

**CITY OF MADISON  
OFFICE OF THE CITY ATTORNEY  
Room 401, CCB  
266-4511**

Date: June 1, 2018

**MEMORANDUM**

TO: Common Council Executive Committee

FROM: Michael P. May  
City Attorney

RE: Authority of the Common Council Executive Committee (CCEC)

I prepared this memo for discussion at the CCEC meeting on June 5, 2018.

The CCEC is governed by sec. 33.13, MGO. I have attached a full copy of the ordinance to this memo. Sec. 33.13(1) provides for the make-up of the CCEC, and states in part: "The President of the Common Council shall serve as Chair."

Sub. (2) of sec. 33.13 provides for the Common Council Office and the Common Council Chief of Staff.

Sub. (3) provides:

(3) Common Council Rules and Procedures. The Common Council Executive Committee shall be responsible for recommending rules and procedures to be followed by all standing committees of the Common Council and at Council meetings. The Committee shall also establish rules and guidelines for use of the Council office facilities. Such rules and procedures shall be approved by the Common Council.

This is a direct grant of authority for the CCEC to take up and discuss issues related to the rules and procedures of the Council and other standing committees. There need be no referral from the Council to take up these matters.

Sub. (4) is titled "Duties of Committee" and contains most of the directives to the CCEC. Sub (4)(a) reads:

(a) Review and Recommendation of City Policy. The Common Council Executive Committee may receive referrals of ordinances, resolutions and reports from the Common Council, may hold public hearings, and may make reports and recommendations on matters so referred.

This grant of power is not different than any other committee, that is, if a matter is referred to the CCEC, it may act upon the referral.

Sub. (4)(b) is titled "Review of Legislation" and it relates to meeting with and assisting the City's lobbyist on state and federal legislative priorities. This is a direct grant of authority. I recommend the CCEC consider an amendment to this section, which refers to the City's "Legislative Analyst." This used to be the name of a position in the Mayor's office, the equivalent of which is now filled by Nick Zavos as the City's Government Relations specialist. Since that time, the City created the Legislative Policy Analyst position to serve the Common Council. This section should be clarified to be sure all understand it means the Mayoral legislative liaison. The Council may wish to consider whether to further amend the ordinance to provide for duties or receipt of reports from the Legislative Policy Analyst or the Council Chief of Staff.

Sub. (4)(c) of the ordinance makes the CCEC the Administrative Review Board under 9.49. Although not in this ordinance, under sec. 3.35(12)(a), MGO, of the Ethics Code, the CCEC acts as the Ethics Board when an ethics complaint is filed against a member of the Ethics Board.

Sub. (4)(d) of the ordinance provides:

Other Duties. The Common Council may assign other duties to the Common Council Executive Committee.

This summary shows that in some areas, the Council has delegated direct authority to the CCEC, but in other areas, the CCEC obtains authority to act only by referral or by assignment of duties by the Common Council.

Other Committees have different delegated authority. For example, the Economic Development Committee is to "make recommendations to the Mayor and the Common Council on economic development policies and issues" and to "provide the community with a public forum for information sharing and discussion about economic issues affecting the City of Madison." Sec. 33.17(3)(b), (e), MGO. The charge to the Finance Committee generally relates to the budget, so it deals with those issues and other matters referred to it or assigned by other ordinances. However, in describing the duties of the Finance Director, sec. 4.01(4), MGO, provides that "the Finance Director shall report to the Finance Committee and Common Council on the financial status and policies of the City and to the Mayor on day-to-day operations and administrative matters." This gives the Finance Director broad discretion to bring matters related to financial issues to the Finance Committee. The Equal Opportunities Commission is given broad authority to:

study the existence, character, causes and extent of the denial of equal opportunity because of biases, prejudices, social or institutionalized passive and active forms of discrimination or harassment that occurs either in favor of or to the detriment of any protected class or other unfair classification in the greater Madison community.

Sec. 39.03(10)(b)1., MGO.

I see two issues for the CCEC to consider:

1. At different times, often dependent on the Common Council President, a greater or lesser number of legislative items are referred to the CCEC. In many instances, the referrals are secondary to another committee or board that has lead authority. These referrals are certainly within the authority of the Council and the CCEC, but the practice raises policy issues. To what extent does the CCEC want to continue to do this? Should the Council limit the subject matter or topics that are referable to CCEC? Does the Council want the CCEC to become some sort of super-oversight committee on numerous topics? (I will not get into the entire question of how the Council makes referrals, another topic that could use some guidance).
2. More troubling, because it does not appear to be sanctioned by the ordinances, items have more frequently been scheduled by the CCEC for "Discussion" with no referral or assignment by the Council. Does the CCEC want to have authority to do this? Should the Council President or Chief of Staff be given authority, like the Finance Director, to bring matters believed to be of importance before the CCEC? Should there be subject matter limitations to such discussion items?

In considering these important policy questions, the CCEC must consider its role, and how it relates to the structure and authority of the other committees in the City.

CC: Kwasi Obeng  
Lisa Veldran  
Heather Allen  
Enis Ragland

• **33.13 - COMMON COUNCIL EXECUTIVE COMMITTEE.**

(1)

Committee Composition . There is hereby created a Common Council Executive Committee (CCEC) which shall consist of seven (7) members of the Common Council who shall serve for terms of one year. The President of the Common Council shall serve as Chair. At the annual organizational meeting of the Common Council, held on the third Tuesday of April of each year, the President shall appoint five (5) other members of the Council to serve on the Executive Committee. The Vice President of the Council shall serve as the seventh member of the Committee, and the immediate past President shall, if s/he is a member of the Common Council, serve as an alternate member of the Committee. If the immediate past President is not a member of the Common Council, or has been elected to serve another term as President or a term as Vice President, the President of the Common Council shall appoint an alternate member. The alternate member may act with full power and authority when any other member is absent or refuses to act. The alternate member may participate in Committee discussion and serve on subcommittees at any time. The President may appoint any Council members to serve on a subcommittee. (Am. by Ord. 12,037, 3-2-98; ORD-14-00107, 6-16-14; ORD-16-00080, Pub. 9-15-16, Eff. 4-18-17)

(2) Office of the Common Council .

(a)

There is hereby created the Office of the Common Council which shall be managed and directed by the Common Council President with the advice and support of the City's Human Resources Director. Common Council staff shall be appointed by the Common Council after nomination by the Common Council Executive Committee, shall serve under civil service, shall prepare and review the Council office budget, and shall perform those duties assigned by members of the Common Council. (Am. by ORD-09-00054, 4-2-09)

(b)

Common Council Chief of Staff . There shall be a Common Council Chief of Staff authorized by the Common Council.

1.

The Common Council Chief of Staff shall be appointed by the Common Council and report to the Common Council Executive Committee. The Common Council Chief of Staff is subject to the authority of the Common Council Executive Committee to impose discipline or discharge as provided in section (9) of the City of Madison Personnel Rules.

2.

The Common Council Chief of Staff shall have supervisory authority over other Common Council Staff and the Common Council Legislative Analyst.

(c)

Pursuant to [Sec. 3.53\(1\)\(h\)](#), MGO, the Common Council Chief of Staff is exempt from the civil service system. Instead, the Common Council Chief of Staff will serve for a

term of five (5) years under a written employment agreement said agreement to be renewed at the pleasure of the Common Council. This position is also exempt from the provisions of [Sec. 3.54\(9\)](#), MGO, governing compensation of managerial employees. Annual cost of living increases will be equivalent to increases for members of Compensation Group 18.

(d)

For purposes of benefits only, the Common Council Chief of Staff shall have the same benefits as non-represented professional employees in Compensation Group 18 as may be provided and/or modified by the Madison General Ordinances, Resolution of the Common Council, Administrative Procedure Memoranda or other official City action."

(Sec. 3.55(2) R. and Sec. 3.55(3) Renumbered to Sec. 3.55(2) by Ord, 12,037, 3-2-98; Sec. 33.13 Am. by ORD-17-00058, 6-19-17)

(3) Common Council Rules and Procedures. The Common Council Executive Committee shall be responsible for recommending rules and procedures to be followed by all standing committees of the Common Council and at Council meetings. The Committee shall also establish rules and guidelines for use of the Council office facilities. Such rules and procedures shall be approved by the Common Council. (Renumbered by Ord. 12,037, 3-2-98)

(4) Duties of the Committee.

(a)

Review and Recommendation of City Policy. The Common Council Executive Committee may receive referrals of ordinances, resolutions and reports from the Common Council, may hold public hearings, and may make reports and recommendations on matters so referred.

(b)

Review of Legislation. The Committee shall:

1.

Participate in the development of a City of Madison state legislative agenda and make recommendations to the Council and the Mayor as to agenda priorities. The legislative agenda would identify the City's legislative goals for the session, some of which may be submitted for introduction to the Legislature.

2.

Study proposed legislation affecting the City and make recommendations to the Council and the Mayor for positions to be taken by the City on selected legislation. In those instances where prompt action is required and time and circumstances do not permit adoption of a position on specific legislation, the Mayor is authorized to act in a manner consistent with the City's legislative agenda.

3.

Design strategies and make recommendations to the Council to directly involve the Council members in communicating Council positions to the Dane County State Legislative delegation on specific issues or legislation.

4.

Receive reports from the City's Legislative Analyst regarding the status of the City's legislative agenda and other legislation.

5.

Make periodic reports to the Council pertaining to legislative matters.

6.

Conduct studies and make recommendations to the Council and the Mayor relative to state or federal legislative issues which may have an impact on City government.

7.

Examine federal legislation or issues which might have significant direct impact on City government.

8.

Review proposed legislative agenda from Special Committees.

(c)

The Common Council Executive Committee shall serve as the Administrative Review Board under [Sec. 9.49](#), MGO. (Cr. by ORD-11-00161, 12-6-11)

(d)

Other Duties. The Common Council may assign other duties to the Common Council Executive Committee. (Renum. by ORD-11-00161, 12-6-11)

(Cr. by Ord. 12,037, 3-2-98; Am. by ORD-16-00079, Pub. 9-15-16, Eff. 4-18-17)