



City of Madison
Meeting Minutes - Final
COMMON COUNCIL
ORGANIZATIONAL COMMITTEE

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

Tuesday, September 6, 2005

4:30 PM

Room 201, City-County Building

Notified Absence(s): Ald. Brenda Konkel (alternate)

Others in Attendance: City Attorney Michael May, Chief of Staff Janet Piraino, Sandra Torkildson, William Babock, Delora Newton, Kurt Frey, Jennifer Alexander, Mark Clear, Carol Godiksen, Phil Salkin, Steve Harms, Dan Guerra, Jr., and Thomas Hirsch

CALL TO ORDER

Meeting was called to order at 4:37 p.m.

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

Absent: Ald. Paul E. Skidmore

Excused: Ald. Brenda K. Konkel

APPROVAL OF MINUTES

Approve August 2, 2005 meeting minutes and August 8, 2005 special meeting minutes.

A motion was made by Ald. King, seconded by Ald. Rosas, to Approve the Minutes. The motion passed by acclamation.

Ald. Paul Skidmore arrived at 4:42 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. and Ald. Larry Palm

Excused: Ald. Brenda K. Konkel

ITEMS REFERRED FROM COUNCIL

[00059](#)

FOURTH SUBSTITUTE - Amending Section 2.40(2)(c), creating new Sections 2.40(2)(d), (e), and (f), renumbering current Sections 2.40(2)(d) through (h) to Sections 2.40(g) through (k), amending renumbered Sections 2.40(2)(h), (i), and (j), repealing current Section 2.40(2)(i), renumbering current Sections 2.40(2)(j) through (n) to Sections 2.40(2)(l) through (p), amending renumbered Sections 2.40(2)(k), (l), and (n) and Sections 2.40(3), (6), (7), (8), (9), (10), (11)(b) and (11)(e), creating Section 2.40(11)(f), amending Section 2.40(12), creating new Section 2.40(13), renumbering current Sections 2.40(13) and (14) to Sections 2.40(14) and (15), respectively, amending renumbered Section 2.40(14) and repealing current Section 2.40(15) of the Madison General Ordinances to modify portions of the lobbying ordinance.

A motion was made by Ald. Palm, seconded by Ald. Skidmore, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER Ald. Paul Van Rooy called the following registrants:

Sandra Torkildson (Small Business Advisory Council), Spoke, Supported:
She indicated that she supported the version before CCOC because it restored free speech to small business owners and allowed for input by small business owners.

William Babcock (Wisconsin Society of Architects), Spoke, Opposed:
Did not support the 3rd Substitute Ordinance and referred to his August 29, 2005 letter to CCOC members which outlined his concerns (please see attachment dates 8/29/05 from AIA Wisconsin to Legislative File No. 00059).

Kurt Frey (Planning Design Build), Spoke, Opposed:
Requested that the Common Council repeal the lobbying ordinance and if that was not possible, consider endorsing the exemption of architects and engineers from the lobbying ordinance registration requirements.

Jennifer Alexander (Madison Chamber of Commerce), Spoke, Supported
Compromise/Opposed Current Lobbying Ordinance:
Indicated that she supported exempting small business owners from the lobbying ordinance registration requirements.

Carol Godiksen, ACEC Wisconsin, Spoke, Opposed:
Supported exempting architects, engineers and design professionals from the lobbying ordinance registration requirements. She indicated that design professionals are already regulated by the State Department of Regulation & Licensing and by State Statutes. Design professionals are to attend meetings to inform, not influence a decision.

Phil Salkin (Realtors Association of South Central WI), Spoke, Opposed:
Mr. Salkin distributed a document entitled, "Proposed Amendments to the Madison Lobbying Ordinance MGO 2.40" (please see attachment to Legislative File No. 00059). He requested that the Council consider creating a new definition of an "independent contractor", that the residential zoning/variance exception should be clarified and the \$500 threshold be increased to \$1000.

Steve Harms (Strang Architects - Engineering), Spoke, Opposed:
Requested that the Council repeal the lobbying ordinance or consider approving an exemption for architects and engineers.

Dan Guerra, Jr. (Small Business Advisory Council), Spoke, Supported:
Supported the proposed compromise ordinance language. Mr. Guerra indicated that the language supported small business owners efforts to communicate with their local elected officials.

Janet Piraino, Mayor's Chief of Staff, Spoke, Supported:
Ms. Piraino read a prepared statement (please see attachment to Legislative File No. 00059)

Delora Newton (Smart Growth Madison), Available to Answer Questions, Opposed
(please see attachment dated 9/1/05 from Smart Growth Madison to Legislative File No. 00059)

Thomas Hirsch, Available to Answer Questions, Opposed

Mark Clear, 110 Shiloh Drive, Did Not Speak, Supported

Questions were then asked of the following registrants:

Ald. Austin King asked a question of Carol Godiksen, representing ACEC Wisconsin. Ald. King wanted to know her reaction to a scenario where an architect was present at an ALRC meeting regarding a liquor license. The architect was present to talk about expansion plans but started answering questions and expounding upon the establishments liquor capacity. Ald. King thought that this was unrelated to the "field of architecture". He wanted to know if this person should have registered as a lobbyist? Ms. Godiksen's indicated that her "gut reaction" to the scenario agreed that when it crosses the line, as in this case, the person should have registered as a lobbyist.

Ald. Santiago Rosas asked Delora Newton about her thoughts on the 10,000 square feet language in the proposed ordinance. Delora Newton thought that the ordinance wanted to protect the "mom and pop" establishments but the 10,000 square feet was too low of a threshold (e.g. veterinarian clinics, medical properties). She believed the ordinance language should be changed to 40,000 square feet (similar to the Big Box ordinance language).

Ald. Zach Brandon asked the City Attorney whether the 10,000 square feet applied to the physical structure of the property or the entire parcel. Delora Newton indicated that she believed the 10,000 square feet applied to only the physical structure.

City Attorney Michael May provided a review of the technical amendments. The amendments were drafted to clarify issues that had come up at the last CCOC meeting:

1. Purpose: Solve the so-called "Wal-Mart" issue by restricting the employee exemption to employees of the Madison location of a multi-location business. Proposed subsection (2) (d) is amended by adding the following at the end:

, provided, however, that for any business owner with business locations both within and without the City of Madison, any employee qualifying for the above exemption must be employed at the Madison location.

2. Purpose: Extend the exemption for single-family homeowners or duplex owners to hire experts if need to get variances, conditional uses or other zoning changes to improve the property, so it applies to initial construction on lots as well as other improvements.

Proposed subsection (3) (i) 2. c., would be modified to read as follows:

By a representative of the owner of an owner/occupied single family home or duplex, or of the owner of a lot on which the owner is to build an owner/occupied single family home or duplex, requesting a variance or other zoning change for improvements to the single family home or duplex or lot; or

3. Purpose: Clarify that CDBG or other city funds given in response to an RFP are subject to the lobbying registration and reporting requirements.

Proposed subsection (3) (k) 1. is amended to read as follows:

In seeking direct cash assistance from the City in the form of a loan, grant, TIF assistance funding or similar assistance (not including for this purpose the provision of goods or services directly to the City or a City agency) 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 \$10,000 in a calendar year, or

4. Purpose: Clarify the commercial development that triggers a reporting requirement.

Proposed subsection (3) (k) 2. is amended to read as follows:

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

Ald. Austin King asked City Attorney May to clarify when architects appear to "not to inform but to influence" during meetings. City Attorney May indicated that he did not think design time or prep work done by an architect could be considered lobbying (practice of architecture). They would be lobbying when they veer "off subject" and start to advocate for a project.

Ald. Larry Palm moved, seconded by Ald. Paul Skidmore to adopt the ordinance (for discussion purposes).

Ald. Austin King moved, seconded by Ald. Isadore Knox, Jr., the following amendment:

1. Create a new definition of "Designated Representative" to read as follows: "Designated Representative" means, with respect to a business entity, a single individual designated by the business entity to be exempt from registration and reporting requirements under this ordinance. The Designated Representative may not be changed during a reporting period.

2. Modify the business exemption to read as follows:

(h) Individual Right to Lobby. Except as set for in subs. ___ below, nothing in this ordinance may be applied so as to interfere with the right of any individual to engage in lobbying:

1. Solely on her or his own behalf; or
2. As the Designated Representative of a business entity; or
3. By communicating solely with a Council member who represents the district in which the individual resides, whether or not such communication is made on behalf of the individual or on behalf of another person.

3. Add in other changes from Third Substitute set forth in new subs (3)(i), (j) and (k), that is, language on answering questions, third party lobbyists, trade associations, in-house lobbyists, financial assistance and developers. The intent is to use this amendment in place of the existing or proposed business exemption.

Motion to amend the ordinance failed on a voice vote.

Ald. Paul Skidmore moved, seconded by Ald. Santiago Rosas, the following amendment:

Amend section (2)(f), the definition of lobbying, of the third substitute amendment by striking the last two sentences of that paragraph and inserting the following:

Any individual who is a professional licensed by the State of Wisconsin, and performing a service that no person may perform without holding a license for that profession, is not a lobbyist.

Ald. Skidmore indicated that his intention with this amendment was to exempt architects, land surveyors, engineers, landscape architects and geologists who are specifically licensed by the State to prepare these types of plans and information. City Attorney May indicated that attorneys would also be exempted with this amendment language. Ald. Skidmore wanted to deal with the attorney exemption issue separately. Ald. Santiago Rosas made a friendly amendment to exclude attorneys at this time and apply the exemption to design professionals only. Motion was accepted as friendly.

The motion, with the friendly amendment, failed on a 3-4 vote: Ayes: Aids. Van Rooy, Rosas and Skidmore and Noes: Aids. Brandon, King, Knox and Palm (Ald. Konkel - Excused Absence)

Ald. Paul Skidmore moved, seconded by Ald. Santiago Rosas the following amendment submitted by Phil Salkin:

Creation of a new definition of an "independent contractor" in MGO 2.40(2) that reads:

"Independent contractor" means an individual who (i) is retained by a person for a service other than lobbying (ii) is not an employee of the person and (iii) does not hold himself or herself out to the public as engaged in the business of representing others for the purpose of lobbying.

Creation of a new MGO 2.40(3)(i)1.c. that reads:

By an independent contractor provided that he or she does not make lobbying communications on behalf of a single person on more than 5 days within a reporting period.

Ald. Skidmore indicated that this amendment would also cover another group of professionals, the realtors.

Ald. Austin King made a friendly amendment to change the "5 days" to "3 days". Motion was accepted as friendly.

Ald. Zach Brandon moved, seconded by Ald. Austin King, to amend the amendment to read "located within the City of Madison" immediately following "...retained by a person...".

Motion to amend the amendment was approved on a 5-2 vote: Ayes: Aids. Van Rooy, Brandon, King, Knox, and Palm and Noes: Aids. Rosas and Skidmore (Ald. Konkel - Excused Absence).

Ald. Austin King moved, seconded by Ald. Zach Brandon, to amend the amendment with the following language immediately following 3 days within a reporting period..., by:

"or on behalf of more than one person on more than 6 days within a reporting period"

Motion to amend the amendment was approved on a 4-3 vote: Ayes: Aids. Brandon, King, Knox and Palm and Noes: Aids. Van Rooy, Skidmore and Rosas (Ald. Konkel - Excused Absence)

The main amendment, as amended, was approved on a voice vote.

Ald. Santiago Rosas moved, seconded by Ald. Zach Brandon, to change the 10,000 square feet language to 40,000 square feet. The motion was approved on a voice vote with Ald. Austin King being recorded as voting "no".

Ald. Larry Palm moved, seconded by Ald. Austin King, to move the technical amendments as drafted by City Attorney May (taking into account the change from 10,000 square feet to 40,000 square feet). Motion was approved on a voice vote.

On the main motion to adopt the 3rd Substitute Ordinance as amended, the motion was approved with Ald. Austin King being recorded as voting "no". The City Attorney will redraft Legislative File No. 00059 as a 4th Substitute Ordinance for Council action. The motion passed by the following vote:

Excused: Konkel

Aye: Van Rooy, Rosas, Brandon, Skidmore, Knox, Jr. and Palm

No: King

ADJOURNMENT

A motion was made by Ald. Palm, seconded by Ald. Rosas, to Adjourn Meeting adjourned at 6:15 p.m. The motion passed by acclamation.