

CITY OF MADISON
CITY ATTORNEY'S OFFICE
Room 401, CCB
266-4511

DATE: July 13, 2004

MEMORANDUM

TO: **Mayor Cieslewicz**
Common Council Members

FROM: Michael P. May, City Attorney

SUBJECT: **Point of Order - Motion for Reconsideration**

From time to time, issues may arise relating to procedure before the Council for which I think it appropriate to give advice to the members on proper procedure. When I do so, these will be in a "Point of Order" memorandum.

Recently, a question arose as to the proper manner of making a motion for reconsideration of a matter which had previously been approved by the Council.

Chapter 2 of the MGO, Standing Rules for Government of the Common Council, provides as follows at Section 2.21:

2.21 **RECONSIDERATION OF QUESTION.** It shall be in order for any member who voted in the affirmative on any question which was adopted, or for any member who voted in the negative when the number of affirmative votes was insufficient for adoption to move a reconsideration of such vote, at the same or next succeeding regular meeting of the Council. It shall be in order for any member who was, due to an excused absence, not present at the time the question was considered to move reconsideration of such vote at the next succeeding regular meeting of the Council. A motion to reconsider having been lost shall not be again in order. A motion to reconsider shall not be in order when the same result can be obtained by another motion. (Am. by Ord. 5188, 10-20-75)

Section 2.32 of the MGO also provides that **Robert's Rules of Order** govern on any matters not covered by the Council's standing rules.

Sec. 36 of **Robert's Rules of Order** governs the making of a motion for reconsideration. It makes several points. First, the motion must be made either at the same meeting in which the original motion was made, or, in meetings of more than one day (like conventions), on the following day. This portion of **Robert's Rules** is modified by Sec. 2.21 of the Council's Standing Rules, which allows a motion to be made at the next succeeding Council meeting.

Second, **Robert's Rules** also makes a distinction between the making of the motion and the time of consideration of the motion. This is significant because of constraints imposed by the Wisconsin Open Meeting law.

Based upon the above, we advise Council members and the Mayor that motions for reconsideration should be made as follows:

1. A motion for reconsideration of any matter is in order if made at the same meeting in which the matter was adopted. The motion would be considered at that time.
2. Pursuant to Sec. 2.21, MGO, a motion for reconsideration may also be made at the "next succeeding" meeting of the Council. Due to the requirements of the Open Meeting law that any matter to be taken up must be noticed, a motion must either (a) be placed on the agenda for the next succeeding Council meeting, in which case it would be made and considered at that meeting; or (b) if made from the floor at the next succeeding Council meeting, it will not be considered until the following Council meeting. That is, the motion will be treated as a matter introduced and referred to the following Council meeting.
3. Pursuant to Sec. 36 of **Robert's Rules of Order**, the "effect of making a motion to reconsider is the suspension of all action that depends on the result of the vote proposed to be reconsidered" Thus, a motion to reconsider means that the matter previously passed is not effective until the motion to reconsider is taken up by the Council.
4. A motion to reconsider must be distinguished from a motion to rescind. See Sec. 2.26, MGO. A motion to rescind assumes that the action taken by the Council is effective, and asks that it be rescinded. Under Sec. 2.26, such a motion must be made at a prior Council meeting, except for emergency situations requiring a two-thirds vote of the Council. Moreover, a motion to rescind cannot be considered after publication of the legislation sought to be rescinded.

Thus, if any Council member wishes to ask for reconsideration of a question, the motion should be:

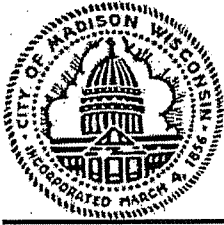
- Made at the meeting at which the question was considered, in which case the motion for reconsideration would be considered immediately at that time; or
- Made at the next succeeding Council meeting, in which case the motion would be considered at the meeting if it had been placed on the meeting agenda and noticed, or would be treated as being a matter introduced at the meeting and referred to the next Council meeting for consideration.

If you have any questions on this, please contact me or Assistant City Attorney Roger Allen.

Michael P. May
City Attorney

MPM:ph

cc: Assistant City Attorneys



City of Madison

Legislative File Number 03448 (version 2)

Title

SUBSTITUTE - Amending Section 3.27(4)(b) of the Madison General Ordinances to establish rules for motions for reconsideration by boards, committees, and commissions.

Body

DRAFTER'S ANALYSIS: There currently is no rule governing motions for reconsideration by boards, committees and commissions. Robert's Rules sets different times for such motions, depending on the nature of the body. This amendment will make motions for reconsideration in boards, committees and commissions the same as for the Common Council, namely, that the motion must be made at the same meeting, or the next succeeding meeting, as the matter to be reconsidered was acted upon by the body.

The Common Council of the City of Madison do hereby ordain as follows:

Subdivision (b) of Subsection (4) entitled "Officers, Minutes, and Rules of Procedure" of Section 3.27 entitled "Qualifications--City Officers, Members of Commissions, and Employees" of the Madison General Ordinances is amended to read as follows:

"(b) Boards, committees, and commissions may adopt rules of procedure. Such rules may not conflict with ordinances or resolutions of the Common Council. In case the board, committee or commission does not adopt rules of procedure, it shall be governed by Robert's Rules of Order, insofar as Robert's Rules of Order does not conflict with ordinances or resolutions of the Common Council. Unless modified by its own rules of procedure or otherwise required by ordinance or statute, boards, committees and commissions shall follow the procedure set forth in sec. 2.21, MGO, on motions for reconsideration."

Fiscal Note

No expenditure required.

2.21 RECONSIDERATION OF QUESTION. It shall be in order for any member who voted in the affirmative on any question which was adopted, or for any member who voted in the negative when the number of affirmative votes was insufficient for adoption to move a reconsideration of such vote, at the same or next succeeding regular meeting of the Council. It shall be in order for any member who was, due to an excused absence, not present at the time the question was considered to move reconsideration of such vote at the next succeeding regular meeting of the Council. A motion to reconsider having been lost shall not be again in order. A motion to reconsider shall not be in order when the same result can be obtained by another motion. (Am. by Ord. 5188, 10-20-75)