



# City of Madison

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

## Meeting Minutes - Approved AFFIRMATIVE ACTION COMMISSION

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Tuesday, January 13, 2009

5:00 PM

215 Martin Luther King, Jr. Blvd.  
Room LL-120, Madison Municipal Building

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### 1. CALL TO ORDER / ROLL CALL

**Present:** 6 -

Theola V. Carter; Christian L. Odom; Joseph R. Clausius; Augustine S. Tatus; Nitza A. Pfaff and Victoria S. Selkove

**Excused:** 4 -

Sharyl J. Kato; Judith A. Siers-Poisson; Bert G. Zipperer and Bhavani "Shree" Sridharan

Staff: Norman Davis, Lucía Nuñez

Guest: City Attorney Micheal May

### 2. APPROVAL OF MINUTES

**A motion was made by Pfaff, seconded by Tatus, to Approve the Minutes. The motion passed by voice vote/other.**

### 3. PUBLIC COMMENT--None

### REPORTS

4. [13063](#) DIRECTOR'S REPORT- Presented for information only. No action required

*Lucía Nuñez, DCR Director, will report on the following:*

*-Her activities since the last meeting*

*-Staff activities since the last meeting*

*-Activities of the Equal Opportunities Commission and Commission on Persons with Disabilities since the last meeting.*

**Lucía Nuñez, DCR Director, indicated she was back full time after a year and is looking forward to working with the new members who joined during her leave.**

5. [07972](#) COMMON COUNCIL UPDATE BY ALD. CLAUDIUS--Presented for information only. No action required.

Clausius reported the bus fare increase for the city budget would hopefully be resolved tonight and if so, the city budget that was enacted six weeks ago will stand up here.

He also stated the Mayor and all twenty aldermen have refused the idea of taking over the Overture Center along with it's 28 million dollar debt.

Pfaff asked Clausius whether or not there would be a change in the amount of bus wrap advertisements. Clausius stated nothing has been confirmed, but thinks there will be more rather than less. Michael May indicated there might not be such a high demand for them, even if the possibility became available due to the economy.

### UNFINISHED BUSINESS

6. [10515](#) SUBSTITUTE - Amending Secs 33.07(7)(m) and 39.02(9)(e)1.a., and creating Sec. 39.02(9)(e)3. of the Madison General Ordinances to clarify procedures relating to Public Bidding and Affirmative Action Plans.

Attachments: [Version 1t.pdf](#)

A motion was made by Odom, seconded by Tatus, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by voice vote/other.

7. [12278](#) Appeal Role of the Affirmative Action Commission

The Commission will finalize the promulgation of rules relative to its appeal role as well as plan training for Commissioners on conducting appeals.

Attachments: [DRAFT 081208 AAC Appeals.doc](#)  
[011409 Rules for Appeals.pdf](#)

Vicky Selkove acknowledged the debate the Affirmative Action Commission had from September of 2008 lead them to the discussion of the role the Commission would have holding appeals. Some had recommend there be a standard set of rules to follow for these future appeals as most of them are serious issues.

Attorney Michael May summarized the rules for appeals and noted a few corrections.

Norman Davis wanted to clarify that the rules for these appeals are related to the qualifications for the Affirmative Action Plans and is in the Legislation that was just approved. He went on to explain that beforehand, there had not been an appeal process for these contractors that were seeking pre-qualifications. The only vendors that could appeal were those already under contract. Public work contractors who are not under contract are bidding to get a contract, but

because the commission wanted to have some consistency, they should have an appeal process as well.

Christopher Odom questioned what the Madison General Ordinances were for number twelve of the draft rules. Att. Michael May responded they were the same as the first paragraph on the prior page, sections 32.09(9)(e)(g)(h).

Ald. Joe Clausius questioned if the appellant can request a closed session. Att. Michael May responded the Appeals Subcommittee could not permit a closed session to an appellant because the Open Meetings law governs these appeals, which allows the body that is mandating a decision to go under closed session to deliberate, but that doesn't have any provision for the Hearing to be closed session.

Vicky Selkove wanted to clarify with the Commission that this would create a Sub-Committee of the Affirmative Action Commission, made of the Chair and two other members, which would handle these appeals.

Nitza Pfaff questioned if there would be any special training for those participating in the Subcommittee. Att. Michael May stated there might be. The Equal Opportunities Commission has asked for some training on conduction these kinds of Hearings and he feels it would be nice to combine the training with this Commission and the Alcohol License Review Committee, which also conducts similar Hearings.

Many questioned if the appellars should indicate whether they want a formal or informal Hearing at the time they request an appeal instead of at the Hearing, as the request to have a formal Hearing at the start of the Hearing, as indicated in paragraph seven, it would be more challenging for the committee to meet the time deadline. Att. May suggested changing Paragraph 6 so when they indicate if they want a formal/informal hearing when they present their submissions, which are due five days before the Hearing.

Augustine Tatus questioned if it would be better to have the appellant have it written whether they would want a formal/informal Hearing, instead of it being verbal.

Bert Zipperer arrived at 5:41 pm.

Bert Zipperer suggested there be an option available if the chair cannot attend the Hearing, and Lucía Nuñez suggested it say "or designee."

Bert Zipperer also thought that it shouldn't be mandatory for the subcommittee to accept submissions at the time of the Hearing, as it could make things more complicated for them. Att. May suggested taking it out, as long as it was assumed that the subcommittee could still accept submissions.

Vicky Selkove questioned who would be keeping the Hearing record, and it was decided that the Department of Civil Rights would keep it, and it should be changed to "subcommittee makes a record".

List of 7 Amendments:

1. Moving language from rule #7 to rule #6, Party must indicate formal or inform at the time submissions are made to the Subcommittee.
2. Adding language about the chair's designee to the document.
3. Striking sentence in #6 about submissions may be supplemented with further submissions to the Hearing.
4. Filling the Madison General Ordinances in Rule #2.
5. Rule #14, the Appeals Subcommittee shall make a record of all Hearings.
6. Include the language "signed by the chair" in rule #15.
7. Shorten phrase "or other persons that may have an interest in appeal" to "and interested parties" in rule #5.

No motion was made. Majority wished to wait for the final document.

Norman Davis described a current situation of with a contractor and urged the commission to designate individuals required for the Certification Appeals Committee in section 39.02(3)(d)(8) of the Madison General Ordinances and possibly amend the Ordinance so the Commission could create a committee structure more readily available for future appeals.

Att. May informed the Commission that they do not any procedural rules for this kind of appeal and suggested they motion to use the rules created for the Affirmative Action Plan Appeals. He also suggested to amend this Ordinance to make it easier for the Commission.

**Present:** 7 -

Theola V. Carter; Christian L. Odom; Joseph R. Clausius; Bert G. Zipperer; Augustine S. Tatus; Nitza A. Pfaff and Victoria S. Selkove

**Excused:** 3 -

Sharyl J. Kato; Judith A. Siers-Poisson and Bhavani "Shree" Sridharan

8. [12950](#) 2009 Workplan Development

#### NEW BUSINESS

9. [13197](#) Targeted Business Enterprise Appeal Hearings: Panel Composition, Procedures and Possible Ordinance Amendment

1. To adopt the procedural rules and amendments as suggested tonight for a temporary basis and instruct City Attorney. May to draft an Ordinance amendment language to reconstruct the appeals committee match these procedures.

10. ADJOURNMENT