

November 24, 2020

Alder Barbara Harrington-McKinney  
Alder Sheri Carter, President of the Common Council  
Alder Syed Abbas, Vice President of the Common Council

Statement Supporting a Binding Referendum and  
Opposing an Advisory Referendum

Thank you, Alder Harrington-McKinney for sponsoring an alternate resolution authorizing a binding referendum on the TFOGS recommendation to transition to a full-time council consisting of 10 Alders. This TFOGS' recommendation is a very important step towards creating a municipal governance structure where all residents can be equally represented by an alder with the time to fully engage their constituents in decision making.

TFOGS Implementation Workgroup has recommended that an advisory referendum on the full-time Council be placed on the Spring 2021 ballot. I support a binding referendum, but I respectfully disagree with their recommendation and I do not support an advisory referendum.

I served as the vice chair of TFOGS and as Chair of its Subcommittee on the Common Council. I have also been a participant and observer at the TFOGS Implementation Workgroup meetings. Before retiring, I was an assistant city attorney with the City of Madison for 22 years, in private practice working with governmental entities and then Chief Legal Counsel for the Wisconsin Department of Administration.

The members of the Workgroup are very dedicated to supporting the TFOGS recommendations and are working conscientiously to develop plans to implement changes, however I strongly oppose holding an advisory referendum in the spring of 2021 for the following reasons:

1. The decision to decrease the size of the Common Council is, by law, for the voters of the city of Madison to make.
2. The advisory referendum election will not serve as a substitute for a bona fide survey of residents of the city as a whole. It will only be an unscientific poll of those who traditionally turn out to vote in high participation districts. Turn out at a spring election has been historically low and it will not be made more robust by placing an advisory question on the ballot on an issue where the voters are entitled to make a final decision in a binding referendum.
3. Advisory referendums are appropriate when the ultimate decision is made by the governing body. The size of the Common Council is a decision the voters make. Not unlike school referendums for building construction, maintenance and exceeding revenue caps, the governing body makes a proposal in the form of a referendum question seeking approval. Sometimes the voters reject the proposal. The governing body then has the choice to go back to the voters with a modified proposal and seek approval.

4. The sponsors of the advisory referendum do not support adoption of the TFOGS recommendation. These members of the Implementation Workgroup have publicly stated that they would not vote in favor of reducing the size of the Common Council to ten alders but do favor a full-time Council. I disagree with their recommendation to simply put the TFOGS recommendation on the ballot as an advisory referendum. I suggest that the Implementation Workgroup should undertake what the Council authorized them to do in the resolution establishing the Workgroup:

“The Workgroup may put forward alternative proposals for consideration on any given TFOGS recommendation. If it does so, the Workgroup shall state in detail why it believes the alternative proposal is preferable to the recommendation made in the TFOGS Final Report.”

Under the resolution establishing TFOGS, the Task Force has made its recommendations to the Council and the Mayor. I do not believe that any TFOGS member ever thought that the TFOGS' recommendations would be adopted wholesale by the Common Council, but we did believe that the recommendations would be considered and debated by the Common Council and where required, send a binding referendum to the voters. The size of the Council was not a strong focus of the Task Force. Having a Common Council consisting of alders that could have the time to equally represent and engage more fully with residents was. If the Council cannot agree on an alternate number of Council members to place on the ballot in a binding referendum, then the voters should absolutely be given the opportunity to vote in a binding referendum on the TFOGS recommendation for a full-time council.

In the event the Council finds that more time is required for debate and meaningful engagement of the community, I do not oppose delaying a binding referendum to the Spring of 2022 as now recommended by the Workgroup.

Sincerely,

John Rothschild  
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Madison, WI 53704

Cc:  
Mayor Satya Rhodes-Conway  
All Alders