



# City of Madison

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

## Meeting Minutes - Approved AFFIRMATIVE ACTION COMMISSION

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Tuesday, January 11, 2011

5:00 PM

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

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### 1. CALL TO ORDER / ROLL CALL

The meeting was called to order at 5:07 p.m., Theola Carter presiding.

**Present:** 7 -

Ald. Joseph R. Clausius; Sharyl J. Kato; Theola V. Carter; Donna V. Hurd;  
James J. Chiolino; Toriana T. Pettaway and Lucia Nunez

**Absent:** 2 -

Augustine S. Tatus and Michael M. Johnson

**Excused:** 2 -

Bert G. Zipperer and Tonya A. Ellis

Staff Present: Davis, McNair, Nuñez, Thiele, and Wick

### 2. APPROVAL OF MINUTES

A motion was made by Clausius and seconded by Kato to approve the Minutes of the October 26 meeting. Motion passed by voice vote/other.

### 3. PUBLIC COMMENT

None.

### 4. DISCLOSURES AND RECUSALS

No Commissioners had any conflicts to disclose.

**Present:** 8 -

Ald. Joseph R. Clausius; Sharyl J. Kato; Theola V. Carter; Donna V. Hurd;  
James J. Chiolino; Michael M. Johnson; Toriana T. Pettaway and Lucia Nunez

**Absent:** 1 -

Augustine S. Tatus

**Excused:** 2 -

Bert G. Zipperer and Tonya A. Ellis

### 5. [14148](#)

DIRECTOR'S REPORT- Presented for information only. No action required

Lucía Nuñez, DCR Director, will report on the following:

- Her activities since the last meeting
- Staff activities since the last meeting
- Activities of the Equal Opportunities Commission and Commission on Persons with Disabilities since the last meeting.

Nuñez explained that the Common Council has adopted amendments to the Ethics Ordinance that requires all agendas to include an item for disclosure of potential conflicts of interest with an opportunity for Commissioners to recuse themselves on items that may create a conflict of interest for them.

Nuñez introduced Christina (Chrissy) Thiele to the Commission. Wick will be reclassified to the position of Disability Rights and Services Specialist. Thiele will take over staffing the Affirmative Action Commission meetings in February.

Commissioners introduced themselves.

Nuñez reported that she has been working with Ald. Michael Verveer who will be introducing an equal benefits ordinance for consideration by the Common Council. This ordinance will apply to City contractors and vendors. The Affirmative Action Division will have the responsibility of monitoring compliance with the ordinance. Minneapolis and San Francisco already have equal benefits ordinances. Details of the Madison ordinance will still need to be worked out. San Francisco employs six individuals to monitor compliance with their ordinance.

The ordinance will be referred to the Affirmative Action Commission for review.

The San Francisco ordinance includes language allowing for payment of the cash equivalent for benefits. Dane County already has adopted a similar policy and San Francisco has had their policy since about 1996.

Finding insurance companies willing to provide the insurance benefits required by the ordinance may be problematic and may require a grace period for enforcement. The threshold for application of the ordinance (i.e., size of contract and/or number of employees) has yet to be determined. There may also be a size exemption for purchase of goods for vendors.

6. [14091](#)

DIVISION MANAGER'S REPORT

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

Davis reported that the Affirmative Action Commission has completed hearings for vendors who had not filed their Affirmative Action Plans. Four vendors were found to be non-compliant and were disbarred.

There was also one appeal by a Targeted Business Enterprise. Living Landscapes, LLC was determined to be a Small Business Enterprise, but was denied as a Woman Business Enterprise. The necessary certification has been issued.

The City is getting a new financial system. It is hoped that the new system will include a provision to notify the Affirmative Action Division when a vendor reaches the expenditure threshold.

Davis has had a persistent presence at the table where the new financial system is being discussed/designed in an effort to be sure that the Affirmative Action Division will be notified when a vendor reaches the expenditure threshold. There is now some question as to whether this will be feasible. A demonstration of the new system is scheduled for February.

Davis also provided updates on the Truax Redevelopment Project. The 14 hires from the neighborhood will be maintained. The Burr Oaks Housing Project has a 30% goal set. To date the contractor has used 36% DBE, MBE, and WBEs. This is the highest rate achieved on any project to date.

A Job Fair has been scheduled for January 28. Notice of the Job Fair will be shared with Commissioners. Work has already started and there will be at least 12 subcontractors and 12 hires.

A prevailing wage claim was filed against a contractor. It has been determined that proper language was not included in the contract and the City will be liable to cover the wages. The ordinance is being redrafted to correct this problem.

The Truax Project will have jobs in every trade. Any time a contractor is on site (or at another location) the employees should be scheduled to work. The same is true for the Burr Oaks Project.

Davis will send out information on the number of Asians that applied and were hired on projects for 2004-2009.

7. [07972](#) COMMON COUNCIL UPDATE BY ALD. CLAUDIUS--Presented for information only. No action required.

Ald. Claudius reported that the Truax Project is a \$60 million project.

The operating budget is complete. It is \$248 million. Next year, work needs to be done to expand the tax base. That did not occur this year, primarily due to the economy.

The Edgewater Hotel lawsuit was resolved in the City's favor. There may still be time for that decision to be appealed.

Redistricting of aldermanic districts will occur this year based on the Census. Committee membership on redistricting has yet to be announced.

Claudius indicated that he is running for reelection.

8. **REPORT OF AAC APPEALS COMMITTEE ON DECISIONS MADE ON SBE/WBE CERTIFICATION**

See Division Manager's Report above. Carter indicated that she did her best to be sure that every Commissioner had a chance to participate on at least one appeal.

9. [19683](#) Commission Attendance

**Attachments:** [Board, Comm and Comte Attendance Rpt2.doc](#)  
[Attendance Report.pdf](#)

The Commission reviewed attendance reports. The November meeting was cancelled due to the budget schedule and AAC hearing schedule.

Carter will discuss the attendance records of appropriate Commissioners with Nuñez and notify the Mayor if necessary.

There are currently three vacancies on the Commission—one regular membership and two for alternates. Nuñez is working on recruiting for these vacancies.

Commission attendance will be placed on the agenda on a quarterly basis.

It was agreed that meetings could be cancelled when there is not enough business on the agenda to make meeting worthwhile.

Commissioners were asked to notify Nuñez if their schedule no longer permits them to attend meetings.

**10. Department of Civil Rights Affirmative Action Division 2009 At-A-Glance Program Report**

Davis stated that he would email the requested information to Commissioners. The topic will be included on the next agenda in case Commissioners have questions relative to the information that is emailed.

**11. Presentation by Colier McNair on Prevailing Wage**

Colier McNair, Contract Compliance Monitor, made a presentation on the Prevailing Wage Program.

The program looks at the hourly basic rate plus fringe benefits whether paid directly or indirectly for time on City projects.

The Davis Bacon Act, originally adopted in 1931, is the basis for monitoring wages. It affects most workers on public works projects. This is the most controllable factor that can be used in the bidding process and it prevents underpaying workers in order to turn in a low bid.

The Davis Bacon Act was amended in 1935 and 1964 to add fringe benefits. A 1984 amendment added the Head Start program. The types of businesses monitored include Building or Heavy Construction, Sewer, Water or Tunnel Construction, Local Streets or Miscellaneous Paving Construction, Airport Pavement or State Highway Construction, and Residential or Agricultural Construction.

McNair provided a handout showing the types of projects monitored in 2010. It indicated:

Public Works: 100  
Façade Improvement: 40-45  
Tax Incremental Financing (TIF): 2  
Rental Rehabilitation Loan: 1  
Water Utility (see Public Works)  
Community Development Block Grant: 8-9  
Madison Metro: 3  
Capital Improvement Loan: 3  
Special: 1  
CDA: 3  
Parks (see Public Works)

McNair indicated that normally CDBG monitors its own projects.

To determine if a contractor is in good standing, on-site reviews are conducted annually. The Contract Compliance Monitor interviews the foremen and other employees. The Monitor may preschedule a visit or visit unannounced.

Signs must be posted to inform workers they are on a prevailing wage job. As the result of monitoring, back wages may be ordered.

The Monitor examines certified payroll reports. The Monitor is always very concerned with conducting monitoring before any final payments are made on a project. The prime contractor collects and submits affidavits and must list any subcontractors hired.

Generally, State rates are paid, but if the project is federally funded, the Davis Bacon rates are paid.

Public Works and Publicly Assisted Projects are monitored.

Two employees conduct the monitoring: Colier McNair and Austin Johnson. Johnson is an LTE and will be employed a maximum of four years. His wages are tied back to the projects he is hired to monitor.

**12. INTRODUCTION OF FUTURE TOPICS FROM THE FLOOR**

It was agreed to invite the new Director of Economic Development to make a presentation at a future meeting. An invitation will be extended.

Any Commissioners with other ideas for future agenda items should contact Christina Thiele via email at: [cthiele@cityofmadison.com](mailto:cthiele@cityofmadison.com)

**13. ADJOURNMENT**

The meeting adjourned at 6:30 p.m. on a motion from Pettaway and seconded by Hurd. Motion passed by voice vote/other.

Minutes prepared by Cindy Wick.