Ordinance Committee

Thursday, October 17, 2013

Draft Minutes

Committee: Chip Mason (CM), Sharon Bushor (SB), Karen Paul (KP) (by phone)

Staff: Gene Bergman (GB), Ned Holt (NH), Jean Poulin (JP), Eileen Blackwood (EMB) (by phone)

Public: Ana Catan, Marigo Farr, Kyle Silliman-Smith, Gregory Rosengard (sp?)

Call to order: 5:35 p.m.

1. Agenda & 10/1/13 Minutes

On SB’s motion and CM’s second the agenda was unanimously approved.

SB moved to amend the 10/1/13 minutes reflect that “JL” was “Jonathan Leavitt” and with CM’s second the minutes were unanimously approved.

1. Public Forum

Marigo Farr said she’d sent an email to them on the time line for LWO enforcement mechanisms and would like to have that discussed in the meeting.

1. Peddler Ordinance

GB gave overview of how this came to the committee, focused on the May 29, 2013 communication from Lori Olberg on changes proposed by the Clerk’s Office staff to the peddlers ordinance. The license committee supported these changes. JP, the main staffer in charge of peddler permits, went through her memo of May 14, 2013. She explained that all peddlers need a permit under this ordinance (chapter 23), with a few exceptions. She noted that the city has a central area and an area up at UVM and peddlers outside of those areas can work where they want. In response to a question from CM, JP said that peddlers on the street or on private lots need a permit. Some permits are spot specific and others aren’t.

JP went through the changes she has proposed.

1. Change south boundary of central area from Main to King. JP said a peddler recently set up across from the businesses on lower Church St. and they complained about it. When the old License Committee chair looked at it, he thought that the district was King St. not Main St. and so he suggested moving the border of the central peddling to King.

SB: is the remedy going to work with the merchants who are complaining? It seems it won’t fix the problem.

JP: License Committee has tried to keep merchants happy and has limited food peddlers on Church St.

CM: within Central there are spots but no trucks are allowed, right? JP: yes.

CM: when did the latest incident happen? JP: this spring.

KP: are there merchants present at the hearing?

CM: no, but this discussion is just to present information to start the conversation. I intend to have a hearing and larger conversation and committee consensus before forwarding anything to the council.

1. University Place: JP: she is having problems with the “similar goods” issue. People can’t sell things that other peddlers are selling nearby. See 23-9(d). And they don’t like to be told they need to sell something else.

SB: people may be concerned with limiting number of trucks because of the lines if peddlers are limited. We need to be aware of what we are doing and need to invite the people who are affected.

CM: there are 7 peddlers permits at University Place, 2 who are in process.

SB: why do we have the limit in ordinance?

JP: because people complained about the competition.

CM: lived in Portland Me and see that they’ve loosened rules to allow competition but kept a 65’ space separation from fixed space merchants

1. Peddlers buying 2 spaces in same area to keep out competition: JP noted that was a problem

CM: agreed it could be fixed

1. Ordinance changes generally. JP: asked how to proceed. GB suggested that JP propose changes in a Word Doc sent to GB. SB agreed.

CM: include CSMP (Ron Redmond).

SB: next step? CM: he’d call public hearing before making changes.

1. Building Code—Sec. 8-2

(KP temporarily left)

CM: he and KP brought to this to the City Council as a result of hearing of a problem from an architect.

SB: asked Building Inspector Holt for history as to why have and how current code addresses issue

NH: when state of VT first adopted codes, they only adopted commercial codes. This is why we kept these provisions. The codes adopted subsequently by the state address the issue.

Action: On SB’s motion and CM’s 2d, the ordinance unanimously was recommended back to the council for 2nd reading and adoption with a recommendation for approval on the consent agenda (2-0-absent).

1. Livable Wage Ordinance

CM: explained that the ordinance was referred back from the council to answer questions related to law clerks and other questions raised subsequent to the council meeting related to 21-82 (b) and the effective date.

(KP returned via phone)

CM went through the issues:

1. 21-81(f) definition of employee: CM: the proposed amendment from the City Attorney adds language to exclude persons who are hired for a 6 month or less period in order to obtain a professional license.

KP: no problem with it.

CM: this addresses the last stage for a person who is getting a law license in Vermont.

SB: know that CA Blackwood was struggling with the language. I’m not sure who besides lawyers will this language catch.

CM: I’m not aware of anyone besides attorneys.

SB: should we specify attorneys?

CM: not an expert on all professions

KP: I have no problem with a focus on attorneys.

CM: I will propose to amend the amendment to state “as an attorney” after “professional license”

1. 21-82 (b): the proposed amendment deletes sentence: “The livable wage rates derived from utilizing a model of two (2) adults residing in a two bedroom living unit in an urban area with a moderate cost food plan shall not become effective until rates meet or exceed the 2010 posted livable wage rates.”

CM: I understand that the consultant who helped develop it, Doug Hoffer, was not creating a permanent floor. It doesn’t work.

SB: Hoffer said that the existing, now-proposed to be amended language protects the salaries of people who are already making a higher amount. The intent was never to create 2010 as the annual floor. The goal was to not penalize existing employees. The language seems to Hoffer to be a burden to the city and not the intent, which is to create a base salary level that can change annually.

CM: the intent was to create a transitional provision for people affected by a change in 2010, not a permanent floor. If the wage goes down, only new hires will be affected. The problem may have been in interpretation, not language. The livable wage is a variable wage, not a floor, and once you come in, your wage will not be reduced.

Marigo Farr questioned the circumstance of people getting hired and working at different rates for the same job as other people. Was this happening before 2010?

SB: yes, an employee could have been hired at a high point and the employee wouldn’t lose that and if a different employee got hired at a lower wage that could have been the case.

Kyle Silliman-Smith: it was put in because the household equation was changed in 2010, right? SB: yes. Kyle: so the correct interpretation is that this is moot because we’ve gone beyond that 2010 wage, not that this created a floor. SB: yes, because we’re saying people can’t live alone and the single person wage was too unaffordable.

CM asked that CA Blackwood to explain the impetus of the change.

EMB (by phone): I didn’t connect with Hoffer but my second hand understanding is that the city was not supposed to be setting a floor. He’s using the methodology called by the ordinance and so the language doesn’t seem needed, especially by adding language protecting current employees from downward wage pressure.

SB: on 21-82(a)(1) and (2), doesn’t the specification of the dollar amounts conflict with this.

EMB: yes, I agree; I hadn’t caught that. Hoffer was suggesting different numbers.

CM: I’m not sure I’m following this.

EMB: I suggest we leave this alone for now and figure out what we want to do.

CM: understand that the federal health care changes will lead to proposals from the mayor for other changes.

SB: we can’t eliminate the language as proposed and leave in the dollar amounts. I believe we should not amend the ordinance as proposed. CM: agree.

EMB: I will make the changes and send out a revised ordinance.

SB: on effective date, why Dec. 1? EMB: make it soon but practical. SB: suggest Jan. 1.

SB: if we want Hoffer, we can either ask him to come or send a memo.

(KP came back by phone)

CM: explained to KP that they need to not change 21-82.

KP: more than happy with this and feel should ask Hoffer to come in and explain. I agree with moving forward.

1. 21-89. Effective date.

SB asked for Jan. 1, 2014 for tax reasons.

CM: most concerned about retroactive causes of action and support the second part of amendment. I’m ok with moving the effective date to Jan.1.

KP: concerned with time for bidding so would rather be later than sooner so we do what we say we can do.

SB: would like have Jan. 1.

Action: KP moved to refer as amended back to the council, SB 2d. The committee gave unanimous approval. The amendments are to change the sec. 21-89 effective date to Jan 1, 2014, to change sec. 21-81(f) by adding“ as an attorney” at the end of the suggested amendment, and to not accept the amendment to 21-82 (b) that was proposed.

1. Any Other Business

Next meeting: CM: suggest historic building and a small item (i.e. peddler changes) and he will confer to set the date later.

1. Adjournment 7:10