



# City of Madison

## Meeting Minutes - Amended

### HOUSING COMMITTEE

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

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Wednesday, December 7, 2005

5:00 PM

215 Martin Luther King, Jr. Blvd.  
Room 260 (Madison Municipal Building)

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#### 1. CALL TO ORDER

*The meeting was called to order at 5:06 p.m. Chair Hirsch reminded the committee members to file their Statement of Interest forms with the City Clerk's Office.*

#### 2. ROLL CALL

**Present:** Florence Zmudzinski, Thomas E. Hirsch, John L. Merrill, Victor E. Villacrez, Richard B. Arnesen, Jr., Curtis V. Brink, Detria D. Hassel, Julia S. Kerr, David R. Sparer and Ald. Austin W. King

**Absent:** Ald. Michael E. Verveer

**Excused:** Howard Mandeville, Philip P. Ejercito, Judith M. Wilcox and Rose M. LeTourneau

*Also Present: George Hank, Inspection Unit Director  
Steve Brist, Asst. City Attorney  
Hickory Hurie, CDBG  
Pat Kreitzman, Recording Secretary*

#### 3. APPROVAL OF MINUTES

*Zmudzinski noted on 2nd page of the minutes that members were noted as present when they were actually absent or excused. Sparer moved approval with the noted corrections, second by Zmudzinski with unanimous approval.*

#### 4. PUBLIC COMMENT

*Detria Hassel passed out a fact sheet titled Homeless Children: America's New Outcasts. She had read how the inclusionary zoning affects the school district. She doesn't want this committee to lose sight of how homelessness affects families and children.*

#### 5. UNFINISHED BUSINESS ITEMS

##### 02320

Repealing Section 28.04(25) of the Madison General Ordinances to eliminate the requirements for Inclusionary Zoning.

*Phil Salkin appeared representing Realtors Association of South Central Wisconsin in support of the repeal of Inclusionary Zoning and they are opposed to amendments proposed. He recited statistics for the number of condos/homes sold and the value they were sold for. You can't make people buy units that are not in their best interest. He is hearing that there are going to be more apartments being converted to condominiums at reasonable prices. He would hope the Housing Committee would not vote on this tonight until they get the City's report on IZ which should be mid-December. The reports says (1) prospective buyers lose interest when they hear of the restrictions; (2) prospective buyers lose interest when they find there are available units at the same*

general price level; (3) because of the asset test, people are calling saying they would like to buy a condo and when they sell their house, they are then excluded because they have too many assets. This is anecdotal from discussion from individuals currently involved with IZ. With the affordability period of 40 years, it is very difficult to make it more attractive to realtors to sell the units.

Nancy Jensen representing Apartment Association of South Central Wisconsin appeared in support of the repeal of Inclusionary Zoning. She passed around a preliminary report from AASCW with vacancy data. This is raw data but it shows the high volume of affordable vacant apartment homes in the Madison area. The bottom line is, there is a tremendous amount of rental property available. The industry is creating thousands of affordable apartments that rent for less than IZ can create and they are vacant because there isn't enough tenant/resident traffic to fill them. AASCW urges the Housing Committee to repeal the rental portion of the ordinance as they don't feel there is a need for the rental industry to be involved in this.

Rosemary Lee appeared in support of the repeal of IZ but did not wish to speak.

Delora Newton of Smart Growth Madison appeared in support of the repeal of IZ. Smart Growth Madison actively participated in the discussion on IZ when introduced 2 years ago because they believe in the need to provide affordable housing for working families and thought that IZ would be a good way to do that. Since the passage of the ordinance, the City has acknowledged several problems with the ordinance and they waited in good faith for language to be drafted by the City. They were extremely disappointed to see that the proposed changes fall short of the changes needed to fix the problems. Smart Growth Madison worked in good faith on the original ordinance and reluctantly compromised on many of its components even though they feared the compromises would result in the failure of the ordinance due to numerous restrictions and requirements. Many of the predictions have been correct. The ordinance before the committee make changes to the equity model but the City retains control of the resale process and also takes equity away from the homeowner. The incentive portion of the proposed amendment tinkers around the edges but doesn't correct the problems. It still doesn't guarantee that the City has to provide requested incentives and this results in cost shifts for other buyers. The changes to the marketing period makes the ordinance worse. It will practically guarantee that lots for IZ homes will never be sold because developers and builders can't find buyers for the lots now. Smart Growth Madison supports repeal of IZ because starting from scratch and taking a fresh look at crafting a problem that actually delivers on its goals is the only real option. Before starting over, the City must issue its status report on IZ so the data gathered so far is public and the City must also conduct marketing research to determine what type of housing product and program will be embraced by those who it aims to help. Only after these steps have been completed will we have the tools available to make the right decisions on the best way to provide affordable housing for those in need.

Ald. Jed Sanborn appeared in support of the repeal of IZ. There are two different levels of problems with this ordinance. One is the micro level that have problems with the developers with the complexity of the law, the lack of incentives for people to buy the units, the equity problems. The ordinance is a one-size fits all where the needs of affordable housing vary greatly depending on what area of the city you are looking at. History has shown with these programs that they are very difficult and costly to administer as well. He is concerned about the bigger, long-term consequences. He has been looking at and discussing with other committees a study that is the most comprehensive study of IZ that he can find. It looks at California where they have had IZ for over 30 years, it looks at 50 communities in particular, and they find in communities with population of over 100,000 people, they average less than 15 IZ units per year. They look at the effects of the construction market and housing market in

general and find that consistently the amount of new housing decreases substantially, 31% after IZ ordinances go into effect. This is what concerns him. What we will be doing over a long term is make housing more expensive. The costs greatly out-weigh the benefits and he would rather focus our energy on helping people on an individual level with down payment assistance and rental assistance. These kind of things don't distort the market place and put the cost of this program on one small segment.

Hirsch noted that the Housing Affordable Subcommittee recommended rejection of this proposed ordinance to repeal IZ.

Merrill stated the ordinance is apparently not working the way it is now. There are two choices: fix it or repeal it. There has been a lot of work done on this the first time. Many of the arguments that he has heard can be fixed. He would like to make an effort to try to fix them rather than throw it out and go through a long process of starting all over again when there are many good elements now in the ordinance. The market conditions are very favorable now and he thinks the IZ ordinance has to recognize any changes that need to be made to work with the market better. He is concerned that the IZ does something that other programs don't do. It is intended to be a way to assure that units will be produced at a lower market value not just being subsidized. It is also important that the units be geographically disbursed.

Villacrez noted he would support the repeal of the ordinance. Being a realtor, an apartment owner and developer, it is affecting each one of these aspects. The ordinance is not working.

Brink would like to work towards the repeal and/or make the changes within the ordinance. We don't have the study back yet so we don't have the data to work with.

Hirsch noted that he is concerned that the large number of existing units being brought forward as a reason to not have IZ misses the mark. There is a place for new product in the marketplace and there are people out there buying IZ units. The existing housing stock does need to be addressed in our community, but IZ is not distracting from doing that. IZ offers the potential to produce some new units and to make them affordable and hopefully accessible in ways that the existing housing market can't do it.

**A motion was made by Ald. King, seconded by Merrill, to Return to Lead with the Recommendation to Place on File to the PLAN COMMISSION. The motion passed by the following vote:**

**Absent:** Verveer

**Excused:** Mandeville, Ejercito, Wilcox and LeTourneau

**Aye:** Zmudzinski, Hirsch, Merrill, Arnesen, Jr., Hassel, Kerr, Sparer and King

**No:** Villacrez and Brink

**02337**

Amending Sections 28.08(4)(c)4., 28.08(9)(c)6., and 28.08(11)(c)4. to allow tax-exempt lodging houses as conditional uses in the R3, R4, R4L and R4A Districts.

Attorney David Sparer, representing Madison Community Co-op, appeared in support of this ordinance. The current ordinance allows non-profit 501C3 entities to exist in many of the zoning districts that are more single-family oriented. A few years back, that rule was modified to allow non-profits and co-ops to exist in a broader range of zoning districts but the definition wasn't as clear as it could be. This is a clarification amendment. This has to do with the definition of "family". A family can buy a house and

occupy it. A non-owner occupied use of the same house is restricted. There is an exception that if non-profit housing providers own the house, they can be considered the same as a family. If the dwelling unit is operated like a boarding house, then they do not clearly fall into that exception. The ordinance amendment includes boarding houses which are operated by non-profit cooperatives. The way the definition exists now it would not allow the non-profit cooperatives to get the benefit of the ordinance. The cooperative would still have to apply for conditional use and get the Plan Commission approval.

Brink noted this would take properties off the tax roll and this is a huge loop hole that would be unbelievable in different neighborhoods. He is against this proposal as it is not a conditional use now and it would take the property off the tax roll. It should be taken in a different zoning area or take it through a PUD where it would have to go through Plan Commission. Sparer noted this would be tax exempt for income tax purposes for IRS and not for property tax. In this case, Madison Community Co-op is real estate tax exempt but not all co-ops are.

Merrill moved to refer this to the Landlord & Tenant Issues Subcommittee and the Affordable Housing Subcommittee, second by Brink. Kerr would like to have some input from the Zoning staff at the subcommittee meetings. This was on a vote on 8-1 (King). Sparer did not participate in the vote.

#### **Refer to the HOUSING AFFORDABILITY SUBCOM OF THE HOUSING COM**

#### **Refer to the LANDLORD AND TENANT ISSUES SUBCOMMITTEE**

**Present:** Ald. Michael E. Verveer, Florence Zmudzinski, Thomas E. Hirsch, John L. Merrill, Victor E. Villacrez, Richard B. Arnesen, Jr., Curtis V. Brink, Detria D. Hassel, Julia S. Kerr, David R. Sparer and Ald. Austin W. King

**Excused:** Howard Mandeville, Philip P. Ejercito, Judith M. Wilcox and Rose M. LeTourneau

#### **02363**

Amending Section 28.04(25) of the Madison General Ordinances to change the equity distribution at sale, add a new kind of occupancy, and add exemptions to the inclusionary zoning ordinance.

Hurie handed out a box chart outlining major presenting issues in IZ and possible policy responses. Also included were the notes of the November 30 Affordable Housing Subcommittee.

Phil Salkin appeared in opposition. He asked if you were to buy an IZ home that was very close in price between the IZ and market price, your reward would be to have a 40 year period of affordability where you have to sell that home to someone you pre-qualified (because the City does not) and then sell it at that AMI. Ask yourself if you would buy that unit. The equity model needs to be looked at. The City is getting a significant portion of your equity. He urged the committee to look at these one by one and ask yourself, would I buy this unit?

King asked for clarification on individuals having to pre qualify. He asked if it were true if there were no gap between the IZ price and market price then the City steps away? Is it required to be sold to an income eligible family who was qualified by an individual and not by the City? Hurie noted that this was the proposal. The City doesn't do the qualification. This is a special situation and shouldn't happen very often. The proposal is that there is no gap. There would be a land use restriction, have the first buyer family sell it to another income eligible family at an affordable price for a certain period of time (40 years proposed in the ordinance). Discussion was held on the period of time of 40 years. Arnesen asked the question, why have this in the ordinance at all? If the market

value is the same as the IZ value, why have any restrictions on it at all.

Arnesen moved to delete item 3 on page 9 in its entirety so there would be no restriction, second by Hassel. The vote was 11-0.

Hirsch noted the first three items on the chart under "buyer conditions" are approaches to equity recapture reform. (1) Change the percentage of recapture to a simple equity-sharing formula based upon the percentage of difference between the IZ value and the IZ value at the time of sale. (2) There would be a simple flat amount which was determined by the amount of subsidy put in at the very beginning. The City retains that recapture straight out and the homeowner would get 100% of all equity accrued after that. (3) Simple amount of cash going in at a low interest rate but it is fixed and not payable until the time of sale. He is assuming that it would be non-compounding. The subcommittee originally proposed the very simple flat number approach, with or without interest.

King moved the recommendation of the Affordable Housing Subcommittee that is in the ordinance proposal which is the pro-rated equity recapture from the City's subsidy as represented by the gap between the IZ price and the appraisal, second by Merrill. This is the first approach on the box chart. Arnesen stated it was suggested at the subcommittee that a flat second mortgage which is either simple flat amount or flat amount plus interest, the flat amount would stay on and if in 10 years it was sold that would be paid back to the City. Anything above that would be equity appreciation to the seller. Merrill stated one advantage to that would be if there any improvements, there would be no worry about whether the appreciation should go to the homeowner or the City. The vote was 5-5, 1 abstain. This will be discussed again in January.

## 6. NEW BUSINESS ITEMS

### 02055

Creating Section 27.05(2)(h)13. of the Madison General Ordinances permitting a condominium association, under certain circumstances, to be exempt from the requirement to install positive locking devices on certain doors.

*Ald. Brenda Konkel asked the committee to defer this to their next meeting in January.*

*Upon motion by King, second by Verveer, this was deferred to the next Housing Committee in January with unanimous vote.*

### 02255

Authorizing the Mayor and the City Clerk to sign an agreement with Thomas Boykoff, his contract for professional services as Rent Abatement Hearing Examiner for the Building Inspection Unit of the Department of Planning and Development.

**Enactment No:** RES-05-00920

### 02257

Authorizing the Mayor and the City Clerk to sign an agreement with Thomas M. LaFleur, his contract for professional services as Alternate Rent Abatement Hearing Examiner for the Building Inspection Unit of the Department of Planning and Development.

**A motion was made by Sparer, seconded by Villacrez, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.**

**Enactment No:** RES-06-00031

**7. REPORTS**

*Landlord & Tenant Issues Subcommittee - Brink noted the lock ordinance was discussed at the last meeting. Their recommendation is to reject special circumstances for condominiums.*

*Affordable Housing Subcommittee - Hirsch noted that IZ has been the main topic.*

**8. DISCUSSION ON FUTURE AGENDA ITEMS/SCHEDULE NEXT MEETING****9. ADJOURNMENT**

*Merrill moved adjournment at 7:00 p.m., second by King with unanimous approval.*