue, what they need to do to fix it and a compliance date. Not typical order where they get 30 days, as they may need more time. Will look at with BED.

Councilor Hightower asked about the standards to trigger? Chris Burns responded that it applied only if greater than 50,000 btu's, and if so, then have to do certain remedies based on list.

Councilor Hanson asked about process, noting that the idea on that point is that you would have to go back again and again, make initial changes, then if at next inspection would still do work to get closer and closer. He also noted that a lot of the language was from time of sale and taking a lot of that language into this new standard. Bill Ward replied that it was a good way to look at it, speeds up pace. If not sell then raise the bar incrementally through times going through the process. Address with tenants paying heat first. Chris Burns noted that in over 85% of units in Burlington the heat is paid by tenants—start there. Other affordability issue, meant to address limbo. More likely to participate if there is program and you are paying bill.





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Councilor Hanson explained language taken from existing time of sale only when property sold. Only touching small slice whereas this touches everyone. Number of units that have to comply is much higher. Bill Ward agreed that it affects more properties at a faster rate than would have at time of sale.

Councilor Mason started walking through the ordinance, noting the application of 50,000 BTUs. Chris Burns noted the exception for rental property not used for space heating.

Councilor Mason requested including "annual" in lines 55 or 56, and number 1.

Councilor Hanson noted his feeling that mixed residential/commercial properties were tricky—if below/above and just measuring the efficiency above can be misleading. If above, can be getting waste heat, distorts number. Getting free waste heat. Concern getting into loophole territory with that. He also questioned whether short term rentals would be exempt under number 3 (line 63)? Councilor Mason suggested adding "seasonal" before rentals in number 3 (line 63).

Councilor Hanson indicated that he was worried about where a property owner pays but very inefficient, maybe deprioritize without exempting. Councilor Mason responded that he was not sure how to deprioritize. Either apply or doesn't. Councilor Hanson replied that maybe within implementation schedule could designate.

Councilor Hightower noted less concern where landlord pay but thermostat control by tenant. From environmental better if tenant controls thermostat.

Councilor Mason note a concern with number 4 (line 68)—easier for BED to implement if remove. Chris Burns agreed, indicating that it was another layer to keep an eye on. You are rental property, in business of rental then apply. Councilor Hanson added that it does open the door to back in forth on paying heat to go around.

Chris Burns walked through exemptions #5 & 6—turn of century been through process but done what could do and not get to below 50,000BTU; not replace until next 10-25 years, will happen then. If decide to switch out windows then that will trigger. Windows go in must meet new standard at change. Know some of the programs out there are very good and trying to shrink number. Get report and look at. #6 left over, ran into at time of sale, property going to be demolished and then rebuild, if do with 1 year transfer won't apply. Councilor Hightower requested removal of "of the date of transfer" from the end of #6.

Chris Burns indicated that temporary waivers were a good discussion to have, not enough contractor bandwidth to do all. A number of programs have seen really good interest, many trying to encourage more companies to get into weatherization business. State trying to get more into business. Doesn't happen overnight, and want a skilled person.



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Councilor Mason noted that he didn't see language about contractors in language (c) and that he supported putting in something to acknowledge difficulties of getting a contractor. Councilor Hanson agreed and suggested to maybe put in 2 as a little vague (can't get a contractor).

Councilor Mason moved to Section 18-131, noting subsection (a) had no controversy, and asked about subsection (b)'s cap. Specifically, where the \$2,000 figure came from. Chris Burns responded that they put an inflation rate on prior \$1,300. Noting it was a reasonable rate to apply. Looking at full project cost of average \$7,500 for 3 unit. Use average number and real experience for and put in CPI index. Line 108(d) extension. Councilor Hanson responded that he understood the cap, but concern de minimizes goals of program. Cap speaks to buildings that are farthest from mark. Concern about not addressing the worse of the worse scenarios. These are in a way the most urgent. Not ideal potentially to go back every 3 years to get work done if already making investment. Don't really want to see cost cap. If keep want to see higher, esp. if on average. Chris Burns referenced line 89 and noted it was after what is already offered by anyone in incentive package, but designed with understanding that state, utility, municipal money. Line 88 1st step, 2nd step must finish (line 108).

Councilor Mason noted his appreciation of the explanation, noting that he didn't have data available but would be surprised how many landlords don't have reserve of \$6,000 to do this with. All look at things in isolation. Good to see bills which may drive things.

Councilor Hanson indicated that he hadn't appreciated that they only get one 3 year delay, biggest concern implementation timeframe. Understand will hit bottlenecks out of our control, but maybe with implantation schedule can be addressed.

Councilor Mason asked if it replaced time of sales. Chris Burns responded that it did and noted that if new buyer then, need to finish it up. Bill Ward added that it is their intent in implementation schedule to go after worst first.

Councilor Hanson indicated that the overreaching point is that we are finally getting there, but then not all the way. Would like more bang for buck. Ultimately property owner making an investment, therefore still worthwhile.

Chris burns noted that the struggle now is after have this language and what it is, is how to do in a timely manner. Do not have staff resources to do this on either team. The team has thought through a number a different ways. Preference is to get data and then get all buildings between 125 and 150 and start there and work way through City. Not sure how work out, but know hard to find one without insulation, at some point tried to insulate. There are some, but rare. What are staffing needs? Fold in things like contractors. Hope to have other non-profit. Councilor Hightower asked whether that was why schedule language was vague. Chris Burns replied yes, that staff wants to be as thoughtful as can on how to roll it out. Don't know fully yet.



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Councilor Hanson questioned how to do based on inefficiency, but how go with inspection cycle? Bill Ward responded that that is where the evolution came. Schedule worse first, not with inspection, but do top tier with their inspections. Not currently intend to do all in with every routine inspection. Not require in all as it will fall within schedule. Councilor Hanson asked if not scheduled to be inspected within 3 years then worst not within 3 years? Bill Ward replied that generally, they are already going in worst ones.

Councilor Hanson asked about the timeframe once the amendment is passed? Bill Ward responded that once it is passed staff will sit down and figure it out.

Councilor Hightower asked if there was opportunity for a building that was a really high offender to move up list. Bill Ward indicated that staff will spend time before next meeting to be able to craft language for ordinance or resolution that goes with it.

Bill Ward leaves the meeting.

Councilor Hightower question on cap, support cap, but should still be open to discuss, do not want out.

Councilor Mason moved to actual standards. Asking if there were specific questions on technical detail or anything missing and then noted he would defer to BED and others on technical standards.

Councilor Hanson noted that there was a cost cap already in the amendment by taking some of these out, like windows out. Underscores why cost cap is overkill.

Councilor Mason asked if Vt. Gas program available, if open up gates, what does that look like with their program? Chris Burns responded that he has been Vt. Gas up to date, they were both excited and fearful. Concern, regulated utility just like BED. Have annual saving goals and budgets, have limits from contractor availability. Will likely be budgetary constraints, have as many customers outside of Burlington as within. Good problem in one way as will have good prescription but don't want to over subscribe and frustrate. Want to be thoughtful with how roll out.

Councilor Mason noted that the rest of the ordinance was technical and asked for any other questions up through line180.

Gene Bergman said the amendment was good. Supports eliminating seasonal exemption. Air condition also issue now. Eliminate exemption owner paid heat. Flip side when landlord pays heat, don't keep up. Per conditioned sq. foot for space heating—confusing to lay person, think should be written in more plan language. Why no threshold in participation exception. 10 years seems to be a long time to grant exceptions. Particularly true for buildings with high energy numbers.



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Clarify annual. Trigger date for exemption of demo and conversion—eliminate time of sale, think a little more clarity and how program is going to be monitored. Doesn't necessarily need to be in ordinance, but need to know how going to work. Property on So. Champlain had a lot of years of staff time for demo that didn't happen. Question finance, threshold is like 3 institutions, need to clarify ability to finance. May be just need to go to three institutions and be turned down. Need to be clearer and relook at. Cap and extension language is confusing. Relook at from drafting standpoint, not clear state. Goes to question of initial cost cap. No legitimate argument that landlord in this market should not have stockpile. Transparency in BTU numbers, great to be publically available and posted. Screening analysis where made available. Last point time of sale—orders need to be recorded to go with the land. Particularly if looking at things.

Sean Melinn asked about vermiculate, noting that remediation can be costly. Chris Burns responded that with most weatherization programs, if they find asbestos, then they not do any work in area (ie attic); also certain wiring can't insulate around.

Councilor Mason indicated that next meeting on Jan. 28th the Committee would take up other items pending before them. The meeting after that they would walk through ordinance line through line and hear more from staff about scheduling. He requested Councilors to get any line items to attys. of issues and noted it would be helpful to have representative from Vermont Gas here or weigh in. Chris Burns indicated he will follow up with them.

Councilor Hightower noted that she was very happy with staff, that this amendment is what she wants to see as a councilor. Councilor Hanson indicated that he seconded that, very important to constituents. Very eager, asking if send to council now? Councilor Mason responded that they would send after changes were complete.

Sharon Bushor noted that she understood it replaced time of sale. She asked about the implementation—does existing language anticipate one that hasn't and is sold then do we still need it. Also if owner pays heat and don't include in laundry list of people then another scenario in how to enforce. Councilor Mason responded that it was a good point, we would want to capture that and asked staff that when they relook at the amendment before the next meeting on it that they look at that, should be subject at time of sale.

Councilor Hanson asked that if changing hands then wouldn't we still get them on a similar timeline? Patti Wehman responded not also do time of sale, either/or. Sharon Bushor noted that she thought that was a loophole, if in que and get sold then concern. Councilor Mason put it back to team to look at, not want to create a loophole.

1. Any Other Business

Next mtgs.: Jan. 28 at 5:30 pm.

Feb. 4 at 5:30 for weatherization.





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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 7:00 pm.