



City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Approved

Common Council Organizational Committee Subcommittee on Committee Creation and Committee Rules

Thursday, August 7, 2008

4:00 p.m.

Room 417, City-County Building
210 Martin Luther King, Jr. Blvd.

1. CALL TO ORDER

The meeting was called to order at 4:05 p.m. A quorum was noted, and the meeting was properly noticed.

2. ROLL CALL

Present: 3 – Ald. Satya Rhodes-Conway (chair), Ald. Brenda Konkel, Ald. Joe Clausius.

Absent: 1 – Ald. Michael Schumacher (notified).

Others: 6 – Mike May (City Attorney), Joel Plant (Assistant to the Mayor), Rachel Strauch-Nelson (Assistant to the Mayor), Carole Schaeffer (Smart Growth Greater Madison), Brad Murphy (Planning Unit Director), Debbie Fields (staff to the subcommittee).

3. PUBLIC COMMENT

Per the subcommittee's request, the City Attorney prepared two options for revising Sec. 3.30(2) regarding residency and committee appointments. One option would expand the majority vote requirement to Madison business owners; the other would expand the majority vote to those who own property within the City of Madison. Schaeffer said her organization supports the option expanding the majority vote to Madison business owners. Rhodes-Conway said the subcommittee would talk about it during the review of the draft final report.

4. APPROVAL OF MINUTES

Clausius moved approval of the July 3, 2008, and the July 9, 2008, minutes, seconded by Konkel. The motion passed unanimously.

5. DISCUSSION ITEMS

- a. Appointments to committees with seats that have been vacant 90 days or longer. Rhodes-Conway read the proposed language. Plant said the Mayor is not interested in the proposal for a number of reasons, the largest of which is the impact on his executive authority to make appointments. He said his office has worked with Information Technology (IT) to develop a query that gives a snapshot of vacancies based on length of time vacant. Currently, out of approximately 900 Sub-unit seats, there are 18 seats that have been vacant at least 90 days. Of those 18 vacancies, one name was introduced at the August 5, 2008, Common Council meeting; at least two names will be introduced at the first meeting in September; two are alternates; and two are appointed by bodies other than the Mayor's Office.

Plant said the vacancies do not exist for lack on trying on the part of the Mayor's Office. He said staff meets at least monthly to discuss vacancies, and they and the Mayor make phone calls at least once a month to solicit volunteers to serve. He said sometimes people say "no," and sometimes there are specific restrictions on a seat that makes it difficult to fill. For example, there is currently a vacancy for an alternate on the Parking Council for People with Disabilities that requires the appointee to be a person who is disabled, has special parking plates and is a regular transit user.

Plant said the Mayor's Office does solicit information from staff assigned to Sub-units and asks alders for suggestions, adding that the Mayor is interested in formalizing that process by affirmatively sending an email to staff and alders requesting their input when longer-term vacancies exist.

Rhodes-Conway said she knows the Mayor's Office receives unsolicited applications. She asked Plant to talk about the relationship between those applications "sitting in the files" and vacancies. Specifically, she wondered if there are vacancies for which there are applications in the files. Plant said that at every committee appointment meeting in the Mayor's Office, they go through the list of committee vacancies and the list of people who've expressed an interest in serving on those committees. Sometimes there aren't any applicants interested in the committees with vacancies.

Konkel said she knows a lot of people who have applied for a committee but are offered an appointment to a different committee, which often results in them not staying on the committee for very long. Plant asked if she has any specific examples of this. He said the first question they ask a person is, "Do you want to serve on _____ body?" and many times, the answer is no. Konkel offered the example of Dr. Carl Silverman. She said he applied to be on the Health Board and was appointed to the Community Development Block Grant Commission instead.

Rhodes-Conway brought the subcommittee back around to the question at hand: Is it the will of the body to make a change to the language they've proposed? Konkel said no, because she thinks it's an important check and balance. She added that she thinks the Mayor's Office can get vacancies filled in 90 days, and this proposal will keep the pressure on to make sure that gets done.

Plant said the Mayor understands the impetus to fill these seats. He noted that, currently, the roughly 10 seats that have been vacant 90 days or more that the Mayor has the authority to appoint (that aren't alternates) represent a vacancy rate of less than 2%. He added that there will always be some vacancies and some difficulty in making appointments. He said the checks and balances are already in place, because the Mayor's appointments require Common Council approval. He reiterated that the Mayor is very sincerely interested in getting all vacancies filled as quickly as possible, that he would like to get names of viable candidates as quickly as possible, and that the Mayor's Office is actively pursuing candidates for every open seat.

Clausius said he would like the Council as a whole to see a report detailing the 10 appointments Plant mentioned so they can get a better idea of the appointments that are problematic. He said he agrees with Rhodes-Conway and Konkel that they should take a stand on it.

Rhodes-Conway said it appears to be the will of the body to leave the proposal in for the time being. She requested that when the subcommittee's final report goes to the Common Council Organizational Committee (CCOC), staff have one of the "snapshot" reports that Plant mentioned available so the CCOC can see what kind of information it really provides. She also said it would be useful to see a memo from the Mayor's Office detailing the ways in which the office wishes to go forward in terms of soliciting input for appointments.

- b. Continue discussion of staff committees.

Development Assistance Team

Murphy said it's his understanding that the subcommittee is interested in making the Development Assistance Team (DAT) subject to some type of open meetings requirements. He distributed a memo he'd written addressing that proposal, and he highlighted some of his concerns:

- Continued effectiveness of the team if it becomes subject to open meetings requirements.
- Increased workload.
 - Recordkeeping associated with public meeting requirements (e.g., who will be custodian of the materials?)
 - Likelihood of additional inquiries (e.g., public, media).

Murphy said a wide variety of projects go to DAT: conditional uses, permitted uses, subdivision plats, etc. DAT allows applicants get advice from multiple agencies at the same time, including Planning, Engineering, Fire, Parks and Streets. He didn't want to do anything that would decrease the effectiveness of the team or discourage applicants from going to the team.

Rhodes-Conway reminded the body that they have identified three categories of staff committees:

- Those which should be in ordinance and should comply with all the rules of Chapter 33.
- Those which should be in ordinance, should be publicly noticed and should comply with some but not all of the rules in Chapter 33.
- Those which should be in ordinance and should be publicly noticed but should not be subject to any of the other Chapter 33 requirements.

She asked May to review the requirements of "public notice." He said the bare minimum would be to notice that the body is going to meet at a certain time and place and to have an agenda. She asked about the minimum requirements for an agenda. May said it should give such notice that the public is reasonably likely to know what's going to be taken up at the meeting. In the case of the DAT, he said such notice would be to list the project(s) scheduled for discussion. He added that he hasn't checked into whether it's enough to notice a meeting and put up an agenda, but then do nothing further (e.g., minutes).

Konkel asked if the projects discussed at DAT are pre- or post-application. Murphy said 90% or more are pre-application. She asked if alders get invited. He replied not usually, adding that he couldn't say not ever. Konkel said her biggest concern is that alders don't know what's going on. Murphy said Planning staff meets frequently with alders and developers, reiterating that the DAT is there to provide technical advice to developers so their projects can meet ordinance requirements.

Rhodes-Conway said the subcommittee's primary concern is that alders don't know when something from their district is coming before the DAT, and this proposal would be one way for them to find out. Murphy said they could add alders to the list of people who are notified about the DAT meetings. He said Planning's primary concern is that the DAT is allowed to continue functioning in the way it has been. Rhodes-Conway asked him if he thinks noticing the meetings and posting agendas would have a chilling effect, and he replied that is a concern.

Rhodes-Conway presented two options to the subcommittee:

- 1) Leave proposed language as it is, making the DAT subject to publicly noticing their meetings and posting agendas.
- 2) Strike the proposed language and ask staff to begin a practice of inviting alders to the DAT when a project in their district is being discussed.

Konkel favored option 2, but asked that alders be notified of all projects coming to the DAT, not just the ones from their districts. Clausius agreed. Rhodes-Conway said the recommendation about the DAT would be removed from the final report.

Neighborhood Resource Teams

Plant said he's heard concerns from some Neighborhood Resource Team (NRT) leaders about a "chilling effect" on information that's shared by staff members. He said NRTs are not policymakers, they're frontline staff from a variety of agencies. They are concerned that if they are required to publicly notice their meetings, people will be less likely to fully participate, especially where confidential issues are concerned. Plant noted that new issues are frequently identified for the first time at NRT meetings, pointing out that this could be procedurally problematic because they wouldn't be on the agenda and, therefore, couldn't be discussed.

Rhodes-Conway said that NRTs are not made up solely of City staff, that members of the public are invited. She wondered who is making the decision about what non-City staff is invited and where the line is drawn, particularly since confidential information is being shared and discussed. She said she has mixed feelings about whether or not to require NRTs to notice their meetings, and Konkol agreed with that.

Plant reiterated his procedural concern about agendas. Rhodes-Conway said it isn't the intent of the subcommittee to create a situation where the NRTs have to develop elaborate agendas. Rather, the intent is to let people know the meeting is going on so if they do have a compelling interest, they can be there. She said the subcommittee is struggling with how to do that under existing Open Meetings law.

Rhodes-Conway asked the members if they want to recommend requiring the NRTs to publicly notice their meetings. Clausius said no. Rhodes-Conway said she tends to agree, citing potential issues with noticing. It was agreed to remove the recommendation about NRTs from the final report.

Privilege in Streets Committee

May said there are a couple of vague references to the Privilege in Streets Committee but no details about its duties. He discovered that they've sort of disappeared over the last couple of years; it's not really even a committee anymore. When there's a privilege in streets issue, staff fires a few emails back and forth and a decision is made. May said when his office runs across things like this in the ordinances, their practice has been to change it to the name of an employee or officer who's in charge of it. Rhodes-Conway asked who Privilege in Streets should be changed to. May said he'd guess it should be the City Engineer.

Konkol asked what Privilege in Streets does, and May replied that it deals with street encroachments. She wanted to know if the items they review go to the Common Council for final action. May said they do, as an item in the Report of the Board of Public Works.

Rhodes-Conway asked if it's the will of the committee to remove the recommendation about Privilege in Streets from the final report and to ask the City Attorney to replace all references in the MGO from Privilege in Streets to (presumably) City Engineer. There was no disagreement.

Paratransit Operations (Metro)

The subcommittee reviewed the email from Chuck Kamp, Metro Transit Manager, regarding the duties of the Paratransit Operations staff committee. It was determined that the committee does not hear appeals about denial of paratransit services, and the members decided to remove the recommendation about that staff committee from the final report.

Technical Advisory Committee (Water)

May said he had talked to Joe Grande, Water Quality Manager, about the Technical Advisory Committee (TAC). Grande said that Water Utility staff takes issues to the TAC,

a panel of experts, and then staff report back to the Water Utility Board. May said Grande's concern about noticing the TAC's meetings was that members might not feel they could speak as freely if the public were present, and staff might end up getting less information. Konkel said that happens all the time – things aren't said in a meeting and are related to staff later. Rhodes-Conway said the argument would be that we've asked these experts to give us their best advice, and it shouldn't be their responsibility to give us one set of advice in a public meeting and then to come back separately with another set of advice.

May said he hadn't explored this at length with Grande, but Grande didn't feel they were "dealing with the public." Except, Rhodes-Conway observed, the TAC does formally convene and the names of the members are published. And, May added, they prepare reports that go to the Water Board. Rhodes-Conway asked if Grande would be comfortable having the Water Board at the TAC meetings. May said he hadn't asked Grande that.

Clausius asked if the TAC is strictly advisory or if they actually vote on issues. May said they're advisory only, reporting to the Water Board, adding that the TAC reports are publicly noticed on the Water Board's agendas. Konkel said her concern would be if they're advising about potential policy. Clausius said he thinks more information is needed. May agreed.

Rhodes-Conway asked the members if they want to leave the recommendation about the TAC in the final report and ask for input at Common Council Organizational Committee (CCOC) or take it out and ask for input at CCOC. May said he'd told Grande that he would recommend leaving out the recommendation. Konkel said she'd rather leave it in as a placeholder. Rhodes-Conway and Clausius agreed with Konkel.

- c. Training of City staff, members and chairs of City Sub-units, and alders. Rhodes-Conway summarized the specific committee support staff training issues the subcommittee has identified thus far:
- How to effectively work in Legistar, including how to deal with non-Legistar bodies.
 - How to take minutes, including standards on the level of detail needed.
 - How to get things entered into Legistar in a timely fashion.
 - How to operate by Robert's Rules.
 - How to follow Open Meetings Law.
 - How to comply with public record requirements.
 - Guidance on working with the chairs of committees.
 - Guidance on working with the alders on the committees, including sponsorship issues.

Rhodes-Conway proposed the following recommendation: City committee support staff is required to train in the areas listed above every three years, with optional yearly "refresher courses" for those who so desire. The members were all in agreement with this recommendation.

Rhodes-Conway asked the subcommittee if they think training for members and chairs of Sub-units should be separate or if everybody should get the same thing. May said that right now, everybody gets the same training, adding that a portion of the Robert's Rules training does cover how to run a meeting. Konkel said she thinks it makes sense for the chairs and staff to train together. Rhodes-Conway suggested inviting chairs to the staff training.

Rhodes-Conway summarized the specific committee member training issues the subcommittee has identified thus far:

- Understanding the role of alders who are on a committee.
- Understanding the ex-officio role of alders.
- Understanding the rules of procedure.
 - Affirming operating rules on a regular basis.
 - Notifying new members of the operating rules.
 - Registration.
 - Public testimony.
 - When and how members ought to abstain.
 - Chairs must restate the motion before a vote is taken.
- Sponsorship of legislation.
- How to get something onto an agenda.
- Role in the budget.
- The way things move through the City process.
- General role and responsibilities of members.
- Ethics.
- Robert's Rules.
- Open Meetings law.
- Public records.
- Separate training for members of quasi-judicial Sub-units.

Rhodes-Conway asked the members if they were comfortable with listing these training items in the final report, with the recommendation that they be added to the existing committee member training. She also asked the members if they want to require that committee members attend training. May pointed out that committee member training currently runs about two or three hours, noting that these additional items would likely add another hour. Konkell said she thinks August isn't the best time to hold committee member training. She asked to add a recommendation that the Mayor's Office consider a different time of year.

Rhodes-Conway proposed the following recommendations for the final report:

- Add the list of training issues to committee member training.
- Ask the Mayor's Office to consider offering training more than once a year, and having at least one of those times not be in August.
- Consider breaking up the training into multiple sessions.
- Keep track of committee members who have attended training and place greater emphasis on encouraging those who have not attended training to do so.

d. Review of draft final report.

Konkell said she thinks the report looks very good, but that she had not gone back and compared it to her notes to see if anything is missing. Clausius agreed that it looked good. Rhodes-Conway said she had done some comparison with her notes and made the following comments:

- On page 1, add Debbie Fields, Council staff, to the section acknowledging and thanking City Attorney Mike May.
- On page 2, no more information about Joel Plant's role is needed.
- On page 3, add that Brad Murphy, Planning Unit Director, attended the August 7, 2008, meeting.
- On page 3, revise the notation about Carole Schaeffer, Smart Growth Greater Madison, to reflect that she attended the July 3, 2008, and the August 7, 2008, meetings.
- On page 4, make changes to the section about staff committees as discussed at this meeting.
- On page 6, add the training recommendations discussed at this meeting.
- On page 6, regarding the Action Plan for Implementation:

- Start with the two proposed ordinance changes, including the City Attorney's Report.
- Add a request to the Mayor's Office to issue Administrative Procedure Memoranda regarding the training recommendations.
- Ask staff from the Mayor's Office, the Common Council Office, the City Clerk's Office and the Office of the City Attorney to incorporate the template and have it be part of the training for committee support staff.
- A memo from the Mayor's Office regarding recruitments, to include language about getting more input from alders.
- The memo regarding new committee names should go to the Mayor, Common Council, the members of the affected committees, and the City staff who use Legistar.

Rhodes-Conway pointed out that the subcommittee had not yet made a decision about the proposal to revise Sec. 3.30(2) regarding residency and committee appointments. Konkell said she is strongly in favor of retaining the higher threshold for non-city residents. Hearing no dissent, Rhodes-Conway said the subcommittee would not recommend changing the current requirement of a two-thirds vote.

e. Next steps/implementation.

Rhodes-Conway said if it's the will of the committee, the body can meet one more time to look at the second ordinance change and a final draft of the final report. The members agreed to have one more meeting in September as follows:

- In a larger room.
- Review the last draft of the final report, drafts of the two ordinance changes and drafts of all the appropriate attachments, such as the template.
- Disseminate all these materials far and wide to all of the affected committees.
- Take a final vote on everything.

6. **ADJOURNMENT**

Konkel moved adjournment, seconded by Clausius. The motion passed unanimously, and the meeting adjourned at 5:55 p.m.