



Office of the City Attorney

Michael R. Haas, City Attorney

Patricia A. Lauten, Deputy City Attorney

ASSISTANT CITY ATTORNEYS

Benjamin C. Becker
Steven C. Brist
Jason P. Donker
Lara M. Mainella
Amber R. McReynolds
Marci A. Paulsen
Adriana M. Peguero

Matthew D. Robles
Avery J. Schulman
Kate M. Smith
Jaime L. Staffaroni
Doran E. Viste
Brittany A. Wilson
Jennifer Zilavy

City-County Building, Room 401
210 Martin Luther King, Jr. Boulevard
Madison, Wisconsin 53703-3345

(Telephone) 608-266-4511
(Facsimile) 608-267-8715
attorney@cityofmadison.com

PARALEGAL
Ryan M. Riley

MEMORANDUM

TO: Mayor Satya Rhodes-Conway
Common Council Members

FROM: Michael Haas, City Attorney

DATE: March 20, 2023

RE: Legistar Item 76500

Item 101 on the Common Council agenda for March 21, 2023 is Legistar item 76500 which proposes several changes to the ordinances governing Council legislative procedures. Because the item proposes changes to several existing ordinances which work together, the sponsors requested that I attempt to outline the changes by subject area to supplement the information in the drafter's analysis.

The recommended motion will be the Second Substitute which incorporates changes recommended by both the Common Council Executive Committee and, subsequently, by the ordinance sponsors. To make the various components more understandable, they also have been separated and entered into Legistar as attachments labeled 76500-A through 76500-E. The proposed changes may be considered and voted on together as the Second Substitute or by dividing the question and considering the language in the attachments individually. The analysis below follows the order of the attachments in Legistar.

A. City Attorney Approval of Ordinance Amendments: 76500-A

The ordinance amends MGO 2.05(9). Currently, no ordinance shall be introduced unless it has been approved as to form by the City Attorney. When an amendment to an ordinance is proposed on the Council floor, it must be conveyed in writing to the City Clerk. This ordinance requires that any amendment to an ordinance proposed on the Council floor shall also be approved as to form by the City Attorney prior to consideration by the Council.

B. Making Motions on Council Floor: 76500-B

The ordinance creates MGO 2.08(4). Consistent with current practice, the ordinance provides that the Mayor or presiding officer shall recognize either the Council President or another member of the Council to initiate motions on the Council floor. The Council President or recognized alder may defer to another alder to make a motion on a particular agenda item. The ordinance also permits amendments or alternative motions to be made at any time after the initial motion has been made, such as prior to or during staff presentations or questions to staff.

C. Creation of Consent Agenda and Recommended Motions: 76500-C

The ordinance amends MGO 2.05(10) and repeals MGO 2.055(3). Under current ordinance, the Council President approves the Common Council agenda. Current ordinances do not specifically address approval of the consent agenda document. The ordinance provides that the Common Council President has authority to approve the consent agenda including any recommendations described in agenda notes pursuant to MGO 2.055(5), which is described below. However, if the President wishes to include a recommended motion on the consent agenda that is different than an action recommended by the lead referral and that has obtained a sponsor, the President shall obtain the consent of the lead sponsor. If the lead sponsor does not consent, the President may exclude the item from the consent agenda.

The ordinance also provides that if an alder requests referral of an item or an action that is different than the recommended action on the agenda or the consent agenda document, the item shall be excluded from the consent agenda.

This ordinance also repeals MGO 2.055(3) so that referrals may be included on the consent agenda regardless of whether or not they are made with the consent of the lead sponsor.

D. Amendments and Lead Referral Recommendations: 76500-D

The ordinance amends MGO 2.055(5). The ordinance defines lead referral consistent with current practice. It provides that, if the recommendation of the lead referral obtains a sponsor, it will stand as the recommended action on the Council agenda, unless the Council President indicates a different recommended action in an agenda note. However, if the President wishes to include a recommended motion in an agenda note that is different than an action recommended by the lead referral and that has obtained a sponsor, the President shall obtain the consent of the lead sponsor. If the lead sponsor does not consent, the President may exclude the item from the consent agenda.

The ordinance also clarifies that recommendations of all Sub-units are to be reported to the Council. It also requires that all changes to reports or documents adopted in an ordinance or resolution shall be identified as a new version and the revised version shall be referred to in the ordinance or resolution. This ordinance would prevent a new version of an underlying report, document or map from being

submitted in Legistar without identifying it as a new version and including a citation to the revised version in the language of the ordinance or resolution.

E. Identification and Retention of Amended Legislation and Reports: 76500-E

Finally, the ordinance creates MGO 3.70(8)(a). The ordinance requires that, after publication of an agenda, all versions of proposed ordinances and resolutions and all accompanying documents that are referenced in a proposed ordinance or resolution shall be retained in Legistar so that the public may view changes in the legislation or any report that is to be adopted by an ordinance or resolution. Consistent with this requirement, the ordinance also requires that changes to an ordinance or resolution or to any accompanying report shall be labeled sequentially and added as a new version in Legistar.

Please feel free to contact me if you have any questions regarding this memorandum.