

City Council Ordinance Committee
Thursday, October 30, 2014
MINUTES

Attendance

Committee: Councilor Karen Paul (KP), Councilor Sharon Bushor (SB) (acting chair until CM arrives), Chip Mason (CM) (chair) (arrived at 545 pm).

Other City personnel: Bill Ward (Code Dir.) (BW), Scott Gustin (PZ Sr. Planner) (SG), Ron Redmond (Marketplace Dir.) (RR)

Staff: Sr. Asst. City Attorney Gene Bergman (GB)

Public: See list in file

SB convened the meeting at 5:37 pm

1. Agenda & Minutes of 10/15/14

KP moved approval of the agenda, SB 2d, and the adoption was unanimous (2-0).

They deferred consideration of the minutes until CM arrives. At 7:10 SB moved and KP 2d the minutes, which unanimously were adopted.

2. Public Forum:

No one choose to speak at this time.

**3. Smoking in Outdoor Places (Church St. Marketplace)
BCO § 17-8B**

GB explained the possible amendments related to electronic cigarettes and other tobacco substitutes and the change to the definition of tobacco products to conform with the state's statutory definition and noted that the city has the authority to add tobacco substitutes to the ban but will double check.

CM explained why the amendments were drafted—it was based on a conversation with the City Attorney—and he moved referral back for 2d reading as amended with a recommendation for approval. KP 2d. RR explained that he supported the amendment although it was not asked about in the survey. SB said she doesn't know enough about tobacco substitutes. CM read the state statute. SB said she supports the expansion of the definition but still not the 24 hour ban.

Action: CM's motion was approved on a 2-1 vote with SB opposed.

4. Urban Agriculture: Ordinances related to Livestock Husbandry, Slaughtering, and Related Zoning Amendments

GB gave a brief overview of his advice on how to approach the discussion tonight (take an overview from the task force and staff on the proposals and the status of issues still to be worked on).

MINUTES

David Casey, BOH member and chair of the board's Urban Ag working group that developed proposals, explained that councilor Kranichfeld had seen the need and introduced the original resolution creating the Urban Ag Task Force and requesting a report. In 2012, the resulting report recommended a livestock ordinance and that's when the working group that was convened by the Board of Health (BOH) started putting together the ordinance. When you consider the type of livestock, not one size fits all animals. Much of the ordinance is focused on structures, waste, etc. based on size of the animals, which is tied to the size of land, so it is tied into zoning, and with waste, so it is tied into stormwater, and so on. The working group, therefore, looked at each animal to deal with each of the issues. It brought in experts to inform it. It was an exercise on what is appropriate. The ordinance is detailed as a result.

CM noted that many of the animals are not present in Burlington currently. David said the idea is to be ahead of the curve, to be prepared. The group relied on the experts to come up with the list of prohibited animals in urban non-agricultural areas. It did talk about each of the animals on the list.

SB noted that the ordinance is very comprehensive and it seems it is a comprehensive guide to how to care for animals. Why go in that direction? As for enforcement, why not give a permit first and educate then instead of allowing and educating after—and before enforcement.

Bill Ward said one of the initiating concepts was that people want more than 4 chickens and so once you open the door we wanted to have the system in place. We thought that the main consideration should be the humane keeping of animals. We wanted to be thoughtful to give a full consideration to encourage the proper treatment. One specific change he will offer is to make the enclosure requirement “rodent and predator resistant” instead of “rodent and predator proof”.

SB was looking for the reason for giving a permit first. BW explained.

Meghan Stearns (formerly of the Humane Society and working group member) said that cruelty laws were insufficient so the group tried to have the humane standards in the ordinance. David C said the details are essential to allow effective enforcement. As for permitting, we know that dogs have to be licensed but the percentage who do is low and that the higher the permitting requirements the lower the compliance rate and so we are not trying to replicate that. The group is also trying to support the movement for sustainable agriculture in a way that is safe. In talking to experts and owners, the group believes there is a direct relation between the health of the animal and the nuisances – if treat animals well, the number of nuisances will be less.

CM knows people in his neighborhood who are not complying with these standards and notes that roosters are problems.

Scott Gustin handed out a table and a PZ memo on the zoning ordinance changes. The thrust of the amendments is how to enable sustainable urban agriculture. He noted that the Planning

MINUTES

Commission added some housekeeping things too. We are looking at non-accepted agricultural practices. The PC is proposing to add to the exemptions from a zoning permit the following: structures up to 24 sf, cold frames, 2 seasonal hoop houses, and rooftop structures. They recommend an incentive for community gardens—a bonus for density and coverage. Also, they conform the definition of “agriculture” to the State definition and create a new definition for urban agriculture. He recommends keeping the CDO definition more general than that in the health ordinances being proposed and recommends amending the CDO proposal to create height limit of 15’ to match other accessory use structures’ height limits. The 24 sf exception is a single structure; multiple structure would need a permit if the square footage exceeds 24 sf when all are added together.

KP recalls the initial urban ag discussion and acknowledges the complicated nature of this endeavor. SG said most CDO changes are to increase what does not need a permit. KP said the goal is to make agriculture accessible to residents with some regulations. She observed that there are likely to be many unintended consequences that they will have to take into account. SB agreed, noting her neighborhood experience.

Tom Corcoran & Linda Perry expressed concerns a while ago on the ZA 14-01 garage expansion ordinance that was referred back to the PC. His neighbor was developing a property and now is stopped as a result of that action. The urban ag zoning amendment that proposes to increase the density bonus would be another way to develop that neighbor’s property so he and his wife reviewed the Urban Ag enabling resolution and finds the current proposal to be an expansion of what was asked for. The original recommendation was to decrease parking for an increase in community gardens. He looks at CDO section 4.4.5(d)(7)(E) and finds it different in kind than the other bonuses listed in the ordinance. It creates a big loophole to stuff more people into structures and increase lot coverage.

SB asked SG if, when the changes were drafted, the complaint was discussed. SG said it was. He noted that even if decrease parking there is no way to enforce if the garden is being used.

Linda Perry said the garden is being incentivized over other uses like a screen of bushes.

Jess Hyman said the bonus issue is an unintended consequence. She read from the original intent and said that these ordinances are very innovative. As for the zoning piece, the goal was to incentivize green space for gardens or stormwater retention. Gardens require more infrastructure to sustain them, i.e. a garden shed. When talking about multi-unit housing there may be more work that needs to be done on the incentives.

Harris Roen of the PC noted that the City’s existing community gardens fill up quick.

CM noted the push and pull between reliance on the market and regulation at the council. He is not sure the market needs the incentive. SB said she doesn’t think developers will think about

MINUTES

gardens, and nor will they think of parking, playgrounds and similar things. It was the people who demand these type of amenities in the review process.

GB noted the need to add the ag zone changes to allow the farming activities currently under way in the Intervale and other zoning districts where agriculture is permitted or conditionally permitted.

SB asked for comments on how essential the slaughtering ordinance is. Meghan said it was. SB said she has issues with it.

5. Any other business: Next Meetings & Items to Review

The committee agree to meet next on Thursday, Nov. 13 @ 5:30 p.m. to discuss Housing Code changes and HBR changes and on Tuesday, Nov. 18 @ 530 to continue the Urban Ag. review.

6. Adjourned: 7:15 pm