



# Burlington City Council Ordinance Committee 1/9/2018

## BURLINGTON CITY COUNCIL ORDINANCE COMMITTEE

Tuesday, January 9, 2018

Fletcher Free Library, Community Room

235 College St., Burlington, Vt.

5:30 p.m. – 7:30 p.m.

### \*\*\*\*MINUTES \*\*\*\*

**Present:** Chair Chip Mason (CM), Sharon Bushor (SB), Ali Dieng (AD)

**Absent:** None

**Other City Staff:** Gene Bergman (GB) (Staff Attorney), Eileen Blackwood (EMB) (City Attorney (CA))

**Public:** Steven Marshall

**CM called the meeting to order at 5:42 p.m.**

1.
  - i. **Agenda:** SB moved the agenda, AD seconded, and it was adopted unanimously, 3-0.

**2.01 Public Forum:** No one was present to speak.

**3.01 Approval of OC Minutes of 12/19/17:** SB moved to approve the December 19, 2017 minutes as drafted. AD seconded and the minutes were approved unanimously, 3-0.

### **4.01. Ordinances Recommended By City Attorney To Be Repealed**

CM said the committee has the Nov. 2017 CA memo and the ordinances proposed to be repealed, BCO §§ 21-8, 21-9, 21-21, 21-22, 21-23, 21-25, 21-26, 21-27, and 21-40. EMB said these ordinances have been on the CA's list for a while, particularly the panhandling ordinance in light of Reed, a first amendment US Supreme Court case that limited local laws regulating the content of speech. Panhandling is speech and laws regulating it are considered content based under the constitution. The line of cases on panhandling from the federal circuit courts have struck down panhandling laws because they regulate speech, asking for money, instead of objectionable conduct which can be, and is, regulated by traditional criminal laws.



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SB asked how blocking pedestrian passage is otherwise regulated. EMB explained how disorderly conduct, assault, and stalking laws address that and other behaviors. SB questioned the intimidation factor of begging near ATMs and EMB said we could probably have rules to protect ATM usage but this ordinance ties it to protected speech, which is not permissible.

CM asked EMB for a report on the permissibility of extending the CSMP 9' free passage area to other areas in the downtown core. SB asked for consideration from the CA for a non-intimidation/safety zone with regard to ATMs. EMB said she could do that.

AD asked if it is possible for business owners to have private regulations, like no soliciting, that would cover activity on the sidewalks in front of their businesses. EMB said no, not out on the street because the City, not the business controls that public space. SB asked about solicitations in dark areas and is concerned about intimidation and received the same answer regarding regulating speech instead of conduct. AD asked about the applicability of the solicitation rules, § 21-9, to the Salvation Army solicitations in front of the Burlington Square Mall and EMB said the laws would apply but the CA is recommending that ordinance be repealed for constitutional reasons.

CM and the committee moved through and discussed the list. CM suggested moving these ordinances back to the council for repeal.

Steven Marshall said, with regard to pedestrian mobility and access, that he is concerned that in the summer when Church St. tables and signs are out it is very congested and the signs are a problem for pedestrians trying to move about the street. CM said he has a concern with the signs as well. SB expressed a similar concern.

**Action: On SB's motion and AD's second, the committee, on a 3-0 vote, referred ordinances, BCO §§ 21-8, 21-9, 21-21, 21-22, 21-23, 21-25, 21-26, 21-27, and 21-40 to the City Council for repeal, with a recommendation to place them as a group on the Deliberative Agenda, Suspend the Rules, place them in all stages of passage, and approve the repeal of the listed ordinances, with the minutes to this meeting sent as a communication.**

EMB noted that there will be additional proposed changes to other ordinances noted in the Nov. 2017 CA memo for future committee deliberation.

Steven Marshall raised the issue of urination. CM allowed it to be discussed and explained that that ordinance is no longer in the committee but is at the full council. Steven Marshall raised the issue of the lack of public bathrooms and their relation to tickets being issued for public urination. SB said she'd like to delay implementation of the ordinance instead of dismissing the ticket. CM also noted that the Public Safety Committee will be coming forward with recommendation. Discussion on ideas continued.



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### **4.02 Proposed Amendments to Burlington Retirement Ordinance**

CM said EMB's memo is self-explanatory. EMB said these changes have been implemented for bargaining units and now need to be adopted for non-union employees. She explained that the administration is working on a comprehensive rewrite but this proposal is not that. She asked to go through the changes being proposed.

On definitions, the change on accumulated contributions, EMB said that the change is meant to be for all employees, not just new hires as of Jan. 1, 2018. There is a question as to what the Retirement Board agreed to. The purpose is to make the interest rate paid on accumulated interest more reasonable and in line with current interest rates (2%). EMB asked the committee to defer to the Board as to whether or not the new rate is for everyone starting on Jan. 1, 2018 or just new hires.

EMB explained each of the other changes. SB noted a problem she sees with the definition of "service" and the grant of more years of credit than years worked. EMB explained that this was bargained for years ago with the firefighters union in exchange for receiving no pay raises and is not agreed upon to be changed by the City and the unions currently. She said the COLA change was part of a package with the earlier vesting (5 years) and will make the fund more stable. The effective date change reflects the need to address employees who retired before this amendment proposal is adopted but after these changes were agreed to and implemented with the unions.

**Action: On SB's motion and AD's second, the committee voted to approve the proposed amendments as proposed, with the caveat regarding the Board's decision on accumulated contributions (go with what the Board decides), and refer them to the Council for second reading, discussion, and adoption, with a committee recommendation that they be adopted.**

### **5.01 Any Other Business—Next Meeting: Jan. 31 @ 5:30 pm**

EMB said she is working on a rewrite of the Retirement Ordinance and would like to get it before the committee before too long. CM said he'd love for the committee to receive it. There was discussion about the electrical ordinance being rewritten and the library's rules and the need to rewrite the trespass ordinances. No agenda was set for the next meeting however since none are at this time ready to be reviewed.

### **6.01 Adjournment: 7:00 pm**





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Committee Members:

- Councilor Chip Mason, Chair
- Councilor Sharon Bushor
- Councilor Ali Dieng

