

Common Council Organizational Committee
Tuesday, March 15, 2005
4:30 p.m.

Registrant Testimony on Agenda Item #1

<u>Registrant</u>	<u>Representing</u>	<u>Support/Oppose</u>	<u>Spoke/Did not wish to speak</u>
Bill Cleary	Self	Oppose	Spoke
Delora Newton	Smart Growth Madison	Support	Spoke
Nicholas Schiavo	Chamber of Commerce	Oppose	Spoke/available to answer questions
Sandra Torkildson	Small Business Adv. Board	Oppose	Spoke
Mary Lang Sollinger	GSSBA	Oppose	Spoke
Trudy Barash	Self	Oppose	Spoke
Phil Salkin	RASCW	Oppose	Spoke
Henry Sanders	Greater Madison Chamber of Commerce	Oppose	Spoke
Daniel Guerra, Jr.	GMCC, SBAC	Oppose	Spoke/available to answer questions
Patrick McCaughby	Self	Oppose	Did not wish to speak
Peter Lemberger	Self	Oppose	Did not wish to speak

Bill Cleary

Mr. Cleary provided a copy of his remarks. They appear at the end of this document.

Delora Newton

Ms. Newton stated she wanted to speak in support of some pending amendments outlined in City Attorney Michael May's March 11, 2005, memo. Specifically, she said she supports Konkel/Verveer amendments A, B and C, all of the Konkel amendments, and the Brandon amendment.

Nicholas Schiavo

Mr. Schiavo stated that he represents the Chamber of Commerce and himself. A 35-year resident of Madison, Mr. Schiavo operates three businesses. He made the following statements:

- ♦ People speaking at public hearings should be exempt from registering as lobbyists.
- ♦ Small business owners who don't have English as their first language may require more public education than the one session per year that the ordinance proposes, perhaps as many as four sessions, especially since businesses are closing and opening all the time.
- ♦ If this had been part of a public platform or campaign agenda so people knew this was coming, there might have been a lot more input from people who aren't members of the Chamber, which is the vast majority of small businesses.

Sandra Torkildson

Ms. Torkildson stated that she represents herself as a small business owner in Madison, and that she supports Konkel amendments A and C. She said she considers this a free speech issue, having always assumed she had the right to lobby against anything as an individual, and that her rights shouldn't be any different than a regular citizen. She added that it's important not to put up barriers against the dialog that helps us make laws that work better for our city.

Mary Lang Sollinger

Ms. Lang Sollinger stated she is a business owner, volunteer BID Board member, and volunteer officer in GSSBA, adding that her volunteer positions make it very difficult to calculate the money situations. She said she'd spoken to a number of lobbyists who informed her that reporting is done on an "honor system," and that a lot of numbers are fudged quite a bit, with really no way of checking.

She reported that last year, in the State Street area alone, business owners on State Street had to address Halloween, bus shelters on the Square, bus shelters on State Street, the Business Improvement Renewal, increased property tax assessments, street maintenance assessment fees, the UW Comprehensive Plan, the Downtown City Advisory Report, and 180 special events. She said it would be pretty tough for citizens and business owners to deal with all that if you were limited to three to five alder contacts.

Ms. Lang Sollinger said she thinks the motivation – transparent government – is good, but they need to separate the small guys from the big guys. She stated she supports the Onken amendments, Konkel amendments A and C, and the Brandon amendment.

Trudy Barash

Ms. Barash stated she owned Canterbury Books for many years and still owns Canterbury Inn. Many of the years she owned Canterbury Books, she wished she could vote in that downtown area because that's where her life's investment was. In that area, where there's a very student-oriented constituency, very often the thinking is insular and your points aren't heeded. She said it's incredibly important that access not be limited. She stated she was rather insulted when the original ordinance was put forward, but that she supports the amendments that have been mentioned by the previous speakers.

Phil Salkin

Mr. Salkin stated that he supports the amendments by Aids. Skidmore, Brandon and Onken. He said that when he originally heard Ald. Verveer talk about the function of these amendments, it was to deal with large projects, especially those dealing with City financial support, and it made sense. Mr. Salkin then outlined what he thinks small business gets out of this:

- ◆ They get education one time a year, so they better hope they can make it that day.
- ◆ They can speak at meetings if they register, however meetings are often scheduled during business hours. By definition, small businesses don't have people or they can't close their doors whenever alders decide to hold meetings.
- ◆ They can speak to alders at all locations, an improvement. However, small businesses usually don't have multiple locations.
- ◆ They can speak to the alder in the district in which the business is located. That's good, providing that your alder is on the critical committees or is engaged in these issues.

Mr. Salkin said the result is that alders will be hearing more from lobbyists like himself because most small business people and small business associations aren't going want to see themselves in The Capital Times because they unknowingly violated the lobbying ordinances. They'll either shut up or hire lobbyists.

Mr. Salkin said he supports the Skidmore amendments because they bring the ordinance in line with the State Statutes for lobbying. He asked the body if there is some reason why they think business people in the Madison area need to be held to a different, higher standard than they do in the State.

Henry Sanders

Mr. Sanders stated that his organization supports the following:

- ◆ Konkel/Verveer amendments A, B and D.
- ◆ Skidmore amendment A, adding that they still don't like the semiannual reporting, but they understand that some alders had concerns about it.
- ◆ Skidmore amendment B.
- ◆ He echoed the comments of the previous speakers about the need for more education, saying they support quarterly sessions.
- ◆ The Onken amendment.
- ◆ All of the Konkel amendments.

Daniel Guerra, Jr.

Mr. Guerra, Jr. said his organizations supports the following:

- ◆ Expanding the definition of a small business owner.
- ◆ Exceptions made for City commissions and committees.
- ◆ The exemption made for issues in the district.
- ◆ The de minimus exceptions, providing the \$500 reporting requirement is increased to \$2000.

Mr. Bill Cleary's Remarks

Hi, my name is Bill Cleary, I come here as a private citizen and a Madison resident of 27 years.

First, let me state that I will include the all business entities, industries, trades, associations, professions or segments or portions thereof in my use of the term 'business community'

Second, some word definitions that I found in "The American Heritage Dictionary of the English Language":
segregate: 1."To separate or isolate from others or from a main body or group." 2. "To impose the separation of (a race or class) from the rest of society."
segregation: 1. "The act or process of segregating or the condition of being segregated."

The reason I am here tonight is to defend the United States Constitution and the Bill of Rights. In doing so, I am defending the right of all Americans to have equality of access to their government. I am here to derail the City of Madison Common Council's desire to enact what I can only consider to be a Jim Crow Ordinance for the business community.

To me, the design and function of this ordinance is reminiscent of the Jim Crow laws. Jim Crow was a system of segregation and discrimination that barred black Americans from a status equal to that of white Americans. Similarly, this ordinance seeks to deny a class of people, the business community, a status equal to that of others by denying them equality of access to their government.

Therefore it is in my opinion that this ordinance is an attempt on the part of this common council to segregate the business community from the rest of the community as a whole. The fact of the matter is if this ordinance was applied to any other group, say Hindus, or Black people or those who are gay, lesbian or transgendered, one could hardly imagine the outrage that would be expressed in this city.

My fear is that once the council has the power to subjectively segregate the community as a whole, many will have to register as a lobbyist in order to speak to a council member individually, or the whole Council, city officials, or other city employees as the council determines. The Council may decide to further segregate the community by applying this ordinance to other groups in the community at their whim. They may also decide to apply a fee to those they consider to be lobbyists. I'm afraid that the Council will continue to increase such fees to the point where only the those who have the ability to pay or those who have the same ideological background as the council will have access to the council.

Madison is a part of Wisconsin, and Wisconsin is a part of the United States, and the United States is a Republic. This ordinance is segregationist in nature and does not lend itself to a Republic. You, who are the members of this Common Council, are elected by the people in a process that involves the whole people. This is a government of the people, by the people and for the people; this ordinance will turn that concept completely on its head.

By the way, where in the 1st Amendment does it limit a citizen's right to seek access to their government? Where does it say that a citizen has the right to representation only from certain representatives? Where does it say that they cannot contact any other representative on a matter concerning their well being without first registering as a lobbyist? Where does it say anywhere in the Constitution or the Bill of Rights that this city council has the right to practice segregation? Can you find that for me? I'm having a hard time finding that in my copy of the United States Constitution and the Bill of Rights. Please...read aloud for us the passages in those documents that say that the business community or any other group for that matter should be segregated and have only a limited right to access their government.

In the end, equality is not measured as separate but equal treatment, but as equality of access to equal treatment. In this country we have come a long way since the days of the Jim Crow laws; let's not take a step back in that direction no matter what the purpose is at the time. History has shown by giving the government the power to deny some the access to their rights, eventually their rights as well as all of our rights will be denied altogether.

One final thought on the 14th Amendments meaning of equality as found in Find Law:

Equality is, "If due process is to be secured, the laws must operate alike upon all and not subject the individual, (or I might add, a group), to the arbitrary exercise of governmental power unrestrained by established principles of private rights and distributive justice."

The US Constitution and the 1st and 14th Amendments: "Furthermore, the right of petition has expanded. It is no longer confined to demands for 'a redress of grievances,' in any accurate meaning of these words, but comprehends demands for an exercise by the Government of its powers in furtherance of the interest and prosperity of the petitioners it must give them (the parties) an opportunity to be heard respecting the justice of the judgment sought."

"Any legal proceeding enforced by public authority, whether sanctioned by age or custom or newly devised in the discretion of the legislative power, which regards and preserves these principles of liberty and justice, must be held to be due process of law."

Find Law: US Constitution: Amendments

...US Constitution. Amendments to the Constitution of the United States of America.

Articles in addition to, and amendment of, the Constitution...

caselaw.findlaw.com/data/constitution/amendments.html - 89k - Feb 27, 2005 - Cached - Similar pages

Rights of Assembly and Petition

Procedural Due Process: Civil