

CITY OF PORTLAND, MAINE

Standing Committee on Energy and Sustainability

Councilor Jon Hinck (A/L), Chair

Councilor Spencer Thibodeau (D2), Vice Chair

Councilor Ed Suslovic (D3)

Energy and Sustainability

Councilors present: Councilor Hinck, Councilor Thibodeau, Councilor Suslovic, Mayor Strimling

Staff present: Troy Moon

Councilor Hinck recognized Mayor Strimling to offer comments supporting the mandatory benchmarking ordinance. He had another engagement to attend.

Troy Moon gave a presentation describing the ordinance.

The ordinance applies to:

- Non-residential buildings with 20,000+ square feet
- residential buildings with 50+ units (condos and apartments)
- Municipal buildings with 10,000+ square feet
- 225 buildings would be affected.

Report would require affected property owners to report:

- Total energy use for each covered property, includes oil, electricity, natural gas, steam, hot water, or other product used to heat or cool a building – or on site renewables used for this purpose.
- Total water use for each covered property

The ordinance requires the use of Energy Star Portfolio Manager as the benchmarking tool, 3rd party software commonly used can integrate with it. Examples: Rapport, Wegowise

The ordinance places responsibility for managing the program on the Sustainability Coordinator. Implementation would be similar to Green Packaging Ordinance:

- Staff would ID building subject to the ordinance and notify them of ordinance requirements.
- Hold education workshops re: portfolio manager and reporting requirements
- Send final notice before the ordinance takes effect
- Create a benchmarking website listing affected properties and to share reported data to include:
 - Compliance status of affected properties
 - Summary stats of energy & water use from reporting entities
 - Later years – comparison from year to year (trending)
 - Send annual reminder notices of reporting requirements

Effective dates:

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- Residential properties must enter data no later than 2 years after effective date and report no later than 2.5 years after the ordinance takes effect
- Non-residential properties must enter data no later than 2 years after effective date report no later than 2.5 years after the ordinance takes effect
- Municipal properties must enter data no later than 1 years after effective date must report no later than 1.5 years after the ordinance takes effect

Exemptions:

- If disclosure would disclose a trade secret
- If building owners cannot get data from tenants (ordinance requires tenants to share energy data with building owners)

Assessment and Report to Council:

- Sustainability Coordinator will prepare an annual report to the City Council regarding the ordinance and its effectiveness
- Sustainability Coordinator will review building performance by the end of 2020 and recommend improvements to the City Manager.

Violations: Written warning for non-compliance, then \$50/day fine until reports received.

- Staff would work with property owners to identify problems related to reporting and provide technical assistance as necessary. Enforcement action would be a last resort for refuseniks.

Councilor Hinck invited public comment.

Fred Pedulla: Supports the ordinance

Glen Brand, Sierra Club: Supports the ordinance. It has been implemented successfully in other cities, voluntary programs have not proven successful.

Elissa Armstrong: Supports the ordinance. Will help businesses make better energy decisions and help tenants make better decisions about where to rent because energy costs will be visible.

Maggie Wolf: Supports the ordinance.

Sam Saltonstall: Supports the ordinance to help reduce sea level rise and other impacts of climate change.

Allen Armstrong: Supports the ordinance because we need to be able to identify buildings that aren't doing well regarding energy efficiency. Owners of buildings that do well are happy to share their data.

Public comment closed.

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Councilor Thibodeau: Asked Mr. Moon about the exemption for trade secrets and how that would be implemented. Mr. Moon indicated that each case would be reviewed individually and that his office would listen to compelling arguments. Councilor Thibodeau asked whether the reporting platform required in the ordinance was the same as the one demonstrated to the committee earlier in the year. Mr. Moon indicated that it was. Councilor Thibodeau suggested that more municipal buildings should be included. He also questioned how many individual condominium units might be affected. He is more interested in having the whole building data reported. He would like to see the City work with the utilities to make data reporting much easier. Finally, Councilor Thibodeau asked Mr. Moon to explain how he understood the report required in 2020. He responded that the ordinance would require the sustainability coordinator to review the ordinance and its impact with the City Manager.

Mr. Thibodeau is generally supportive of the ordinance as drafted. He is concerned about enforcement and how that would work. He feels that this will need to be worked on over the next couple of years as the intent is to get the data not to be punitive.

Finally, he asked about the data gathering process and how that would be accomplished. Mr. Moon indicated that he would likely seek assistance from an intern or perhaps community volunteers to support him in compiling the data and recording it.

Councilor Suslovic: Asked whether Corporation Counsel has signed off on the ordinance in front of them. Mr. Moon indicated that Corporation Counsel drafted it. He is a little concerned that some of the language intrudes on the landlord/tenant relationship. He wonders how a property manager might get the energy data from the tenants. Councilor Suslovic followed up by asking whether the 2030 District participated in the drafting of the ordinance. Mr. Moon indicated that they had not participated in the drafting. This concerned Councilor Suslovic because the 2030 District will be looking at more metrics than what is called for in the benchmarking ordinance, such as traffic demand management. He would like to see us working more closely with the 2030 District. Councilor Suslovic also indicated that whole building aggregated data would be better than requiring tenants to provide information to landlords. Councilor Suslovic would prefer that we hold off and see how things work out with the voluntary effort. He sees the 2030 District as preferable because they require more metrics and will be working to make data more accessible.

Councilor Hinck asked about how accessible data is from utilities. Mr. Moon described his efforts to get data from them and acknowledged that it can be challenging but that it is improving. Councilor Hinck indicated that he would be receptive to lowering the penalty for non-compliance from \$50 to a lower amount. Councilor Hinck wondered if there was a conflict between the efforts of 2030 Districts and benchmarking ordinances, like in Seattle.

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Councilor Hinck asked whether either of his colleagues would offer an amendment. Councilor Thibodeau moved passage of the benchmarking ordinance. He feels we need some sort of reporting protocol but he wants the City to emphasize education and outreach during implementation. He also would want to make sure building owners would not be penalized for the failure of tenants to supply data.

Councilor Suslovic feels like there are lots of unanswered questions. Ordinances like the bag fee and styrofoam ban had lengthy process and involved many stakeholders. He would prefer the committee to postpone this item for several months to see how the 2030 District makes out. He supports benchmarking but does not think our process has been adequate. He has concerns about how we would handle enforcement against tenants if they will not provide information to the landlord.

Councilor Thibodeau offered an amendment that municipal buildings up to 5000 feet should be covered. All were in favor.

Benchmarking ordinance passes as amended, Councilors Thibodeau and Hinck in favor. Councilor Suslovic opposed.

Streetlight Conversion to LED

Mr. Moon described efforts to achieve the Council goal of converting the City's streetlights to LED. He indicated that staff were developing an RFP that would achieve this goal and to also look at advanced controls to maximize the functionality of the lights and to also look at deploying other advanced technologies. These could include public wifi, electric vehicle charging, and environmental sensors. Moving forward with this is possible because of recent changes to state law and new rules from the PUC. Streetlight conversions save a great deal of energy. Some cities have cut their lighting costs in half. Another advantage is that the light can be tuned to specific color temperatures. Steps in the conversion project would include an investment grade of our current lights, a lighting analysis to determine whether some areas are over or under lit. Conversion of the lights will save money and reduce greenhouse gas emissions. The City is interested in smart cities technologies and will implement them as possible but will make sure the lights are future proof and could incorporate smart features in the future as necessary. He added that he wanted to check in with the committee on this issue.

Councilor Suslovic asked whether we might consider camping on to the contract issued by Falmouth and South Portland. He also wondered about requirements to install a fuse between a city owned light and the utility line.

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Mr. Moon indicated that currently only CMP is authorized to install the fuse, which could raise the cost of the project. He also mentioned that he and the City Manager had discussed the possibility of adopting the Falmouth contract. They decided that there are many qualified vendors and that, given the scale of our project and the desire of firms to get the business, we would benefit from the competition.

Councilor Hinck said he was very excited about this project. He was concerned about adding surveillance features to the lights. If we are going to use this type of technology there should be a great deal of public discussion. He also wondered about light levels - will there be an opportunity to expand or contract coverage. Mr. Moon indicated that there would be opportunities to adjust light levels but the locations of existing poles might be a limiting factor. Councilor Hinck also suggested that we be mindful of reducing light pollution and improving visibility of the night sky.

Councilor Suslovic suggested that crosswalks and bus stops be flagged as high priorities for better lighting.

National League of Cities / Bayside Adapts

Mr. Moon briefed the Committee on efforts to implement the National League of Cities resiliency grant. He added that it would support the Bayside Adapts initiative. Beginning in December there will be a series of events where the public can be educated about the impacts of climate change on Portland. Discussion will also include descriptions of resilient designs can be deployed a deal with rising waters. Local design professionals will be asked to offer ideas about what a resilient Bayside might look like to spur community discussion.

Councilor Hinck suggested that there be a role for students in the process to recognize their commitment to climate action, as demonstrated by the march by King students last year.

Schedule

The committee discussed possible schedule conflicts as Councilor Thibodeau and Mr. Moon would be traveling in October. They decided to defer to the chair whether to hold the October meeting, the decision to be made closer to the scheduled date.

Adjourn.