



City of Madison
Meeting Minutes - Final
COMMON COUNCIL
ORGANIZATIONAL COMMITTEE

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

Monday, August 8, 2005

4:30 PM

215 Martin Luther King, Jr. Blvd.
Room 260 (Madison Municipal Building)

*** * * SPECIAL MEETING * * ***

Others in Attendance: Michael May, City Attorney, George Twigg, Mayoral Assistant, Ald. Cindy Thomas, Ald. Mike Verveer, Ald. Judy Compton and Ald. Robbie Webber (Please note that registrants are listed in attachment)

CALL TO ORDER

Meeting was called to order at 4:33 p.m.

Present: Ald. Paul J. Van Rooy, Ald. Santiago Rosas, Ald. Zachariah Brandon, Ald. Isadore Knox, Jr., Ald. Larry Palm and Ald. Brenda K. Konkel

Absent: Ald. Austin W. King and Ald. Paul E. Skidmore

City Attorney's Presentation on new lobbying ordinance proposal
(see next page)

City Attorney Michael May reviewed the compromise language being proposed to the lobbying ordinance. The proposed compromise will be prepared as a third substitute amendment and initially discussed at the meeting of the Common Council Organizational Committee on August 8, 2005.

1. Broaden Exemption for Madison Businesses.

The proposed ordinance broadens the exemption for Madison-based businesses. Except as set out below, any Madison-based business lobbying through an owner, director, officer, or employee (who is not hired as a lobbyist), would be exempt from the ordinance.

2. Coverage for Fund Seekers and Developers.

Regardless of any other exemptions, any person seeking more than \$10,000 in funding (including TIF) from the City in a calendar year would be subject to the ordinance, as would any person lobbying on a development of more than 10,000 square feet of commercial space or more than 10 dwelling units. The City will establish a method of notifying these applicants of the registration requirements.

3. Limits of Business Exemption.

The business exemption is not available in a number of specific circumstances. These are:

- (a) Outside paid lobbyists;
- (b) Employees paid primarily to do lobbying (if an employee has no more than 5 days of contact with Covered City officials in a 6-month period, they are not a lobbyist);
- (c) Trade associations or organizations (Chamber of Commerce, Realtors Association) or public policy advocacy organizations (Tobacco-Free Dane County, NRA).

4. Common sense exclusions.

Persons living in their own single family or home or duplex seeking necessary zoning changes for improvements to their homes, and any person appealing their tax assessment to the Board of Review, are specifically excluded from the ordinance.

5. Clarifying Language.

Much of the standard clarifying language included in many prior drafts is carried forward, including that volunteers are not covered, that attorneys and architects do not have a blanket exclusion, that lobbyists and principals are required to provide information upon request of the City Attorney, and that training will be provided.

6. Lobbyists Filings.

The ordinance retains the obligation of both principal and lobbyist to make the appropriate filings, but places more of the burden on the lobbyist, rather than the

principal.

7. Reporting Periods, Other Clarifications.

The compromise moves to a 6-month period for reporting, to mirror the state law. A person who merely appears and registers at a public hearing without speaking is not lobbying.

Ald. Paul Skidmore arrived at 4:47 p.m.

Ald. Austin King arrived at 5:23 p.m.

Present: Ald. Paul J. Van Rooy, Ald. Santiago Rosas, Ald. Zachariah Brandon, Ald. Austin W. King, Ald. Paul E. Skidmore, Ald. Isadore Knox, Jr., Ald. Larry Palm and Ald. Brenda K. Konkel

Public Comment - Speaking Limit 3 Minutes

01826

Registrations from Special CCOC meeting held on August 8, 2005 on Legislative File No. 00059 - proposed changes to lobbying ordinance.

Attached to Legislative File No. 01826

***List of registrants at the 8/8/05 CCOC Special Meeting**

***Written comments from registrants**

***RealPlayer file of 8/8/05 CCOC Special Meeting**

Ald. Paul Skidmore left at 4:55 p.m.

Ald. Larry Palm left at 5:31 p.m.

Ald. Isadore Knox left at 5:45 p.m.

Present: Ald. Paul J. Van Rooy, Ald. Santiago Rosas, Ald. Zachariah Brandon, Ald. Austin W. King and Ald. Brenda K. Konkel

Absent: Ald. Paul E. Skidmore, Ald. Isadore Knox, Jr. and Ald. Larry Palm

Ald. Paul Skidmore returned to the meeting at 5:50 p.m.

Present: Ald. Paul J. Van Rooy, Ald. Santiago Rosas, Ald. Zachariah Brandon, Ald. Austin W. King, Ald. Paul E. Skidmore and Ald. Brenda K. Konkel

Absent: Ald. Isadore Knox, Jr. and Ald. Larry Palm

ITEM REFERRED FROM COUNCIL

00059

SECOND SUBSTITUTE - Amending Section 2.40(2)(e), (g), (h), (i), and (3)(e), creating Section 2.40(3)(i), amending Sections 2.40(6)(c), (7), (8), (9)(a), (10)(a), (11)(b) and (11)(e), creating Section 2.40(11)(f), amending Section 2.40(12), creating new Section 2.40(13), and renumbering current Sections 2.40(13) through (15) to Sections 2.40(14) through (16) of the Madison General Ordinances to modify portions of the lobbying ordinance.

A motion was made by Ald. King, seconded by Ald. Brandon, to Rerefer to the COMMON COUNCIL ORGANIZATIONAL COMMITTEE

Ald. Brenda Konkel asked if UW officials were exempt under the current proposal. City Attorney May indicated that UW officials were exempt. This included officials that came before committees on UW development projects (e.g. Gary Brown) because they are either public officials or employees. Ald. Brenda Konkel asked if this included the UW Research Park and UW Hospital. City Attorney May indicated that it included UW Research Park but that the UW Hospital was questionable. The UW Hospital has taken the position that they are a public entity but there was a decision by the 7th Circuit Court that hospitals do not qualify for certain benefits that come with being public bodies.

Ald. Brenda Konkel about the use of the word "commercial" and if that was different than the word "office". Planning and Development's definition of "commercial" is different from the definition of "office" and "manufacturing" and wondered if those words should also be included as well.

(d) "Business owner" means a person that conducts commercial or other business operations (including non-profit activities). For purposes of the exemptions set forth in sub. (3)(i) of this ordinance, all individuals who are owners, employees, directors or officers of a business owner are entitled to the business owner's exemption when acting on behalf of the business owner. The exemptions contained in sub. (3)(i)1.,a. of this ordinance shall only apply to business owners who own or lease real property located in the City of Madison which is used on a substantial and continuing basis for its operations.

2. In seeking approval of any development or redevelopment as defined in MGO § 20.04(8) located within the City of Madison that is reasonably expected to include over 10,000 square feet in a commercial establishment or ten (10) dwelling units.

City Attorney May indicated that "commercial" was intended to cover office and manufacturing. He would clarify the language.

Ald. Brenda Konkel had a question about liquor licenses and the language of "\$10,000 or more". Currently liquor license applicants pay the \$10,000 but then they apply for an economic grant to have the money refunded. Ald. Konkel asked if they are included in this proposal. Attorney Michael May stated that if the applicant hired an outside person they would need to file. Otherwise if they are the owner of a business and spend \$10,000 or less the owner would not be required to register. Ald. Zach Brandon pointed out that the actual cost for a liquor license was approximately \$10,641.

Ald. Brenda Konkel asked if non-profits were intended to be excluded from this proposal (e.g. CDBG and Community Service proposals):

1. In seeking direct cash assistance from the City in the form of a loan, grant, TIF assistance or contracts for the purchase of goods or services by the City (except in response to City requests for proposals or public works contracts) in an amount greater than ten thousand dollars (\$10,000) in a calendar year; or

City Attorney May indicated that these entities are subject to separate requirements and that was why the language was drafted.

Ald. Brenda Konkel had a question about "business owners" in the following section and how this would apply to, for example, Wal-Mart:

(d) "Business owner" means a person that conducts commercial or other business operations (including non-profit activities). For purposes of the exemptions set forth in sub. (3)(i) of this ordinance, all individuals who are owners, employees, directors or officers of a business owner are entitled to the business owner's exemption when acting on behalf of the business owner. The exemptions contained in sub. (3)(i)1.,a. of this ordinance shall only apply to business owners who own or lease real property located in the City of Madison which is used on a substantial and continuing basis for its operations.

She asked if only one Wal-Mart store would be covered under the "substantial and continuing basis" clause. City Attorney May stated they would be covered.

Ald. Brenda Konkel asked what the filing requirements were for principals and lobbyists currently. City Attorney May indicated that the forms need to be redrafted. The current form authorizes the lobbyist to lobby on behalf of the owner and they need to see that the statement of expenditures is filed. The main change would now make it the obligation of the lobbyist versus the principal to file and identify the items they are lobbying on. He also indicated that both the lobbyist and principal could be held responsible for filing.

Ald. Brenda Konkel wanted an explanation of the language regarding committee members.

(e) Participation as a member of a board, committee or commission City of Madison board, committee, commission, task force or similar body or a committee or subcommittee thereof, or participation as a member of any other board, committee, commission, task force or similar body that includes as a member thereof a City official appointed or designated as a thereof member in his or her capacity as a City of Madison official.

City Attorney May indicated that this clause was broader than some of the earlier drafts. He stated that there needs to be some recognition that there is a certain point in time where the line is crossed between a committee member answering questions and when they are lobbying for a project.

Ald. Brenda Konkel asked if LLC's would be covered. For example a restaurant owner who owns four different LLC's for four different restaurants would that mean the person who owns more than one restaurant needs to register as a lobbyist.

2. Any individual employed by a trade association or organization, any organization that has a membership of or is acting on behalf of two or more business entities, or any organization that has as a primary purpose advocacy on issues of public policy.

City Attorney May indicated that this section pertained to a person who was employed by an organization that is made up of two or more entities. This section was just another way to define a trade association (example: Wisconsin Restaurant Association)

Ald. Judy Compton asked how you would make the lobbyist distinction for an

architect coming before the Plan Commission to speak about a project. City Attorney May indicated that if that person were answering questions about/explaining the project and then veered off to advocating for the project - then they would be lobbying.

Ald. Austin King had questions about corporations from outside of Madison or Wisconsin (e.g. Wal-Mart). He used the example of Wal-Mart bringing in a lobbyist from Arkansas to represent a Madison location. He asked if that person would then be working for Arkansas and not Madison and if there was a distinction between exemptions for businesses and corporations? City Attorney May indicated that the way the ordinance was drafted the lobbyist would have to be employed by the Madison location.

Ald. Austin King asked if there was a distinction between whether the business is based here and whether the employee being granted the exemption is based here. City Attorney May indicated that he believed this was covered in the ordinance draft under 3(i)(a)

1. Except as set forth in subs. (3)(j) and (k) below, nothing in this ordinance may be applied so as to require registration or reporting or interfere with the right of any individual to engage in activities that might otherwise be considered lobbying:

a. By a business owner on behalf of his, her or its business; or

City Attorney May then indicated that if you were to go to (j) the exemptions not available are identified and this would cover a lobbyist from the Arkansas Wal-Mart

It was requested that language be drafted to clarify that this particular exemption is not available to outside corporate lobbyists for businesses based in Madison.

Ald. Zach Brandon asked a question about the 10,000 square feet in the following section and whether that applied to the useable space or the entire parking lot or renting a portion of the lot. He used Laundry 101 as an example. The physical presence of Laundry 101 is 8,000 square feet and under the definition they would be exempt. But if you took into account the parking lot it was approximately 21,000 square feet and the entire parcel is 42,000 square feet. Ald. Zach Brandon thought that there should be a definition on what the 10,000 square feet encompassed.

City Attorney May would check with Planning and Development, but assumed that it is the physical building. Ald. Brenda Konkel did not think that was true and that development was the property not the building. She did not think it meant the building in this section.

City Attorney May will clarify this section so that the 10,000 square feet will be defined the building only and will consult with Planning.

2. In seeking approval of any development or redevelopment as defined in MGO § 20.04(8) located within the City of Madison that is reasonably expected to include over 10,000 square feet in a commercial establishment or ten (10) dwelling units.

Ald. Brenda Konkel had a question about whether people hired to dispute tax

assessments were covered by the lobbying ordinance. City Attorney May noted that everyone disputing a tax assessment is exempt from the lobbying ordinance, no matter if it's American Family or the owner of a duplex.

Ald. Brenda Konkel indicated that the business ownership was still not clear to her and wondered if there was some way to get around it. She thought maybe businesses could designate one person.

Discussion ensued on whether to have another special meeting or to refer this item to the September 6, 2005 CCOC meeting.

CCOC members decided:

*To request that City Attorney May draft a 3rd Substitute Ordinance using the compromised language

*Amendments to the compromised language should be forwarded to City Attorney May

*To refer the item to their September 6, 2005 meeting. The motion passed by acclamation.

ADJOURNMENT

A motion was made by Ald. Brandon, seconded by Ald. Rosas, to Adjourn Meeting adjourned at 6:40 p.m. The motion passed by acclamation.