

## **Item 23-0664: Resolution #6-R-23, Addition of Bird Safe Glass requirements to Appleton Municipal Code**

**Community & Economic Development Committee**

Wed, Sep 13, 2023 6:30PM

**Aldersperson Denise Fenton (District 6) 01:27**

We have no public hearings or appearances. So, we will move on to our one action item, which is number 23-0664 Resolution number 6-R23 the addition of bird safe glass requirements to the Appleton municipal code.

**Aldersperson Israel Del Toro (District 4) 01:53**

For sake of discussion, move to approve.

**Aldersperson Israel Del Toro (District 4) 01:56**

Do I have a second?

**Aldersperson Joss Thyssen (District 8) 01:57**

Second.

**Aldersperson Denise Fenton (District 6) 01:59**

All right, so we have a motion and a second. Is there any discussion? I see that we have two of the authors here, and then of course, one is on the committee. Anything from the authors of the resolution? All right, Alder Meltzer. All right.

**Aldersperson Vered Meltzer (District 2) 02:24**

Thank you. I'm not the lead author so aldersperson Schultz might have some additional things to say. But I just wanted to say I appreciate that this item has been held. I know that there is some ongoing, legal—a legal case in Madison involving this that has not actually been resolved yet. So, I would appreciate the committee continuing to hold this item until November with the chances that the in November that outstanding question might be resolved.

**Aldersperson Denise Fenton (District 6) 03:03**

Thank you. Any other? Alder Schultz. What was the number I'm sorry? 13? 13? Ah, okay, I was confused. Thank you.

**Aldersperson Alex Schultz (District 9) 03:20**

Threw you a curveball there. Thank you, chair. As the primary author, I want to express gratitude for staff for taking the time to do some evaluations of the potential structures this would impact if we were to move on anything like this within the city limits and on public property. One of the goals was essentially to ascertain, you know, how much of this potential glass and glass facades we actually own as a as a public entity, and that's really valuable information now that we have it. So, whether we move forward with this now or we table it, that's good work that the city has already done. I want to recognize the time that we put into the city to evaluate this. It's a worthwhile effort.

**Aldersperson Alex Schultz (District 9) 04:06**

I do agree, I think, with the initial assessment. When I considered introducing this last fall and talk to staff, particularly to Legal, and their assessment was "Let's hold on to this until this thing in Madison gets resolved,"

which was kind of where I held it and left it for time. As that progress kind of stalled, and I was following that, it felt to me like we could introduce this, have a conversation, and get the ball rolling in our court just to see where we would land as a city of our size and kind of understand how this would impact our infrastructure. So, I did maybe introduce it a little early, and I appreciate the impact and also the opinions from Legal that we should have just kind of hang tight here until something is resolved in Madison—if we intend to do something that the resolution spells out now.

**Alderson Alex Schultz (District 9) 04:59**

Having said that, we've got some really good information to go on. We've done an evaluation, and we have four buildings that are in public property or that we own that sort of meet that criteria. Not large buildings. One of those is the new library, which also already has bird safe abatement—I guess I'd call it strategies—applied to the windows that will be used in that building. So, we're already sort of addressing that one. And then there are three others, one of which is this building, and then two other buildings. So, it's not a huge number of buildings. And I think the cost would not be significant.

**Alderson Alex Schultz (District 9) 05:38**

And I would like to see us move or at least have this conversation to figure out what that cost might be. But I am certainly willing to just kind of table this hold it until we see some action in Madison. I think it behooves us to see what leadership from that city brings forward and whether this is, whether this stands legal or does not stand legally. And if it doesn't stand legally, then we have another conversation and say, "Look, as a city, should we just do something in our public infrastructure that's really not that cost prohibitive?" And maybe we just do that. But I think for the time being, I'd like to see where the city of Madison washes out on this. Thank you, Chair.

**Alderson Denise Fenton (District 6) 06:18**

Thank you. All—I had Alder Wolff, and then Alder Hartzheim, and then Alder van Zeeland as well. All right. Alder Wolff.

**Alderson Nate Wolff (District 12) 06:26**

Thank you, Chair. I'd like to make a motion to hold this resolution until November 8 of this year.

**Alderson Denise Fenton (District 6) 06:35**

Okay, do we...?

**Alderson Israel Del Toro (District 4) 06:36**

[...] discussion?

**Alderson Denise Fenton (District 6) 06:39**

Do—okay, so we have a motion to approve and a second. Now we have a motion to hold.

**Zak Buruin (Assistant City Attorney) 06:45**

So, my understanding is that the motion to hold can essentially interrupt anything else that's going on. So that would be appropriate. As a matter of procedure, though, I would recommend that instead of picking a specific date to hold it to, recommend that it be held to the first Safety and Licensing meeting of November. I know there's been issues etc.

**Alderson Denise Fenton (District 6) 07:03**

The CEDC but that's—

**Zak Buruin (Assistant City Attorney) 07:04**

I'm sorry, CEDC.

**Aldersperson Denise Fenton (District 6) 07:05**

If you want me to give it to them that's fine. **[Note: This was said in jest.]**

**Zak Buruin (Assistant City Attorney) 07:08**

They've got a couple other things on the stove at the moment. I'm sure they would appreciate this staying here. I apologize for the slip, but that would keep there from being any issues with one of us reading the calendar wrong or there being special meetings or things like that.

**Aldersperson Nate Wolff (District 12) 07:24**

That was the...yeah.

**Aldersperson Denise Fenton (District 6) 07:26**

Well, I would say to that is that's before budget adoption. I would personally prefer to second something that went to the second meeting of November, but I'm going to hear from—you have a motion do we have a second?

**Aldersperson Israel Del Toro (District 4) 07:50**

I'd actually like to hear from the others.

**Aldersperson Denise Fenton (District 6) 07:51**

I was gonna say, I would like to hear from them. So, can we can we leave that without a second right now?

**Zak Buruin (Assistant City Attorney) 07:58**

I don't see why not.

**Aldersperson Denise Fenton (District 6) 07:59**

Okay. Alder Hartzheim.

**Aldersperson Sheri Hartzheim (District 13) 08:02**

Thank you, Chair. I—while I understand that a hold might be wise as far as trying to find out what's happening in some other city and some other legal challenges, I would prefer for us to vote on this one way or another at this time so that what comes out in the end when it—when and if the author's bring this back at some other point in time, it'll be fresh and new based on what we know from that discussion. So, I would like to see some actual action on this rather than letting it hold out there. I think we're going to run out of—it's going to become one of these things where "What is the status of that?" and it's just hanging out there. I'd rather see the author's come back with something once we are more familiar with what might have occurred in in Madison and those legal challenges. Thank you.

**Aldersperson Denise Fenton (District 6) 09:00**

Thank you. Alder Van Zeeland.

**Aldersperson Katie Van Zeeland (District 5) 09:06**

Thank you, chair. I don't know if everybody saw the email that I had attached—actually Kami attached it for me to this item. When I found out the reasoning behind this resolution, I went digging to see what tools were

available to business owners or for us here at City Hall should we have concerns with birds hitting the windows and because we are a Bird City, we do actually have access to the discounted stickers that you can put on your window that will keep birds from striking the window. I think that that's something that we can do right now for the City of Appleton. So—and it doesn't require a resolution I don't believe because we are a Bird City USA. I don't see there being any concerns with, you know, advertising that on our website or anything in that regard.

**Aldersperson Katie Van Zeeland (District 5) 10:07**

But to other Schultz's comments, I actually had a couple of questions. The—and I'm not sure who to who on staff can answer them. But when I asked the one of the SOM people about the glass in the library, they said that the library wasn't the kind of building that we would have concerns about, but Alder Schultz says different, so could somebody maybe speak to that, you know, what the what the inconsistency might be there? It was my understanding that this occurs, generally, in spaces where they're open, where they might have plants and things inside, that it's a certain height, but that it can happen, you know, in houses and businesses. Could someone maybe add more to that?

**Director Kara Homan (Community And Economic Development) 11:02**

Yeah. So, I did do a little bit of research and talking to a couple of communities that have started getting feedback from their citizenry about a desire to look into this. There are design standards out there. A lot of them were derived by the facilities department at UW Madison, at least within the state of Wisconsin. I do believe the matrix that Director Gazza's team included, did have some of the base criteria that are within those design standards. So, my guess is you're alluding to the column that says glass greater than 50 square feet. And that does outline four buildings that have that at least as a component of them. With City Hall being one, the public library being another. It may not be a huge element of it. Wasn't privy to those conversations, either with Director Gazza or with the architects from SOM. The other building was the wastewater treatment plant—or the water treatment plant on Manitowoc road, and then yellow ramp—

**Aldersperson Katie Van Zeeland (District 5) 12:06**

Thank you.

**Director Kara Homan (Community And Economic Development) 12:06**

—that just met that criteria of greater than 50.

**Aldersperson Katie Van Zeeland (District 5) 12:09**

Okay, that makes more sense, because it was my understanding in speaking with the designers that there's more to it than just the size of the glass.

**Director Kara Homan (Community And Economic Development) 12:18**

It's the glass. Some of it is the site and the landscaping. And it's not as simple as just like one thing.

**Aldersperson Katie Van Zeeland (District 5) 12:28**

Okay, yeah, that's helpful. I guess, I would like to see something more like—if we are going to do something, you know, I'd like to do something like the sticker program, where it's something we can do right now, where it can actually make a difference in Appleton. Thank you.

**Aldersperson Denise Fenton (District 6) 12:44**

Thank you. Um, Alder Schultz.

**Alderson Alex Schultz (District 9) 12:54**

Thank you, Chair. I'm going to just reference this is my own memory of the library building and the process there. I think the original design incorporated bird safe glass, or at least it was a bird safe glass—I mean, sorry, a bird safe window build that allowed for less attraction for birds. And I don't know if that was just part of the rounded nature of the windows or if there was breakpoints on the windows, but I believe that that was part of the original design and was called out. I'm just, this is only my memory, my recollection.

**Alderson Alex Schultz (District 9) 13:29**

So, I think those things were done. And then the revised design still incorporate some part of that window construction. But yes, it is—it's the reflectivity. So, any panes that are large enough to sort of reflect skylight and image of clouds, where the birds just can't understand that they're not flying into a space they're actually flying in the sky, which can be essentially anywhere. And it does sort of depend on the habitat that surround it, whether it's close to some nesting birds or they're, you know, making their homes.

**Alderson Alex Schultz (District 9) 14:00**

But it can happen anywhere. I can give you an example. Back two windows in the back of Acoca, very urban, right next to the PAC, not much vegetation, but there's a couple of small white pine there, and I was out there doing some work. And in the period of 15 minutes two pine warblers smashed into that glass. One of them survived, and one of them didn't. And this was just me anecdotally being there for a period of 15 minutes one morning. So, it can happen anywhere. And it's just it's glass of a size that's reflective enough where it deceives the birds in believing that they're flying into open airspace. So, I don't know much more than that.

**Alderson Alex Schultz (District 9) 14:39**

But certainly, I think it's worth exploring and basically going off the metrics that were provided in the reference by the Bird City people. So, I'm leaning into what was provided for through the Madison ordinance, because a lot of work was done there. Is it applicable to Appleton? Likely not. It's a much smaller urban infrastructure, but we do still have glass panes of that size.

**Alderson Denise Fenton (District 6) 15:04**

Alder Del Toro.

**Alderson Israel Del Toro (District 4) 15:06**

Thank you, chair. I wholeheartedly agree with Alder Van Zeeland, that there are some action items that we could do now and we should implement immediately seeing as we are a Bird City and have a responsibility to that affiliation. Having said that, it does not necessarily have to come from this resolution. Potentially could come from a second resolution associated with this. I would also say that said resolution could include the second action item on this, which states "Be it further resolved that the City of Appleton include educational language on its website to inform and compel non-public entities, businesses and urban residential housing managers, and owners whose existing buildings have class pains which meet the bird st—bird strike risk criteria to do the same." That also comes at no or relatively low cost to the city and becomes a very valid informational item.

**Alderson Israel Del Toro (District 4) 15:53**

So, while I will vote to hold this tonight, for the reasons, stated before by my colleagues, I also want to make it known that we would like to—that I would personally prefer to move forward on that second action item as a part of a second resolution.

**Alderson Denise Fenton (District 6) 16:13**

Thank you. Okay. So, we're sitting here after one hold, where the communication or whatever we had none of the authors present to in the first committee meeting where we address this. So, we went ahead and held it really out of courtesy. I reached out to all the authors, and recently after both talking to Alder Van Zeeland, researching the alternatives with the films, talking to city staff on my own, honestly, in the hopes that we could produce an amended version of this resolution that would focus on immediate measures, would get us away from the city facing litigation.

**Alderson Denise Fenton (District 6) 17:15**

Based on the City Attorney's memo to us, Madison, admirable though what they did might be, because nobody wants to see birds dying, going into glass. They really tried an end around state law by putting it in their zoning code rather than their building code. The building—I mean, state law specifically prohibits any restrictions that are more stringent than state law in a building code. So, they prevail—Mad—City of Madison prevailed on their first lawsuit, but it's in litigation as the city attorney told us. In conversations with Director Homan who's and—whose jurisdiction, and honestly in this committee's jurisdiction—we're focused on community and economic development, which a large portion of that is housing in the City of Appleton. And my concern with putting really stringent new building requirements is that we (A) possibly raise the cost of construction, (B) make it such that developers are more reluctant to—and to build things, projects that are affordable here. And affordable projects tend to be apartment buildings or multi, you know, multiple, multi res—multi resident housing, which would have those more areas.

**Alderson Denise Fenton (District 6) 19:16**

So, I'm, you know, I'm personally torn between those two things. And I really hoped that we could reach a compromise before we got to this point, and I'm disappointed—and I'm disappointed that I didn't hear from two of the authors before today. And so, I'm okay with holding it. But I will be very honest that if this—if we come back in November with the same language here, I won't be able to support it. I would love to see us focus on things—and here's the other thing. Now we're too late. September is the migratory period that we've been asked—you know, we're a Bird City. We—we're asked to turn out our lights in September to—so that birds are not distracted by these things. So now we've missed the first—this this year's migratory period.

**Alderson Denise Fenton (District 6) 20:19**

I'm gonna go ahead and vote for the hold in the hopes that we can come back with something. I don't know whether we'll hear a legal opinion by November (I see you Alder Schultz), but, you know, I'm hoping that we get something that focuses on a solution that, from what I've read, seems to be economical, accessible. Because we're a Bird City, we can get discounts. I've had discussions with Director Gazza and Deputy Director Flick about their willingness to use a parks facilities such as the Scheig Center as a demonstration project for this. So, I would love to focus on something like that. I think if we can, you know, do that in the interim, that will be lovely. But I'm gonna support holding this resolution, but I really want to see it in a different form in November when it comes back here. Who are you pointing at?

**Alderson Joss Thyssen (District 8) 21:27**

Did you have something to say?

**Zak Buruin (Assistant City Attorney) 21:28**

No.

**Alderson Joss Thyssen (District 8) 21:29**

Oh, okay.

**Aldersperson Denise Fenton (District 6) 21:29**

And I know Alder Schultz was waiting.

**Aldersperson Alex Schultz (District 9) 21:33**

Thank you, chair. We have two motions on the floor. And I would be open to suggesting or offering an amendment in line with what you just provided us. But we've got a couple of motions. So, if those can get cleared, I would be willing to offer an amendment to clean it up this evening.

**Aldersperson Denise Fenton (District 6) 21:53**

So—

**Aldersperson Nate Wolff (District 12) 21:56**

I withdraw—

**Aldersperson Denise Fenton (District 6) 21:57**

Will you...?

**Aldersperson Nate Wolff (District 12) 21:58**

I withdraw my motion to hold. Is that...?

**Aldersperson Denise Fenton (District 6) 22:02**

So, we have a motion in a second and now we're going to be offering an amendment. Okay. All right. Alder Schultz.

**Aldersperson Alex Schultz (District 9) 22:11**

I'd like to offer an amendment to the resolution. And it is this: to strike the first "Be it resolved", which directs the city to develop that ordinance language. So, it strips the ordinance language request.

**Aldersperson Alex Schultz (District 9) 22:24**

In the second "Be it further resolved" to strike the words "and compel" off the second line, simply "to inform non-public entities, businesses and urban residential housing managers." So, it's truly an educational and there's no other desire by the city to entice owners to do anything more than become educated.

**Aldersperson Alex Schultz (District 9) 22:49**

And then the last revision get to here would be to strike both sub A and sub B from that "Be it further resolved" so that it simply reads that "the city of Appleton, evaluate and identify all public buildings with existing glass panes and heights and all surfaces areas which pose a danger to the birds, and then apply glass safety films or other bird strike abatement measures over time as"—what's the word I'm looking for?

**Aldersperson Israel Del Toro (District 4) 23:22**

Replacement?

**Aldersperson Alex Schultz (District 9) 23:24**

Not "as necessary". As can "as can be applied by the city". I'm looking for a word that says "when they have the opportunity to do so." And maybe that's what I need to say.

**Alderson Denise Fenton (District 6) 23:36**

Do we even need that?

**Alderson Israel Del Toro (District 4) 23:41**

"Measures over time" period?

**Alderson Alex Schultz (District 9) 23:42**

"Over time." I can leave it. That's fine. So essentially striking A and B so there's also no timeline or, you know, constraints on the city. That would be my amend—motion to clean this up and pass it so that it's strictly an educational component and that the city highlights its Bird City affiliation and that we're moving forward on something, at least.

**Alderson Katie Van Zeeland (District 5) 24:15**

Your honor.

**Alderson Denise Fenton (District 6) 24:19**

I'm not a—

**Alderson Katie Van Zeeland (District 5) 24:20**

I'm sorry.

**Alderson Denise Fenton (District 6) 24:20**

Alder, Van Zeeland.

**Alderson Katie Van Zeeland (District 5) 24:22**

Could Alder Schultz just repeat the first two that he said. I just want to make sure that I got them correct.

**Alderson Alex Schultz (District 9) 24:28**

Yes. The first edit would be to strike the first "Be It Resolved" entirely. The second edit under the second "Be It Further Resolved" would be to strike the two words "and compel" from that second line. Yes. "Be it resolved" to—so that's the first.

**Alderson Denise Fenton (District 6) 24:50**

Yes.

**Alderson Alex Schultz (District 9) 24:51**

And then lastly, the "Be It Further Resolved" would just be that first three lines and strike sub-A and sub-B.

**Director Kara Homan (Community And Economic Development) 25:00**

Umm. I got that. Did you?

**Zak Buruin (Assistant City Attorney) 25:03**

I did. I have one question. In the remaining "Be It Resolved" at the end of that there is the clause "to do the same" and with the first "be it resolved" being struck, that becomes superfluous. So, I don't know if we want to strike that as well, unless I'm misunderstanding something.



**Alderson Alex Schultz (District 9) 25:33**

The last be it further resolved includes the line about applying safety films or other bird strike abatement measures. That isn't in the second "be it further resolved"—or "be it resolved" which is now the first "be it resolved."

**Director Kara Homan (Community And Economic Development) 25:46**

So, can I—do you want me to help you? So, we've stricken the first "Be It Resolved." And then in the second one, which is now the first one, it reads "Be it resolved"—because we struck "further"—"that the city of Appleton include educational language on its website to inform"—struck "and compel"—"nonpublic entities, businesses, and urban residential housing managers and owners whose existing buildings have glass panes which meet the bird strike risk criteria." And then what—

**Alderson Alex Schultz (District 9) 26:18**

Yes, I'm sorry. I see it now.

**Director Kara Homan (Community And Economic Development) 26:19**

We're striking "to do the same" because the "to do the same" referred back to the first resolution that's not there.

**Alderson Alex Schultz (District 9) 26:26**

Agreed

**Director Kara Homan (Community And Economic Development) 26:26**

So, we're suggesting that be stricken too

**Alderson Alex Schultz (District 9) 26:28**

Yes. Yes, sorry.

**Director Kara Homan (Community And Economic Development) 26:30**

So "to do the same" stricken, and then it becomes an "and". And then what we have for the next one is "Be it further resolved that the City of Appleton evaluate and identify all public buildings with existing glass panes at heights and of a surface—of surface areas which poses a danger for birds, and then apply glass safety films or other bird strike abatement measures over time" period. Is that what—does that articulate what you...?

**Alderson Alex Schultz (District 9) 27:00**

That's—that's where I'm at. Open to.

**Alderson Denise Fenton (District 6) 27:03**

So, if I may—so in the what is now the first "Be it resolved" I feel like we need a what they're going to do so "that the City of Appleton include educational language on its website to inform and—to inform non-public entities business and urban residential housing managers and owners whose existing buildings have glass panes which meet the bird strike criteria—" we need to have probably a repetition of

**Alderson Israel Del Toro (District 4) 27:47**

"And compel non-public entities"

**Alderson Denise Fenton (District 6) 27:48**

Well, it just says "inform these people"...

**Alderson Israel Del Toro (District 4) 27:55**

How to mitigate?

**Alderson Denise Fenton (District 6) 27:56**

...of—yes, "of available bird strike measures?

**Alderson Alex Schultz (District 9) 28:04**

Bird strike mitigation measures?

**Alderson Denise Fenton (District 6) 28:05**

Bird strike mitigate—so to—okay, so we would say—and please attorney tell me if we're violating procedure here by workshopping.

**Zak Buruin (Assistant City Attorney) 28:18**

I don't think so.

**Alderson Denise Fenton (District 6) 28:21**

So, okay—so, I would propose that second one would be "that the city of Appleton include educational language on its website to inform non-public entities, business, and urban residential housing managers and owners whose existing buildings have glass panes which meet the bird strike criteria of bird str"—of

**Alderson Israel Del Toro (District 4) 28:45**

Bird strike medication

**Alderson Denise Fenton (District 6) 28:47**

—of—yeah "of glass safety films and—or other bird strike abatement measures." Thank you, Alder Hartzheim for—my eyes had crossed. Alder van Zeeland.

**Alderson Katie Van Zeeland (District 5) 29:00**

I think you could also just say something as to the Bird City USA's recommendation.

**Alderson Denise Fenton (District 6) 29:09**

Okay, that makes sense.

**Alderson Katie Van Zeeland (District 5) 29:11**

That way if technology and things change you're in keeping...

**Alderson Denise Fenton (District 6) 29:14**

Alder Meltzer.

**Alderson Vered Meltzer (District 2) 29:18**

So, from this, where were we we're saying striking "to do the same," instead of just striking "to do the same," we could replace that with "to inform these people how to follow Bird City's recommendations."

**Alderson Denise Fenton (District 6) 29:39**

Okay.

**Alderson Israel Del Toro (District 4) 29:41**

I appreciate that. I like that.

**Alderson Denise Fenton (District 6) 29:42**

To—Okay. Blah blah blah blah blah. Of how to meet Bird City's USA's recommendations?

**Alderson Vered Meltzer (District 2) 29:54**

I also think that folding in Bird City is really important to our conversation here about what can we—what do we have accessible to do right now?

**Alderson Alex Schultz (District 9) 30:05**

If I may, Chair, I would—that's, I think, a wise edit, and I would just do a comma "and to encourage them to do"—use the word "encourage" in that line. "Encourage them to follow Bird City abatement recommendations," something to that effect.

**Alderson Denise Fenton (District 6) 30:25**

And with apologies, when the attorney has this, I'm going to—I'm going to, with all humility, beg him to read it.

**Zak Buruin (Assistant City Attorney) 30:38**

I can't claim credit for getting it right. So.

**Director Kara Homan (Community And Economic Development) 30:41**

He's writing it. I'm typing it. And then we're looking at it.

**Alderson Nate Wolff (District 12) 30:45**

Let's just let them get caught up for a second.

**Alderson Denise Fenton (District 6) 30:47**

We are.

**Director Kara Homan (Community And Economic Development) 30:48**

So, the last suggestion was—okay. "Existing buildings that have glass panels which meet the bird strike risk criteria of how to meet Bird City USA's recommendations." But then there was another suggestion

**Director Kara Homan (Community And Economic Development) 31:05**

"And encourage them to".

**Alderson Denise Fenton (District 6) 31:07**

"Of how to follow the recommendations of Bird City USA and to recommend that they do so?" Or

**Alderson Vered Meltzer (District 2) 31:15**

No, I think that informing them about it is all that—

**Alderson Denise Fenton (District 6) 31:18**

Okay. Okay. Of the of the—

**Alderson Vered Meltzer (District 2) 31:20**

I know that we want to put the word "encouraged" in there, but I think it's kind of redundant.

**Aldersperson Denise Fenton (District 6) 31:25**

Okay.

**Aldersperson Nate Wolff (District 12) 31:27**

Right, because we're posting it on the website.

**Aldersperson Denise Fenton (District 6) 31:29**

All right.

**Director Kara Homan (Community And Economic Development) 31:32**

Okay, so now it reads "which meet the bird strike risk criteria of how to follow the recommendations of Bird City USA." Is that—was that what you wrote?

**Zak Buruin (Assistant City Attorney) 31:51**

That's how I got the....So that whole section would be "Be it resolved that the city of Appleton include educational language on its website to inform non-public entities, businesses, and urban residential housing managers, and owners whose existing buildings have glass panes which meet the bird strike risk criteria of how to follow the recommendations of Bird City USA."

**Aldersperson Katie Van Zeeland (District 5) 32:14**

"Of the Bird City USA's recommendations" would be less wordy.

**Aldersperson Denise Fenton (District 6) 32:20**

Alder Van Zeeland, would you repeat that? I'm sorry.

**Aldersperson Katie Van Zeeland (District 5) 32:23**

You can just say, "inform them of birds City USA's recommendations."

**Aldersperson Denise Fenton (District 6) 32:28**

I actually prefer that. Any objections to that?

**Aldersperson Israel Del Toro (District 4) 32:31**

No objections.

**Aldersperson Denise Fenton (District 6) 32:34**

Okay, I actually prefer that.

**Aldersperson Israel Del Toro (District 4) 32:42**

One last potential modification. I'm not comfortable with the "over time" on the final "be it further resolved". Just leaving it "then apply glass safety films and other bird strike abatement measures" period.

**Aldersperson Denise Fenton (District 6) 33:00**

Any objections to that? I have no objections.

**Aldersperson Alex Schultz (District 9) 33:08**

I mean, the "over time" was based on potential costs in looking at these buildings. So, if there's no timeframe, then it's...

**Aldersperson Denise Fenton (District 6) 33:20**

So, we're changing that to strike "over time," and then that sentence with "measures." Alright.

**Aldersperson Alex Schultz (District 9) 33:27**

Is there—then just a question to Legal, is there anything wrong with just saying that without any time—kind of time frame applied?

**Aldersperson Israel Del Toro (District 4) 33:35**

I think the implied timeframe then becomes immediately.

**Aldersperson Denise Fenton (District 6) 33:39**

Yep. Well, it just—Director Homan.

**Director Kara Homan (Community And Economic Development) 33:45**

Director Gazza—Director Gazza is not here. I would just be concerned with the way that this language is written that if it is interpreted as immediate, that there's either not the staffing or the budget available to do it. And I don't want to speak for his department, but you know, we're nearing the end of the year, and that's where budgets get very tight and budgeting next year won't be any easier.

**Aldersperson Denise Fenton (District 6) 34:18**

I see Alder Van Zeeland's wheels turning, and I'm going to call on her.

**Someone 34:23**

That's what I was trying to find [...]

**Aldersperson Katie Van Zeeland (District 5) 34:25**

Thank you. I was just thinking, if we're talking about informing on the website, that might be something we could say, as the Parks and Rec Department redoes their website, which is something that we are doing, that we look at including that language. So that way, it's something that is done at the time that we are already updating. I'm not sure what that timeline looks like at this time, but that might be a suggestion in the short term.

**Aldersperson Nate Wolff (District 12) 34:54**

"With great haste."

**Aldersperson Denise Fenton (District 6) 34:55**

My con—and the concern is that second the sec—or the one "be it further resolved" clause is what the city of Appleton is going to do in terms of our own buildings, correct?

**Aldersperson Israel Del Toro (District 4) 35:08**

Much of that has already been done now, so it's just—

**Aldersperson Denise Fenton (District 6) 35:11**

Alder Hartzheim.

**Aldersperson Sheri Hartzheim (District 13) 35:13**

Might I suggest instead of "over time" to address Elder del To—Alder del Toro's issue with that verbiage, "as soon as practicable within budget and staffing constraints."

**Alderson Israel Del Toro (District 4) 35:30**  
I appreciate that amendment.

**Alderson Denise Fenton (District 6) 35:31**  
I like that.

**Alderson Nate Wolff (District 12) 35:33**  
Well, this is all one big amendment.

**Alderson Denise Fenton (District 6) 35:35**  
You know it's all—yeah. We have—

**Alderson Denise Fenton (District 6) 35:39**  
Yes, this is all still Alder Schultz's—

**Alderson Israel Del Toro (District 4) 35:42**  
Correct.

**Alderson Denise Fenton (District 6) 35:43**  
amendment, and we were making—

**Alderson Nate Wolff (District 12) 35:46**  
We're getting it right.

**Alderson Denise Fenton (District 6) 35:47**  
We're making the sausage.

**Someone 35:50**  
Doing committee work at committee

**Alderson Denise Fenton (District 6) 35:52**  
We're doing committee work in committee. All right. May I prevailed upon the attorney to read us the amendment that we have before us one more time.

**Zak Buruin (Assistant City Attorney) 36:04**  
I will read it, and then—

**Alderson Nate Wolff (District 12) 36:06**  
Also make sure to speak into the mic.

**Zak Buruin (Assistant City Attorney) 36:09**  
I will read it. We'll make sure that we get a motion on what I've read specifically—

**Alderson Denise Fenton (District 6) 36:13**  
Absolutely.

**Zak Buruin (Assistant City Attorney) 36:14**

—before we get a second. I'm not going to take your [...]. With the first "Be it resolved" struck, it goes on to read "and Be It Resolved that the city of Appleton include educational language on its website to inform non-public entities, businesses, and urban residential housing managers and owners, whose existing buildings have glass panes which meet the bird strike risk criteria of Bird City USA's recommendations, and Be It Further Resolved that the city of Appleton evaluate and identify all public buildings with existing glass panes at heights and surface areas which pose a danger for birds and then apply glass safety films or other bird strike abatement measures as soon as practicable within budget and staffing constraints."

**Alderson Israel Del Toro (District 4) 37:03**

Moved to amend.

**[Someone says something off microphone.]**

**Alderson Israel Del Toro (District 4) 37:05**

Move to amend as stated.

**Alderson Denise Fenton (District 6) 37:07**

That's the amendment. We need a second, I believe to the motion to amend, and are you seconding it, Alder Del Toro?

**Alderson Israel Del Toro (District 4) 37:16**

Yes, I am seconding.

**Alderson Denise Fenton (District 6) 37:17**

So, we have a motion.

**Alderson Israel Del Toro (District 4) 37:21**

Alex can't make that motion. I have to make the motion.

**Alderson Alex Schultz (District 9) 37:23**

I didn't make a motion.

**Alderson Denise Fenton (District 6) 37:23**

Okay.

**Alderson Israel Del Toro (District 4) 37:25**

I motion to amend as read by our attorney.

**Alderson Denise Fenton (District 6) 37:27**

Okay.

**Someone 37:28**

Could we pause for just a moment?

**Alderson Nate Wolff (District 12) 37:29**

Yeah.

**Alderson Denise Fenton (District 6) 37:30**

I thought his was the original motion to amend?

**Alderson Israel Del Toro (District 4) 37:33**

Alex can't make motions; he's not on the committee.

**Alderson Denise Fenton (District 6) 37:35**

Oh, you don't—Oh. My. Gosh.

**Alderson Sheri Hartzheim (District 13) 37:41**

It was a good one, but he can't—

**Alderson Nate Wolff (District 12) 37:45**

It was a suggestion.

**Alderson Alex Schultz (District 9) 37:46**

Yeah. It was a suggestion.

**Alderson Denise Fenton (District 6) 37:47**

I am—I am taken back to the Council meeting of last week where we had motions from public participation. All right. So, we have a motion to amend from Alder—

**Director Kara Homan (Community And Economic Development) 38:02**

Could I ask a question?

**Alderson Denise Fenton (District 6) 38:03**

Yes.

**Director Kara Homan (Community And Economic Development) 38:04**

So, there's the last whereas, the one that references a [...]. It references the Madison code language. Given that the "Be it resolved" related to implementing regulations is no longer in this draft that's being considered, I'd suggest is there a need to have that "whereas"?

**Alderson Nate Wolff (District 12) 38:26**

I noticed that as well, but I was gonna get through the therefore be resolved first before I addressed—like, brought that up. Because we shouldn't do too much—right?—like before we actually vote on it, but like,

**Alderson Israel Del Toro (District 4) 38:41**

Let's strike it.

**Alderson Nate Wolff (District 12) 38:42**

Yeah. I mean, yeah.

**Alderson Israel Del Toro (District 4) 38:47**

Let's strike it for now. We'll keep an eye out.

**Alderson Denise Fenton (District 6) 38:50**

Which means we strike—which means we would also strike the addendum.



**Aldersperson Israel Del Toro (District 4) 38:56**

Yes. Correct.

**Aldersperson Nate Wolff (District 12) 39:02**

Also, as the attorney has pointed out in a different meeting, I think—like the whereases are just—they're not the actual action items. So, it didn't—it wouldn't at least be a legal question there. It would just be pointless.

**Zak Buruin (Assistant City Attorney) 39:19**

It would not be necessary. But I think if the concern relates to the litigation, referencing that which is still ongoing, probably draws unnecessary and unwanted attention if we're trying to avoid having to get dragged into that morass.

**Aldersperson Israel Del Toro (District 4) 39:38**

Can we keep the amendment A as part of the ultimate "whereas", so it's still included as a reference material that folks can regard. I think that's an important component of this resolution. So, we can stick that in the second to last "whereas".

**Aldersperson Nate Wolff (District 12) 40:02**

[Indecipherable]

**Aldersperson Israel Del Toro (District 4) 40:04**

As exemplified in addendum A by adding at the end of that "considered cost prohibitive or not even considered during construction, as exemplified in addendum A"?

**Zak Buruin (Assistant City Attorney) 40:35**

In considering that—

**Aldersperson Denise Fenton (District 6) 40:36**

That addendum A is the ordinance.

**Zak Buruin (Assistant City Attorney) 40:38**

Right and in looking at that if it's something that's going to remain included, it would strike me as unnecessary to strike the "whereas" that it's currently attached to. Anyway, kind of—it doesn't it doesn't serve a purpose if the addendum is going to stay anyway. So.

**Director Kara Homan (Community And Economic Development) 40:59**

There is reference to Bird City USA's recommendations, which my understanding has a lot of those practices.

**Aldersperson Israel Del Toro (District 4) 41:07**

I appreciate that. That makes a lot of sense.

**Director Kara Homan (Community And Economic Development) 41:08**

Is that accomplishing generally what you were hoping?

**Aldersperson Israel Del Toro (District 4) 41:10**

That does. That does. Yeah. Strike.

**Alderson Denise Fenton (District 6)** 41:15

Alright, so are we still working on the first amendment or do we have an amendment to the amendment?

**Alderson Nate Wolff (District 12)** 41:19

We're on the

**Zak Buruin (Assistant City Attorney)** 41:20

I think it's still the first amendment.

**Alderson Denise Fenton (District 6)** 41:21

Okay, Alder Schultz.

**Alderson Alex Schultz (District 9)** 41:24

I'm open to striking that last "Whereas" clause and removing the addendum which does show some specificity to the panes that pose a risk. Between now and the time that this gets voted on, I could submit Bird City recommendations and attach them. So at least there's a reference point, because I think it is important to see what we're talking about. And I'm a little remiss if we remove the recommendations that were included on this. So somehow, I would like to include similar educational component to this resolution so that it's here in the future when we're referencing, looking back at it.

**Alderson Israel Del Toro (District 4)** 42:07

That would be part of the second Be It Further Resolved. That's the educational component that's being referred to.

**Alderson Denise Fenton (District 6)** 42:15

Yeah, because we specifically refer to Bird City USA's recommendations could—are you okay with leaving them out of the resolution itself and then submitting them to be attached as an item when...?

**Alderson Alex Schultz (District 9)** 42:31

That's what my—yes, that's what I was—

**Alderson Denise Fenton (District 6)** 42:34

Alder Meltzer did you have your hand up?

**Alderson Alex Schultz (District 9)** 42:37

—suggesting?

**Alderson Vered Meltzer (District 2)** 42:37

Yeah, yeah. I think that the Bird City recommendations can be an in—like, like an attachment to the agenda item. I don't think they need to be part of the resolution.

**Alderson Alex Schultz (District 9)** 42:48

That's—I'm sorry, that's my intent. I'm sorry, I apologize for stating it the way. I wanted it to be part of this process so at least we have a reference point.

**Alderson Denise Fenton (District 6)** 42:56

So still on the original amendment—

**Alderson Israel Del Toro (District 4) 43:00**

I still make a motion to—

**Alderson Denise Fenton (District 6) 43:02**

—we're going to remove the last "whereas" and the and the addendum.

**Alderson Israel Del Toro (District 4) 43:10**

Correct.

**Zak Buruin (Assistant City Attorney) 43:16**

Should we review one more time then?

**Alderson Nate Wolff (District 12) 43:18**

Absolutely.

**Zak Buruin (Assistant City Attorney) 43:22**

Striking the last "Whereas" and the first "Be it resolved" continuing "And be it resolved that the city of Appleton include educational language on its website to inform non-public entities, businesses, and urban residential housing managers and owners whose is—whose existing buildings have glass panes which meet the bird strike risk criteria of Bird City USA's recommendations. And Be It Further Resolved that the City of Appleton evaluate and identify all public buildings with existing glass panes at heights and surface areas which pose a danger for birds and then apply glass safety films or other bird strike abatement measures as soon as practicable and within budget and staffing constraints." That is the resolution as amended as it currently stands.

**Alderson Israel Del Toro (District 4) 44:10**

I motion to amend it.

**Alderson Nate Wolff (District 12) 44:11**

Second.

**Alderson Denise Fenton (District 6) 44:13**

So, we have a motion and a second to amend. Is there any discussion of the amendment? Hearing none, we'll vote on the amendment. All those in favor please signify by saying aye. Aye.

**Alderson Denise Fenton (District 6) 44:29**

All right. So now we will move on to the item as amended. Is there any discussion? Alder Meltzer,

**Alderson Vered Meltzer (District 2) 44:38**

Thank you. I just want to say "thank you" to everyone for taking the time to do this work. You know, I came in here and the first thing I had to say was, "Let's hold this", and we don't have to hold it, and that really makes me really happy. So, thank you all.

**Alderson Denise Fenton (District 6) 44:57**

I echo Alder Meltzer's gratitude for us being able to work together and get something I think that is acceptable and pretty admirable, actually. So, I wish we'd done it earlier. But anyway, Alder Schultz.

**Alderson Alex Schultz (District 9) 45:21**

Thank you everyone for your patience in particularly having to read it five or six times and write it five or six times. But yes, these things are sometimes a challenge to work mano a mano and not in committee, and so I think you almost have to bring something like this into the room and hash it out with everyone present—staff and other Council members—to get the full scope and scale of input. And this was a fantastic meeting. I came in thinking we'd hold it as well, because I wanted to see what Madison does, but now we've come out of it with action, which is really the intent. So, thank you, everyone.

**Alderson Nate Wolff (District 12) 45:56**

Welcome to city government.

**Alderson Denise Fenton (District 6) 45:59**

We'll send it—we will send the video to our colleagues who like to talk about committee work in committee. All right. If there's no further discussion, let's go ahead and vote. All those in favor, please signify by saying aye. Aye. That passes for zero. The amended resolution is recommended for approval.

**Alderson Denise Fenton (District 6) 46:23**

All right. We have no information items so we will move to item eight.

**Alderson Nate Wolff (District 12) 46:30**

One last thing about the last item, if I may. Are we going to remove the memo recommending it to be held before the Common Council meeting?

**Director Kara Homan (Community And Economic Development) 46:42**

Are you talking about like what makes it to the packet?

**Alderson Nate Wolff (District 12) 46:45**

Yeah. Or are other alders who are not involved in this going to be like, "Oh, it's recommended that it be held; I'm going to hold," you know.

**Zak Buruin (Assistant City Attorney) 46:55**

I think the recommendations that came from staff are still part of the record. I would—I don't have a solid answer. That would probably be something that I would need to talk with Clerk Lynch about.

**Alderson Nate Wolff (District 12) 47:09**

Okay. Just curious.

**Alderson Denise Fenton (District 6) 47:12**

That's a good point, Alder Wolff.

**Alderson Nate Wolff (District 12) 47:16**

Sorry.

**Alderson Denise Fenton (District 6) 47:17**

I suspect that much of the reasons for the recommendations to hold it have been removed from the resolution, and that the city attorney is not going to have those—

**Alderson Nate Wolff (District 12)** 47:31

I'm just—

**Alderson Denise Fenton (District 6)** 47:32

—recommendations any longer but.

**Alderson Nate Wolff (District 12)** 47:33

—thinking about the other alders who are not in the room that will look at the, you know, city Council business and be like, oh, like, "I should hold this" because, you know, or something else. But.

**Alderson Denise Fenton (District 6)** 47:47

Well...

**Alderson Israel Del Toro (District 4)** 47:48

There's an option to speak.

**Alderson Denise Fenton (District 6)** 47:49

So, there is committee work in committee, but then we will probably—we will be able to share that with them in the Council meeting if they have not done their own research.