

**Joint Meeting of Burlington City Council Ordinance Committee and Community Development
& Neighborhood Revitalization Committee**

Draft Meeting Minutes

Monday, November 19, 2018

City Hall
149 Church Street
Conference Room #12, First Floor
Burlington, VT
5:30 p.m.

CDNR Committee

City Councilor Brian Pine (BP) (Ward 3) (Chair)
City Councilor Adam Roof (AR) (Ward 8)
City Councilor Karen Paul (KP) (Ward 6)

Ordinance Committee

City Councilor Sharon Bushor (SB) (Ward 1)
City Councilor Jane Knodell (JK) (Central District)
Absent – City Councilor Chip Mason (Ward 5) (Chair)

City Staff in attendance: David White (DW) Planning & Zoning Director, Kim Sturtevant Assistant City Attorney, Todd Rawlings (TR) CEDO Housing Program Manager, Ian Jakus (IJ) CEDO Policy & Projects Specialist

Public in attendance: City Councilor Richard Deane (RD), Erhard Mahnke, Erika Johnson, Jess Hyman

As previously agreed Chair Brian Pine is chair for this third meeting.

Meeting brought to order at 5:40 PM

1. Agenda

SB proposed an amendment to the agenda, to add items to discuss Todd's memo and the Mayor's memo.

JK moved to approve the agenda as amended, seconded by AR – unanimous approval

2. Public Forum

No comments.

3. Approval of Minutes November 7, 2018

SB would like to amend the minutes as follows:

In the discussion about parking section, at the end of SB's statement, the minutes should reflect the statement "payment in lieu could go to subsidize the payment of parking which could be charged separately"

SB had a clarifying question; was there a conclusion reached last meeting on the student housing per bed fee.

BP confirmed that no conclusion was reached on the issue.

AR moved to approve the minutes as amended, seconded by KP – unanimous approval.

4. Discuss memo from CEDO 11/19/18 (See attached)

Todd Rawlings reviewed the four items addressed in the memo for discussion. Refer to the corresponding numbers in the memo for details.

Memo item #1:

EM asked if it is still assumed that eligibility for IZ including any changes are still determined at initial occupancy.

BP confirmed that this is correct.

Memo item #2:

SB stated that the students may bear the cost of the fee, and their cost for housing could go up. She feels that students are also in need of affordable housing. She likes that these projects would generate revenue, but is concerned about the extra costs incurred with a fee.

AR said the universities consider need as part of the determination of financial aid, and that this data is available in aggregate for the student body, and could be used to meet IZ requirements.

JK said the UVM financial aid packages are based on need, and the determination is very individualized.

RD stated we should not create a fee that gets in the way of other goals related to student housing.

DW stated that by making student housing in the institutional zone exempt encourages institutions to provide housing for their students on or near campus.

TR noted that in San Francisco the student housing is exempt from IZ as long as over 30% of the students living there receive financial aid.

DW said that regarding the 194 Saint Paul development by Champlain Housing Trust they demonstrated that their students were already receiving significant financial aid. The permit stipulated that if the building was no longer for students they would have to comply with IZ.

EM said we may want to codify in the ordinance the terms that Champlain College met for IZ on the 194 Saint Paul project.

SB said that she agreed with Erhard, that Universities must prove they are inclusionary through their enrollment as Champlain College made their case. She added that if the goal is to generate money for the payment in lieu this won't get us there.

BP said that we want to codify that the universities meet this need as part of their policies. This is a one-time fee, not annual. He agreed that the objective would be achieved if they could meet a standard on-site.

JK said the requirement could be based on 194 Saint Paul, establishing a standard similar to [San Francisco](#), ensuring that if the use changed it would have to meet the IZ standard.

SB asked for clarification on whether the fee only kick in if they couldn't demonstrate inclusion, or would there still be a contribution in addition to that?

EM said that if it's a payment in lieu style fee, it should apply only if the educational institution couldn't demonstrate they could meet that level of inclusivity, then it should be an in lieu fee.

TR asked if this would be a per bed fee or a standard payment in lieu fee.

EM said the payment in lieu fee should be the same to make it simple.

AR said that UVM and Champlain should weigh in on this. He speculated that there would likely not be an interest in paying a fee by third party developers.

SB said that if the universities build outside their campuses there is a cost to losing that site, and a fee could acknowledge that, to help meet the unmet needs of affordable units for the general public.

JK asked hypothetically if student housing could be built on the waterfront?

DW said there is no prohibition. Regarding the question of adding a fee on top of serving students through financial aid, that would not be a payment in lieu, it would be an additional fee.

AR stated that we should move away from the per bed fee.

KP agreed that with the per bed fee, there may be unintended consequences.

SB said that even if the requirement is met on-site, there is an issue of student housing using valuable sites. She felt an additional fee should be considered.

KP pointed out that additional student housing would free up other housing, and would hopefully be able to provide opportunities in the market for others.

Memo item #3:

AR asked if AMI has held consistent over time.

IJ said that in FY 2017 it was roughly \$82,000 and increased to \$93,000 in FY 2018.

EM added that between FY 2016 and FY 2017 the HUD AMI actually went down.

AR said there should be a limit on increases in the AMI.

BP agreed that raising the IZ rent prices in 2018 was not a good place to be in.

TR said that the federal HOME program puts a floor on changes in rent based on the HUD AMI.

JK said that it is clear there is no other option to address the AMI issue, so the question becomes, is there a way to smooth it out.

AR asked what discretion the administrative committee has over rent changes.

TR responded that the Housing Trust Fund Administrative Committee has no discretion on rent setting, but to give it discretion would require an ordinance change.

EM said that at this point South Burlington and Winooski have large amounts of affordable units. Many of the surrounding towns have some affordable housing including Naturally Occurring Affordable Housing (NOAH) in the region. He said that he wouldn't worry too much about this, but this could be addressed by adjusting the AMI to 60%.

SB asked what is NOAH.

EM responded that it refers to market-rate housing that is still considered to be relatively affordable.

TR stated that its Burlington median family income may be skewed low due to all the perpetually affordable housing.

EM noted that this came up late in the IZWG process, and referred to several alternatives that John Davis put together.

JK explained the different options that John Davis had outlined as part of the IZWG process:

1. Reduce the 65% AMI income target
2. Use Median Family Income for Burlington instead of HUD AMI and keep 65%
3. Retain the current targets at 65% but discount by the difference between Burlington and the HUD AMI for the Metropolitan Statistical Area.
4. Get rid of AMI and look at starting salaries for working people, such as police, fire, and teachers.
5. Get rid of income basis, do a cost basis, track market rents and set IZ rents a certain percentage below market rents.

SB asked if market data impacts any of the affordability standards?

TR said that the rents for newly constructed units are always much higher than the average market rent so setting rents on the basis of the whole market is troublesome.

JK said the question is, do we want to go lower than 65%? The IZWG came out with a consensus around 65%, and that this whole package is based on 65% and if you change that it effects many other recommendations.

Memo Item #4

SB said she is understanding the property owner comes out with less money per unit if the cost of parking is considered a utility separate from contract rent.

BP said he is not aware of any developers charging for parking separate from rent. Most developers are saying their parking is not utilized, so residents should pay extra for it if they want it.

JK said that separating parking from rent would put the cost burden on the market rate renters.

SB said that she thought the renter in need of parking would be required to pay extra on top of rent and that was her concern.

EM said he was surprised to learn that CHT does charge for parking for some of their housing developments. In that case, a fee for parking is not considered a utility. He pointed out that unlike utilities there is no standard cost determined for parking.

SB suggested we could use the payment in lieu fee to pay for a parking space when needed by an IZ tenant.

BP said it wouldn't be hard to determine the proportional cost of parking and that it could be handled similar to condo fees.

DW agreed that this is the same idea, where parking is considered an amenity. He suggested that the renter should choose if they want to pay for that space or not.

5. Review the Mayor's Memo regarding the recommendations of the IZWG (See Mayor's memo to Joint Committee 11/7/18)

Memo Item #2

SB asked to clarify the language with regards to setting the minimum size.

TR clarified that the comment refers to IZ unit set to 90% of the average unit size within a specific project.

Memo Item #5

JK said that she liked the proposed approach laid out in the Mayor's memo for the payment in lieu fee. She would like to see the recommended changes to the geographic definition mapped out.

BP confirmed that the joint committee is prepared to adopt the change in payment in lieu fee structure proposed in the mayor's memo.

Memo Item #7

JK suggested there be a follow up discussion with the Mayor about lowering the amount to 70% so that he understands this, and understand why the IZWG arrived at this recommendation.

BP said that developers may be better able to absorb this cost because it is a one-time hit. The proposed change would increase the cost to developers by roughly \$20,000.

EM said that he has not reviewed the mayor's memo and reserves comments for later.

Discuss Inclusionary Zoning Working Group (IZWG) Report Recommendations Continued

TR asked if we are proposing a document ahead of the public hearing.

BP said that he doesn't believe there are significant unresolved issues.

SB asked if the chairs will work with the staff to summarize the recommendations.

KP said the Payment in Lieu recommendation needs to be adjusted to reflect the Mayors memo.

EM said that he had raised the issue of density bonuses within the form based code district.

DW confirmed this is already included in Article 9.

JK said the joint committee needs to have a conceptual approach, to recommend to the council and then go to the ordinance committee for specific language to be drafted.

BP said that we should have the IZWG recommendation as well as the Joint Committee on the same sheet.

JK said that items not directly related to the IZ ordinance should not be included on the recommendations.

BP said staff should put together a draft by November 30th to send to the whole committee. With a response required by Monday.

AR said that joint committee members should not reply all with any comments to ensure there is no issue with public meeting laws. Comments should be sent directly to staff.

6. Any other business - next meeting

Public hearing and joint committee meeting on December 11 at 5:30 PM.

7. Adjournment

Adam Roof made a motion to adjourn, Sharon Bushor seconded, unanimous approval.

BP made a motion to adjourn at 7:31 PM, AR seconded, unanimous approval.