

BURLINGTON DEPARTMENT OF PUBLIC WORKS COMMISSION
MONTHLY MEETING – MINUTES, October 30, 2013
645 Pine Street
(DVD of meeting on file at DPW)

COMMISSIONERS PRESENT: Bob Alberry, Asa Hopkins, Nathan Lavery (Chair), Solveig Overby (via conference phone), Jeffrey Padgett (returning after six years to the Commission) and Mark Porter (Vice Chair)

ABSENT: Tiki Archambeau

Commissioner Lavery called the meeting to order at 6:30 p.m.

ITEM 1 – AGENDA

Commissioner Alberry moved to:

- Add Item 11.5 – Deliberative Session, and
- Remove Item 5 – 144 South Willard St Appeal of Second Means of Egress Order.

Commissioner Porter seconded. Unanimous.

Commissioner Porter moved to:

- Remove Item 3.20 – 523 North Street Handicap Parking Request, from the Consent Agenda and not add it to the regular Agenda but rather add it to a future meeting pending further investigation. Commissioner Alberry seconded. This will allow Mr. Fleming to do further work on the Item before bringing it back to the November meeting.

Commissioner Padgett moved to:

- Move Item 3.40 – Manhattan Drive at Oak Street Stop Control Request, from the Consent Agenda to 8.5 on the full Agenda. Commissioner Alberry seconded.

ITEM 2 – PUBLIC FORUM

Martha Lang: Thanked Commissioners Porter, Lavery, Parking Enforcement Director John King and DPW Engineer Joel Fleming for their help in finding a parking solution for her Colchester Avenue tenants.

Sharon Bushor, City Councilor: Thanked Commission and DPW staff for adding Item 3.50 to the Consent Agenda; announced substantial progress on the proposed Colchester Avenue sidewalk (along the cemetery).

ITEM 3 – CONSENT AGENDA

(Refer to Commission Packet)

3.10 Charles St – Handicapped Parking Space Removal

3.30 Spruce Ct – Parking Removal

3.50 Berry St – Loading Zone Request

3.60 Bilodeau Ct – Loading Zone Request

(3.20 & 3.40 were voted to be removed from the original Consent Agenda during Item 1 of this meeting)

Commissioner Alberry moved to approve the amended Consent Agenda; Commissioner Hopkins seconded. Unanimous.

ITEM 4 – DOWNTOWN PARKING INITIATIVE

(Communication, DPW Assistant Director Patrick Buteau)

(Refer to Commission packet)

Pat Buteau (DPW Assistant Director of Parking and Fleet Services); Nate Wildfire (Assistant Director for Economic Development for CEDO); and Kelly Devine representing the Burlington Business Association (BBA) talked briefly about their goals and means to attain their goals.

- The trio asked the Commission to endorse a draft resolution, “Resolution Launching the Downtown Parking Improvement Initiative” prior to their presenting it to the City Council at its November 18th meeting. The Commission’s support will empower the threesome to continue with their work.
- The trio identified key needs: Public and private parking garage infrastructure improvements; and the need for reinvestment.
- Two goals: 1) Improve customer experience (by initiating pilot projects and experiments); and 2) Revenue (keeping revenues neutral or growing revenue).

The trio will use advocacy, education and communication to achieve the two goals. 1) What are we doing, why, and how do we tell the public about it? 2) Pilot projects/experiments will be utilized to improve technology, change enforcement hours, use valet, public/private parking partnerships. 3) Parking Study: What do we have, what is the condition of our assets, how do we bring in national-level consultants to teach us about marketing, demand pricing, technologies, funding of projects.

The upcoming BBA event: “Downtown Parking Summit,” presented by DPW, BBA and CEDO, to be held on the morning of November 13th at the Burlington Hilton. This summit is the first level of engaging stakeholders.

Commissioner Padgett moved to endorse the draft resolution. Commissioner Hopkins seconded. Unanimously endorsed.

Discussion points: DPW Director Chapin Spencer will initiate follow-up and discussion prior to the resolution being presented to the City Council, about the possibility of residents being represented on the Advisory Committee (11-person group with two resident seats) or through some other channel. The Advisory Committee will act as advisors to the initiative/team. It was suggested that the team be clear about the “box”/area affected by the parking improvement initiative.

Brown’s Court (parking lot on St. Paul/King Street): Public parking will be preserved. No Champlain College students will be allowed to use the lot. Design and revenue are still being determined.

ITEM 5 – 144 SOUTH WILLARD ST – APPEAL OF SECOND MEANS OF EGRESS ORDER

(Refer to Commission packet)

Under Item 1 of this Agenda, Commissioner Alberry had made a motion to remove this Item; Commissioner Porter seconded.

ITEM 6 – APPEAL OF CODE ENFORCEMENT ORDER FOR 234-240 COLLEGE ST

(William Ward, Director of Code Enforcement and Appellant)

(Refer to Commission Packet)

Director Ward:

CORRECTION: Page 1 of Director Ward's October 22, 2013 Memo to Chair Lavery states that the College Street property is between South Willard and South Union Streets; the property is actually between South Winooski Avenue and South Union Street.

- The property was inspected this year. The outstanding issue is that there is no stairway from either the second or third floor on the front side of the brick structure. In the rear, there is a fire escape from the third floor all the way to grade level.
- Submitted into the record by Director Ward: PowerPoint presentation he showed during the meeting which included:
 - 234/240 College Street front- and rear-view photos
 - Sketched square footage on file with the Assessor's office;
 - Minimum Housing Inspector Kim Ianeli's report of August 14, 2013, stating two findings which are presently unresolved and which the Appellant is appealing, and remedies:
 - 1) Finding: Third floor (or higher) occupied without second means of egress; Remedy: Obtain permits and construct second means of egress to code. Building permit required. And,
 - 2) Finding: Required egress path goes through another unit or bathroom; Remedy: Construct and maintain safe path of egress to code; cannot pass through another unit or bathroom.
 - Burlington City Ordinance - 18-95 – Means of egress.
 - Code Enforcement recommendation: "We request the Public Works Commission uphold the findings of the Code Enforcement inspector that a second means of egress is required for the units on the South side of the building."
- Director Ward is asking the Public Works Commission to uphold the findings of the Code Enforcement inspector and that a second means of egress be required for units on the south side of the building: the front side units facing the Fletcher Free Library.
- City Attorney Gene Bergman was present acting as the Commission's counsel if needed.

Joseph Handy, Principal of Sisters & Brothers, and David Greenberg, Attorney for Sisters & Brothers

Atty. Greenberg:

- There are four units on the third floor. The front two units do not have a separate fire exit; the back two do: they both go on to the fire escape.
- Mr. Handy purchased the building in 1998. This condition was there and has had several inspections prior to and after the purchase.
- The building was inspected in October, 2005 and given a rental compliance for three years after the building was inspected. October, 2009 it was inspected again and given approval. January 16, 2005 there was a complaint about the building; it was inspected and given approval. In 2008 the Fire Marshall inspected the building at the behest of the Minimum Housing office and suggested that because of this situation that a fire alarm system be installed for the entire building. The fire alarm system was installed and inspections and approvals have continued since then.
- The door on one of the upper apartments on the back has a plastic panel right in the middle of the door and is painted black. There is a big sign there which indicates that you need to push the plastic panel, reach in and turn the doorknob and go through the apartment. Atty. Greenberg assumes that that has been there since the '80's.
- Despite the existing condition, there have been numerous inspections and approvals, yet now Mr. Handy is being asked to address the situation.

- This is an historic building. There is no place to put a fire escape in the front of the building or on the side.

Mr. Handy:

- Concurs with Atty. Greenberg’s assessment. There are four apartments on the third floor: two in the front and two in the back. If there is a problem, tenants need to go through Apartment #10 by pushing on a plastic panel on the door. There is an axe nearby if needed. The person would then reach in through the door and go through that Apartment to the fire escape.
- This has been in place since he bought the building. He has had inspections by Minimum Housing and the Fire Marshall and no one has questioned the situation. The sign for the third floor access is visible. The sign is located at the top of the stairs in the hallway at the third floor and points to the door.
- The Fire Marshall had recommended that a fire alarm system be installed in the building because there were over 10 units.

Director Ward:

- Because Atty. Greenberg and Mr. Handy both spoke about the Fire Marshall’s findings from past inspections, Director Ward wanted to clarify their interpretations of Fire Marshall Barry Simays’ findings. Director Ward stated that Mr. Simays directly communicated to him that the conditions were *not* acceptable.
- The Building Inspector, Fire Marshall and the Code Enforcement Director meet monthly. Director Ward asked the Fire Marshall about this building. Assistant Fire Marshall Joe Keenan went through the building and found that it was not acceptable to break through another unit to get out; it is an obstruction.

Mr. Handy:

- He spoke with Mr. Simays and said that Mr. Simays’ report indicated that the Fire Marshall’s expectations are not as high as the Minimum Housing expectations. He said that Terry Francis was the one who inspected the building, and he was the one who ordered Mr. Handy to install a fire alarm system. He is unaware of anyone else from the Fire Marshall’s office doing an inspection.

Norman Baldwin, Assistant Director, Technical Services:

- Recommended that the Commission ask for floor plans and an explanation map of the route egress.

Gene Bergman, City Attorney’s Office:

- Suggested that unless there is an emergent situation that would require immediate action, the Commission ask the Fire Marshall to conduct an initial inspection and do a report. Atty. Bergman’s 16-year experience leads him to believe that there is no “grandfathering” to life safety issues. There may be reasons why variances can be given but only in terms of the requirements of the law. There are many potential ways that people can meet the fire code and an understanding of the current life safety codes and their relationship to Minimum Housing codes may be helpful in determining if a variance in the Minimum Housing codes would be one of the possible solutions.
- The building is located in a dense area so a fire would not only affect the residents of this building but the neighboring buildings as well.

Clarifications:

- Though four units are listed in violation, only *two* units – the two third floor units on the south side of the building – are in violation.
- The Commission has the authority to make sure that the purposes of the code are being taken into account through equivalent means of protection while still meeting Minimum Housing Code.

Commissioner Lavery asked Director Ward, Mr. Handy and Atty. Greenberg whether they had any objections to

- Director Ward’s only concern was the length of time that is needed for the Fire Marshall to do an inspection in case of an emergency at the building and report back at the next Commission meeting.
- Commissioner Padgett would like the Fire Marshall to attend the next Commission meeting but also in the meantime, meet with staff to attempt to come up with a solution. **Commissioner Padgett moved** to table this Item until the next meeting with the caveat that staff reach out to the Appellant and the Fire Marshall, work together over the next couple of weeks and attempt in good faith, to return to the November Commission meeting with a solution. Commissioner Alberry seconded. Mr. Handy and Atty. Greenberg are agreeable.
- Atty. Bergman asked for the Commission, through staff, to formally request that the Fire Marshall participate and be available to come to the November 20th meeting.
- Commissioner Overby wants to enforce the Minimum Housing Code with two methods of egress and opposes further discussion.

The motion to suspend the hearing until the November 20th meeting carried, with Commissioner Overby opposed and the five other commissioners in favor.

ITEM 7 – BRADLEY ST – RESIDENT PARKING REQUEST (Joel Fleming, DPW Engineer)

(Refer to Commission packet) **Commissioner Alberry moved** to accept staff recommendations: That the Commission denies the petitioners’ request for 24 hours a day, 7 days a week resident parking restriction on the south side of Bradley Street. The existing condition suggests resident use alone represents full use of the existing on-street inventory, leading staff to believe the institutionalization of resident parking will be a permitting burden without benefit; Commissioner Porter seconded. Unanimous.

ITEM 8 – ST PAUL AT SOUTH UNION ST PARKING REQUEST (Joel Fleming, DPW Engineer)

(Refer to Commission packet) **Commissioner Alberry moved** to accept staff recommendation: That the Commission adopts an additional parking restriction of 20’ as opposed to the loss of three (3) parking spaces. Commissioner Padgett added a friendly amendment and seconded the motion: That DPW staff bring back to the Commission suggestions for *long*-term treatments. Mr. Fleming offered that for the *short*-term, advance north and south stop warnings could be added. Commissioner Porter opposed the motion; the five other Commissioners voted in favor.

ITEM 8.5 – MANHATTAN DR AT OAK ST STOP CONTROL REQUEST

(Joel Fleming, DPW Engineer)

(Refer to Commission packet) **Commissioner Padgett moved** to accept staff recommendations: To deny the petitioners’ request to install a three-way STOP at Manhattan Drive and Oak Street, given the intersection does not meet or exceed STOP sign warrant thresholds. Commissioner Hopkins seconded. Unanimous.

ITEM 9 – MINUTES OF 09/18/13

(Refer to Commission packet) **Commissioner Alberry moved** to accept the Minutes; Commissioner Porter seconded. Commissioner Padgett abstained as he was not present at last month's meeting. The five remaining commissioners voted in favor.

ITEM 10 – DIRECTOR'S REPORT (Chapin Spencer, Director)

(Refer to Commission packet) **Commissioner Archambeau moved** to accept staff recommendations; Commissioner Porter seconded. Unanimous.

ITEM 11 – COMMISSIONERS' COMMUNICATIONS

Commissioner Overby

- Reminder that discussion of refinancing of the \$14.5M wastewater debt will be on the November Agenda;
- Supports the Consent Agenda format and suggests that for the public's benefit, those items under future Consent Agendas be explained prior to voting. Commissioner Lavery will try to read a basic description of each Consent Agenda item at future meetings.
- Requested that the DPW Website address be projected onto the screen and captured by the camera technician prior to the start of the meetings.

Commissioner Padgett

- Suggested that Director Spencer read his Director's Reports in a bulleted format for the public's benefit.

Commissioner Lavery

- Thanked Customer Service Representative Valerie Ducharme for posting the Commission packets on the DPW Website.
- Receives e-mail notification when a new agenda goes onto the Website. Assistant Director Baldwin pointed out on the projector screen what to click on to receive such notifications:

govDELIVERY  or:

<https://public.govdelivery.com/accounts/VTBURLINGTON/subscriber/new>

Commissioner Porter

- Appreciates the line painted on Brookes Avenue to separate two parking spaces and acknowledges that it is a test.

ITEM 11.5 – DELIBERATIVE SESSION TO DISCUSS APPEAL – Cancelled.

ITEM 12 – ADJOURNMENT & NEXT MEETING DATE

The next DPW Commission meeting is scheduled for Wednesday, November 20, 2013 at 6:30pm
Commissioner Alberry moved to adjourn at 8:20pm; unanimous.

