

**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: Drafter's Analysis (Legistar Files 46249, 46376, and 46377)
Date: September 14, 2017

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 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 File 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.

At the conclusion of its meetings on February 20, 2017, the TORC voted to recommend ordinances that would repeal and recreate current Sec. 3.14 and eliminate and replace all current transportation related commissions, committees, and subcommittees. This repeal and recreate is accomplished through two repeal ordinances (Legistar files 46376 and 46377)¹ and one ordinance (Legistar 46249) that recreates the Department of Transportation and creates a Transportation Policy and Planning Board and Transportation Commission.

The proposed ordinances were referred to the Transit and Parking Commission (TPC) as lead referral and to the Madison Sustainability Committee, ADA Transit

¹ Two separate ordinances are required to repeal the current ordinance 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.

Subcommittee, Contracted Services Oversight Subcommittee, Pedestrian/Bicycle/Motor Vehicle Commission, and the Long-Range Transportation Planning Committee. A separate memorandum attached to Legistar file 46249 summarizes the comments and recommendations made by each of these bodies.

Once TORC received the comments and recommendations from each of the above bodies, TORC reconvened to discuss the recommendations and consider possible changes to the proposed ordinances. The TORC made changes to the initially proposed ordinances after considering the comments made by each body that reviewed the ordinance. Staff then briefed the Common Council on the ordinances before they went to the Common Council Executive Committee (CCEC). The CCEC made two amendments to the proposed ordinances. The Third Substitute Ordinance before the Common Council for adoption constitutes the final version of the proposed ordinances being proposed by TORC after consideration of the comments made by each body who reviewed the ordinances and amendments made by the CCEC.

This memorandum describes each action achieved by the proposed ordinances.

A. This ordinance re-creates the Department of Transportation and calls for the hiring of a Director 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.) Affirmatively states that the Department of Transportation is to be directed by a Director of Transportation and outlines the duties of the Director (Sec. 3.14(2)(a)-(r));
- 3.) Retains each division currently housed in the Department of Transportation (Traffic Engineering, Parking, and Transit) and clarifies and simplifies the duties of each division and manager to be consistent across divisions;

In recreating the Department of Transportation, the TORC discussed at great length whether the city should hire a Director of Transportation or have a department that is led by cooperatively by the current division managers, as is the current practice. After receiving comments from the various commissions, committees, and subcommittees, and after receiving further input from the public, TORC voted for the ordinance to call for a Director of Transportation.

B. This ordinance eliminates all existing transportation related commissions and committees and establishes a Transportation Policy and Planning Board and Transportation Commission.

1. Transportation Policy and Planning Board

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. These new bodies will be created in Chapter 33 of the ordinances.

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 and responsibility under Sec. 33.55(6)(b) to consider, develop, and recommend for adoption to the Common Council transportation policies and plans. TORC believes that consolidating policy and planning in a single body will give staff, the public, and the elected officials a more centralized and cohesive transportation policy and planning body.

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. 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.

2. 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).

C. This ordinance includes racial equity language and was analyzed using the Racial Equity Social Justice Initiative Tool.

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.

A member of the City's Racial Equity Social Justice Initiative team attended each meeting of the TORC. A subset of RESJI also analyzed the following proposed ordinance using the RESJI equity tool and made recommendations pertaining to the implementation of these ordinances if adopted by the Common Council.

D. This ordinance sets an effective date of January 1, 2018.

These ordinances set an effective date of January 1, 2018.