



City of Madison
Meeting Minutes - Final
COMMON COUNCIL
ORGANIZATIONAL COMMITTEE

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

Tuesday, November 14, 2006

4:30 PM

210 Martin Luther King, Jr. Blvd.
Room 103A (City-County Building)

CALL TO ORDER

Present: Austin W. King, Paul J. Van Rooy, Lauren Cnare, Robbie Webber, Isadore Knox, Jr. and Tim Bruer

Absent: Brenda K. Konkel and Michael E. Verveer

Others Present: Michael May (City Attorney), Chief Noble Wray, Ald. Larry Palm, Ald. Zach Brandon, George Twigg (Mayoral Assistant) and Bill Lueders.

The meeting was called to order by Ald. Austin King at 4:36 p.m.

APPROVAL OF MINUTES

Approval of Common Council Organizational Committee minutes from October 3, 2006.

A motion was made by Bruer, seconded by Van Rooy, to Approve the Minutes.
The motion passed by acclamation.

Ald. Brenda Konkel arrived at 4:41 p.m. Ald. Mike Verveer arrived at 4:42 p.m.

Present: Austin W. King, Paul J. Van Rooy, Brenda K. Konkel, Lauren Cnare, Robbie Webber, Isadore Knox, Jr., Tim Bruer and Michael E. Verveer

ITEMS REFERRED FROM COUNCIL

[04661](#)

SUBSTITUTE - Amending the 2006 Operating Budget by authorizing the expenditure of \$35,000 from the contingent reserve, requesting the creation of a new Madison Police departmental policy, and conveying an apology.

Sponsors: Austin W. King, Brenda K. Konkel, Robbie Webber, Judy K. Olson, Michael E. Verveer, Tim Gruber, Brian Benford, Santiago Rosas and Kenneth Golden

Attachments: reg forms - speakers in support.pdf

A motion was made by Webber, seconded by Cnare, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER for November 21, 2006

Registrations:

Bill Lueders Support Available to Answer Questions

Ald. Austin King submitted substitute language to the resolution for CCOC consideration:

BE IT FURTHER RESOLVED that the Common Council applauds Madison Police Chief Noble Wray's heartfelt and courageous apology to Patty that was made at the Common Council meeting of October 17, 2006, as well as his involvement on a statewide commission seeking to improve interrogation policies and practices, and,

BE IT FINALLY RESOLVED, that the Common Council hereby requests that Chief Wray prepare a report for Common Council consideration within 90 days of adoption of this resolution with his recommendations on interview and interrogation policies or procedures, including how to eliminate the use of lies, coercion, deception, ruses, or other techniques designed to break down individuals who are reporting that they are victims of sensitive crimes, in all but the rarest of circumstances.

Ald. King stated that Bill Lueders was present and available to answer questions regarding details of the case.

Ald. King noted that the substitute language:

1. Acknowledged the apology of October 17, 2006 by Chief Wray
2. Changed the time for a report from the Chief from 30 days to 90 days
3. Original resolution called only for a "policy", now calls for a "policy or procedures". (The word "policy" connoted too narrow of a definition for the Police Department.)
4. Changed "victims of domestic violence or sexual assault" to "victims of sensitive crimes".

Ald. Tim Bruer asked Bill Lueders about the role of the law firm, Axley Brynelson. Mr. Lueders indicated this was the law firm that was hired by the City's insurer, WMMIC, to represent the City of Madison in the lawsuit filed by Patty. The lawsuit was filed in March 1999 and Axley Brynelson conducted depositions until April 2000. Axley Brynelson filed for a summary judgement in May 2000, which the judge immediately granted. The law firm billed \$96,000 for handling the case.

Ald. King noted that rape shield laws defend victims in court but not in depositions. Patty was put through 19 hours of unnecessary deposition by Axley Brynelson, who in turn billed for those hours. City Attorney May noted that the body of resolution did accurately reflect Axley Brynelson's role in the case.

Ald. Isadore Knox wanted to know if Chief Wray could summarize what the current MPD guidelines were in conducting interrogations. Chief Wray explained Miranda warnings were standard but the techniques used in interrogations varied and was dependent upon the circumstances. For example, when undercover investigators are involved, it is not uncommon to use lies during the interrogation.

Chief Wray indicated that the issues in the resolution are broader than what is described. He appreciated the changes to the resolution by Ald. Austin King. He believed that the focus would be on false confessions. There are a number of factors that would increase the possibility that an individual would make a false confession; age of person you are interrogating, the time or length of the interview, mental capacity of the person and the dynamics when interviewing someone who is a victim of a sensitive crime. He stated that the MPD's approach to this would not be to simply look at changing policy language but exploring the use of videotaping interviews. The State commission that he is involved with will be providing a summary on this and he would like to use their summary when preparing his report to the Council. He would like to gather input from his officers and detectives on their experiences with interrogation processes. Chief Wray noted that the department wants to take the lead on developing the policy, not have policy directed at them.

Ald. Austin King wanted to know what outside entities Chief Wray would look to for direction on developing the interrogation policy. Chief Wray noted that he would seek input from State Department of Training & Standards (part of the State commission), Captain Tom Snyder and the detectives that work on sensitive crimes, and sensitive crime advocates to develop a balanced interrogation policy. Ald. King asked if he would benefit from what other police departments are doing across the country. Noble felt that the MPD is in the forefront of looking at using videotaped interrogations.

Ald. Lauren Cnare asked Attorney May what would prevent another WMMIC law firm from conducting itself the same way as Axley Brynelson. Attorney May thought that it would be highly unlikely since the City of Madison and WMMIC are carefully monitoring outside counsel and that he had faith in the ability, methods and billing of costs with existing outside counsel used by WMMIC.

Ald. Tim Bruer asked what the out of pocket costs were to Patty. Bill Lueders provided the following figures:

\$5,000-\$10,000 - cost of Federal lawsuit
\$5,000 - legal fees
\$10,000 -- \$15,000 in lost wages

Ald. Tim Bruer asked Ald. Austin King how he came up with \$35,000. Ald. King responded that the \$35,000 was a liberal estimate on his part.

Ald. Mike Verveer commended Bill Lueders for writing the book and Ald. Austin King for trying to right this wrong.

Ald. Lauren Cnare indicated that she would be voting no on this item. She supported asking for a report on interview and interrogations policies and procedures but believed those that were responsible should be apologizing, not Chief Wray. She thought that it let those responsible for this travesty off the hook for their actions.

Ald. Tim Bruer asked if Patty had legal counsel during the interrogation. Bill Lueders indicated that she had not had legal counsel during the interrogation. Ald. Tim Bruer indicated that if Patty had the means to pay for legal counsel she would not have had to endure the loss of a job and emotional scarring.

Ald. Isadore Knox thought that this gesture sent a message from the Council that a person's rights are respected. He stated that he would support the resolution. He also noted that the Public Safety Review Board should have citizens on the board who are not from the law enforcement field to lend balance to the board.

Ald. Austin King praised Bill Lueders and Chief Noble Wray. He stated that the goals of the resolution were:

1. Offer some form of an apology to Patty
2. Take the words of the apology and put them into action by expending \$35,000 to make the apology meaningful
3. Request a policy review of interview and interrogation policies and practices so that the City never sees this type of travesty again.

Ald. Tim Bruer asked that someone check with Patty to make sure that money she receives from the City does not terminate any assistance she may be receiving currently (e.g. SSI) Ald. Austin King said that he would work with the Mayor and Comptrollers' Office so this would not happen. The motion passed by the following vote:

Aye: King, Van Rooy, Konkel, Webber, Knox, Jr. and Bruer

No: Cnare

Non Voting: Verveer

04725

SUBSTITUTE - Adopting and confirming amendments to the Madison General Ordinances as set forth in attached Exhibit R pursuant to Sec. 66.0103, Wis. Stats. to correct inconsistencies and improper references in the Madison General Ordinances, constituting the 2006 City Attorney Revisor's Ordinance.

Sponsors: Common Council By Request

Attachments: EXHIBIT-R-SUB.pdf, EXHIBIT-R.pdf

A motion was made by Van Rooy, seconded by Bruer, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER for November 21, 2006

City Attorney Michael May reviewed his yearly changes to various ordinances to correct inconsistencies and errors:

1. Moves a section barring certain meetings on the date of local elections from an emergency management section to the section on committee meetings.
2. Corrects a reference for the bond of the Comptroller.
3. Makes a series of changes necessitated by the hiring of a Director of Public Health for Madison and Dane County and a Director of the Department of Civil Rights.
4. Repeals the Agricultural Use Value Penalty ordinance, which is now enforced by the County pursuant to state law.
5. Corrects a reference to state law in the health code.
6. Repeals the old Broadband Telecommunications Franchise Ordinance which has been replaced by a new ordinance.
7. Repeals several outdated sections in chapter 3.
8. Makes technical corrections in Sections 7.08 and 10.18. The motion passed by acclamation.

DISCUSSION ITEMS

[04361](#)

Common Council Meeting - Public Input Procedures: allowing the option for the public to provide input at the beginning of the Common Council meeting. - Ald. Brenda Konkell

Attachments: DRAFT Ordinance: Early Public Comment at Council meetings

Receive

Council staff emailed a request to all alders for feedback on the draft ordinance to allow early public testimony at Council meetings. Ald. Austin King and Ald. Tim Gruber were the only responses received by Council staff:

From: King, Austin
Sent: Monday, November 13, 2006 9:54 AM
To: Veldran, Lisa
Subject: RE: DRAFT: Early Public Comment at Common Council Meetings

I think this is good policy. My one concern is about the process that triggers it - will it be a separate box to check on the registration form, or do they have to personally request it from staff or an alderperson? I don't necessarily have a preference, but it strikes me as something that could change whether it's likely to be used often or rarely. For example, if it were on the registration form, would there be a stern warning not to abuse it, or something explaining that it's only for extraordinary circumstances?

Austin

From: Gruber, Timothy
Sent: Wednesday, November 15, 2006 12:52 PM
To: Veldran, Lisa
Subject: RE: REMINDER: DRAFT: Early Public Comment at Common Council Meetings

It looks good to me. Tim
Tim Gruber, District 11 Alder
608-663-5264
district11@cityofmadison.com

Ald. Brenda Konkel indicated that her intent was to allow individuals who used paratransit and who were ill to speak before public hearings at 6:45 p.m. This arrangement would provide a predictable time for those individuals to schedule transportation, etc...

Ald. Tim Bruer asked why the Council couldn't simply identify those that were in need of special consideration and prioritize their registrations. Ald. Brenda Konkel stated that people do not know who to go to in order to request special consideration. Ald. Tim Bruer thought that sign indicating who to contact could be at the Council meetings.

Ald. Isadore Knox questioned whether people would abuse the early comment period and not have a reason to testify early. He wanted to know how you would verify that the person had transportation, child care issues, etc.

Ald. Brenda Konkel thought a recommendation to registrants that if they waited for their item to come up on the agenda it would be a benefit to them.

Ald. Austin King thought that language indicating that individuals with a disability, transportation, child care issues would have a time on the agenda set-aside for their testimony. This could be accomplished by signage: requests accommodating individuals with urgent needs designate a person to take those

requests.

Ald. Tim Bruer asked what Council staff's opinion was on processing early registrations.

Lisa Veldran indicated that if signage were in place that told the individual to hand their registration form directly to the Council staff person, Council staff could then give it to the Council President. The Council President then could alert the Council that there was a registrant who needed to testify early. Ald. Austin King thought something on the Council agenda itself could let people know about this option.

Ald. Austin King asked if there was consensus on signage versus an ordinance. Members agreed to signage.

City Attorney May indicated that he would like to modify the portion of the ordinance to set aside 15 minutes in the event that there are registrations that need to be accommodated (6:30 - 6:45 p.m.) He will draft an ordinance for introduction next Tuesday, November 21, 2006.

[04941](#)

2006 Common Council Policy Guide Clarifications

Attachments: Requested 2006 Council Policy Guide Clarifications

Approve

Ald. Austin King asked Lisa Veldran to explain what policies she needed clarified in the Common Council Policy Guide. The following issues were discussed:

1. Further clarification on the definition of "pending action" as it related to Council mailings during an election year. Further clarification on the timeline for "pending actions". Did the time period mean December 2006 to April 2007 or did "pending" incorporate the entire upcoming year, 2007? Examples of Ald. Larry Palm's correspondence were attached for CCOC review.

Ald. Larry Palm spoke to this issue. He stated that he had many outstanding long-term projects and something major could happen during the December-April time period.

Ald. Robbie Webber asked if "something major" happened wouldn't it go to a committee and then the alder could mail something out because it was "pending"?

Ald. Webber believed that "pending" issues required that it be before a city committee or the Common Council. She suggested that Ald. Palm hand out leaflets or e-mail constituents and should not mail correspondence from the Council Office unless it is an issue "pending" before a committee or the Council.

Ald. Austin King indicated that taxpayer dollars should not be used to shadow campaign. The State Legislature found that it doesn't pay and Council members should be careful in what they are sending out from the Council Office. An example of "pending" would be a liquor license application and the Council staff could mail out meeting notices. Correspondence with "campaign-like" slogans/endings should not be allowed.

Ald. Mike Verveer reviewed the letters provided to CCOC members.

9/29/06 diverters and Council meeting - This would be an appropriate piece of correspondence during an election year since it was a "pending" issue before the Council.

11/8/06 Indian Mounds - This would be an appropriate piece of correspondence as along as the alder is responding directly to the constituent who contact him/her. Would not be appropriate to carbon copy to the wider neighborhood/list of individuals

11/14/06 Swiss Colony letter - Not an appropriate piece of correspondence during an election year.

Ald. Verveer further stated that sending out a meeting notice about pending city issue is appropriate during an election year and doesn't editorialize.

Ald. Austin King thought that Ald. Larry Palm could ask other City staff to send out information. For example the Lake Edge Residents letter could be sent by City staff in City Engineering. He noted that the idea of limiting correspondence from the Council Office was to try and avoid the appearance of corruption.

He further explained that in addition to the mailing costs associated with

correspondence, the expenditure of printing costs and the use of Council staff time are all considered taxpayer money and also not be used from December to April for issues that are not "pending".

CCOC decided that if an alder is opposed for re-election that they may only mail out correspondence that is pertinent to the December to April period and then this would need to be on a specific piece of legislation/issue or a response directly to an individual.

2. Council staff creating and posting newsletter after December 1st to an alders webpage.

CCOC decided that if an alder is opposed for re-election that no newsletter may be produced by Council staff and posted to the city-owned alder webpage. An alder is free to produce a newsletter of their own and post to their own personal webpage. Ald. Tim Bruer said even an electronic newsletter cannot be done after the December 1st deadline and stated that alders should never ever use City resources during an election.

3. Notification of aldermanic absences

CCOC decided that Council staff will notice aldermanic absences as has been past practice. Example:

To: All Alders, Mayor (and office staff), affected Committee, Commission or Board Staff and City Clerk

From: Council Staff

Subject: Absence from the City - Ald. John Smith, District 21

Ald. John Smith will be absent from the City from December 25 - December 30, 2006 and unable to attend any meetings during that time.

Ald. Bruer suggested that an email from Ald. Austin King re: the policy should be sent.

All of the above clarifications will be incorporated into the Common Council Policy Guide.

ADJOURNMENT

A motion was made by Bruer, seconded by Webber, to Adjourn
The meeting adjourned at 6:00 p.m. The motion passed by acclamation.