



City of Madison

Meeting Minutes - Final

EQUAL OPPORTUNITIES COMMISSION

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

Thursday, May 10, 2007

5:00 PM

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

1. CALL TO ORDER

The meeting was called to order, Bert Zipperer presiding, at 5:07 p.m.

2. ROLL CALL

Present: Brian L. Solomon, Nia Enemuoh-Trammell, Victoria S. Selkove, Bert Zipperer, Carousel Andrea S. Bayrd, Charles Holmes-Hope and Michael W. T. Howe

Absent: Desmond C. Steward

Excused: Lauren M. Woods, Katherine Cramer Walsh, Megin H. McDonell and Steven H. Morrison

Others in Attendance: Eric Kestin, Ariel Ford and Lucia Nunez (Department of Civil Rights), Chief Noble Wray, Carl Strasburg, Gregory Rosetti, and Caleb Bedford (City of Madison Police Department), ACA Jennifer Zilavy (Attorney's Office), Enis Ragland (Mayor's Office) and Alder Jed Sanborn

3. PUBLIC COMMENT

Rosemary Lee spoke in favor of the Proposed Nuisance Ordinance, Item 4a

4. PRESIDENT'S REPORT

Zipperer reported that item (b) b. Presentation by City Attorney's Office on proposed settlement in EOC Case No. 20033011, Nichols v. Buck's Madison Square Garden Tavern under Unfinished Business was referred to the next meeting.

The Commission moved to Unfinished Business to take up the Nuisance Ordinance in order to complete necessary business within the time available.

5. UNFINISHED BUSINESS

115. [04196](#)

SECOND SUBSTITUTE - Creating Section 25.09 of the Madison General Ordinances to establish that certain premises may be declared Chronic Nuisance Premises.

Ragland spoke on behalf of Alder Bruer, who was at another meeting and unable to attend. Ragland informed the Commission that on May 22, 2007, a Common Council Discussion on the proposed Chronic Nuisance Premises ordinance will be held at 5:30 in Room 120, Madison Municipal Building, and is open to the public. Following this meeting, the Ordinance will be tweaked. Ragland asked that the Commission not take final action tonight.

Strasburg gave a handout "What the Ordinance Says" (attached to file minutes) that outlines the main points of the Ordinance. He discussed how the Madison Police Department (MPD) process currently works. The MPD always tries to communicate with

the owner(s) of a property. It is only after they have unsuccessfully tried all possible options that it would resort to the steps outlined in this Ordinance. Research into other cities that have a similar Ordinance shows that it is very rare that an owner does not respond to an initial contact from the respective police department. There is a fine/penalty in the Ordinance and a mechanism to have the owner pay for police services.

Alder Sanborn added that residents on the South West side feel they are beginning to lose their neighborhood and this Ordinance is designed to help them get it back.

A question was asked about the EOC Executive Committee's thoughts on this Ordinance. The issues mentioned: why no Sunset Provision; lack of a record-keeping mechanism and the issue of how would domestic abuse situations be handled.

Assistant City Attorney Zilavy pointed out that since the EOC Executive Committee had seen the Ordinance, it had been reworked to address the Domestic Abuse concern. Zilavy then read language that was being put into the Ordinance: [Sec. 968.075, Wis. Stats., defines "domestic abuse" very broadly. Therefore, in reaching a determination that a premises is a Chronic Nuisance Premises, activities that are "domestic abuse" incidents pursuant to Sec. 968.075, Stats., shall not be included as nuisance activities unless the incidents have been reviewed by the Chief of Police and the Office of the City Attorney and a determination is made that, based upon the specific facts of each incident, the activities should be deemed nuisance activities under subdivision 1(c).]

Various Commissioners asked the following questions:

Can Building Inspection refer a landlord directly to the City Attorney's office for violations or must the MPD always be involved? It was stated that Building Inspection could send violators directly to the City Attorney depending on the circumstances.

Does the MPD and/or City Attorney have discretion in assessing fines against the property owner? It was indicated that there would not be a penalty against property owners who are working with the City to remedy the problems. The City's policy is to educate first and enforce second.

What can landlords do besides simply evict tenants who are causing a problem? How does this Ordinance create a sustainable solution? While evictions could result, it is not the intent of the Ordinance. MPD has a list of suggested actions that landlords could take with the aim being to make the landlord more responsive and take care of the problem. Evictions themselves are not always bad as they help make people accountable. It was added that MPD generally finds 2 types of landlords: 1) absentee landlords and 2) new landlords. The MPD currently has some success with new landlords. With absentee landlords, the MPD generally needs to have a face-to-face meeting and make them more accountable for their property. The ultimate goal is to get a plan to resolve any on-going issues with the property. Building Inspection / MPD must accept any plan proposed by the property owner. There was a suggestion that MPD's plan criteria be added to the Ordinance.

Other general questions indicated that education of the landlord and tenant is very important. Also there may be cases, depending on the individual circumstances, where MPD wants the tenant involved with the landlord in formulating a plan. MPD pointed out that the Ordinance would not apply to most properties. One officer indicated in his area over the last 18 months the Ordinance would have applied to only 3 units.

There was a concern regarding a portion of the Ordinance 1(d) "Person associated with"

and specifically the implied "hanging out" language and the possible race implications of that language.--that some neighbors may call the MPD when they see people of color "hanging out" near a building. It was pointed out that "hanging out" is not a nuisance crime and that the Ordinance clearly indicates that there must be some connection to a particular unit or building, so it would not apply to individuals who happened to be near a particular building with no connection to that building. Also the threshold to find "probable cause" is very high.

Commissioner Holmes-Hope indicated that he is aware of a similar Ordinance in New Jersey that was supported by the community and feels this is a good proposed ordinance.

There was a concern because the Ordinance does not say what happens if the plan does not work. The MPD currently has an informal process. If owners are working hard and the situation is still not fixed it is partly the responsibility of the MPD to help resolve the situation; and MPD will continue working with that property owner.

A brief discussion was held regarding the Retaliation portion of the Ordinance, to whom it applies and how it is applied. A concern was raised using the following example: Tenant A complains regarding Tenant B and it is actually Tenant B's child/grandchild or that child/grandchild's friend who is causing the problem and not Tenant B. While Tenant A is protected under the Retaliation portion of the Ordinance there is no protection for Tenant B. It was indicated that each situation is different and must be resolved through a plan. One officer commented on a similar situation and how MPD got other services involved to help Tenant B with the situation.

There was a question regarding a sunset provision with a reporting requirement to measure whether this Ordinance is effective. While MPD could support a sunset provision, it must be far enough in the future to be able to measure effectiveness and the reporting requirements cannot be so labor intensive that MPD has to hire another employee just to put the report together.

Alder/ Commissioner Solomon indicated that he plans on attending the Common Council discussion on this Ordinance on May 22, 2007 and that other Commissioners can contact him with questions ahead of time and he will try to get them addressed at that meeting.

6. COMMITTEE REPORTS

d. Nominating Committee--this item was briefly discussed and the election of officers was referred to the June meeting.

7. OTHER BUSINESS

All other items of business were referred to the next meeting.

8. ADJOURNMENT

A motion was made by Holmes-Hope, seconded by Selkove, to Adjourn at 6:05 p.m. The motion passed by acclamation.

Minutes prepared by Eric Kestin