City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Approved
HOUSING COMMITTEE

Wednesday, March 5, 2008 **5:00 PM** **215 Martin Luther King, Jr. Blvd.**
Room LL-110 (Madison Municipal Building)

CALL TO ORDER / ROLL CALL

Chair Hirsch called the meeting to order at 5:05 PM.

Staff Present: Doran Viste, Meg Zopelis and Tom Adamowicz.

Present: 13 -
Brenda K. Konkel; Susan K. Day; Philip P. Ejercito; Thomas E. Hirsch; Brian A. Munson; Victor E. Villacrez; Tobi L. Rutten; Judith M. Wilcox; Curtis V. Brink; Rose M. LeTourneau; David C. Porterfield; David R. Sparer and Eli Judge

Absent: 3 -
Susan K. Day; Howard Mandeville and Detria D. Hassel

Excused: 1 -
Brian A. Munson

APPROVAL OF MINUTES

A motion was made by Sparer, seconded by Judge, to Approve the Minutes of December 5, 2007. The motion passed by voice vote/other with Chair Hirsch abstaining.

APPROVAL OF MINUTES

A motion was made by Judge, seconded by Sparer, to Approve the Minutes of January 9, 2008.

Chair Hirsch had items regarding the Minutes of January 9, 2008. On the bottom of Page 6, the last paragraph does not make sense to Chair Hirsch. Chair Hirsch asked that Zopelis listen to the tape to correct. On Page 7, second paragraph, "home", should be all capital letters as it is an acronym for a Federal Housing Program. Pending those clarifications, Hirsch asks that the Minutes be referred to the next meeting.

A friendly amendment was made by Sparer, seconded by Judge, to refer the Minutes of January 9, 2008 to the next meeting. The motion passed by voice vote/other, with Chair Hirsch abstaining.

ROLL CALL

Present: 12 -

Brenda K. Konkel; Susan K. Day; Philip P. Ejercito; Thomas E. Hirsch; Victor E. Villacrez; Tobi L. Rutten; Judith M. Wilcox; Curtis V. Brink; Rose M. LeTourneau; David C. Porterfield; David R. Sparer and Eli Judge

Absent: 2 -

Howard Mandeville and Detria D. Hassel

Excused: 1 -

Brian A. Munson

PUBLIC COMMENT

There was no public comment for items not on the agenda.

Ordinance 07615

John Caputo, Caputo Properties LLC, present in opposition to Ordinance 07615 – did not wish to speak.

Ernest Horinek spoke in opposition of Ordinance 07615. Mr. Horinek is from the west side and has been in property management for 25 years. He has taken pictures in the past and one of the things that happens is that the pictures do not show the true damage or the problem. Cleaning is probably one of the biggest items that they charge for. It is very difficult to take a photo of something that is not totally clean, such as a shower wall. You can look at it and take a picture of it and it looks fine, but if you put your hand on it, it is full of scum. There are a number of apartments that are all the same. Should he take a picture of one and use it over and over? How can you tell which apartment it came from? For example, if he is missing a mini blind, should he take a picture of one window and use it for all 8 tenants? Sometimes there are animal odors and cat hair in the radiators, and they require it to be cleaned. He is not sure how a photo would show that. They take photos of serious damage but if he has to take photos of every item he lists, he would say that probably half of the photos will show nothing. If he has to take photos, he is definitely going to charge it back to the tenant because they are the ones who caused the damage. Mr. Horinek is opposing this because he does not think the photos he takes are going to show everything. Mr. Horinek brought photos of holes in the wall, damage to carpet, etc. He indicated that some of the photos do show up quite well. He does not know how he is going to take a photo that he could take to court or an arbitrator and say they did not clean an oven. When you look in the oven and take a picture of the black oven in there, you cannot see the burnt stuff.

Questions from Committee Members:

Porterfield asked if Mr. Horinek had any alternate recommendations? Mr. Horinek did not have any alternate recommendations because in 25 years he has never had one tenant dispute a charge he put against them, because he has always been fair with the tenants. He does a checkout with them and writes down the damage. If they have any problems, he negotiates it with them. He

has never had to go to court with a photograph or anything like that. If you are going to take photos, you better take a photo before and after, and compare the two. You would have to have a lot of photos. That is why Mr. Horinek thinks it will be very difficult. If you have an animal that urinates on the carpet, how are you going to photograph that unless you catch the animal in the act?

Villacrez asked if Mr. Horinek owns a digital camera, which Horinek does. Villacrez then asked if it had panoramic capability on it? Horinek indicated that it does. Horinek said that if they damage something like a wall (showing a photograph) that has a hole in it and they have to patch it, how can you tell which apartment in his building the damage came from? If he discusses the photograph with the tenant and the tenant says that they did not do the damage, and Mr. Horinek produces the photograph, where do they go from there? Do you take everyone and drive out to the apartment to look to see if it is there? The photograph can be used in many ways in his opinion.

Sparer asked about Mr. Horinek's procedures. If Mr. Horinek did not take a photograph and the tenant did not damage the wall, and Mr. Horinek deducted from that tenant's deposit for damage to the wall, but there are no photographs, would the proof just be that you said, "Well, yeah you damaged it" and the tenant would say, "No, I didn't". There would be nothing to document it. Mr. Horinek said they are in the same boat. He doesn't think he approved it one-way or the other. Sparer indicated that at least a photograph would be something Mr. Horinek could pull out in court and say, "Here is the damage, I took a picture of it". Mr. Horinek then said that the tenant could say it is not their damage. When it was pointed out to Horinek that he has the picture, he replied, "Well, a picture of this apartment or the one previous?" Konkel said the way to solve that would be to write the address on a piece of paper with the apartment number and to put it in the photo when you take the photo. She would do that if she was a landlord because then there is no dispute.

Mr. Horinek said that he could have an apartment that may have 20 items that are deductible, some big and some small. He does not think you could take a picture of that wall and tell him that it was dirty or clean, with a camera. Villacrez said, "Especially in the kitchen areas. I just went through this last fall. I mean I took pictures". Hirsch asked that Committee members not discuss at this point and let the public make their presentations, ask questions, and then we will have time to discuss it amongst the Committee members.

Nancy Jensen, Apartment Association of South Central Wisconsin, was present to speak in support of Ordinance 07615. Ms. Jensen asked Mr. Horinek the following question, "Ernie, in terms of your practices with claims would you charge for a paint mark like that on the wall?" Mr. Horinek said he did not. Ms. Jensen then asked if he charged for dusting light bulbs. He again said no. He charges for stoves and bathrooms. Ms. Jensen asked if it was for under stoves and behind the refrigerator. Mr. Horinek said if he has to clean the shower wall or toilet, then he charges for that. Ms. Jensen asked him if he thought he could not he could take a picture of it. Mr. Horinek said he could take a picture of it, but it was a question of whether or not you will see the soap scum on it.

Ms. Jensen thinks it is unfortunate that it would come to the point that we would have to have photos to verify damages. She referenced an article in the State Journal this past week that showed the 3 most prominent complaints against her industry. She had her staff call to check to see what the complaints are that puts

them third in the state with used car dealers and telemarketers, and the number one complaint is the late return of security deposits and dubious charges against the security deposit. Ms. Jensen is supporting this Ordinance because photos can be taken with digital cameras easily and you can put post-it notes with the dates and the address right next to the damage. She agrees that scum is something that might be hard to see, but there is a fine line that the industry is having a debate about right now in terms of the cost of doing business, versus creating the 13th month on a lease. When she says that, she means the 13th month on a lease is someone using a security deposit for maintenance and cost of doing business issues. It is not widespread and she is glad of that. The majority of owners do not do that. One in particular has driven a lot of the complaints that brought the Ordinance forward and they are aware of who it is and have been meeting with them. They are supporting this Ordinance as they think that photos are viable and a very good business practice. The majority of owners are already using them for damages and they have heard from a few people that say they do charge to have dust wiped off a light bulb. She does not want to see that kind of a debate or discussion, about how many landlords dust a light bulb and how much an hour you charge to dust a light bulb, etc. That is something the industry needs to address. They support this Ordinance and think it is a good idea, understanding that yes, there will be some things you cannot take pictures of. It has been amended and changed and there will be some more information on that at the meeting today to make it very clear that if you miss one photo, you do not lose your whole claim, just that one, and the landlord does have the remedy to go to court afterwards if they wish to. Many Alders have told her that they get caught in the he said/she said calls and complaints. Constituents call them about landlord/tenant issues and it is a he said/she said so they are not sure who is right or wrong with it. They see this Ordinance as a very reasonable means to resolve some of that and also keep it out of the courts.

Questions from Committee Members:

Judy Wilcox said that most landlords in Madison do a checkout when people leave, so would it be reasonable to believe that if there is damage that is done and it is noted on the checkout, that photographs of that damage be noted, and if it is recorded on the checkout form and has an accompanying photo is that onerous? Ms. Jensen said no, that they like photos of damage. The real crux of this is cleaning and not damages. It is miscellaneous, nickel and dime cleaning items. When you take a young student and you have four or five in a house, and you nickel and dime $100 off of each one for a small bracket on a blind or whatever, it adds up and it is sort of creating the 13th month. It was Fred Mose who mentioned to her that is a very distasteful policy and he is willing to step forward too, to see that kind of practice stops. It is not widespread, but for the some or few who are doing it, she thinks this is a good proposal of an Ordinance. In the meantime the industry will have a real serious discussion about what is clean. They do not want to see the government telling them a definition of clean.

Jeff Wiswell, Apartment Association of South Central Wisconsin, registered in opposition of 07734, but did not wish to speak.

Seth Nowak, Madison Community Cooperative, spoke in support of Ordinance 07734. Mr. Nowak is a renter at one of the housing co-ops, which is a part of Madison Community Cooperative. They are an affordable housing organization with 175 rental units and they have been around for about 35 years. The Board of Directors of the Co-op want to support this Ordinance and have the Housing

Committee and the City Council pass it. The co-ops are owned by this democratically run organization, so essentially it is tenant-owned housing even though individually the members of the co-ops are renters. They also have a dual role as being partially responsible for the property management and ownership. They have a lot of credibility on this issue. They are the ones that make the budgets and make the investments in supplies like light bulbs and maintenance and pay the staff to go around with Fire Inspectors and Building Inspectors. They are in favor of this and that is quite telling because they see both sides of the issue. If someone wants cleaner air/water in Madison and they want to burn less coal, they can change their own light bulb. However, individually, the person cannot do something about thousands of other rental units. This Ordinance would have a system wide effect and would actually add up to tremendous environmental and financial benefits for our community. Mr. Nowak encourages the City Council to pass this Ordinance.

Eileen Bruskewitz spoke in opposition to Ordinance 07734. Ms. Bruskewitz is a Dane County Supervisor and Chair of a County Committee that is looking at recycling CFL's and other lamps. They found, when this Ordinance was introduced in its original version that many people did not know what to do with a spent CFL. The County is responsible for the landfill and mercury in a landfill is not a good thing because it gets into ground water. She does not have a dispute with the concept that a previous speaker made, that CFL's save energy. There is no doubt on this, but if you are using CFL's and they burn out, there is no good place to put it. She has learned a lot about how CFL's work since this was first introduced. This is a nationwide problem. There are no standards for recycling CFL's. Ms. Bruskewitz is a nurse by training and she went through the lead paint in housing issue and she hates to see an issue develop with mercury in rental housing. What is the recycling method and clean-up method? She gave a description of how to clean up a broken CFL. If one of the bulbs were to break right now, the EPA and others say that you are supposed to open the windows, of which there are none in the room of the meeting. People are supposed to allow the air to circulate and you are not supposed to use a vacuum cleaner. You should use sticky tape to try to get all of the small pieces up. However, this has not passed the Wisconsin Department of Health yet. The recommendations of the County Committee will cover the entirety of Dane County, including the City of Madison, and she would ask the Housing Committee wait. They are looking at how they can enhance the use of CFL's, both in single-family homes and in rental housing. They are working with Focus on Energy. They have a fabulous program that is being very well received by the hardware stores and paint stores. When you go into a store now, you will see that they have boxes for recycling bulbs. The County passed an Ordinance some years ago that retailers must accept CFL's back. However, clerks were not taught how to do that and there was no place to put them. It is hazardous waste. There are some serious problems but they are not insurmountable. Before the Housing Committee starts to mandate CFL's, Ms. Bruskewitz is asking that the Committee take a little time to think about what happens when there is a broken bulb. Good data is just starting to come in on this, which did not exist before. Ms. Bruskewitz said that it would be more successful in helping people understand how CFL's can be safe in the home, not necessarily regulating it. Supervisor Worzala told Ms. Bruskewitz at a Health & Human Needs Meeting that he had a broken bulb in his house because his kids were throwing some stuff around and he did not know what to do. One of the recommendations they will be making is that these bulbs not be used in places where children can break them, in high traffic/high activity areas. They will have a set of recommendations for the City and she is asking that the

Committee be able to finish its work before moving forward.

Sparer asked about the issue of landfills and recycling and the fact that Ms. Bruskewitz mentioned that the retailers are required to take the CFL's back. He indicated that really is not a problem. Ms. Bruskewitz indicated that these kinds of bulbs, in commercial/industrial settings, are waste that has to be picked up by a hauler. They have to be stored, but they cannot be stored too long and there are lots of rules from DNR about how that is handled. Households are putting CFL's into the trash, which goes to landfill. They have the Committee to educate the public on how to dispose of the CFL's properly. People are hearing about a Vermont case in which someone had a major industrial hazardous waste removal site. They broke a bulb in a child's bedroom and it cost them $3,000 to clean it up when they called the Vermont Health Department. Rather than mandating it, Ms. Bruskewitz would like to try the educational program, which she is certain will work because Focus on Energy has enough money to make it happen. Sparer questioned if she was present on behalf of herself or the County because Ms. Bruskewitz's discussion seemed to imply she was there on behalf of the County. Ms. Bruskewitz said she was not present on behalf of the County. She has been e-mailing Ald. Judge, Ald. Palm and Ald. Solomon. She has a lot of knowledge of this issue because of the work she does for the County.

Wilcox asked what the time frame is. Ms. Bruskewitz indicated that Mindy Habecker from UW Extension was at their last meeting. The Extension is going to be a great place to disseminate a lot of information. They went through an exercise of identifying what needs to be done in hardware stores and who they need to reach out to through the WIC program. Most of the time moms/women are buying the light bulbs. The County Committee will probably make recommendations within two months.

Ejercito asked if Ms. Bruskewitz had any sources or names that the Committee could use to look-up the clean-up story in Vermont, in which the person was charged $3,000. Ms. Bruskewitz said the story was in the national news and she could find it. Ejercito asked if Ms. Bruskewitz was aware that story was thoroughly discredited, to which she said no because it was true. Ejercito indicated that they were quoted that number if a Hazmat team were required. They were asked how much it would cost to have a full Hazmat team if required. Ms. Bruskewitz said she heard that was what the experience was and would get the story for the Committee. Ejercito asked if Ms. Bruskewitz would recommend people call Hazmat crews for an oil slick in their driveway or garage. Bruskewitz said no because that is outside and you are not breathing in the vapors. Ejercito asked about if it were in garage or anywhere where pets or small children might be playing, in the case of an anti-freeze spill. Ms. Bruskewitz said the effects of mercury on small children are furious. Ms. Bruskewitz said that John Housebeck, from Department of Health, is looking at all of this. They have to square any issues with DNR. If you make this mandatory, the standard of practice in Dane County would be that CFL's are mandated. Focus on Energy would not be able to do the work that they are doing. Ms. Bruskewitz is not a big fan of government agencies, but Focus on Energy is doing it right. It would be a shame to lose Focus on Energy's work here. Ejercito asked Ms. Bruskewitz if she is aware that this is not mandating CFL's, to which she said yes. Ms. Bruskewitz added that there is a reduced amount of lead in a regular incandescent bulbs that is being put into waste, but it does not migrate as much as mercury.

Wilcox referenced that the County currently has hazardous waste disposal. Ms.

Bruskewitz said they have a few programs, but there is no Countywide disposal for fluorescents. Wilcox referenced that they have Clean Sweep.

Jennifer Feyerherm of the Sierra Club spoke in support of 07734. Ms. Feyerherm had a light display that showed a spectrum of lights and how they now have much warmer lights and not just the blue white lighting. The display also showed the various shapes and size the bulbs come in. The Sierra Club is very interested in this issue because global warming and air pollution are huge issues. Global warming is perhaps the biggest challenge of our time. The issues we face in terms of global warming and air pollution are immediate. We do not have time to wait for it is policies like this that make sense. Scientists are estimating that our icecaps could be melted by 2012. We need to take action soon and this is an example of a common sense policy that will cut energy use and cut global warming pollution, leaving us closer to the solution. The City of Madison has committed over and over again to cut its global warming pollution. The Mayor has signed the Mayor's Climate Protection Agreement. The Sierra Club is working in partnership with MG&E, the City and other partners on the Mpowering Campaign to reduce global warming pollution by 100,000 tons. This Ordinance will reduce our global warming pollution by 35,000 tons, getting us more than one-third of the way there. Ms. Feyerherm provided some handouts.

The first handout was the Sierra Club's summary of the Ordinance and the benefits from the Ordinance. A rental characterization study was done on rental properties in Wisconsin and what bulbs were left to switch out. A lot of people have made the switch, but a lot have not. They looked at what bulbs remained to be switched out in rental properties. She took the proportion, the energy savings, and the census data from Madison and then she did the math. She has a spreadsheet on that. So when they look at global warming, this Ordinance, based on the light bulbs that are left to switch out in Madison rentals, will cut global warming pollution by 35,000 tons in one fell swoop.

Another issue faced in Madison and Dane County is air pollution and fine particulate matter. Dane County today stands in violation of EPA health quality standards for fine particulate matter. Our air is too unhealthy, too often. Fine particulate matter causes the lung affects of asthma, chronic bronchitis, and lung cancer. It is fine particles of stuff that are so small that they get into your lungs and then transfer into your blood stream. On days when air pollution levels are high, we see more frequent, more severe and more deadly asthma attacks, heart attacks and strokes. One of the primary sources of this kind of pollution are coal fire particles. We rely on coal fire power plants for more than 75% of our electricity. This Ordinance will reduce the amount of electricity we use in Madison, enough to power 4,100 homes, merely by changing light bulbs. CFL's are a mercury reduction tool because they reduce the amount of coal we have to burn, and that is the primary source of mercury to the environment. She is very glad that the County is working on looking at how to educate people about recycling light bulbs. A handout was provided that gives information on how to recycle light bulbs and what to do if a CFL breaks. This information is directly from the EPA's website. Recycling bulbs is easy, as you just have to take them back to the store when buying a new one. There is no reason to hold this up because of mercury.

WECC (Wisconsin Energy Conversation Corporation) administers the Focus on Energy program and they have expressed support for this Ordinance. She spoke with them because questions were raised if they could continue their incentives if

there was a lighting efficiency ordinance. They obtained clarification on what would stop. Right now, Focus on Energy has a program that they have not publicized very widely, but it is there. The man from Focus on Energy will confirm this. Any landlord/building owner can call WECC and say they want to participate in the direct install program. WECC/Focus on Energy will come and replace every light bulb in every unit of your building for free. They will also replace all of the showerheads with low-flow showerheads. That is a program that will end when this Ordinance takes effect. Feyerherm asked if landlords sign-up before this Ordinance took effect, would WECC/Focus on Energy still do this, and the man said yes. This is a stopgap to make sure that we are using efficient lighting. If landlords sign-up before this goes into effect, they do not have to pay a dime and they do not even have to do the labor to change the light bulbs. The common area light bulbs get changed and it is the landlords saving the money. The Ordinance becomes a moneymaking proposition/ energy savings proposition, for landlords.

Porterfield asked for clarification in that it sounded like if the Ordinance was passed, the potential for the direct install program might be jeopardized. He said Ms. Feyerherm clarified that with the Focus on Energy, it would not be jeopardized. Ms. Feyerherm said the rebates on the light bulbs, the $2 savings on the light bulbs, would not go away as long as Focus on Energy is running the program. What will go out of effect, once the City requires efficient lighting, is the program in which they will go in and change out all of the light bulbs. Ms. Feyerherm stated that we do not have time to wait to get efficient lighting and start reducing our energy use. This just speeds up the process and gives a free way to get efficient lighting in the rental properties as soon as possible.

Wilcox stated that this would provide some urgency for landlords to sign up with WECC, prior to the implementation of the Ordinance, to get the free installation. Feyerherm said the Ordinance would not take effect until June 1, 2009, so there is more than one year to sign-up for the free re-install. Sparer asked if the re-install that would go away is only for in the apartments, to which Ms. Feyerherm said that was correct. They do not do installation for the common areas. There are rebates for the common areas and rebates for exit signs. The rebate program will continue. You just have to sign-up before it takes effect, it does not have to be completed before it takes effect.

Villacrez said that Ms. Feyerherm brushed over the argument of mercury, to which Ms. Feyerherm said she did not mean to brush over it but that she ran out of time. Villacrez said that every time you eat a can of tuna, you are ingesting an unsafe level of mercury according to someone. Villacrez said that Ms. Feyerherm was telling them that the level of mercury created by the power plants, the particulates distributed, is worse than it would be in the landfills from people not recycling these properly. Ms. Feyerherm said yes and that particulate is a separate issue. She had numbers on the back of the Sierra Club Fact Sheet that we generate so much mercury by burning coal to power an incandescent light bulb. She is running a huge risk at being misquoted when she talks about this, and she is not saying by any means that any light bulb should end up in the landfill. We need to recycle them and Phillips has a plant where they only use mercury that comes from recycled bulbs. That is what needs to be happening to the mercury. Even if everyone threw light bulbs in the landfill, it would still reduce environmental mercury by 40% because you get so much mercury from burning coal. When you get mercury from burning coal, it is going out of a smokestack, where it gets into our water bodies immediately. If it is in a landfill,

then that process takes a little longer. Again, this is not great and not something she is advocating. CFL's are a mercury-reduction strategy overall.

Nancy Jensen, Apartment Association of South Central Wisconsin, spoke in opposition to Ordinance 07734. She has worked with Ms. Feyerherm, Ald. Solomon, and Ald. Palm. They oppose this because of the funding issue. Most of the common areas are already using energy efficient lighting and LED's. They are very comfortable with those portions of the Ordinance. The big issue is the tremendous expense to the large owners in particular to put CFL's or any sort of energy efficient lighting inside the units. They have weighed the numbers and the information because all of the projections are just that, theoretical projections based on the tenant using them and not taking the bulbs out or taking half the bulbs out because they don't like the light. When people combine old and new light bulbs, it reduces the significance of the savings and the footprint impact that it would have because it is data in theory. The big issue for the industry has been the cost to putting the bulbs in the unit. They met with George Dreckmann, Mr. Noonan, Joel Plant, Ald. Palm, and Jeannie Hoffman and discussed the City's practices and how they could recapture them for recycling and what the County has in place. Ms. Feyerherm told them about the mercury in the bulbs into a landfill versus the mercury generated in the air. This Ordinance is out six months right now from common areas and eighteen months from inside the units so it always came back to how to fund this and how to help someone do this. Steve Brown Apartments provided data at the Landlord/Tenant Subcommittee that showed it would cost him $175,000 to put energy efficient light bulbs in every apartment that he has. That is a very significant number to ask someone to foot the bill for without very good subsidy. The issue that has been a concern is what does the new Federal Law have to do with the funding resources from Focus on Energy. She would like to see this clarified better by Focus on Energy. Are there funding caps available, not for the common areas, but for the in-unit situation where an owner with even 50 units might have $3,000 - $4,000 worth of bulbs and time/labor to change all of them out? It is the seed cost, the amount to start up. Lease documents can be changed so that they state that the type of bulb that is in there is the type of bulb that has to be in there when you move out. She would like the Committee to delay moving this forward one more time and have some more information directly from Focus on Energy. Focus on Energy should come to the meeting and be very explicit to the Committee about funding caps because if the City adopts this, it does set the standard and it does remove the funding. She is not sure how much funding is there even if they have 18 months to get to that point. There are approximately a dozen large owners in Madison who have a couple thousand apartments that would be looking at a very large cost to change bulbs. There may be a $50,000 or $100,000 out-of-pocket cost that we are ordering someone to pay without a guarantee on return.

Sparer referenced Ms. Jensen's comment about no guarantee on return, and he asked if she meant guarantee on the return of the funding? Ms. Jensen said no, that it is on the guarantee on the actual use of the bulbs, which would affect the theory of the carbon footprint and the theory of reducing energy consumption. There is no requirement that the resident use the bulbs that the landlord/owner is providing so there is no guarantee of savings. Ms. Jensen said you could require the residents to use them.

Porterfield asked for clarification in that it sounded like Ms. Jensen said that the speaker before her said that the funding would still remain. He thinks Ms. Jensen is saying that the issue of the funding remaining is not clear. Ms. Jensen said it is

not clear on the issue of funding and to what degree. Funding is there unless you set a standard. Once you set the standard and adopt the Ordinance, then the funding completely goes away. Porterfield said that it is an incentive program. Hirsch said the funding will be there, but the eligibility for people to use it will be gone. Ms. Jensen wants to know if there are caps on the funding. Ms. Jensen said that it is fairly new with that we are discovering with the Federal Law change, that funding she had talked to her board and the industry about, might be less or might not be there. She would like to explore that.

ORDINANCES

07615 SECOND SUBSTITUTE - Amending Sections 32.07(5), (7), (9) and (14) of the Madison General Ordinances to require landlords to obtain, maintain, and provide or make available, upon request, photographic evidence of damage, waste or neglect being charged against a tenant's security deposit.

Attachments: 4267photo1stVersion.pdf
4267photo2ndVersion.pdf
2ndSubstituteDrafter'sAnalysis.doc

A motion was made by Judge, seconded by Ejercito, to amend the Ordinance, Section 32.07(14), to say a landlord may withhold from a tenant's security deposit (and he thinks this is already in it). However, at the end it would say, the failure of a landlord to take, provide to the tenant, or obtain a photograph documenting a specific claim of damage, waste or neglect, that was able to be photographed only precludes the landlord from withholding from the tenant's security deposit for the specific claim in question and does not otherwise affect the landlord's ability to recover for such damage, waste or neglect.

The amendment to the motion passed by the following vote:

Yes - Brink, Day, Ejercito, Judge, Konkel, LeTourneau, Porterfield, Rutten, Sparer, Wilcox
No - Villacrez
Abstain - Hirsch
Absent - Hassel & Mandeville
Excused - Munson

LeTourneau thinks paragraph 7(b) should be amended, where it says in the underlined section, "...and a notice that the tenant will be provided a copy of the photograph documenting any damage, waste or neglect of the premises being charged to the tenant if requested..." She thinks it should be in writing. She thinks the tenant should request a copy of the photographs in writing, within 30 days.

A motion was made by Letourneau, seconded by Sparer, to change the wording to, "if requested in a written report". The motion passed by voice vote/other, with Hirsch abstaining.

A motion was made by Sparer, seconded by Judge, to add in Section 4, which amends Subsection 14 of the Ordinance, in the parenthesis where it discusses exceptions to the requirement. Sparer would add, "...and if the tenant accepts in writing responsibility for an item of damage, no photograph is required as to that item." Judge clarified that it be in writing and Sparer indicated that he said in writing.

The motion passed by voice vote/other, with Hirsch abstaining.

Sparer recommends that the Housing Committee adopt Ordinance 07615. Sparer indicated that there are a lot of complaints by renters that this is where they are abused, by having the deposits deducted, or money deducted from their deposit when it should not be. One of the things that certainly arises whenever you have a claim like this is what proof do you have, landlord, that this damage actually occurred. He can say from personal experience of litigating these things for 25 years, that it is absolutely the case that some small number do completely

fabricate damage claims. He has had cases where he has gone through the trial and in developing the evidence they have proof that they completely fabricated the claim. They will fabricate receipts from repair people and all sorts of crazy things. As the first gentleman was speaking about, he made clear, and Sparer thinks it is true, that a photo will not be everything and there are ways that landlords can fake the photos and fabricate that too. Sparer said we are trying to come up with a procedure that will work the best for the vast majority of people and we know there are a handful of people out there who are actually crooks and they are going to find a way to try to sneak around this. Having photos really helps. When one person is saying there was a hole the size of a basketball and another person says I had just a little stickpin in the wall and that is all it was, well if you have a photograph of it, you can see what it is. We heard from the industry, Nancy Jensen, that they feel this is a good practice and it is not onerous. There were concerns raised, which he thinks are fair, which are there are some things you cannot take a picture of, but the Ordinance specifically has an exception for that. He would really recommend that the Housing Committee adopt this.

Villacrez asked what the exception was for cat urine. Sparer said the exception is as long as such waste, damage or neglect can be photographed. If it cannot be photographed, you do not have to have a photograph. You cannot photograph a smell so therefore no photograph. Villacrez said he would not be so adamant about it, but just going through a similar situation in August, he took photos of damaged kitchen walls and they do not show up on the photos. He literally had to go through, take all of the appliances out and repaint. There was no way a photograph was going to capture the amount of neglect and abuse and damage these tenants created to the unit. What is the remedy to that concern? He thinks it is a very legitimate concern. You get into some of the fine details of cleaning and Nancy is right, we do not want the government telling us what is clean and what is not clean. However, there is a certain standard that a lot of times tenants just don't meet.

Sparer said it requires that you take a photograph. It does not say anywhere in the Ordinance that your photograph show it to the satisfaction of somebody. Villacrez asked how that is going to play out in court. Sparer said that at least if there is a photograph, there is something. It doesn't mean that the photograph has to be of any particular quality. It is just saying to take a photograph. If you take a photograph, you have the right to make the claim. If you are not willing to document your alleged damage, then you cannot make that claim.

Judge said, to go off of what Sparer said, this is one of the things that he brought up the first time the Committee discussed this, probably prematurely because it was immediately referred to Tenant/Landlord, but it kind of adjusts the burden of proof. Where now all you have is receipts, now you have this other bit. It is not the end all/be all of proof, but it is just something else that you can provide, whether it is for the security deposit or in court, if it should unfortunately get to that point. To steer us another way, there were some amendments that Judge was hoping to propose tonight, one that Nancy alluded to. It goes at something that Brink brought up at the Tenant/Landlord Subcommittee a couple weeks back. As it is, it could be read in the Ordinance right now that if you have six, lets say seven damages, and you only have photos for six, the way it could possibly read is that you can't claim the damages for any of those. Judge spoke to Doran Viste a couple weeks back and they crafted something that pretty much clears it up and says that if you have six photos and you don't have it for the seventh, you

can claim damages on those six, but the seventh you cannot.

Judge had language that they crafted that he wants to propose.

A motion was made by Judge, seconded by Ejercito, to amend the Ordinance, Section 32.07(14), to say a landlord may withhold from a tenant's security deposit (and he thinks this is already in it). However, at the end it would say, the failure of a landlord to take, provide to the tenant, or obtain a photograph documenting a specific claim of damage, waste or neglect, that was able to be photographed only precludes the landlord from withholding from the tenant's security deposit for the specific claim in question and does not otherwise affect the landlord's ability to recover for such damage, waste or neglect.

Judge said it pretty much gets at what Brink was worried about earlier, and what Judge was worried about too. He hopes for the Committee's support on the amendment.

Hirsch said he received another registration from the member of the public and asked if the Committee wished to suspend their discussion and hear the person.

A motion was made by Villacrez, seconded by Judge, to allow Rebecca Anderson to speak on Ordinance 07615. The motion passed by voice vote/other with Hirsch abstaining.

Hirsch asked Ms. Anderson to keep her comments to three minutes. Ms. Anderson apologized for being late and is speaking in opposition of Ordinance 07615. Ms. Anderson brought in copies of photographs that she gave to Villacrez to address clarity in photos. She said, "This is what you get on a digital camera". This is a regular photo camera and you cannot see much of anything. How can you know which apartment it is? Ms. Anderson believed that the photo she was showing was taken at 22 Langdon Street and she has probably 68 apartments that all look the same. What they are going to have to do is go take a picture of that apartment, go back to her office and download it so they know exactly which apartment it came from. It is complicated and it is not going to work.

Wilcox asked if you are taking a picture in the apartment, is there any reason why Ms. Anderson could not put some notation within the scope of the photograph of what the apartment number is. Ms. Anderson said she suspected you could do that. That doesn't mean that every one is going to be perfect, as during August they checkout 300 apartments, and you are not going to be 100% on 300 apartments. Wilcox said that Ms. Anderson still has a checkout that she could add the corresponding photograph to. Ms. Anderson indicated she could; however, rather than going to having pictures of everything, if the City or somebody would educate these tenants to do a detailed check-in form, all of this would be covered. We would not need any pictures, because they would say, "Carpet, Apartment 224, stain in the right hand corner" and everything would be taken care of. They would not need the photos because they depend on their check-in forms. They go to the point that they keep the checkout form from the year before so that they are not caught in this, "I did it/you did it/I didn't do it/you don't have a picture".

Wilcox indicated that interestingly enough, she has rented in the same place for almost 19 years and when she checked in they were very thorough about noting where the previous tenant had used an iron on the carpet to remove wax so that

it showed. 19 years later, that carpet hasn't been replaced and those marks are still there, but Wilcox still has her check-in form.

Ms. Anderson indicated that another thing that is going to happen is that time wise, they will have to go back and download photos, and it will take their checkout procedure much longer. Consequently, rather than getting their people out, now they are homeless for 24 hours Downtown, from the 14th Noon to the 15th at Noon. They do allow people to move in on the 14th if they have hardwood floors. That is going to stop. They will let them out on the 14th, in on the 16th, so they have time to go in and make sure they have a picture of everything that the City wants them to take a picture of. She does not think this is helping tenants.

Hirsch referenced another registrant, Jeff Wiswell, Apartment Association of South Central Wisconsin, present in support of Ordinance 07615, who did not wish to speak.

Point of Order by Judge, that there is a motion on the floor with an amendment. Hirsch thinks it is time to vote on the amendment, which is to add the language. The amendment to the motion passed by the following vote:

Yes - Brink, Day, Ejercito, Judge, Konkel, LeTourneau, Porterfield, Rutten, Sparer, Wilcox
No - Villacrez
Abstain - Hirsch
Absent - Hassel & Mandeville
Excused - Munson

LeTourneau would like more discussion, but also had an amendment too. Security deposits, no matter what you do, is a contentious item. It has always been in the State's list of landlord issues and it always will be. LeTourneau understands about Alders getting phone calls. Landlords also get phone calls about other landlords. A lot of these things should be in court. What concerns her the most is that she thinks this will be a trap for landlords because they are not going to have every single picture, especially for the people who have huge turnovers. The trap is if you do not do something correctly, you can stand to be, in the end, dumping damages against the landlord because they made a mistake. This is all about them trying to collect for damages that were done or neglect that was done on their unit and that is one of the things that concerns her the most. When you talk about protecting tenants' rights or landlords protecting their rights, everybody has the right to take photographs and they should. Tenants should be talking their own photographs and that would protect their rights and landlords should be taking their photographs and that protects their rights. In renting a car and taking the car back, LeTourneau takes a photo of the car because she does not think that rental agency is going to take a picture on her behalf. They have her credit card and they are going to charge her and she is protecting her rights. There are things that can happen such as an emergency situation with plumbing and things that you are trying to get someone over there to take care of the problem and you cannot get there to take pictures. There are things that are going to come up that are not going to be completely covered with this and there are still going to be problems. She cannot be in favor of this. One of the things that she thinks should be amended is in paragraph 7(b), where it says in the underlined section, "...and a notice that the tenant will be provided a copy of the photograph documenting any damage, waste or neglect of the premises being

charged to the tenant if requested..." She thinks it should be in writing. She thinks the tenant should request a copy of the photographs in writing, within 30 days.

Sparer asked if her proposal would be that it is upon receipt of a timely written request, and LeTourneau said yes because people can say they request things and people tell her that they told her things that they never told her.

A motion was made by LeTourneau, seconded by Sparer, to change the wording to, "if requested in a written report". The motion passed by voice vote/other, with Hirsch abstaining.

Judge had another amendment. Judge was the person who proposed this so he just wanted to go into a little bit why, even though a lot of it has been covered already. The number one thing that brought this to his attention was the fact that they had a lot of cases where things were being fabricated. A perfect example of that is just 3 weeks ago, and some Committee members on Facebook know this, Judge put out a request on his Facebook to tell him of interesting property owner stories, for the sake of educating him. You would not believe the amount of complaints he received about landlords with charges for cleaning. Ms. Jensen brought it up earlier, in that it is the number one complaint of the industry. It is unfortunate, but it is a reality. Whether or not the complaints are real or not is another matter. He also received notice of several cases of tenants who did take pictures of their unit, who were charged large sums of money from $200 - $3,000 from a security deposit, and the damages never existed. They took those pictures to the property owner and the damages were dropped the instant they saw they had pictures. Judge thinks this will address that issue in every sense. He thinks the Tenant/Landlord Subcommittee touched on the fact there are damages that cannot be photographed, and that was a very important change that he was more than happy to second. This has gone through many changes and may go through just one more change by the end of this meeting. This has been a collaboration between City Council, students and property owners. He is happy to say that a lot of the landlords he has come in contact with, in fact a majority of them, have told Judge that this is something that they could sign onto. They think this is the best business practice and that they think this should be an industry standard. Judge feels this will address a lot of the complaints he is receiving about things being fabricated and he hopes the Committee supports it.

The one amendment Judge wanted to make, on top of the one that just passed, was one that Sparer brought up and one that Judge thinks the Committee has spoken about in the past. In the case where the landlord and tenant both agree that the damages existed, that the tenant did create the damages against the unit, that if both the tenant and the landlord, in writing, say that these damages existed, a photo will not be required. Judge yielded the floor to Sparer.

A motion was made by Sparer, seconded by Judge, to add in Section 4, which amends Subsection 14 of the Ordinance, in the parenthesis is where it discusses exceptions to the requirement. Sparer would add, "...and if the tenant accepts in writing responsibility for an item of damage, no photograph is required as to that item." Judge clarified that it be in writing and Sparer indicated that he said in writing.

The motion passed by voice vote/other, with Hirsch abstaining.

Stipulation by Ejercito - Are there any requirements for retaining that sort of agreement for the benefit of the next tenant that moves in? Ejercito thinks one of the provisions here is that upon move-in that the tenant moving in can take a look at photos from the last checkout/last tenant.

LeTourneau said to look at the checkout form. Sparer then said that it should read, "...accepts responsibility in writing on the checkout form" as it already requires that the checkout form be maintained.

Viste answered that by saying he does not believe the photograph gets thrown out, if that wouldn't be any violation for the new tenant because the way the Ordinance tracks here is that they are just required to show any pictures that are maintained under 14(a). 14(a) says that you don't have to keep a picture, if a picture is required and the tenant agrees, no picture will exist which means that the new tenant will not have anything to look at.

Porterfield asked what this would solve. Sparer said it would help out the landlords who are complaining about taking all of these photographs, and some of the people who e-mailed in raised this issue. They said damage occurred and the tenant totally agreed to it. If they agree to it, they're not contesting it. The landlord can take pictures if they want, but they are faulted for not taking them if the tenant agrees in writing. If there is a dispute later, then the photograph is good.

Konkel said that several people are asking the question about that just applying to the checkout form and not the check-in form. She did not look at the language and she asked if that is how it reads.

Sparer said they added that idea. Sparer asked Zopelis if this was correct, that it said, "if the tenant accepts in writing on the checkout form responsibility for..." Konkel said that sounded good.

Ejercito brought the Committee back to the main motion. Ejercito thanked the people who came up with and drafted this Ordinance. He thinks that through the process it has been discussed at the Subcommittee and a lot of these scenarios were covered that are coming up. It is crafted very well and addresses these scenarios. He thinks it goes a long way toward setting a fair playing field in the industry. As far as hearing from good landlords that have showed up and said they already do this, that this is their practice, he thinks this evens the playing field for folks to be able to all provide this kind of protection for themselves and protection for their tenants. The Committee covered how to document things like smells, or at least the fact that we can't do things like that. This does not make it any more difficult because we are still going to face that same kind of situation of how you prove that those damages occurred. This does not put any additional burden on anyone in particular. Ejercito is glad to see that this Ordinance does not mandate that everyone has to buy a certain type of camera, and it allows for any sort of photographic medium to capture/document this kind of stuff. You can go out and buy a disposable camera, you can get disposable, digital cameras at this point, you can use a cell phones camera if you think that this is going to help show that something was damaged. He does not see this as being onerous and it has been spoken to by members of the industry. Ejercito is excited to see this pass.

Konkel has been working at the Tenant Resource Center since 1992 so she has

seen this happen year after year. There are always going to be disputes. She thinks this is a pretty elegant solution to a problem that they see a lot of. Security deposits have been top complaints and she has been there. A lot of it is just because there is just a dispute over the facts and we have that photo, that really helps clear up the issues very fast. There may be a little bit of a dispute over how big something is or how much the amount might vary, but a photo makes people say, "Oh, yeah, I guess it was worse than what I remember". The other thing is that in Small Claims Court, and these numbers are a bit old, there are 14,000 Small Claims Court cases in a year, and about half of those are tenant/landlord claims, at 7,000. 3,000 of them were evictions. Of the other 4,000, over 90% of them were security deposit. It is mostly just disputes about how badly damaged something was. These photos would help clear up a lot of that and Konkel thinks in way, it would help clear up the court system a little bit as well. Fabrications are not widespread, but when they are there, they are very egregious. She has seen people come in and get charged for carpet cleaning when they have hardwood floors. There are routine things that are deducted from security deposits. Konkel has had landlords tell her that only 1 out of 10 tenants is going to come back and dispute this, so I'll just charge it and see what happens. She thinks this will really help and it is just a good business practice. She is surprised that landlords do not do this and put a sticky note in every photo with the address, the number of the unit, and what year it is. She thinks this is great evidence and it stops tenants from being able to complain and say they didn't do something. She thinks a lot of times when people come in, the disputes are more about the degree of the damage and if you have the photos, it helps prove that degree. Konkel thinks it is a great solution and appreciates Judge's work on this.

Villacrez said when it comes to a matter of degree of damage; he does not see anyone taking a photograph with a cell phone. That is not a level playing field. He thinks this will require landlords large and small to go out and buy high-resolution cameras. This will put some burden on some landlords in this town. If he is going to be forced to take a photo, he is not going to take it with a cell phone or a disposable camera because when he has to go in front of a court and say here is the damage. He wanted to state that on record that there is a difference in how all of this is processed. You cannot take one photo and have the landlord think that is going to be okay. He does not think that is a fair assessment of it.

Porterfield said to Villacrez that he does not know that the landlord is giving up any rights. They are being required to do this extra practice, but they still have due process to the rest of their case. Villacrez said it was more of an observation.

Sparer wanted the Committee members to be clear that this Ordinance only relates to deductions from security deposits. One thing to remember is that this is not the landlord's money. They are having the tenant put money down in advance, and maybe it won't even be needed, but it is their money above and beyond what they owe on the lease, and then they are supposed to get it back, but know the landlord is taking money out of there. This Ordinance is saying that if you are going to take someone else's money away from them, you have to be able to document it. This Ordinance has absolutely no affect whatsoever on a landlord's right to sue the tenant for damages. You do not need to have a picture to sue a tenant, although it would be helpful. All it is saying is that if you do not take that photograph, give them back their deposit and go ahead and sue them for the money if you think that they owe you for that. You are allowed to do that

and it does not change that at all.

Konkel said one other thing that would be helpful here is if landlords actually did checkouts in person. When two people are standing there and looking at the same item of damage, and the tenant says, "I think it is clean enough" and the landlord says, "It is not", the tenant can pick up a rag and clean it themselves at that point or they can say, "You know what, I am hot and sweaty and don't care anymore, how much are you going to charge me for it?" If the landlord says $20 and the tenant just says fine, then they walk out the door and everyone knows what is going to happen because they were both standing there. A lot of disputes get settled right on the spot easily and it would be nice if more landlords were able to do those in person checkouts because it really does help cut down on the number of complaints.

A motion was made by Sparer, seconded by Judge, to RECOMMEND TO COUNCIL WITH THE FOLLOWING RECOMMENDATIONS - REPORT OF OFFICER. The motion passed by the following vote:

Absent: 2 -
Howard Mandeville and Detria D. Hassel

Excused: 1 -
Brian A. Munson

Ayes: 9 -
Brenda K. Konkel; Susan K. Day; Philip P. Ejercito; Tobi L. Rutten; Judith M. Wilcox; Curtis V. Brink; David C. Porterfield; David R. Sparer and Eli Judge

Noes: 2 -
Victor E. Villacrez and Rose M. LeTourneau

Abstentions: 1 -
Thomas E. Hirsch

07734 SUBSTITUTE - Creating Sections 27.05(2)(aa), (bb), (cc), and (dd) and Section 29.20(21) of the Madison General Ordinances to require bulbs with an energy efficiency of at least thirty (30) lumens in some common areas and dwelling units in residential buildings.

Attachments: 07734-Version 1.pdf
07734-Version 2-SUB.pdf

A motion was made by Ejercito, seconded by Konkel, to recommend approval of Ordinance 07734 to the Common Council.

Porterfield made an Amendment to the motion, seconded by Villacrez, to give until the end of 2009 for the interior of units.

Villacrez wants to separate out the part that has to do with the interior lights and refer it until the Committee can get some questions resolved. There are too many unknown factors on the interior part. There have a lot of meetings with a lot of different landlords and even through the Board of the Apartment Association on the hallways and the research done on the LED exit lights. The interior part seems unequal in the fact that we are not requiring all homeowners to do it.

Hirsch interrupted on a procedural basis because Villacrez was beginning to make a

case. Hirsch said he heard Villacrez say that the Committee should recommend not covering the interior of the units at all. Hirsch asked if that was a friendly amendment to the previous amendment that was made. Villacrez said yes. Hirsch said the amendment under consideration would be to recommend passage without application to the insides of the units at all. Hirsch asked if there was discussion on that amendment.

Sparer recommended that the Committee not do as indicated above, but instead extend the date because it has been discussed at great length and presentations have been made. In his view, the only issue with whether to do it on the interiors is to make sure that people have the option of getting this done within the time period they needed. That is why the Committee would extend the date so that they could do that. Hopefully, that information can be brought before the City Council before the vote happens there. He feels the Committee should recommend the lights be changed on the interiors as well. He votes against totally removing it from the Ordinance.

Judge asked for a point of information. If the Committee separates it, would it become a separate Ordinance? Konkel said it could, if that was what the Committee wanted, but it would take work by staff to do this.

Hirsch called for a vote on the amendment, to delete the application of the requirement for CFL's to the insides of rental units (Section 3). The motion for the amendment failed by the following vote:

Yes - Day, Villacrez, Brink, LeTourneau
No - Ejercito, Judge, Konkel, Porterfield, Rutten, Sparer, Wilcox
Abstain - Hirsch
Absent - Hassel & Mandeville
Excused - Munson

A motion was made by Judge, seconded by LeTourneau, to separate the Ordinance into two pieces, one dealing with the insides of the units and the other dealing with the common and exterior areas.

Wilcox is concerned that by separating the Ordinance, it would have to go through all of the same process as the original Ordinance and it would essentially be starting over, which is very time consuming. Konkel said the Council does not do this very often so she is not sure on the process. Her understanding is that if you separate something, you can recommend only moving forward with the issue that the Committee agrees on, and holding the piece in question back in Committee, but technically the Council can move forward however they want. Hirsch clarified that the Committee does not have the power to separate, and only have the power to make a recommendation to the Council that they consider these things separately. Konkel said a Committee could keep a piece in Committee because the Council can go forward regardless of what the Committee recommends.

Hirsch said that without objection, the Committee would separate the Ordinance and move on to consideration of piece number one, which addresses the insides of the units.

Point of clarification from Sparer. The Ordinance has Sections 1, 2, 3, 4 & 5. Section 4 is a report, so would the Committee have Sections 1, 2, 4 & 5 as one part, and then the other piece would be Sections 3 & 4 again? That was Judge's intention.

A motion was made by Judge, seconded by Villacrez, to refer/table Sections 3 & 4 (insides of units) until questions are answered. The motion passed by voice vote/other

with Chair Hirsch abstaining.

Judge thinks this is a very good idea. Seeing as the date is as of right now 2009, Judge feels referring it one month to discover this very important information, will not change the bottom line because it is still 16 months away.

Konkel indicated that the issue of the March 31, 2008 due date for a report from George Hank does not make sense and recommends that they move this date to June. Wilcox thinks it would be a good idea to provide information on disposal of light bulbs to tenants at the time a lease is signed.

Alan Fish, Vice Chancellor at UW Madison, spoke in support of Ordinance 07734. He was representing himself, not UW. Mr. Fish gave the Committee some information about the University. While the University is not directly in the landlord business, they are indirectly in the landlord business. They have 300 buildings on campus, about 20 million gross square feet, about 60,000 people who are present every day, and about 7,000 of them that live there. The scale of what UW deals with is so much more immense. UW began changing out incandescent light bulbs about 15 years ago. They have comprehensively gone through the entire campus, both in the housing units and all of the academic and research buildings. UW is 98% non-incandescent bulbs. Most of the lights are fluorescent and are not CFL's. They have more a commercial/academic application and are using the long tubes. They have upgraded all of those to take the ballast out of them so that the PCB's that are in those are also removed. They have spent almost $12 million in lighting and electric upgrades over past 15 years. The payback for UW is that last year their energy bill was $50 million. If they can shave off 2 – 3% of the energy bill, there will be huge ramifications for their budget. UW is in a different position than the apartment owners because they have the revenue in their utility budget to help pay for the up-front costs, so they are driving down their electric usage. UW is continually growing on campus, so as they grow they are trying to make an effort to constantly shave off the usage. The demand side is 100% savings, every kilowatt you can save. As a result of their electric work, they have knocked about 8.7 million kilowatts of electricity out of campus buildings. There is a commitment from UW to support this and doing what they have to do make this reduction happen. They are also in a different situation when it comes to reutilizing the bulbs when they are no longer useful. Because of their scale, UW creates their own recycling program that they self-manage. As part of the community, people wonder why the university is doing something, and that is why Mr. Fish wanted to share their information. They have been spending a lot of time with the Sierra Club and other environmental groups lately.

Hirsch asked how UW handles specifications in dorm buildings going forward on replacement. Do they emphasize the use of compact fluorescents and other energy saving measures? Mr. Fish indicated all permanently installed lighting they have is either fluorescent or compact fluorescent in the residence halls. As they built two new residence halls in the past couple of years, that specification is in new residence halls. It is easy to do that, but harder to go back and do the old buildings.

Rebecca Anderson spoke in opposition to 07734. Ms. Anderson asked how many of the Committee members have energy-smart light bulbs in their homes. Wilcox referenced that her management company put them there. Ms. Anderson has an

office in her home, with a ceiling fixture with four lamps in it (60 energy CFL's) and finds that it is not bright enough and does not give her enough light to do bookwork for long periods of time. Ms. Anderson has student properties. Students study in their apartments a lot so the low lighting will affect them. She feels the students will change out the bulbs and replace them with incandescent bulbs or whatever is better for them to see with. Ms. Anderson brought in something from the paper. There was information on the percentage of pounds of going green, and the least is for your car, then it is light bulbs and then it goes all the way up to garbage disposals/CO2, and shutting your refrigerator door. She said light bulbs are not the big problem. Ms. Anderson referenced mail she receives from MGE and that they want to cut down so 6 cents will get you a windmill on your bill. She is speaking about interior lighting only. She brought in light bulbs and said the cost and packaging are problems. A package of 4 incandescent light bulbs is $1.88 and a package of 3 CFL's was marked $7.58. There is a definite difference in price. The packaging on incandescent bulbs is less evasive and biodegradable, whereas the CFL's are in plastic and if you buy a case are in several layers of packing. If you are trying to save energy, then why package it in this manner? As for recycling, yes, the stores take back the light bulbs. However, not one store could tell her where the light bulbs go after they are picked up. Where do the light bulbs go? As for the mercury, Ms. Anderson asked if the Committee remembered years ago when kids were running around and their shoes were lighting up as they walked. They had mercury in them and the shoes were taken off the market. They are back now, but they do not have mercury in them. If they can take the mercury out of little kids shoes, why can't China take out the mercury in the light bulb? If the City passes this, whose liability is it if a kid gets injured? The City is directing landlords/owners to this so whose liability is it if someone gets injured?

LeTourneau asked if there is information on the packaging about what to do if a CFL breaks and Ms. Anderson said no. Ms. Anderson then said it does reference on the package the bulb contains mercury.

A motion was made by Ejercito, seconded by Konkel, to recommend approval of Ordinance 07734 to the Common Council.

LeTourneau would like to see this Ordinance separated. She thinks a lot of people are in favor of the Ordinance for the common areas. Her biggest concern is the in-unit issue. She was listening to a radio station and heard about somebody out East who broke a bulb in her apartment a couple weeks ago. The woman called the Fire Department and LeTourneau thought that was ridiculous for someone to do something like that. However, she then looked up on the EPA website what the EPA recommends doing if a light bulb is broken, as she felt she should know what she was putting in someone's apartment. It was a lot more extensive than what was on the back of this piece of paper. She was shocked to see that if you break a bulb that you should open a window and leave the room, and turn off A/C or heat. You should be gone for 15 minutes and then go back and scoop up the bulb with whatever you can. You cannot use a vacuum cleaner. Use tape to get rid of the broken bulb and put it in a bag or glass jar with a metal top. Then once it is all picked up, you can vacuum the area. Once you vacuum, you should take the vacuum cleaner bag and put it in another bag, and then throw that bag away. It is a big deal. She does not know any tenant that would have a clue about doing this and that is why she asked Ms. Anderson about the packaging. She has these bulbs at home and has broken them before. Unless the information is on the packaging, you would not know what to do. We

do not need to start another serious health issue, like lead paint, by requiring landlords to put these in people's apartments. She does not want to be sued if there is an incident, nor would the City want to be sued for it. It is the tenant's responsibility to change their light bulbs, not the landlord's.

Villacrez agrees with LeTourneau. How are they going to make sure that the light bulbs are being used? How do you enforce this? Do you put something in the lease? He asked Konkel if that was possible and she said that yes, you could put that in your lease. Wilcox said they are not allowed to disarm fire alarms. Villacrez said we are going to lose some of the so-called value to this Ordinance. He is for reducing energy costs and global warming issues. He has been to South America several times over the past five years and there is less snow on the mountaintops each time. He thinks there should be more education and the City should have a plan on how they are going to recycle the bulbs. One of the arguments that was heard is that the apartment industry is the last to jump on the bandwagon here, and there could be good reason for that. A lot of times you cannot control what goes on inside someone's home. The apartment is their home and they have certain rights. He will be voting against at this time, but would eventually like to see it pass.

Sparer referenced that at the Landlord/Tenant Subcommittee Meeting, people reminded the Subcommittee that apparently on a Federal level, there has already been a law passed that is going to get rid of incandescent bulbs. It is going to happen that this will be required because the other bulbs will not exist. We are requiring it more quickly than the Federal Government. He thinks the discussion should be on whether the Committee should change the effective dates to provide for a little more education and more clarity on the funding issues before it goes into effect. Sparer thinks it is clear on if the Committee should pass it. We are talking about environmental issues that are bigger than the City of Madison. We could do our little part. Sparer thinks there is plenty of time to do this and clarify things. If the Committee sends this to the Common Council and in the meantime there is more information about the funding or the County Committee comes up with information, it will all be talked about by the full City Council. He could see having some slight adjustments in the effective dates but otherwise thinks it is wise to adopt.

Porterfield's concern from the testimony is on the interior timing for large landlords. He wants the large landlords to be able to take advantage of grant programs and other ways to absorb the cost.

Porterfield made an Amendment to the motion, seconded by Villacrez, to give until the end of 2009 for the interior of units.

Porterfield said if you are operating rental housing, you could build that additional cost into the 2010 budget if you extend the time for the interior of units.

Konkel recommended that the Sponsor should adjust the dates when it gets to Council, as it requires George Hank to submit a report by the end of March. Konkel is not sure what the date should be changed to, not knowing when it gets to Council. Konkel indicated that maybe it should say the sponsor should adjust the dates when it gets to the Council. Legistar is not showing the legislative history so Konkel is not sure what other Committees may have this. Feyerherm referenced that this has not been to Public Safety Review Board or the Fire Code, Building Code & Licensing Appeals Board. Zopelis referenced that it did go to

the Fire Code, Building Code & Licensing Appeals Board as she types the Minutes for them as well. They recommended approval to the Council with an amendment. Feyerherm also said that it went to the Solid Waste Advisory Committee.

Villacrez wants to separate out the part that has to do with the interior lights and refer it until the Committee can get some questions resolved. There are too many unknown factors on the interior part. There have been a lot of meetings with a lot of different landlords and even through the Board of the Apartment Association on the hallways and the research done on the LED exit lights. The interior part seems unequal in the fact that we are not requiring all homeowners to do it.

Hirsch interrupted on a procedural basis because Villacrez was beginning to make a case. Hirsch said he heard Villacrez say that the Committee should recommend not covering the interior of the units at all. Hirsch asked if that was a friendly amendment to the previous amendment that was made. Villacrez said yes. Hirsch said the amendment under consideration would be to recommend passage without application to the insides of the units at all. Hirsch asked if there was discussion on that amendment.

Sparer recommended that the Committee not do as indicated above, but instead extend the date because it has been discussed at great length and presentations have been made. In his view, the only issue with whether to do it on the interiors is to make sure that people have the option of getting this done within the time period they needed. That is why the Committee would extend the date. Hopefully, that information can be brought before the City Council before the vote happens there. He feels the Committee should recommend the lights be changed on the interiors as well. He votes against totally removing it from the Ordinance.

Brink referenced that they do not know what the funding is. If you try to get funding, you are not guaranteed funding. The Committee is mandating and telling what to do inside the apartments. The co-ops have all of the ability to change all of the lights they want inside. There are no real estate taxes paid by the co-ops in that situation. People can do whatever they want in their own homes. If we are really going to do this, then we should demand everyone inside their homes to change them too. That is where it has to equitable. Most people have done the common areas. He has no control over what people do inside their apartments. He thinks it is too soon to do this.

Judge asked for a point of information. If the Committee separates it, would it become a separate Ordinance? Konkel said it could, if that was what the Committee wanted, but it would take work by staff to do this.

Hirsch called for a vote on the amendment, to delete the application of the requirement for CFL's to the insides of rental units (Section 3). The motion for the amendment failed by the following vote:

Yes – Day, Villacrez, Brink, LeTourneau
No – Ejercito, Judge, Konkel, Porterfield, Rutten, Sparer, Wilcox
Abstain - Hirsch
Absent - Hassel & Mandeville
Excused - Munson

A motion was made by Judge, seconded by LeTourneau, to separate the Ordinance into two pieces, one dealing with the insides of the units and the other dealing with the common and exterior areas.

Wilcox is concerned that by separating the Ordinance, it would have to go through all of the same process as the original Ordinance and it would essentially be starting over, which is very time consuming. Konkel said the Council does not do this very often so she is not sure on the process. Her understanding is that if you separate something, you can recommend only moving forward with the issue that the Committee agrees on, and holding the piece in question back in Committee, but technically the Council can move forward however they want. Hirsch clarified that the Committee does not have the power to separate, and only have the power to make a recommendation to the Council that they consider these things separately. Konkel said a Committee could keep a piece in Committee because the Council can go forward regardless of what the Committee recommends.

Hirsch said that without objection, the Committee would separate and move on to consideration of piece number one, which addresses the insides of the units.

Point of clarification from Sparer. The Ordinance has Sections 1, 2, 3, 4 & 5. Section 4 is a report, so would the Committee have Sections 1, 2, 4 & 5 as one part, and then the other piece would be Sections 3 & 4 again? That was Judge's intention.

A motion was made by Judge, seconded by Villacrez, to refer/table Sections 3 & 4 (insides of units) until questions are answered. The motion passed by voice vote/other with Chair Hirsch abstaining.

Judge thinks this is a very good idea. Seeing as the date is 2009 right now, Judge feels referring it one month to discover this very important information, will not change the bottom line because it is still 16 months away.

Konkel indicated that the issue of the March 31, 2008 due date for a report from George Hank does not make sense and recommends that they move this date to June. Wilcox thinks it would be a good idea to provide information on disposal of light bulbs to tenants at the time a lease is signed.

A motion was made by Judge, seconded by Rutten, to RECOMMEND TO COUNCIL WITH THE FOLLOWING RECOMMENDATIONS - REPORT OF OFFICER, to approve Sections 1, 2, 4 & 5. The motion passed by the following vote:

Absent: 2 -
Howard Mandeville and Detria D. Hassel

Excused: 1 -
Brian A. Munson

Ayes: 11 -
Susan K. Day; Philip P. Ejercito; Victor E. Villacrez; Tobi L. Rutten; Judith M. Wilcox; Curtis V. Brink; Rose M. LeTourneau; David C. Porterfield; David R. Sparer; Eli Judge and Brenda K. Konkel

Abstentions: 1 -
Thomas E. Hirsch

09769 E-mails and Handouts from March 5, 2008 Housing Committee Meeting

Attachments: Additional E-mails.pdf
Handouts.pdf

ADJOURNMENT

A motion was made by Brink, seconded by Villacrez, to Adjourn at 7:13 PM. The motion passed by voice vote/other.