



City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Approved COMMON COUNCIL ORGANIZATIONAL COMMITTEE

Tuesday, November 9, 2010

4:30 PM

NOTE ROOM CHANGE
215 Martin Luther King, Jr. Boulevard
Room 260, Madison Municipal Building

CALL TO ORDER / ROLL CALL

Present: 4 -
Mark Clear; Lauren Cnare; Marsha A. Rummel and Michael Schumacher

Excused: 4 -
Bryon A. Eagon; Shiva Bidar-Sielaff; Ald. Chris Schmidt and Tim Bruer

Others Present: Ald. Bridget Maniaci, Ald. Mike Verveer, Ald. Steve King, Ald. Paul Skidmore, Ald. Brian Solomon, Ald. Larry Palm, Ald. Judy Compton, Ald. Joe Clausius, Ald. Thuy Pham-Remmele, Janet Piraino, Andrew Statz, City Comptroller Dean Brasser, City Attorney Michael May, Assistant City Attorney Anne Zellehoefer, HR Director Brad Wirtz, Overture Center Director Tom Carto, Deirdre Garton, Lori Kief, Jay Young, Davin Pickell, Kristin Czubkowski (TCT), Dean Mosiman (WSJ), Kathleen Rideout, Attorney Brian Butler, Andrew Taylor and Brenda Konkell.

Ald. Mark Clear, Chair, called the meeting to order at 4:32 p.m.

Ald. Shiva Bidar-Sielaff arrived at 4:35 p.m. Ald. Chris Schmidt arrived at 4:35 p.m.

Present: 6 -
Mark Clear; Lauren Cnare; Shiva Bidar-Sielaff; Marsha A. Rummel; Ald. Chris Schmidt and Michael Schumacher

Excused: 2 -
Bryon A. Eagon and Tim Bruer

APPROVAL OF MINUTES

A motion was made by Ald. Marsha Rummel, seconded by Ald. Michael Schumacher, to approve the October 5, 2010 CCOC meeting minutes. The motion passed by voice vote/other.

Approval of the October 19, 2010 CCOC special meeting minutes was tabled by Ald. Lauren Cnare, seconded by Ald. Marsha Rummel.

PUBLIC COMMENT

There was no public comment.

REFERRALS FROM THE COMMON COUNCIL

20078

Amending and repealing various sections of the Madison General Ordinances to correct inconsistencies and improper references in the Madison General Ordinances, constituting the 2010 City Attorney Reviser's Ordinance.

Sponsors: Common Council By Request

A motion was made by Ald. Lauren Cnare, seconded by Ald. Marsha Rummel, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by voice vote/other.

Ald. Bryon Eagon arrived at 4:47 p.m.

Present: 7 -

Mark Clear; Lauren Cnare; Bryon A. Eagon; Shiva Bidar-Sielaff; Marsha A. Rummel; Ald. Chris Schmidt and Michael Schumacher

Excused: 1 -

Tim Bruer

APPROVAL OF MINUTES

Ald. Marsha Rummel moved to take off the table approval of the October 19, 2010 CCOC special meeting minutes, seconded by Ald. Lauren Cnare. Motion was approved.

A motion was made by Ald. Lauren Cnare, seconded by Ald. Chris Schmidt, to approve the October 19, 2010 CCOC special meeting minutes. The motion passed by the following vote:

Excused: 2 -

Eagon and Bruer

Ayes: 5 -

Clear; Cnare; Bidar-Sielaff; Rummel and Ald. Schmidt

Abstentions: 1 -

Schumacher

20227

Final Report of the Overture Ad Hoc Committee to the Mayor and Common Council - Mark D. Bugher, Chair

Attachments: [Final Report Overture Ad Hoc Committee dated 10/19/10](#)
[By Title Only Version of Report](#)
[EMAILS for MAC 110810.pdf](#)
[11/9/10 CCOC Registrants: 20227](#)
[Registration Forms 11-9-2010.pdf](#)
[Registration Forms 11-30-2010.pdf](#)

Registrations:

Lori Kief, 4413 Doe Crossing Trail, Local 60: Spoke/Opposed
Jay Young, Town of Cross Plains: Spoke/Neither Supported or Opposed
John Neis, Local 60: Spoke/Opposed
Davin Pickell, 17 Merrill Crest, AFSCME Local 60, IATSE Local 251:
Spoke/Opposed
Brian Butler, 2607 Middleton Beach Road, Middleton, MCAD: Spoke/Supported
Kathleen Rideout, 425 N. Baldwin Street: Did Not Speak/Opposed

Lori Kief spoke on behalf of the Overture Center employees represented by Local 60. She stated that they would like to see the Overture Center be a publicly owned and operated facility. They were pleased that alders expressed concern with transparency and staffing during the Overture Center discussion that was held on 11/4/10. Local 60 also supported an independent evaluation of the Focus Model and exploring other staffing options. She urged the CCOC members to reject the Overture Ad Hoc Committee Final Report. Ald. Lauren Cnare asked Ms. Kief if she had any idea how "exploring other options" would be done and where the money would come from. Ms. Kief noted that they would like the staffing models cited in the City Attorney's memo reviewed in order to maintain Overture Center employees (Local 60) WRS eligibility.

Jay Young spoke next. He noted that he was concerned with discrepancies that he had seen between the Overture Center financials (works in the Finance Office) and the Focus Model financials. He stated that he thought the Ad Hoc Committee should have been able to look other ownership models but were constrained by their mission.

Ald. Shiva Bidar-Sielaff stated that she understood there was a staff meeting that morning and asked if Mr. Young if he could provide his impressions. Mr. Young noted that Tom Carto and Attorney Sweet (201 State Foundation attorney) were presenting answers to questions that were prepared from the floor.

Mr. Young also provided the following notes (from an email sent 11/9/10):
Attorney Sweet, "The forbearance agreement says nothing about the model being public/private"
Attorney Sweet, "The WRS says city employees managed by 201 won't work"
Attorney Sweet: The building is unlikely to close in a worst case scenario (in this case I couldn't write fast enough to quote him word for word)
Attorney Sweet: "Privatization is not to save money, because we're offering the same wages to employees"
Attorney Sweet: "The (Overture) Foundation has no control over how and when the building is maintained"
Attorney Sweet: "Maintenance were kept city employees because the wages

and benefits would be better with the city”

Ald. Lauren Cnare asked the same question that she asked of Ms. Kief , if he had any idea how "exploring other options" would be done and where the money would come from. Mr. Young stated that as an Overture employee, it was not his concern but knew someone had to pay for it. He favored another group coming forward with a better plan and able to sell them on the model.

Ald. Cnare asked Mr. Young if he received a copy of the draft lease/term sheet. He indicated that he had. Ald. Cnare asked if his notes that he had taken at the meeting appeared to be different than what was in the draft lease/term sheet and was it his impression that some things had changed. Mr. Young stated that he did not know.

John Neis spoke in opposition. He indicated that he was Executive Vice President of Local 60. He indicated that they have not been part of negotiations with 201 State Foundation regarding the transfer of employees.

Ald. Bidar-Sielaff asked if he had any official meeting over the last two years with the City, 201 State Foundation or MCAD representatives about privatization of employees. Mr. Neis indicated that they met with the Mayor 2 weeks ago.

Davin Pickell spoke. He stated that the final report of the ad hoc committee was not approved by the ad hoc committee, draft minutes have not been approved and recommended referring the report back to the ad hoc committee. Ald. Thuy Pham-Remmele asked what violations had occurred. Mr. Pickell stated that the chair was never voted on but assigned, no public comment at the first meeting, chair should not have voted on a number of issues and he would be filing ethic code complaints with respect to Deirdre Garton and her votes on the ad hoc committee.

Brian Butler spoke. He provided committee members with his background on serving on a variety of boards (including the County Board and Friends of Pheasant Branch Conservancy). He is currently a member of the MCAD and the 201 State Foundation Boards. He has had experience in soliciting money from donors. He noted that Overture's success is dependent upon the ability to solicit donations and ensuring performance standards are met.

Ald. Bidar-Sielaff asked Mr. Butler if he had served on any other non-profit boards. Mr. Butler stated that he served as President of the Dudgeon-Monroe Neighborhood Association and in the "trenches"(Big Brothers, Big Sisters). Ald. Bidar-Sielaff asked if members on the Pheasant Branch Conservancy Board could give a lot of money or passionate about the mission. Mr. Butler noted they were passionate and were not all wealthy people.

Ald. Cnare asked if the choice was between a blended board membership where performance standards suffer or the proposed model which would achieve better performance standards. Mr. Butler stated in his opinion that the better route for the city was through the performance standards versus running the Overture Center by putting more people on the board.

Ald. Schumacher asked what the consequences would be if the performance standards are not met, for example, financial, asking for the resignation of

management or hiring a new operator. Mr. Butler stated that the proposal outlined the consequences – that the operator could be terminated. Ald. Schumacher asked what were the specific performance standards and measurements the city would enforce. Mr. Butler stated that the city wouldn't pull the plug precipitously and if the city felt that the board in charge of the operations wasn't doing the job it would be manifested from the objective data from the performance standards.

Ald. Rummel asked about the balance between board membership and performance standards - more of a private model with more public accountability versus the proposed model which would be publicly owned but with less public accountability (more closed meetings with the new model). Mr. Butler stated that closed meetings would not be the norm and the intention was to have these meetings open to the public (unless the new board was discussing employment issues or potential donors).

Ald. Bidar-Sielaff if it was correct to assume that Mr. Butler was saying that a new board, with little or no public appointees, would be more successful in achieving fund raising goals. She asked if this wasn't the current model and why it has not functioned. Mr. Butler stated that the proposed model was based on the current 201 State Foundation model but had a larger membership and would not only conduct fundraising but also oversee the operations (201 State Foundation does not operate the facility currently). He stated that potential board members would know that "this was their show" and that it was a big job and big responsibility but with a lot of flexibility in accomplishing what has to be done. Mr. Butler said the new operating model would give a sense of ownership to the board that was not there right now because there are government appointees.

Ald. Chris Schmidt asked how long Mr. Butler had been on the 201 State Foundation Board. Mr. Butler stated two years. Ald. Schmidt asked why the current structure wasn't challenged earlier by the board members of 201 State Foundation. Mr. Butler stated that they knew over the last two or three years what was coming and the two boards went through a long process of looking at various models for the Overture Center. Ald. Schmidt stated it would have been beneficial to see how that process evolved. Mr. Butler stated that Ald. Mike Verveer knew about the entire process (as a member of MCAD). He stated that it took a long time to look at the various models to get to the point where they could make a sensible recommendation.

Ald. Rummel asked Mr. Butler to explain his statement about the new board having "more control over operations". Mr. Butler stated that there would be a three member executive committee of the board – one of the members would be a city appointee and it would focus on the day-to-day operational issues. He also stated that the remaining members of the board would be focusing on the fundraising of \$2M a year.

Ald. Cnare asked if they were comfortable with the language that the Mayor would consult with the board prior to making his/her appointments to the new board. Mr. Butler stated they were comfortable with that language and that was why it appeared in the agreement.

Ald. Bidar-Sielaff asked how the current boards MCAD and 201 State Foundation Boards have been operating. It was her understanding that MCAD

had a budget and audit committee and wanted to know if they had any input into the future operations of the Overture Center. Mr. Butler stated that Dana Chabot, the treasurer, was very involved and other members of the committee (who were not members of MCAD) were involved in the modeling process.

Ald. Rummel asked if he supported how the community advisory board would work as spelled out in the agreement (page 6 of the Term Sheet: "201 shall create or maintain advisory committees of the Board for resident companies and for community engagement including a Community Advisory Board. Representatives of such committees shall be invited to attend Board meetings and to regularly report to the Board on their recommendations.") Mr. Butler saw that as a critical relationship.

Ald. Mark Clear stated that the Madison Arts Commission met on 11/8/10 and recommended to accept the report but it was pointed out that they did not have enough members to sustain that vote so the motion failed (no recommendation) and the Board of Estimates have not taken up the report.

Ald. Schumacher asked City Attorney May about the violations that were brought up during the public testimony. City Attorney May has not looked at the alleged violations but he did confirm that there was not public comment at the first meeting but was corrected in subsequent meetings and did not affect the actions of the committee. It was never suggested at meetings that the chair should not be voting and the chair can be appointed by resolution and not by the members of the committee.

A motion was made by Ald. Michael Schumacher, seconded by Ald. Bryon Eagon to Return to Lead with the Recommendation for Approval to the BOARD OF ESTIMATES. The motion failed by the following vote 3:3:1:1

Ayes: Clear, Eagon, Schumacher

Noes: Bidar-Sielaff, Rummel, Schmidt

Absent: Cnare (out of the room)

Excused: Bruer

Ald. Lauren Cnare returned to the room during discussion on Item #5.

A motion was made by Ald. Lauren Cnare to reconsider the item, seconded by Ald. Shiva Bidar-Sielaff. The motion passed by the following vote: 5:2:1

Ayes: Clear, Cnare, Bidar-Sielaff, Eagon, Schumacher

Noes: Rummel, Schmidt

Excused: Bruer

A motion was made by Ald. Lauren Cnare, seconded by Ald. Michael Schumacher, to Return to Lead with the Recommendation for Approval to the BOARD OF ESTIMATES. The motion passed by the following vote:

Excused: 1 -

Bruer

Ayes: 4 -

Clear, Cnare, Eagon and Schumacher

Noes: 3 -

Bidar-Sielaff, Rummel and Ald. Schmidt

20248

Accepting a deed from Overture Development Corporation for the Overture Center located at 201 State Street; authorizing the Mayor and City Clerk to execute a Lease and Operating Agreement with 201 State Foundation, Inc., or its successor; authorizing the formation of a condominium at the Overture Center; and authorizing the Mayor and City Clerk to execute such other documents that may be deemed necessary by the City Attorney to implement the transaction

Sponsors: David J. Cieslewicz, Mark Clear, Lauren Cnare and Michael E. Verveer

Attachments: [11/4/10 City-201 State Foundation Term Sheet](#)
[Budget Impacts - 2010 Overture Agreement.pdf](#)
[Overture Capital Outlays and Debt Service 110510.pdf](#)
[11/4/10 CC Discussion: Overture Center Visioning Statements](#)
[11/9/10 CCOC Registrants: 20248](#)
[Registration Forms 11-9-2010.pdf](#)
[Alternate Resolution Overture Center 11/18/10](#)
[11/18/10 CCOC Registrants: 20248](#)
[Council Statements at 11/18/10 CCOC Meeting](#)
[Common Council Amendments to 20248](#)
[Updated Common Council Amendments to 20248](#)
[Registration Forms 11-30-2010.pdf](#)
[Registration Forms\(2\) 11-30-2010.pdf](#)
[11/29/10 MPMLegal Memo On Amendments to Alternate](#)
[Expanded 12/7/10 Overture Resolution Version 4](#)
[Original Resolution](#)
[Alternate Resolution](#)
[Compare Document Version 5 v Version 4](#)
[DRAFT SUBSTITUTE ALTERNATE \(Version 4\)](#)
[DRAFT SUBSTITUTE ALTERNATE \(Version 5\)](#)
[Budget Impacts - 2010 Overture Agreement\(Versio5\).pdf](#)
[SUBSTITUTE ALTERNATE \(Version 3\).pdf](#)
[Registration Forms 12-14-2010.pdf](#)

Registrations:

Jay Young, Town of Cross Plains: Spoke/Neither Supported or Opposed
Davin Pickell, 17 Merrill Crest, AFSCME Local 60, IATSE Local 251:
Spoke/Opposed

Jay Young spoke neither in support or opposition. He stated that he wanted to add a "tidbit" about the 201 State Foundation Board. His experience with other performing art organization boards were that they are set up similar to the 201 State Foundation Board with board members main function being fundraising and running the business was secondary.

Davin Pickell spoke in opposition. He supported having separate boards for fundraising and operations, performance standards should be done now rather than later, didn't have an opinion on board makeup but having board members on MCAD and 201 State Foundation has resulted in the current deficit. He supported setting up a privately funded pre-paid performance bond to cover the transition expenses. He stated that there appeared to be ethics violations with the forbearance agreement.

Ald. Shiva Bidar-Sielaff moved to refer without a recommendation to the 11/30/10 Common Council meeting, seconded by Ald. Lauren Cnare.

Ald. Mark Clear asked if there was a motion to go into closed session or if the members wished to stay in open session. Members indicated that they would stay in open session. Karl van Lith (City Organizational Development & Training) was present to facilitate the conversation and ideas on potential changes to the agreement. Agreed focus area to discuss would be capital expenses.

Ald. Cnare asked City Comptroller Dean Brasser a question about the attached capital outlay graph (produced by Andrew Statz). She noted that as the City planned it's 5 year projection they would have to borrow for every single year. She asked if the city start some sort of savings plan to take care of the spikes. Mr. Brasser noted that there are three outlays: estimated operator's capital outlay, estimated owner's capital outlay and the owner's projected annual debt service (see attachments). Mr. Brasser noted that in 2012 there would be no budget impact, in 2013 the budget impact would be approximately \$56,000 and purchases for each year would increase and peaks 15 years out at \$816,000 (interest and repayment of the principal with average being \$412,900).

Ald. Cnare asked if this would affect the City's bond rating. Mr. Brasser stated that the operating budget has \$25 - \$30M of debt service besides this and would represent some percentage increase in debt service. Ald. Cnare asked how much this would affect taxpayers. Mr. Brasser stated that it would be \$13/\$100,000 of levy (and applied not just to this expense but would be everything in the operating budget).

Ald. Judy Compton expressed concern about the interest rate used and increases of future interest rates. Mr. Brasser stated that he used a 5% annual interest rate as the long-term projection. During his career they have had a high of 7% and 3% is now far more common and 5% is a more conservative estimate over the next couple of years.

Ald. Michael Schumacher asked how these numbers compare to the maintenance and debt service for Monona Terrace. Mr. Brasser stated that he didn't have anything off the top of his head but stated although they were different facilities they have some of the same spikes in costs (e.g. Monona Terrace roof, carpet replacement- but the Overture Center is larger so the numbers would be larger).

Ald. Thuy Pham-Remmele questioned whether the city could afford this agreement and that you cannot be sure that the interest rates would stay the same.

Ald. Brian Solomon asked if the goal was to try to achieve an agreement where maintenance costs would fall equally on each party. City Attorney May stated that there are divided maintenance costs and they have been negotiating on the "gray areas". He believed that the city's maintenance costs were now slightly lower (confirmed by Andrew Statz). Ald. Solomon stated that he was concerned that the estimates may be off and would like to see in the term sheet some protection for both parties that would ensure some protection between the differences of costs. He used an example: 20% over a 5 year period in total maintenance costs would be the responsibility of the other party to make up

that cost (to be in place over the length of the agreement).

Mr. Brasser stated that operator's 15 year piece was \$9.09M and the City's was \$7.8M.

Ald. Shiva Bidar-Sielaff moved to recess and reconvene the CCOC meeting until after the 11/9/10 Common Council meeting in Room 201, CCB, seconded by Ald. Michael Schumacher. Motion was approved. Meeting was recessed at 6:17 p.m.

The CCOC meeting reconvened at 11:50 p.m.

A motion was made by Ald. Lauren Cnare, seconded by Ald. Marsha Rummel, to Rerefer to a special meeting of the COMMON COUNCIL ORGANIZATIONAL COMMITTEE, due back on 11/18/2010. The motion passed by voice vote/other.

ADJOURNMENT

A motion was made by Ald. Lauren Cnare, seconded by Ald. Marsha Rummel, to adjourn. The motion passed by voice vote/other. The meeting adjourned at 11:52 p.m.