



Health & Human Services and Public Safety Committee Minutes

Tuesday, February 26, 5:30pm, Council Chambers, City Hall

Committee Attendance:

Belinda Ray, Chair (District 1), Brian Batson (District 3), Pious Ali (At-Large)

Councilors in Attendance: Jill Duson (At-Large); Kimberly Cook (District 5)

City Staff: Dawn Stiles, Director of Health and Human Services; Jeff Levine, Brendan O'Connell, Finance Director; Christian Roadman, Planner; Aaron Geyer, Interim Director of Social Services; Meaghan Void Acting Director of the Oxford Street Shelter; Derrick Gilman, Network Operations Specialist; Rob Parritt, Consultant

AGENDA ITEM 1 – Announcements

- Chair Ray explained an added document in the agenda packet that outlined the EPSL action items for the meeting: "Final considerations ... or 022619 meeting.pdf"
- Mayor Strimling is currently out of the country and could not be present.

AGENDA ITEM 2 – Approval of Minutes

Councilor Batson made a motion to accept the minutes, Councilor Ali seconded and during discussion proposed the below amendment and the minutes were unanimously approved as amended.

- In Error Councilor Batson was attributed for asking CHOM Director Cullen Ryan about the partner projects presented effect on the needed number of beds at the new city run emergency shelter; it will be amended to reflect it was Councilor Ali who made the inquiry.

AGENDA ITEM 3 – Earned Paid Sick Leave

Per Diems

- Choosing per diem work
 - Councilor Batson explained two real world experiences of per diem employees he knows:
 - A per diem employee who could but does not want a regular full time schedule.
 - A per diem employee who is seeking full time employment but cannot find such employment; only able to find work in a per diem capacity
 - Per diem by choice if being forced into per diem schedule?



- Concern of not being able to have the staffing hospitals need and misclassification and employers making decisions to avoid providing benefits.
 - Can word smithing mitigate the concern of receiving benefits and E
 - Receives higher pay, or waives?
- Is there a compromise?
 - Both can be added without contradicting F1 and 2
 - F2 and E may overlap
 - F2 could be some other benefit other than higher pay in exchange for giving up EPSL (E Requires Higher Pay)
 - Corporation Council: based on what the councilors desire, recommended removing E.
 - E become what is written in 2: instead of receives higher pay becomes: has waived earned sick leave benefits under terms of employment for alternative benefits or consideration.

Make E F2

Committee Vote to add F:

- Vote:
 - Councilor Batson voted to add F
 - Chair Ray and Councilor Ali voted against adding F
- F will not be included

As recommended on the fiscal note analysis Chair Ray provided:

- Committee changed to 120 hours
- Add unscheduled substitute teachers to be exempt while they do not have a regular assignment
 - Councilor Ali is not sure he would support it and though that the committee already settled the matter as per diems who are not scheduled and are asked to work cannot use sick leave for that shift.
 - Shelter staff who are called in and become sick can leave and use sick leave.

Must be previously scheduled to be able to use EPSL. This avoids a situation where a per diem employee may be called and requested to work and elect to not come in due to illness and use sick leave.

- Work Study Students
 - The federal financial aid handbook prohibits any federal aid being used to pay benefits.



- The university of southern Maine recommended its removal
- USM requested all students working at the university be exempted as students working for the institution to prevent creating two classes of student workers based on funding source
 - Student working at non-university employers would accrue leave
- Councilor Ali Supports the second 4 but not the first 4
 - When school is out, students who are work study during the academic year, they are sometimes hired as regular employees during the summer. Councilor Ali believes these workers should accrue EPSL while performing work that is separate from their work study financial aid.
 - Students pay rent and support families
 - Councilor Batson agreed with Councilor Ali to exempt students receiving federal financial aid but not those in regular employment status.
 - Only applies to federal work study, not internships
- Employees who work at job sites in and outside the municipal limits of the City
 - Keep hours worked in the city; only work time performed in the city limits accrue EPSL
- Waiting Period
 - Proposal to change waiting period to 90 days:
 - Majority of ordinances have 90 day waiting periods
 - Only Austin and San Antonio were less than 90 days
 - Many businesses provided feedback that they would be more comfortable with a 90-day waiting period.
 - Chair Ray and Councilor Ali are comfortable changing to 90:
 - Councilor Batson offered 70
 - The Committee agreed to change the waiting period to 70 days
- G:
 - The issue may be too narrow: any Paid leave is sufficient
 - “Any paid leave policy, including a PTO policy”
 - For employers who meet the intent but using a policy that is not explicitly PTO
 - Replace PTO with “Paid Leave”
 - Meet or exceeds 1-6
 - What is 1 through 6 trying to accomplish?
 - Only 1 – 6?
 - Procedures
 - Number 4: all the purposes described in section 3 and 4
 - May satisfy
 - Meets or exceeds the intent of this ordinance including but not limited to these six (6)”



- o Purpose is to clarify for the public: which employers are exempted.
 - o The committee agrees on clarification and would like employers understand that benefits policies that are more generous than the requirements of the ordinance are exempted.
 - Include this explanation in FAQ
- Section 3 4A
 - o Definition of hours worked: When can we earn and when can we use?
 - As written, same employer who does not standardize all employees across all sites
 - Can earn in Portland
 - Intent is to earn and use those earned hours in Portland.
- 3 4F ESPL is paid out of the base wage/hourly rate, not based on commissions or bonuses.
- 4 C2: Proposed to add:
 - o If it requires a deductible
 - o employees with healthcare coverage with copay that exceeds an amount that equals 4 hours of that employees
 - health related taken more than 24 work hours
 - Councilor Batson could call out ten days in a row without the ability to ask for a note, this would enable employees to ask for one.
 - How would this work with employers that don't require notes
 - It does not require employers to have this policy, simply if employers do ask for documentation to not create a financial burden for the employee using sick leave; intended for employees should be able to afford to use the leave they earn.
- Allows the payment of EPSL used in the last 2 weeks of employment as employers who employ seasonal or J1 visa holding employees would fraudulently use sick time.
 - o Employees must attest they were sick.
- Language addition is accepted
- Enforcement
 - o A1: Shall change to "may" enforce
 - The City Manager has the option but not the obligation to investigate and pursue enforcement action
 - Directly from pesticide ordinance
 - Approved
 - o B2: City Manager shall contact the employer and review the requirements
 - Only requirement is the educational outreach



- o B3: Staff I not needed but creates a paper trail for aggrieved employees to pursue a private right of action.
- o Cost estimates are based on Cities with similar worded languages.
 - Unless enforcement is removed completely, enforcement costs would be incurred.
 - Were the researched municipalities similar in population and intent (create documentation for private litigate)
 - Some were larger and 3 were similar in size
 - The municipalities were investigating and resolving the issues themselves
 - o All have prosecutorial discretion
 - o If enforcement is an option in the ordinance but the City chooses not to there could be angry citizens who expect action to be taken.

Fiscal Note

Finance Director Brendan O'Connell

- 1A: Would we use the accrual for the ordinance or for the City employees
 - o New Software was supposed to go live last year the new go live date is July 1, 2019
 - o Chair Ray perceived that the options outlined in fiscal note appear to say offer nothing or everything
 - Where is the middle ground
 - Is the cost for entering the people newly gaining EPSL into the current city accrual rate (who currently are not eligible to accrue) or the minimum mandated rates?
 - Current: .046
 - Mandated minimum: .033
 - o Cost assuming everyone uses and accrues all leave for Public Schools at
 - Current
 - Minimum:
 - \$60,000 savings
 - o The accrual will be the same, creating a ceiling of liability with the understanding the unlikelihood that all accrued time would be used.
- Newly accrued costs for new allowable uses
 - o New cost presumes overtime hours based on interviewing managers for reasons staff call out and the temporary workers who fill in.
 - o Expanded use: chosen family coverage
 - Collective bargaining limits to family of certain degrees of separation.
 - Personal time does not require reasons used; sick time is usually a accompanied by explanation



- o Definition of family is settled
- Request that the fiscal note reflect the cap of 40 hours being able to be used in a year.
- If staff get close to their cap on vacation, are they notified when they stop accruing?
 - o No
- There could be a zero cost option on the web-site.
- Outside Legal Council: used minimums
 - o Staff expect to hire outside help and an investigator.
 - Chair Ray does not think the staff would be needed and that the first year's cost would be prorated by the 180-day initial start-up grace period.
- A revised fiscal note will be sent to the Council.
- The State Bill being pursued is similar to the Committee's.
 - o Councilor Batson is excited the state is also pursuing EPSL, and sees major difference; he would like to pass tonight
 - o Councilor Ali echoed the sentiment and would like to vote.

Councilor Batson moved to recommend the ordinance to the full council; Councilor Ali seconded and the motion passed. The committee thanked the staff, citizens, employees and businesses who worked, reached out, advocated over the fifteen months it has been since the Earned Paid Sick Leave Ordinance was proposed.

Agenda Item 4 – Homeless Services Center

Presentation and matrix of analyzed qualities are in the packet, including maps and pictures of the locations.

Zones that allow emergency shelters:

- Industrial zones
- Some business zones
- India Street form based code

Most residential areas are not zoned to permit shelters.

- Warren Ave should have remained on the list for further analysis.
- Transit stops were not cause for elimination
 - o The husky line is difficult to change stops, but possible
- Centroids are not helpful so lots were used as defined.
 - o % of uses (residential, governmental, multi-family, office, business, warehouse, etc.)
 - o Governmental: State of Maine, City of Portland (Ocean Gateway) and federal.



Thames St Parking Lot

- Leftover from Wex site
- Zoning does not work.
 - B6 and EWPZ do not allow emergency shelter.

1819 Westbrook Street

- Partially owned by the City and Maine DOT
 - Being discussed in potential sale to Rock Row.
 - Utility Easements
 - Development of Wetlands
- Difficult site for access and
- Zoning allows for shelter
- Husky Line currently turns onto Rand road but will go to Rock Row

654 Riverside Industrial Park

- Some resource protection zone does not allow for shelter
- Buffer has government and industrial uses and small residential use.

Auburn Street

- Zoning concern. Single family residential zone is challenging
- Mix use district with little else than single family homes.

County Way

- Zoning: Generally allowable but some is in the B2 which does not allow shelter.
- Uses are governmental (county and state) and a variety of residential uses.

Hutchins Drive

- Landlocked next to Eco Maine.
- IM zoning allows emergency shelter
- Unsure how to access transit that is hourly and not on weekends
- Only private drives or ECO Maine's active drive.

Franklin Reserve

- R6 Zone that does not allow Emergency Shelter

Angelo's Acre (and a half)

- Zoning allows emergency Shelter

33 Portland Street

- Currently a parking lot



- B2 Zoning does not allow it
- Mixed use.
- Challenge is zoning
 - o Size is also a challenge but doable with a second floor.
 - o For comparison, the Barron Center site was 33,000 square feet.

83 Middle Street

- Urban renewal site: lacks documentation of easements and property lines.
 - o These can be resolved but makes research difficult
- Emergency Shelter is allowed in zoning
- Mixed use
- Challenge is smaller size and the web of easements to be uncovered

1386 Riverside Street

- City would have to buy it
- Existing building isn't big enough.
- Mixed use zone

Next level of analysis will take a lot of research time.

Chair Ray thanked staff, particularly Christian Roadman for his comprehensive research.

Committee Questions:

83 Middle Street

- Is 10,000 Square feet too small
 - o Two stories seems doable and necessary for the size, it would need to be built to the boundaries of the site.
- Sites that would likely require 2 story facility
 - o 33 Portland Street
 - o Thames street parking lot
 - o 1819 Westbrook Street
 - o Franklin Reserve
 - o 33 Portland
 - o 83 Middle Street
- Possible Single Story
 - o County Way
 - o Hutchins Way if you can get to it
 - o Angelo's Acre
 - o 1386 Riverside Street
 - o Riverside Industrial Park



- Chair Ray asked the committee about eliminating sites that would require a zoning change?
 - Some areas could make sense to rezone and others could be very difficult.
 - Where zoning doesn't fit smaller shelters or housing first residential projects could work.
 - Councilor Batson is more inclined to remove entirely residential zones and is open to business zones.
 - Councilor Cook supports removing based on zoning not currently allowing it, shaving down the 11-12 site list by 4.
 - Franklin
 - Tames street
 - Auburn Street
 - 33 Portland Street
- Business Zones: b3 and b4 are larger scale which seemed to make more sense. B2 is urban corridor like Forest Ave, where b1 is neighborhood business.
 - B2B: More urban form of B2 but is very similar although it does not allow drive throughs. The difference has receded over time.
- A 3 story building is technically possible but not operationally.
- 1386 Riverside is not currently listed for a public number for sale but is offering to lease the building.
- Definition of multi-use commercial asses how a building is used: commonly residential or office building with retail on the ground floor.
- Government Owned
 - City Owned Sites (no title search)
 - Thames street parking lot
 - 654 Riverside
 - 622 Auburn Street
 - Hutchins Drive
 - Franklin Reserve
 - Angelo's Acre
 - 33 Portland Street
 - 83 Middle Street
 - State Owned
 - County Way and part of Westbrook street
- Not owned by City
 - Warren Ave
 - 1386 Riverside
- Chair Ray proposed to eliminate the 4 site that don't allow shelter and would eliminate some for other reasons.
 - Franklin street is a park and residential



- o 33 Portland is too small and would not allow a buffer to the street or residences.
- o Thames Street's zoning does not allow emergency shelter.
- o Auburn Street has wetlands.
 - Councilor Batson would like to see further analysis of a city owned shelter at 33 Portland Street for its accessibility and uses.
 - Residential use
 - 8.9% of the site is R6
 - o The buffer zone is largely residential.

Committee agreed to remove Thames Street, 622 Auburn Street, and Franklin Reserve.

- Councilor Batson explained he wants to keep 33 Portland street for the next round of analysis.
 - o Councilor Ali proposed conditionally keeping it on the list.
 - o Chair Ray explained the year plus delay the zoning present and that the problems and is in the same area as the current shelter that is far too concentrated with services.
 - o Councilor Duson suggested to pause the conversation and the committee agreed.
- Chair Ray proposed eliminating 1819 Westbrook and the committee agreed.
- Chair Ray Proposed eliminating Hutchins Drive
 - o Councilor Cook noted purchasing additional land to acquire access to the site; she suggested the logic needing to buy property as a barrier worthy of elimination extends to Warren Ave and 1386 Riverside.
 - Where is it possible to purchase access to Hutchins drive
 - o Voluntarily: not sure; behind Eco Maine?
 - More information is not attainable without the City Manager directing staff to have high level conversations about creating easement through private property.
 - o Would be within a half mile of pedestrian access but may not be under a quarter of a mile.
 - o It is near the new DHHS Building.
 - o The committee agreed to strike Huchens Drive.

Angelo's Acre

- Remains
- Is about the same distance from the water as tames street but has a busy road as a buffer.
- Councilor Ali would like to eliminate it, Chair Ray agreed as per zoning it would need to be built on commercial street.
 - o Councilor Batson does not think the concerns, while valid ware enough to eliminate it at this stage.
 - The committee agreed.



86 Middle Street

- Size
 - A four story housing project of 30-40 units was running into difficulty
 - It may possible to half a shelter half the size of a 100 bed shelter.
 - It may require tax amendment to the form based code.
 - Further Estimates would require hiring an architect.
- Chair Ray proposed to strike Middle Street due to size; Jeff explained a 100-bed shelter would be difficult to build but a smaller shelter or housing project would be appropriate.
 - Councilor Ali would like it to remain
 - Councilor Cook asked the committee to consider removing sites that require negotiations with private entities to purchase or build on their property and enter into a long term lease with. 750 Warren Ave and 36 Riverside Street,
- Councilor Cook suggested keeping it conditionally, if it does not require a form based tax amendment as Jeff indicated it may be need to build a 2 story facility.

654 Riverside Industrial Park

- It is near a recycling center but has potential.

33 Portland

- Chair Ray asked Rob Parritt, former OSS Director, was asked to comment on this location.
 - The neighborhood is far too concentrated.
 - When asked about the distance away in middle, it would not present a challenge to be that far away and is better than being near.

Eliminating 1386 riverside, Warren Ave.

83 Middle Street

- Councilor Ali wants to keep middle street;

The committee will vote: Chair Ray and Councilor Ali voted to eliminate 33 Portland Street and the committee voted unanimously to eliminate Middle Street.

County Way, Angelo's Acre and Riverside Industrial Park remain.

Next Steps

- HVJ and Provider input on the three sites
- Wetland environmental concerns
- City Manager to speak on use or acquisition of state owned land at County Way.
- Staff deliverables



- o Zoning Description
- o Stating that all three of the sites are appropriate for a homeless services center
 - There is not much more Planning can provide to distinguish between them without entering into site planning.
- Councilor Duson asked if staff has a sense of a way to help rank the sites
 - o This would be more operations based and would require HHS input.
 - o HHS will provide Shelter staff, Service provider and advocate perspectives.
- Councilor Cook asked if there could be a public hearing on the 19th
 - o The 19th is a constrained meeting
 - The next week has a full meeting for public comment on March 26th with not necessarily a vote at the next meeting (the potential remains for additional public comment).

Councilor Ali would like to look at the partner projects and locations.

- Chair Ray explained that the partner projects will likely not return to the committee.

The committee affirmed their norms of tempered passion and reasoned collaboration.

The meeting adjourned at approximately 9:25 PM.