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MEMORANDUM

TO: Common Council President Sheri Carter

FROM: City Attorney Michael Haas

DATE: March 11, 2021

RE: Length of Common Council Meetings

This memorandum outlines some potential options for attempting to reduce the length of Common Council meetings. After a year of holding meetings virtually, the IT Department has reported that the average length of City meetings has increased significantly. This may be attributed to both Council members and residents being able to participate from home rather than sitting in Council Chambers for an extended period of time, and to participants experiencing technical challenges. While Zoom has allowed greater ease and access to participation in Council meetings, members of the public have also complained about Council meetings stretching into the late evening and early morning, and needing to wait until hours into the meeting to provide testimony. Whatever the reason for the more frequent longer meetings, the Council may wish to consider whether to implement measures to expedite the conduct of City business at Council meetings.

I realize that the Council may return to in-person meetings at some point in 2021. Also, I have not thoroughly evaluated these ideas below in light of the recommendations of the TFOGS report or other City policies or goals but I would note a couple of observations related to that report. In general, attempting to reduce meeting length may be perceived as reducing opportunities for resident input. At some point, however, evening meetings that regularly last for five to seven hours may also be counterproductive as they test the stamina of both Council members and residents, and discourage the public from continuing to attend. The TFOG report did recommend that public comments be allowed to be made and considered prior to a meeting, and to separate public testimony from legislative debate and action by allowing individuals to provide input at the beginning of Council meetings regardless of when the item on which they speak is considered.

The Council may wish to experiment with different approaches temporarily to gauge the

correct balance of efficiency and effectiveness with opportunities for public input and participation. Following are several options the Council may consider, along with some pros and cons and legal considerations that come to mind. This may not be an exhaustive list but it is intended as a starting point to illustrate a range of options which may also prompt additional ideas.

1. Begin meetings earlier. There is no guarantee that meetings would be shorter simply because they start earlier and it is possible that longer meetings may result because more of the evening remains. But an earlier start time, perhaps 5:30 p.m., may allow more of the Council's business to be completed before the late evening/early morning hours. It would, however, likely require rescheduling CCEC meetings to an earlier time or possibly to the day before the Common Council meeting.
2. Hold one public comment period during meetings. In governing the conduct of Boards, Commissions and Committees, MGO § 33.01(9)(e) requires those bodies to hold a public comment period near the beginning of each meeting and permits, but does not require, BCCs to hear public comments at the time each agenda item is taken up. Some BCCs have adopted special rules permitting public comments at the time each agenda item is called, or even permitting the public to speak during the discussion by the body.

The Council could consider hearing all public comments regarding all agenda items during a general public comment period at the beginning of meetings. I have seen this method used effectively at meetings of some state agencies, such as the Wisconsin Elections Commission and Wisconsin Ethics Commission.

This would allow individuals to provide their comments without waiting through a lengthy meeting if they were unable to stay until the agenda item is considered. It would avoid the potential of public comments being tabled to a future meeting because of the lateness of the hour, an action which frustrates residents who have waited to speak for hours. It may also be more efficient by allowing the Council to hear all public comments and then act on all items without repeatedly interrupting the flow of business by going back to public comments. The Council could take the public comments into consideration when determining whether to separate agenda items from the consent agenda, rather than being required to separately consider all items where individuals have registered to speak.

Residents may feel that restricting comments to the early comment period removes an opportunity to impact the debate and Alders' positions immediately before Council consideration and discussion of an item. Also, this approach could lead to an extended period of time before the Council reaches any action item. During daylong meetings of the Wisconsin Elections Commission, public comments sometimes lasted one or two hours depending on the items on the agenda.

Finally, while residents may appreciate the opportunity to speak at the beginning of a meeting, simply hearing all comments at that time may not shorten meetings. It actually may have the opposite effect because more residents may speak knowing that they can do so at the beginning of the meeting.

3. Reduce public comment time allowance. As a starting point, the Open Meetings Law requires only that members of the public have the opportunity to attend and observe public meetings, except in the case of required public hearings in specific cases such as alcohol licenses and certain zoning matters. Under Wisconsin Statutes, the Council is not required to provide a period for public comments on agenda items that are not public hearings.

MGO § 2.29(6) requires that the Council hold a period for public comment prior to the adoption of the consent agenda to hear testimony of any persons who cannot remain for the entire Council meeting due to health, scheduling or child-care needs. MGO § 2.29(1) also permits any person to present public comments on any agenda item if they register before the item comes up for action by the Council. Public comments are limited to three minutes except when an interpreter is required (six minutes), or during a public hearing (five minutes), or when the time limit is extended by a 2/3 vote of the Council.

The Council could consider reducing the time limit for public comments to two minutes per speaker. In many instances, the main points of a speaker can be communicated in the span of two minutes. Speakers who wish to provide more information or input have the option to provide written comments to be distributed to the Council.

Related to this option, the Council could also consider reducing testimony in public hearings to three minutes rather than five minutes, as well as reconsidering which agenda items require public hearings under City ordinances.

The downside of such changes, of course, is that a default limit of two minutes for public comments, or three minutes for public hearings, or removing some items from the public hearing requirement, would be a reduction in the opportunity for individuals to provide verbal comments before the entire Council in a public setting.

4. Hold separate public comment meetings. Similar to Congress and the Wisconsin Legislature, the Council could consider collecting all public comments and testimony outside of the context of regular Council meetings. This could be accomplished by building a public comment period into the legislative process in which the comments could be recorded, printed, or summarized and provided to Alders who may not have had the ability to attend those sessions. The Council could also encourage written comments that could be submitted by the public for a period of time prior to meetings.

This might increase the length of the legislative process but may decrease the length of Council meetings. Exceptions would need to be made for items acted on under suspension of the rules. But this approach may actually increase the ability of residents to participate because it would eliminate the need to potentially attend an entire Council meeting. At the same time, it would provide Council members with more time to consider and potentially act on the public comment. This may also reduce the number of referrals from one meeting to the next which sometimes arise because of public comments made at a Council meeting which prompt requests for further study or information and delay resolution of items.

This approach would require a significant change in Council operations and the public's understanding of the legislative process. It may also be perceived as a loss of residents' opportunity to engage directly with the Council during its regular meetings.

5. Collect public comments at BCC level. Most agenda items have at least two opportunities for public comment and often more than that due to the number of City bodies that may receive a referral during the legislative process. In most cases, the comments provided at a Common Council meeting are identical to comments offered at a Board, Commission or Committee meeting related to the same item. The Council could consider capturing or summarizing comments at the BCC level and providing them to Alders in advance.

Similar to option 4 above, this approach may assist Alders by providing public input in advance of meetings, but may be perceived as reducing the opportunity to speak directly to the Council during its meetings.

6. Reduce debate speaking time. Currently, MGO § 2.13(2) provides that no Alder shall speak more than twice on any question or motion nor more than ten (10) minutes at any one time, without leave of two-thirds ($\frac{2}{3}$) of the members present at a Council meeting. This restriction applies to the debate stage of each motion or amendment, not to the time for asking questions of speakers or staff.

The Council could consider reducing the time permitted for Alders to debate without leave of the other members. We do not have any data regarding how often Alders use close to the allowable time or how much time would be saved during a typical meeting by reducing the permitted time to, for instance, 8 minutes. Of course, the downside of such an approach is that it further restricts the ability of Alders to speak on specific items, and the current rule may be seen as a protection of Alders proposing a minority viewpoint.

7. Establish definite ending time. Currently there is no Council rule restricting the length of Council meetings or mandating a specific ending time. The Council could consider requiring that meetings finish no later than midnight, or some other time. This would establish a predictable ending time for Alders and the public, and avoid late-night debates about ad-hoc tabling of agenda items. Such a deadline could also provide an incentive to focus discussion and decisions.

On the other hand, an arbitrary deadline could cut off important information-gathering and discussion, and lead to decisions that were either rushed or appeared to be rushed. It may lead to unintended parliamentary consequences such as attempts to "run out the clock" to prevent the Council from taking action. A mandatory ending time could also delay action on significant agenda items to a future meeting instead of simply extending the meeting for a short time. A modification of this approach could establish a default mandatory ending time with the option to continue the meeting with a super-majority vote.

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As described above, there is no simple or definite solution to the challenge of lengthy Common Council meetings. The issue is complicated by Zoom protocols which create delays when participants and public speakers encounter technical issues, or make it more cumbersome to recognize Alders wishing to speak. It is possible that some of the trend toward longer meetings may be reversed when the Council returns to in-person meetings. All considerations related to these ideas may not be fully outlined in this memorandum but it is intended as a starting point for further discussion. If the Council wishes to entertain these or any other options, it may do so by amending applicable ordinances or suspending any combination of the applicable rules either at individual meetings or through a resolution that establishes a trial period.

Please let me know if you wish to discuss this information in advance of or at the CCEC meeting.