

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

DATE: November 16, 2004

MEMORANDUM

TO: **Mayor Cieslewicz
Common Council Members**

FROM: Michael P. May, City Attorney

SUBJECT: **Point of Order - Role of City Attorney at Council Meetings; Raising Points of Order and Information**

I recently had a conversation with an alderperson about the role of the City Attorney as parliamentarian at Common Council meetings. I thought it worthwhile to clarify how I view that role, and to provide further advice on use of some Incidental Motions, as it relates to that role.

Role of City Attorney.

The City Attorney is present at Council meetings for two reasons. First, the City Attorney acts as parliamentarian to provide advice to the Chair, or to members upon request, on questions of parliamentary procedure or other rules of order in the operation of the meeting. Robert's Rules of Order, Section 46, describes the role of the parliamentarian in part as follows:

"During a meeting the work of the parliamentarian should be limited to giving advice to the Chair, and, when requested, to any other member. It is also the duty of the parliamentarian -- as inconspicuously as possible -- to call the attention of the chair to any error in the proceedings that may affect the substantive rights of any member or may otherwise do harm."

Thus, to the extent I observe some error in procedure or in the rules of order, I normally will bring it to the attention of the Chair. I generally do not view it as proper for the parliamentarian to interrupt the proceedings; the parliamentarian is not a member of the Council.

The second role of the City Attorney at the meetings is to provide legal advice to the Common Council upon request. This is a separate and distinct role from that of parliamentarian, and is similar to the role of other City staff in answering questions for the Council members. However, like the role of a parliamentarian, it is not a role that allows the City Attorney to gratuitously offer legal advice to the body; some member must request that the City Attorney answer a legal question or provide information.

The Manner of Bringing Questions to the City Attorney:

The above description of the role of the City Attorney leads to the next question: how do members of the body bring before the City Attorney questions of procedure or of law?

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First, if a member has the floor, the member may simply direct a question to the City Attorney. If a member does not have the floor, the normal way to raise these issues is to raise a Point of Order or Point of Information. The member of the body simply states: "Point of Order" or "Point of Information" or "I rise to a Point of Order / Information."

These motions are known in Robert's Rules as "Incidental Motions." They are termed incidental because they relate not so much to the substance of the matter before the body, but relate to the very process in which the body is engaged. Unlike other motions, these two Incidental Motions may be raised while another member of the body has the floor. Thus, while normally a member must wait until another member has yielded the floor, a member may rise to a Point of Order or Point of Information even while another member has the floor. Moreover, unlike most other motions, a Point of Order or Point of Information requires no second and is not debatable. The person raising the Point of Order or Point of Information immediately has the floor upon recognition by the Chair and may then raise the issue.

It is through this process that members of the body may bring questions to the attention of the Chair, or the parliamentarian, or to City staff, all of which relate to the manner in which the body is considering a specific proposal, or information needed to act on the proposal.

Michael P. May
City Attorney

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cc: Assistant City Attorneys
Lisa Veldran