



City of Madison

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

Meeting Minutes - Amended AFFIRMATIVE ACTION COMMISSION

Tuesday, June 9, 2009

5:00 PM

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

1. CALL TO ORDER / ROLL CALL

The meeting was called to order at 5:02 p.m., Augustine Tatus presiding.

Present: 8 -

Joseph R. Clausius; Bert G. Zipperer; Christian L. Odom; Augustine S. Tatus; Donna V. Hurd; James J. Chiolino; Bhavani "Shree" Sridharan and Lucia Nunez

Absent: 2 -

Sharyl J. Kato and Theola V. Carter

Staff: Norman Davis, Lucia Nuñez and Cindy Wick

2. APPROVAL OF MINUTES

A motion was made by Clausius, seconded by Odom, to Approve the Minutes as amended. On pager 3, line 4 the second "in 2009" at the end of the sentence was deleted. The motion passed by voice vote/other.

3. PUBLIC COMMENT

None.

REPORTS

4. 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
- Update on the Proposed Drivers License Recovery Program
- Activities of the Equal Opportunities Commission and Commission on Persons with Disabilities since the last meeting.

Lucía Nuñez reported that all three of the commissions staffed by the Department of Civil Rights (the Affirmative Action Commission, the Commission on People with Disabilities and the Equal Opportunities Commission) are in the process of holding elections.

The Commission on People with Disabilities cancelled their last meeting due to lack of quorum.

The Equal Opportunities Commission will meet on Thursday. The Commission is studying whether to add a number of protections to the Equal Opportunities Ordinance including Genetic Identity, Gender Identity, expanding the prohibition against requiring disclosure of Social Security Number to all sections of the ordinance, and Alienage (status of not being a U.S. citizen).

The Commission on People with Disabilities is very concerned about the loss of tax exempt status for non-profit housing providers. This will force the housing providers to raise rents and make these affordable units unavailable to low income renters. A proposal to correct this problem is before the Joint Finance Committee. If it passes, it will help many people. Some issues are still unresolved by this proposal.

Theola Carter arrived at 5:10 p.m.

Present: 9 -
Joseph R. Clausius; Bert G. Zipperer; Theola V. Carter; Christian L. Odom; Augustine S. Tatus; Donna V. Hurd; James J. Chiolino; Bhavani "Shree" Sridharan and Lucia Nunez

Absent: 1 -
Sharyl J. Kato

Director's Report Continued:

No word has been received on the 2010 City budget yet. There has been discussion of layoffs and/or furloughs at the County and State level. The Mayor has implemented a hiring freeze and asked departments to reduce their training expenditures by 20 percent this year.

The DCR contacted the Wisconsin State Journal to correct some misinformation that appeared in the previous Sunday paper about the ordinance sponsorship proposal that the Commission is considering. Nuñez wants it to be clear that this is a Commission, not a DCR department or staff, initiative.

Nuñez cautioned the Commission to be careful in couching that proposal in terms of civil rights. She does not want to see this be a battle for or against civil rights. It is about a change in procedure.

5. DIVISION MANAGER'S REPORT

Norman Davis, Affirmative Action Division Manager, will report on activities of the Division since the last meeting, including:

-- Requests from Contractors for Appeals

Norman Davis reported that he is preparing a justification to the Mayor to fill the vacant Contract Compliance Monitor position. If not approved immediately, it looks likely that it would be approved by October.

Previously, changes were made to the prequalification requirements and appeal provisions in the Affirmative Action Ordinance. The City Attorney is now working to draft provisions that will make the Engineering Department provisions consistent with our ordinance.

Davis has spoken to the City Attorney's office regarding training for the Commission on appeals. It looks like their schedule will not be open to provide training until September, either in the late afternoon or early evening.

Commissioner Sharyl Kato arrived at 5:20 p.m.

Present: 10 -

Joseph R. Clausius; Bert G. Zipperer; Sharyl J. Kato; Theola V. Carter; Christian L. Odom; Augustine S. Tatus; Donna V. Hurd; James J. Chiolino; Bhavani "Shree" Sridharan and Lucia Nunez

Division Manager's Report Continued:

Any further appeals will be delayed until training has been provided.

Two hundred letters have gone out to contractors that are not in compliance with the contract compliance provisions of the Affirmative Action Ordinance. If the contractors do not file their Affirmative Action Plans after receiving that letter, a "demand to cure default" letter will be issued. If the contractor continues to be in default, their contracts with the City could be cancelled.

The Division continues to work with City agencies on monitoring construction projects.

Sridharan asked how many contractors are in compliance? Davis stated that there are 100's that are currently approved or have exempt status. This applies to contractors with contacts worth more than \$25,000. Davis will provide the exact number of contractors in compliance. Those that are not in compliance represent a very, very small percentage of City contractors. Letters are sent annually. Last year over 300 letters were sent. There were only about six contractors that did not comply. Contractors are motivated by the possible loss of City business to come into compliance.

6. COMMON COUNCIL UPDATE BY ALD. CLAUDIUS--Presented for information only. No action required.

Ald. Joe Clausius reported that the 2010 City budget will be the next major issue the Common Council takes up. The City budget was \$263 million this year. There has been no word on what cuts there will be in State aids next year. Major costs include debt maintenance, increases in the cost of health insurance and wages already negotiated under union contracts. The City could have a \$10-20 million deficit. The Mayor has also asked agencies to defer some capital projects.

The Common Council considered the changes that the EOC had proposed to the Chronic Nuisance Ordinance. The Police Department had grave concerns with some of the proposals. The ordinance contains a sunset provision that expires this September. The Common Council decided to defer action on the proposed amendments until it reconsiders the sunset provision, when a thorough evaluation of the ordinance can be expected. Nuñez stated that the EOC had proposed seven changes to the ordinance. The City Attorney had no problem with four of those changes, but did express concern about the other three.

If the Common Council does not act to remove or extend the sunset provision, the ordinance will be repealed. Clausius is confident that will not occur.

Zipperer clarified that the EOC never had the opportunity to take a formal position on the Chronic Nuisance Ordinance before it was adopted. Their only option was to recommend amendments. The Commission was concerned that landlords would put pressure on tenants not to report problems to the Police because if there are too many complaints, the Chronic Nuisance Ordinance could come into use.

There have been eight properties declared a chronic nuisance so far. Clausius stated that the issue the EOC was concerned about had not been reported to the Common Council so far.

7. REPORT OF THE AAC NOMINATING COMMITTEE AND ELECTION OF OFFICERS

The Nominating Committee, composed of Commissioners Kato, Sridharan and Zipperer, presented a proposed slate of officers: The Committee nominated Theola Carter, Donna Hurd, Christian Odom and Augustine Tatus to be considered for any of the positions.

The Committee also recommended that a Second Vice President position be created in the Commission's Rules so if one of the officer positions is vacant, a back up is available to chair meetings in the absence of the Vice Chair. Wick apologized, indicating she had not included consideration of this Rule Amendment on the agenda. Action on the rule amendment will occur next month. The Commission agreed to vote on candidates for a Second Vice President position at this meeting, in advance of amending the Rules.

The Chair then asked for nominations from the floor. Carter nominated Chiolino for Chair. He declined. Odom nominated Zipperer for Chair. He also declined as he is currently President of the EOC and does not believe one individual should hold both positions.

Tatus called three times for additional nominations from the floor. No additional nominations were submitted.

A motion was made by Clausius and seconded by Kato to accept the proposed slate of officers. The motion passed by voice vote/other. The Commission agreed to cast ballots for each office and further agreed that to be elected, a candidate had to receive a majority of votes.

On the first ballot, Christian Odom was elected chair. None of the candidates received a majority vote for the positions of First or Second Vice President.

A second ballot was cast for these two positions, considering the top two candidates for each of the two positions--Carter and Hurd for First Vice President and Hurd and Tatus for Second Vice President. On the second ballot Theola Carter received a majority of votes for the First Vice President position. None of the candidates received a majority vote for the position of Second Vice President.

A third ballot was cast for Second Vice President. Nominees for consideration were Hurd and Tatus. On the third ballot, Augustine Tatus was elected Second Vice President.

The newly elected officers will take over following the meeting.

DISCUSSION ITEMS

8. [14146](#) Discussion regarding Proposal to Authorize Boards, Commissions and Committees to sponsor ordinances and ordinance amendments

Attachments: [Resolution.pdf](#)
[Sponsorship ordinance background.pdf](#)
[Resolution, Subcomte Version.pdf](#)
[Substitute Sponsorship Resolution.pdf](#)

Wick summarized the results of her research on the coverage of the current ordinance requirements, exemptions to the ordinance, statutory duties and authority of the City Attorney and information on procedures used in Milwaukee, Mason City, Iowa, Portland, Oregon and Springfield, Illinois (attached to Legistar File 14146). She also provided historical background on the circumstances that led up to the adoption of the provision.

Odom provided a summary of the reasons that he and Zipperer had submitted the resolution for the Commission's consideration. Lengthy debate occurred on the pros and cons of the proposal including whether the proposal should be limited to the Commissions staffed by the Department of Civil Rights or expanded to include all Committees, Commissions and Boards.

Ideas and concerns expressed included:

--Advocating for limiting the resolution to the Commissions staffed by the DCR, indicating that it is a civil rights issue.

--A suggestion that some of the things the Commissions might propose could be very controversial and might place a sponsoring alder in a bad position with other members of the Common Council or the Mayor.

--The need to have representatives of the sponsoring Commission at the meeting to address questions, otherwise the proposal will not be taken seriously.

--The current provisions allow issues to be "held captive" for lack of a sponsor, because they are new and controversial, rather than allowing them to be aired and debated on their merits.

--Should this be addressed as a systemic problem or a civil rights issue?

--There have not been instances where the Affirmative Action Commission requested drafting or introduction of a resolution or ordinance that the sitting Alder on the Commission refused to sponsor the proposal.

--The difficulty in getting the Commission's requested changes to the recent amendments to the bidding ordinance demonstrate that there could be problems in the future with obtaining a sponsor for a Commission proposal.

--If no one can be found to sponsor an ordinance or resolution, there is probably a pretty good reason.

--The fact that the Commission has not had a problem finding a sponsor for its proposed legislation speaks to the quality of its members and their work. It demonstrates that their ideas are well thought out.

--The words "anti-democratic and fundamentally anti-Civil Rights" effectively accuses Common Council members who vote against the proposal of being racist. No one wants that label and Council members will believe that the language used holds them hostage.

--The exceptions in the current ordinance provide precedence for boards, commissions and committees to sponsor proposals.

--The Department has drafted ordinances and not had trouble finding a sponsor. Staff is here as a resource to bring issues forward for the Commission.

--If we cannot find a single alder to sponsor, how do we expect to get enough votes to pass a proposal?

--Change is difficult. This is another door the Commission can open. It strengthens the Commission.

--How will our effectiveness with the Common Council be affected by this proposal? Will it create enemies on the Common Council?

Clausius recommended referral of the proposal. He stated that the Mayor's office has concerns with it and suggested meeting with Ray Harmon, Mayoral Aide, before proceeding. He thanked Odom and Zipperer for researching and providing the recommendation even though he does not support it. Clausius

indicated he would not be able to support the proposal in its current form. He has spoken with other Common Council members and they are vehemently opposed. The wording is too inflammatory.

A motion was made by Carter and seconded by Chiolino to convene a subcommittee to review the language of the proposal and bring back a proposal that the Affirmative Action Commission can put forth to the Common Council and that our current sitting alder will be willing to present to the Common Council.

A motion was made by Zipperer and seconded by Kato to delete the words "and that our current sitting alder will be willing to present to the Common Council." Motion passed by voice vote/other.

The main motion as amended passed on a voice vote/other.

Commissioners Clausius, Hurd, Kato and Zipperer volunteered to serve on the subcommittee. The Commission agreed that a redrafted resolution should be available in time for the next Commission meeting.

9. [12950](#) 2009 Workplan Development

A motion was made by Sridharan, seconded by Odom, to Defer action on 2009 Workplan development to the next meeting. The motion passed by voice vote/other.

10. INTRODUCTION OF FUTURE TOPICS FROM THE FLOOR

The next agenda will include:

1. A proposed rule amendment adding a Second Vice Chair.
2. The revised resolution on drafting and sponsorship of ordinances and resolutions.
3. 2009 Workplan Development.

Kato thanked Tatus for chairing the meetings in the absence of a Chair. Tatus congratulated Odom and Carter and stated that he looked forward to working with them.

The Commission congratulated the new officers.

11. ADJOURNMENT

A motion was made by Ald. Clausius, seconded by Chiolino, to Adjourn at 7:15 p.m.. The motion passed by voice vote/other.

Minutes prepared by Cindy Wick, DCR Executive Assistant.