

**CITY OF MADISON  
OFFICE OF THE CITY ATTORNEY**

**Room 401, CCB**

**266-4511**

TO: City of Madison Common Council  
FROM: John W. Strange, Assistant City Attorney  
RE: Expanded Drafter's Analysis (Legistar Files 46249, 46376, and 46377)  
Date: March 3, 2017

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Current Section 3.14, Madison General Ordinances, establishes a Department of Transportation for the City. The Department of Transportation currently contains three divisions: Traffic Engineering, Parking, and Transit. Section 3.14 also provides for the City to have a Director of Transportation. Since the City has not had a Director of Transportation since the early 1990s, the current ordinance contains language stating that the mayor may assign the duties of the Director as necessary. The director's duties are currently divided between the Traffic Engineer & Parking Manager and the Transit Manager.

In addition to establishing the Department of Transportation itself, Sec. 3.14 also creates seven (7) transportation-related commissions, committees, and subcommittees: the Transit and Parking Commission; ADA Transit Subcommittee to the Transit and Parking Commission; Parking Council for People with Disabilities; Contracted Services Oversight Subcommittee; Pedestrian/Bicycle/Motor Vehicle Commission; Long-Range Transportation Planning Committee; and the Joint Transportation Subcommittee. On these commissions, committees, and subcommittees sit fifty-nine (59) voting members and at least four (4) alternate members.

On February 23, 2016 (Legistar 39749), the Common Council passed a resolution creating the Transportation Ordinance Review Committee (TORC) to create a forum for discussing the purpose of the Department of Transportation and various transportation-related commissions, committees, and subcommittees, and to consider whether revisions to the ordinance would help update and modernize the city's transportation related ordinances to better serve the needs of the city's transportation system.

The TORC met eleven times between March 30, 2016 and February 20, 2017. At each meeting, TORC received extensive feedback, ideas, and discussion points from staff, members of the public, current and former commissioners and committee members, and former elected officials. Discussion points included, but were certainly not limited to, whether to retain a Department of Transportation, whether the city should hire a director of transportation, and whether the current form and number of commissions, committees, and subcommittees best serve the city's transportation needs.

At the outset, TORC identified several guiding principles that it believed the city's transportation ordinances should convey: the city's transportation system must be safe, efficient, equitable, sustainable, and affordable; it must compliment and be consistent with the city's land use plans; it must be comprehensive to ensure that all elements of the city's transportation system (e.g., bikes, peds, transit, and traffic) play an integral and collaborative role in the transportation of people and goods through the city and the entire Madison region; and it must be forward looking and forward thinking so that it remains all of these things into the future for each person who wishes to use it.

Also critical to TORC's analysis was the need to conduct its review using the city's equity lens to ensure that the city's transportation system supports marginalized communities, including specifically people of color and people of low income.

Finally, TORC recognized that current staff work very well together and that it would be helpful to staff and to the public to more clearly separate the functions of transportation policy making and transportation policy implementation.

The proposed ordinances repeal current Sec. 3.14. This repeal is accomplished through two repeal ordinances. The first (Legistar 46377) repeals the charter provisions of the current ordinance. The second (Legistar 46376) repeals the non-charter provisions of the current ordinance. Two separate ordinances are required to effect the repeal because state law requires a two-thirds (2/3) vote to repeal a charter ordinance. A simple majority vote is required to repeal a non-charter ordinance. The effect of these two ordinances will be to repeal all of current Sec. 3.14.

TORC proposes in Legistar 46249 to recreate Sec. 3.14, the Department of Transportation, and create a new commission structure, Sec. 33.55, the Transportation Policy and Planning Board, and Sec. 33.56, the Transportation Commission. None of the provisions in the new ordinance are required to be passed as a charter ordinance. Therefore, Legistar 46249 will require a simple majority vote. This memorandum will briefly discuss each of these proposed sections in turn.

## **A. This ordinance re-creates the Department of Transportation**

This ordinance re-creates the Department of Transportation in Sec. 3.14, which does the following:

- 1.) Identifies the various elements of the city's transportation system (Sec. 3.14(1)(a)-(g));
- 2.) Outlines the duties of the Department of Transportation (Sec. 3.14(2)(a)-(n));
- 3.) Retains each division currently housed in the Department of Transportation (Traffic Engineering, Parking, and Transit) and clarifies, simplifies the duties of each division and manager to be consistent across divisions;
- 4.) Adds a fourth division to the Department of Transportation in Sec. 3.14(4)(d), the Transportation Policy and Planning Division, and a new position in Sec. 3.14(d)2., the Transportation Policy and Planning Manager. TORC decided that it is critical to the success of the city's transportation system to have a manager within the Department of Transportation who is dedicated to helping develop transportation policies and plans, support the newly created Transportation Policy and Planning Board, and be primarily responsible for transportation policy implementation; and
- 5.) Provides in Sec. 3.14(3) that the three division managers (Transit Manager, Traffic Engineer and Parking Manager, and Transportation Policy and Planning Manager) shall work together to ensure the duties of the Department of Transportation are fulfilled, but leaves open the possibility that the city may hire a director of transportation in the future if the city determines the mission of the department would be better accomplished through having a director.

In addition to allowing for the re-creation of the Department of Transportation, the repeal of current Section 3.14 also eliminates each of the commissions, committees, and subcommittees listed above. In their place, this ordinance proposes the creation of a two-body structure consisting of a Transportation Policy and Planning Board, which will address transportation policy issues, and a Transportation Commission, which will decide specifically articulated transportation issues in a manner that is consistent with the transportation policies adopted by the Board or Common Council.

## **B. This ordinance establishes a Transportation Policy and Planning Board**

Proposed Sec. 33.55 establishes the Transportation Policy and Planning Board. The Board will have nine (9) voting members, consisting of three (3) members of the Common Council, one (1) Regional Representative, four (4) residents of the City of Madison, one (1) member of the Plan Commission who may be either a Common Council member or resident, and two (2) alternate members who may be either a Common Council member or resident.

Under the current structure of Sec. 3.14, transportation policy matters are addressed by a variety of the commissions, committees and subcommittees listed above in a variety of different ways. Under this proposed ordinance, all policy related matters will go to the Board, which will have the authority to adopt transportation policies and plans subject to appeal to the Common Council. TORC believes that consolidating policy making in a single body will give staff, the public, and the elected officials a more centralized and cohesive planning body. Thus, the primary duty of the Board as listed in proposed Sec. 33.55(6) is to consider, develop, and adopt transportation policies and plans for all elements of the City's transportation system. Further duties of the Board listed in Sec. 33.55(6) include setting transit fares, off-street parking rates, and making recommendations to the Common Council on the proposed budgets for each division of the Department of Transportation.

Including a Regional Representative is relatively unique to Madison commissions, committees and subcommittees, and resulted from considerable discussion emphasizing the need for the city to create and maintain a transportation system that is responsive to the needs of the entire Madison region. Furthermore, the TORC recognized that many of the city's transportation policies, projects, and services already involve substantial interaction with a variety of regional partners, and that it is critical to have a regional perspective represented on the nine-member Board as the City makes policies and plans for the future of its transportation system. The Regional Representative will be an elected official of a political subdivision that contracts with Metro Transit for transit services, such as Middleton, Fitchburg, or Monona. These members will be appointed by the mayor, serve two years terms, and be eligible to vote on all matters that come before the Board.

Importantly, the Board will be staffed by the new Transportation Policy and Planning Manager, but it is expected that this individual will work collaboratively with the Traffic Engineer and Parking Manager, Transit Manager, City Engineer, and Director of Planning, Community, and Economic Development to ensure that the Board is properly staffed and has the resources it needs to address the policy issues it takes up.

### **C. This ordinance establishes a Transportation Commission.**

Proposed Sec. 33.56 establishes a Transportation Commission. The Commission will have nine (9) voting members, consisting of two (2) members of the Common Council, seven (7) resident members, and two (2) resident alternate members. Sec. 33.56(3)(a) specifically details what types of members will be selected to ensure the commission is able to hear from individuals who either have specific knowledge of or experience using various elements of the city's transportation system. Nevertheless, it is not the intent of the ordinance for these individuals to be advocates solely for the transportation issue or mode they are most familiar with. Instead, the ordinance specifically declares that all members of the commission must be capable of and committed to holding a multi-element, system-wide perspective on transportation issues.

Sec. 33.56(5) provides that the duties of the Commission will be to decide specific transportation issues related to Transit, Parking, and Pedestrian, Bicycle, and Motor Vehicles, that arise. Subsections (a)-(c) detail what issues will come before the Commission. The ordinance also specifies that the Commission must decide these issues in a manner that is consistent with the transportation policies and plans adopted by the Board or Common Council. Thus, the primary role of the Transportation Commission is to ensure that staff is implementing the city's transportation policies and plans in a manner that is consistent with the intention of the Board and the Common Council. Each decision of the Commission is subject to appeal to the Common Council as provided in Sec. 33.56(6).

The ordinance specifies that the Commission will be staffed by either the Traffic Engineer & Parking Manager or the Transit Manager, as assigned by the Mayor.

### **D. Racial Equity Language**

As mentioned above, of critical importance to the TORC was that racial equity language be included throughout the Department, Board, and Commission ordinances to ensure that each body works to eliminate any disparities that people of color and people of low income experience with respect to the city's transportation policies, programs, services, and destinations. Thus, this language is included in each ordinance. Furthermore, Sec. 33.55(3)(d) related to the resident members of the Board require that in appointing members to the Board, the Mayor shall consider the need to appoint individuals who have knowledge of equity issues and the needs of marginalized communities. Sec. 33.56(3)(a) declares similarly that at least one member of the Commission shall have knowledge of equity issues, and that the mayor shall consider

appointing people of color or people of low income who are frequent users of any specific element of the City's transportation system.

**E. Effective Date**

These ordinances set an effective date of January 1, 2018 to give the city time to hire a Transportation Policy and Planning Manager.