



City of Madison

City of Madison
Madison, WI 53703
www.cityofmadison.com

Meeting Minutes - Approved SUSTAINABLE DESIGN AND ENERGY COMMITTEE

Tuesday, October 21, 2008

4:00 PM

215 Martin Luther King, Jr. Blvd.
Room 300 (Madison Municipal Building)

CALL TO ORDER / ROLL CALL

Present: 12 -

Satya V. Rhodes Conway; William Bremer; Sherrie Gruder; Michael J. Vickerman; Paul D. Muench; Catherine E. Mackin; David W. Drummond; Garrick R. Maine; James D. Armstrong; Lou W. Host-Jablonski; Leslie C. Schroeder and Peter J. Taglia

Absent: 1 -

Julia D. Voss

Excused: 3 -

Judy Compton; Lance T. McGrath and David C. Boyer

Others present were: Jeanne Hoffman, Andrew Statz, Adriana Peguero, John Hausbeck, Karl Van Lith and Larry Palm.

APPROVAL OF MINUTES

Garrick Maine moved that the July minutes be approved and Jim Armstrong seconded the motion. The motion was passed unanimously.

Garrick Maine moved to approve the September minutes and Jim Armstrong seconded the motion. The motion was passed unanimously.

PUBLIC COMMENT

There was no public comment.

1. [11080](#) SUBSTITUTE - Creating new Section 7.55 to prohibit outdoor wood boilers, amending Sec. 1.08(4) to include citation authority for Director of Public Health and amending, and amending Sec. 1.08(3) of the Madison General Ordinances to establish a bail deposit for a violation.

Attachments: [Version 1](#)
[outdoorwoodboilerfactsheetNESCAUM07.pdf](#)
[SDEoutdrWoodBoilerAmendments.pdf](#)
[Equip Loan MemoforDustracSLHContacts9-17-2008.pdf](#)
[EmailfromJohnHausbeck10-07-08.pdf](#)
[BEOHEnforcementLetterforOWBs2008USE.pdf](#)
[HPBAssocOWBlocationBurnpracticesRecs06.pdf](#)
[OWBInformationfromSDEmeetingOctober21.pdf](#)

Linda Karr, a member of the public, spoke representing herself. She lives 60 feet from a wood boiler. She talked with someone from DNR who said that there are different standards for residential OWB. She took a picture of her neighbor's OWB when it was about 50 degrees outside. She thinks her neighbor uses the OWB to heat water. These devices should not be used in the City.

Sherrie Gruder asked how close the OWB is to her house. She indicated that the OWB is on the edge of his property and so it is about 60 to 65 feet from her house.

Sherrie Gruder indicated that the committee discussed this topic at the SDE's last meeting. Sherrie Gruder indicated that at the last meeting she wanted to move an amendment that would outright ban all OWB retroactively for the next year's heating season's and that someone from the City Attorney's Office came to address this issue.

Adriana Peguero from the City Attorney's Office indicated that this is an issue of a "takings". If when the person bought the equipment when it was legal, and now it is not there could be a legal action against the City. She also indicated that because this ordinance already tries to address this issue, that a retroactive ban could be seen as more of a legal risk for the City, especially because the date of the ban is not that far away.

Lou Host-Jablonski asked about the bail deposit.

Adriana Peguero stated that the municipal judge indicated that the bail deposit is the fine that could be given to someone if they are operating an OWB outside the provisions of the ordinance. They could be fined per day for operations outside the provisions.

Lou Host-Jablonski asked about units that are retrofitted so that they meet the EPA standards.

Adriana Peguero the ordinance does say that OWB would need to meet state and federal standards.

Lou Host-Jablonski indicated that if an OWB is from the 1950's then do they need to meet state and federal standards from the 1950's or does this mean that they need to update their systems to new standards?

Adriana Peguero indicated that she would need to look into this.

Sherrie Gruder indicated that the term excessive is not measurable.

John Hausbeck indicated that excessive is defined as if visible smoke or odor goes into someone else property.

Andrew Statz stated that he was there to make sure that the Mayor would support the final ordinance. Andrew indicated that ordinance was added language regarding large-scale systems. The outright ban could be an issue. He further indicated that this ordinance would be complaint-driven, then public health would investigate and if there is a problem the owner of the OWB would need to make improvements or repairs to bring the OWB into compliance or take it out of service. Finally, these systems do not last long maybe 10 years.

David Drummond indicated that he understands the takings issue, but wanted to know if this ordinance deals with establishing a minimum stake height?

Adriana Peguero indicated that having that type of requirement might also be seen as a taking and that it could be open to challenge, adding a stake height would not necessarily constitute a takings, it just adds a question of more risk for a possible legal action.

John Hausbeck thinks increasing stack height can improve air quality for immediate neighbors but there are some issues on a community wide basis because we are going to be out of compliance with Federal standards for PM 2.5 and suggested that the ordinance needs to look at more than just stake height, such as setbacks etc. An ordinance that sets criteria for allowing OWB to operate rather than ban them outright needs to have more than just stack height specified. NESCAUM guidelines should be considered if that is the direction the committee wants to go. This ordinance does not include these criteria because banning OWB was considered more appropriate.

Sherrie Gruder indicated that NESCAUM says that OWB should be 500 feet from another units and stake height needs to be taller than the roof of adjacent buildings. She further stated that this ordinance does not do anything about existing units and that they will be out of compliance.

John Hausbeck indicated that currently the City has very few units operating and sees the grandfathering of existing units as a necessary evil to get the ordinance adopted for the future because these units could very well become more popular.

Sherrie Gruder indicated that we have a motion on the table to outright ban these. (At the last meeting Sherrie Gruder made the motion and Satya Rhodes-Conway seconded that motion).

Lou Host-Jablonski asked what would or could happen regarding the taking issues?

Adriana Peguero indicated that the City doesn't know what happen if the City

goes to court. There are a few of these systems, so if the City grandfathers them in, that does limit the City's restrictions, which means the City is less likely to be sued for takings.

Lou Host-Jablonski asked whether not allowing the systems to be fixed when they are in disrepair? Basically the ordinance would require them to be taken it out of service.

Adriana Peguero indicated that this could also be a "taking" issue.

Satya Rhodes-Conway moved adoption and Lou Host-Jablonski seconded for purposes of discussion.

Michael Vickerman does not want this ban to include using this technology, say at a school. (He passed out a Biomass Combustion Systems Grant Application for the School District of Marathon, which shows that they cannot move forward with this project because of a similar ban in this area. The document is available on Legistar.) Michael suggested that we allow systems for any non-residential use. Michael wants to allow these systems for larger applications, including more than just the exemptions listed in the current draft of the ordinance.

Lou Host Jablonski questioned the construction of the ordinance.

Paul Muench stated that there should be the same standards for existing vs. new systems.

Sherrie Gruder indicated that the EPA has an Orange Tag system, similar to Energy Star that gives you a measure of how clean the system is.

Paul Muench also asked why does the SDE have this before them when he considers this a public health issue?

Sherrie Gruder mentioned that the City and the committee often talked about the Natural Step Framework for Sustainability, which is a framework that the City adopted. In the Natural Step there are system conditions and system condition #4 is about people meeting their basic needs, like health.

Peter Taglia indicated that there are ways to burn materials other than wood, such as prairie grass through pellets etc. That some of these systems, (larger in scale), can be a sustainable way to heat. They are not as clean as natural gas, but they are an option that this committee should consider. He suggested using performance standards to determine what systems we should allow.

John Hausbeck indicated that this ordinance could go in that direction but that the City would then have an issue of enforcement. There is just not the staff to deal with this issue on a performance standard basis and he further wondered if it would be a Building Inspection or Public Health responsibility to enforce this. He further stated that if everyone started using wood or pellet stoves that the emissions from these devices would be a step back in terms of air quality. These units will not be replacing coal, but natural gas. Natural gas is not sustainable, but it is very clean. So there is sustainability vs. air quality question here. Finally, John clarified that NESCAUM does not use orange tag.

Satya Rhodes-Conway also indicated that she would much prefer to have performance standards, so the committee needs to decide if it is going to recommend that the City Attorney's Office look into performance standards. This ordinance deals with technology not performance standards, so the committee needs to answer if we want to ban them outright.

David Drummond questioned the definition because of some of these are built with above ground piping.

Lou Host-Jablonski indicated that these systems for the most part are very inefficient and that fires in fireplaces are burning only periodically as opposed to OWB that is burning everyday for your heat.

Michael Vickerman referred to the application from Marathon School District to Focus on Energy for an outdoor wood burner system. There is a ban on OWB in this area too, so this application is stalled. The system in the application is a pellet-burning system. Michael further stated that it makes sense to use renewable fuel sources that nonrenewable fuel sources are depleting and having polices that force places to use natural gas, a nonrenewable energy source is shortsighted. Wood is also locally available.

Peter Taglia indicated that this ordinance should only apply to residential systems. I know where the issues are with current residential systems that are operating, but I think that this is a way to move forward.

Peter moved that the ordinance be amended to only apply to residential systems.

Adriana Peguero indicated that #6 in the ordinance applies to the whole ordinance.

Michael Vickerman seconded Peter's motion.

Peter Taglia restated the motion that the OWB ban would not apply to OWB for non-residential purposes.

Low Host-Jablonski suggested that a good way to accomplish this would be to state throughout the ordinance that instead of OWB – they be changed to OWB residential units.

Peter Taglia indicated that this is friendly amendment.

Peter Taglia and Lou Host-Jablonski further redefined OWB residential units to mean units connected to a single and two-units family home.

Jeanne Hoffman indicated that Leslie Schroeder votes.

Peter Taglia's amendment that this ordinance only applies to OWB for single and two-units family homes is approved unanimously.

Sherrie Gruder asks a question in #6 of the ordinance about WDNR standards.

John Hausbeck indicated that #6 could be deleted because of the earlier amendment that this ordinance now only applies to single and two-units residential family homes.

Sherrie Gruder then asked about existing units.

Lou Host-Jablonski indicated that #4 in the ordinance deal with existing units.

Bill Bremer moved to delete #6 from the ordinance, Peter seconded to motion. The amendment passed with David Drummond voting no and Sherrie Gruder abstaining.

Lou Host-Jablonski moved to strike second last sentence of definition. The motion passed with David Drummond and Satya Rhodes-Conway abstaining.

Sherrie Gruder then asked again about pre-existing systems. There was a lot of discussion about between David and others on the committee regarding #2 in the ordinance.

Satya Rhodes-Conway indicated that this will be going back to the Commission on the Environment where Larry Palm, as the lead sponsor, will need to decide what he wants to do with the recommendations from SDE.

Larry Palm indicated that he is in favor of allowing large-scale systems and that he has concerns about orange tag. The technology is changing so there might be a state standard at some point. Finally he indicated that the Commission on the Environment would consider all of this.

Satya Rhodes-Conway indicated that SDE can try to change the words in the ordinance or SDE can in essence send a report to COE with the issues that SDE thinks are important for Larry, COE, and City Attorney's Office need to consider. She also indicated that her preference would be to preserve the options for low-emission, energy efficiency systems for all levels, if that is possible. She is also more interested in systems that are in the buildings as these outdoor systems are a relative small percentage, but SDE can take this up this later.

The question was called for approval of the overall motion. David Drummond, Garrick Maine and Paul Muench voted no. Satya Rhodes Conway and Sherrie Gruder voted to abstain

Lou Host-Jablonski, Leslie Schroeder, Cathy Mackin, Micheal Vickerman, Bill Bremmer and Peter Taglia voted yes.

At this time Satya Rhodes Conway, Lou Host-Jablonski left the meeting. Jim Armstrong left earlier, but a quorum was still maintained.

2. [10922](#) Presentation and Training of The Natural Step - Sustainability Framework - by Karl Van Lith

Karl started the presentation by going through the agenda. Karl then went through the PowerPoint presentation. (Attached to these minutes.) Judy asked about recycling our computers. Staff indicated that the City sells/gives away some computers and the City also has a contract with Cascade Asset Management to recycle our old computers. Satya wanted to know how do the TNS projects grow? Staff mentioned that the projects do grow and used the energy wasters as an example. The City first determined which buildings use the most energy and now FM is taking steps to reduce energy use at these building. Staff also mentioned Fleet. The TNS project was to develop CAFE standards for our Fleet, but the project now includes a whole host of other initiatives - like AVL/GPS on our fleet, vehicle type, etc. Sherrie also mentioned Green Cleaning, which started out at Monona Terrace and is now used in all City agencies. Judy asked, what is our goal? Staff mentioned the Mpowering Madison goal of reducing the community's CO2 emissions by 100,000 tons by 2011 and the City's CO2 emissions by 15,000 tons by 2011. Committee members then worked on developing their Compelling Vision Headline Karl will compile headlines. (These will be posted to the minutes when available.) Next the group developed and discussed the baseline information they would need to be able to move toward their headline. Finally, the group developed and discussed actions that would need to be taken to achieve their vision. Committee members then shared their actions with the group. Karl passed out the homework and explained it to the group. (Attached to these minutes.)

Attachments: [baselineinformationenergy 6-30-08.pdf](#)
[Overview of The Natural Step.doc](#)
[TNS SC Analysis Worksheet v4 6-30-08.doc](#)
[TNS SDE presentation 6-30-08.ppt](#)
[Visions SDEC for agenda 7-14-08.doc](#)
[SDE Committee Members email from Sherrie Gruder.doc](#)
[TNS Worksheet.doc](#)

Karl Van Lith indicated that from the last time the committee worked on TNS issues that compiling all of the committee's work, the main vision from the committee is:

Madison will be a zero net energy community by 2050.

The committee then broke-up into small groups to put together ideas of how to get toward that vision. Below are the results from that work.

Key Improvement Areas:

Existing Buildings

Make them more energy efficient and sustainable

Massive amounts of solar energy capacity

New Buildings

Design, construct and operate with energy efficiency and sustainability in mind.

Waste

Reduce amount generated and going into landfill

Reuse more—salvage

Food waste digestion plant—use manure/food waste digester to generate energy

Transportation

Minimize private commuting—reduce use

Maximize public transportation options and use

Change vehicle types—electric cars, etc

Increase population density within City

Increase pedestrian/bike options

Land use

More green space around City for use in local agriculture

More green space within City for use in local agriculture

Higher density planning models

Energy Generation

Alternatives to fossil fuels—biomass fuels, wind power, etc

Use Lakes as energy resource

Water Conservation

Sustainable uses, better systems, better use planning and coordination

More research and evaluation of ideas on energy sustainability, conservation and generation

3. [12003](#) Residential Energy Upgrades: opportunities and options - by Sherrie Gruder

Attachments: [SDEenergy efficiencyprogrammodels \(2\) 11-08.doc](#)

This item was referred to a future meeting.

ADJOURNMENT

Sherrie Gruder moved to adjourn the meeting and the motion was seconded by Jim Armstrong. The meeting adjourned at 6:00 p.m.