

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

Date: April 9, 2018

MEMORANDUM

TO: Mayor Paul Soglin
All Alders

FROM: Michael P. May
City Attorney

RE: Confederate Monuments Resolution; Legistar No. 48643

I write to draw your attention to the unusual procedural status regarding this resolution, which is on the Council agenda for tomorrow night, April 10.

The “Finally Resolved” clause of the resolution before the Council directs three City Commissions to consider three alternative treatments of the Confederate monuments. The problem is that those three Commissions have already undertaken what the resolution would direct them to do. If the Council passes the resolution as is, the Council would in effect be directing the Commissions to do what they have already done: make recommendations on the treatment of the Confederate monuments.

It seems to me the Council has the following options:

1. Pass the Resolution and Prepare an Additional Determining Resolution or Resolutions.

In this option, the Council does not attempt to sort out the competing recommendations, but passes the resolution as is. Perhaps there is some minor amendment thanking the Commissions and accepting all of the multiple potential treatments of the monuments for future consideration.

Following adoption of the resolution as is, the Mayor or Alders could draft and introduce an additional resolution or resolutions, which would adopt one of the suggested treatments, or perhaps some variation of one of the treatments. That resolution would work its way through the normal process and come back to the Council for adoption.

2. Amend the Resolution to Adopt One of the Alternative Recommendations.

Under this scenario, the Council would propose and determine which outcome it wished to pursue, and then amend the resolution reflect that outcome. For example, one possible amendment would to add an additional Whereas Clause:

WHEREAS, the Commissions identified in this resolution have met and considered alternative treatments of the monuments and made recommendations to the Council; and

What is now the “Finally Resolved” clause would be amended to be a “Further Resolved” clause, and the Council would add another resolved clause to choose a treatment option:

BE IT FINALLY RESOLVED, that the Common Council determines that the Confederate monuments will be treated in the following manner: _____
(Council fills in the option chosen).

3. Refer the Resolution and Prepare a Substitute.

The Council also could choose to debate and determine a treatment for the monuments, but refer the matter to a future meeting in order to ask staff (or a Council member) to draft a substitute reflecting the Council’s determination. The Council would not have to attempt to draft the amending language on the floor.

There may be other options available. However, the Council needs to be aware that as currently drafted, the resolution does not resolve the issue of future treatment of the Confederate monuments.

CC: Eric Knepp
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