



**City of Madison**  
**Meeting Minutes - Approved**  
**Common Council Organizational Committee**  
**Subcommittee on Committee Creation and**  
**Committee Rules**

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

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Thursday, January 31, 2008

4:00 p.m.

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

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**1. CALL TO ORDER**

The meeting was called to order at 4:06 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. Michael Schumacher, Ald. Joe Clausius (4:10 p.m.).

**Absent:** No absences.

**Others:** 3 – City Attorney Michael May, George Twigg (assistant to the Mayor), Debbie Fields (staff to the subcommittee).

**3. PUBLIC COMMENT**

No members of the public were present at the meeting. Schumacher, however, announced that he had talked to Ald. Mike Verveer, Common Council President, to request that he be made a full member of the subcommittee instead of an alternate. He indicated that Ald. Verveer agreed to the request as on Tuesday of last week.

**4. APPROVAL OF MINUTES**

Schumacher moved approval of the January 17, 2007, minutes, seconded by Konkel.

Twigg pointed out paragraph 3 on page 4 of the minutes, which described Rhodes-Conway's summary of the subcommittee's decisions about 33.01(5)(d) and (e):

1. Keep 33.01(5)(d).

2. Flag 33.01(5)(e), and call it out specifically on the next agenda as a discussion item.

He noted that the Mayor is definitely not on board with 33.01(5)(d), but that it is less of a concern than 33.01(5)(e). Since this portion of the minutes only reported on Rhodes-Conway's summary of the members' decisions, not statements made by Twigg about the Mayor's opposition to 33.01(5)(d) and (e), the minutes did not need to be amended.

The minutes were approved unanimously.

**5. DISCUSSION ITEMS**

a. Future meeting dates.

Rhodes-Conway asked Twigg if Pam Williamson, Mayor's Office, would be joining the meeting. He replied that she was not available for today's meeting and would not be able to attend on February 7, either, but that she was very interested in the subcommittee's discussions. He added that she is working with Information Technology to put together a report about committee vacancies.

Rhodes-Conway asked Fields to contact Williamson and get a sense of which items on the work plan she is most interested in or would have the most input on so the subcommittee could possibly schedule a meeting on a date when she's available to talk about just those items. She

reminded everyone that the last portion of the work plan involves compiling all of the subcommittee's recommendations and getting feedback from the appropriate people, indicating that as an opportunity for Williamson to comment, too.

The members discussed their availability and decided on the following dates:

- Thursday, February 28, 2008  
8:30 a.m. – 10:00 a.m.  
City-County Building, Room 417  
210 Martin Luther King, Jr. Blvd.
- Thursday, March 13, 2008  
3:30 p.m. – 5:00 p.m.  
City-County Building, Room 417  
210 Martin Luther King, Jr. Blvd.
- Thursday, March 27, 2008  
4:00 p.m. – 5:30 p.m.  
City-County Building, Room 417  
210 Martin Luther King, Jr. Blvd.

Rhodes-Conway asked Fields to survey the members regarding their availability to meet in April.

- b. Continue discussion about Madison General Ordinances Sec. 33.01(5)(e): Rejected Appointments.

At Schumacher's request, Fields distributed handouts describing how appointments are made to certain committees, commissions and boards in San Diego, California, and Las Vegas, Nevada. Schumacher explained that a number of municipalities share the responsibility of appointments, giving the primary responsibility to the Mayor's Office. In other municipalities, such as Las Vegas, each individual Council member has the authority to nominate people for appointment to certain committees, subject to Council approval. Schumacher said he is not proposing anything like the Las Vegas model. San Diego allows its Council to make an appointment if the Mayor has not appointed someone within 45 days of when the vacancy occurred, and Schumacher said that is more in line with what he is proposing in 33.01(5)(d), except he would set the bar at 90 days. He further said it was not his intent that the 90 days be a kind of gimmick, where the Council would keep rejecting Mayoral appointments to get to the 90 days so it could make its own appointment. Rather, if the Council rejected a Mayoral appointment, the 90-day clock would start over again. Schumacher said he sees his proposal as tool to fill vacancies that the Mayor has not proposed appointments for within 90 days of the vacancy occurring.

Rhodes-Conway said her sense from the January 17, 2008, meeting is that the subcommittee is in fairly strong agreement about (d), but that they wanted to talk today about (e), noting that while the Mayor's Office doesn't like (d), they strenuously object to (e). Twigg said he'd talked to the Mayor again that day about (d) and (e), and the Mayor wanted to make clear his strong objection to both proposals. Twigg said that in the case of the 90-day appointments, the Mayor has gotten very little feedback in the past about this being a problem, and he feels this is a very radical step to take. If there were problems, the Mayor would prefer to see us work with Pam Williamson, making an additional effort to get these slots filled more quickly, rather than writing something into an ordinance.

Regarding the proposal about rejected appointments, Twigg said the Mayor again feels there hasn't been a situation that shows a need for this ordinance change to take place. The Mayor also believes this creates an incentive for rejection of his appointments. Schumacher noted that he's proposing a big threshold – two-thirds – so the Council can't reject appointments lightly. Twigg reiterated that the Mayor doesn't see where there's anything in past history that would call for going this far.

Schumacher said (d) is really the more important element for him. He recalled that Konkel had an example of where (e) comes from. Konkel said that she wondered what happens on the

Council floor when someone's name is submitted, things happen in the interim (before confirmation), and there is agreement to substitute another name. She recalled that May said the Council couldn't do that, but she also recalled that it has happened, adding that no one disagreed, so it hadn't been a problem. Konkel predicted that such things are going to happen, and she wanted to know if there isn't some way to deal with those cases where there is a conflict. Rhodes-Conway said the current process would be for the Council to call out specific appointments and reject them, and then the Mayor gets another crack at it. Twigg said if that were to happen, the Mayor would have to come to the alders who voted against the appointment and ask what they're looking for in order to better accommodate that. He also questioned whether that's happened often – the Council rejecting nominee after nominee. Clausius and Schumacher asked if that had happened recently. Konkel said no one wants to pull out someone's name and embarrass them. She said she believes there are questionable appointments being made and that it's increasingly becoming a problem.

Konkel said there may be times when an appointee is rejected due to lack of information about him or her. Rhodes-Conway said if the Council pulls someone's name out for discussion, that should be the Mayor's opportunity to make his case for the appointment and the Council's chance to say yes or no to it. Konkel didn't know if the Mayor would be prepared to do that, saying he might not have the person's résumé, etc. at hand at the Council meeting. Rhodes-Conway said it could be referred to the next meeting. Konkel said it just comes back with no new information.

Rhodes-Conway summarized the issues the subcommittee had been discussing:

- Council access to more information about appointees. She thought this might involve a culture change, making it acceptable to pull off someone's name and ask staff why this person is an appropriate choice.
- If there really is a conflict, what is the best way to handle it? She didn't see any reason why the current system couldn't work, if the Council actually exercised its ability to vote people down.
- Schumacher's proposal that the Council have some appointment authority.

She said she thinks (e) is the coming-together of two different movements: The Council having input into the initial nominations of people on various committees, and concern about what should be done when there is conflict between the Council and the Mayor's Office about an appointment.

Schumacher suggested that maybe appointments should go through a CCOC review first before being introduced to the Council. Konkel said that might be one way, adding that she's also thinking about Schumacher's other idea that once a nominee has been rejected, that name can't be brought back again. She thought there needed to be a clarification between referring and rejecting.

Rhodes-Conway suggested heading in the direction of the following language for (e):

"The Council has options when presented with an appointment. The Council can confirm the appointment; the Council can reject the appointment outright and, in the case of rejection, that name can't be brought up for appointment to that position for x amount of time; or, the Council can refer the appointment back to the Mayor's Office with whatever comments it desires to make. In this last case, the Mayor's Office can come back with the same name or with someone different."

Twigg asked if there had ever been a case where the Council had rejected a nominee and the Mayor's Office had re-nominated the same person. Konkel said no, because the Council never votes someone down, it just refers the appointment back to the Mayor's Office, where it may or may not get worked out.

Rhodes-Conway said her concern with sending appointments to CCOC first is that it's relatively hard to get people to serve in these roles anyway, and this adds another level that extends the already lengthy amount of time it takes to get appointed. She asked if there was any objection to having the City Attorney prepare an alternate (e) as she'd outlined previously. There was no

objection, but Schumacher said he thought there should be some sort of time frame for bringing back a name that had been rejected. The members decided that a rejected name could not be re-nominated for that particular position for a period of six months.

Schumacher said he thinks that alders' terms, as set forth in 33.01(5)(g), should be concurrent with their aldermanic term, not for two years. He explained that there are instances where an alder is appointed midway through his or her aldermanic term and may not have two years left to serve on the committee.

May recalled situation that had come up before, which he thought could now be resolved by placing it under (g). Specifically, that a Mayor can't appoint a position the term of which commences after the mayoral election.

Rhodes-Conway asked if there was any further discussion on (3). Twigg asked if it is the subcommittee's intent to keep the 90-day vacancy proposal. Rhodes-Conway replied that is.

c. Review Madison General Ordinances Sec. 33.01(7): Attendance, Quorum and Voting. Schumacher asked if the 15-minute rule is a statute. May said it is the City's rule. Schumacher said he's been on committees where this was an issue and where five minutes could make a positive difference in achieving quorum. Konkel remembered that the CCOC Subcommittee on Public Input and Access wanted to give an extra 15 minutes to people with disabilities. Schumacher said sometimes there are logistical issues (locked doors, change in room, etc.) that can eat up 15 minutes very quickly. Rhodes-Conway said it's a question of balance for her – how long is it okay to make the people who show up on time, every time, wait for the ones who are late? She acknowledged that there are lateness issues to which she's sympathetic (rides, access, etc.), but she still wondered how much leeway should be given in accommodation. She said if there was a strong feeling among the subcommittee that it should be extended from 15 minutes to 20 minutes, she was willing to discuss it, but she thinks there's a real potential for "creep." Schumacher said he would prefer 20 minutes. Clausius suggested they think about it. He said he likes the idea of 20 minutes but agreed with Rhodes-Conway that "creep" would most likely occur. Rhodes-Conway said she would add it to the list of outstanding issues.

Rhodes-Conway asked if there were comments or questions on 33.01(7)(b), which authorizes the Mayor to take action regarding attendance. Konkel raised a few issues:

- The ordinance says the chair shall report to the Mayor, but it should say to the Mayor and the Common Council Office.
- There is no way to enforce the provisions of (b).
- "A member is absent" should maybe be changed to "A member not available to make quorum." She gave an example of a committee on which she served where there were two alders who never showed up, so the committee could never make quorum. She explained that in such an instance, the missing members are not counted as absent because no meeting was held.

Rhodes-Conway said to her it feels like an issue of practice, not an ordinance issue – training the people who staff committees to keep track and report and encouraging the Mayor's Office to be more stringent about attendance. She asked May if this ordinance gives the Mayor's Office an extra "hammer" or if it is just a statement of practice. May replied that there is no legal hammer, adding that to actually remove a committee member requires a hearing before the Common Council. Clausius described a situation on a commission on which he'd served, where a member just didn't show up for almost a year, and the Mayor simply didn't reappoint that person. He said he believes that's what is usually done.

Schumacher asked what the statutes say. May said he would look it up. He also said the subcommittee could add the following to the ordinance:

- The staff will assist the chair in making attendance reports.
- The reports will go to the Mayor's Office and the Common Council Office.

- Failure to appear for three of four consecutive meetings where there is no quorum shall result in being reported to the Mayor's Office and the Common Council Office.
- Rhodes-Conway asked May to draft all of those provisions.

Schumacher suggested a "Kindergarten" approach, where a committee member's failure to show up gets brought up before the Council. May suggested language stating, "If the Mayor is unsuccessful in his efforts to secure attendance, the Mayor shall recommend to the Council that the member be removed from the committee." Twigg pointed out that it's unclear whether or not a member can actually be removed. Rhodes-Conway asked May to research that point. May asked the subcommittee if it wants him to draft a provision that would involve some sort of public declaration before the Common Council about a member's chronic absences. Rhodes-Conway said yes. May reminded the subcommittee that, annually, the Mayor suggests getting rid of committees that don't meet and suggested this might be a good time to make a report of any persons who've been referred to his office pursuant to this section.

Schumacher said he understands why, under the section about quorum, it specifies the "authorized voting membership," with even vacant positions being counted, but he does believe it's part of the problem that committees have faced. On the other hand, he said if vacant seats were not counted, it could potentially result in a three-member committee, which means it would only take two people to make a decision, and he sees that as a problem, too. Rhodes-Conway said she has the same issue, and falls down at the same place: If you allow quorum to be whoever's appointed, you could potentially have a very small number of people making decisions. Konkell suggested saying quorum constitutes the majority of the people appointed as long as it's two-thirds of its authorized membership. She allowed that wouldn't help in the case of smaller committees but felt it was at least a step toward addressing the problem.

Rhodes-Conway said that the other way to think about this is to deal with getting vacancies filled and dealing with members who don't show up, and she noted that the subcommittee has already addressed those two issues. She said she was inclined to keep the quorum requirements as they are and work on getting quorum through other methods. May said he would be reluctant to mess around with this, because it would effectively be making a smaller committee.

Rhodes-Conway asked the members if they could cross this one off the list. There was no objection.

Regarding 33.01(7)(d), Konkell said she has an issue with "an affirmative vote of not less than a majority" when a lot of people abstain. She noted that it's happening more and more and used the Urban Design Commission as an example. On that body, there are a lot of architects who have to abstain because of conflicts and, when too many people abstain, there isn't a majority affirmative vote. She asked if there could be an exception for conflicts of interest. May said he seemed to recall some case law and would check on the rule.

Konkell asked about members leaving the room: Are they then no longer in attendance? May said they can't come back if they leave. Schumacher said Ald. Zach Brandon will sometimes leave the room just during discussion about a liquor license and return afterwards. Rhodes-Conway said that's his way of recusing himself, and he is recorded as an abstention. May said he would look into the question.

Konkell said she was interested in following up on May's statement that if a member leaves the room, he or she can't come back. May said his point was that you can't use leaving as a strategy to get around this rule, and he gave the following example: In the case of a 7-member commission voting on an item, a majority of the quorum would be 3 votes, and a majority of the members in attendance would be 4 votes. If 2 people say they have some kind of conflict and leave during that item, they are no longer in attendance, and the majority of those in attendance drops to 3 (out of 5), which is also a majority of the quorum. Then the 2 come back, saying they

didn't have to go after all. May said he thinks that's playing fast and loose with the rule. Konkel agreed, saying she wants to know where the rule is, though.

Schumacher wanted to know how the rule applies if a member misses a vote because he or she was in the bathroom. May said missing a vote could happen innocently, pointing out that his previous example was of an intentional act. He said he couldn't say it was illegal, just that it didn't "smell good."

Rhodes-Conway said the subcommittee would take up Sec. 33.01(8) at its next meeting and then continue with the work plan, item #1(e). Twigg said that once he gets a report from Pam Williamson or Information Technology about the 90-day vacancy situation, he would want to revisit that discussion.

d. Review Madison General Ordinances Sec. 33.01(8): Minutes and Rules of Procedure.  
The subcommittee did not have time to discuss this item.

e. Continue with work plan, item #1(e): Operation of each body.  
The subcommittee did not have time to discuss this item.

## **6. ADJOURNMENT**

Schumacher moved, seconded by Clausius, to adjourn. The motion passed by acclamation, and the meeting was adjourned at 5:05 p.m.