



City of Madison

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

Tuesday, March 2, 2010

4:30 PM

210 Martin Luther King, Jr. Blvd.
Room 108 (City-County Building)

CALL TO ORDER / ROLL CALL

Present: 6 -

Tim Bruer; Mark Clear; Shiva Bidar-Sielaff; Marsha A. Rummel; Bryon A. Eagon and Michael Schumacher

Excused: 2 -

Judy Compton and Chris Schmidt

Others Present: Lucia Nunez (DCR Director), Mark Hanson (City Assessor), Michael May (City Attorney), Ald. Joe Clausius, Ald. Brian Solomon, Brian Benford, Bert Zipperer, Kristin Czubkowski (TCT) and Brenda Konkel

Ald. Tim Bruer, Chair, called the meeting to order at 4:34 p.m.

APPROVAL OF MINUTES

A motion was made by Ald. Mark Clear, seconded by Ald. Shiva Bidar-Sielaff, to approve the minutes from the January 19, 2010 CCOC meeting. The motion passed by voice vote/other.

PUBLIC COMMENT

No public comment.

REFERRAL ITEMS FROM COMMON COUNCIL

Ald. Chris Schmidt arrived at 4:35 p.m. Ald. Judy Compton arrived at 4:55 p.m.

Present: 8 -

Tim Bruer; Mark Clear; Shiva Bidar-Sielaff; Marsha A. Rummel; Bryon A. Eagon; Judy Compton; Michael Schumacher and Chris Schmidt

16909

Creating Sec. 2.05(6)(j) of the Madison General Ordinances to allow the Equal Opportunities Commission, Affirmative Action Commission or Commission on People with Disabilities to sponsor ordinances and resolutions.

Sponsors: Brian L. Solomon, Shiva Bidar-Sielaff and Marsha A. Rummel

Attachments: [Version 1](#)
[History 2.05.pdf](#)
[March 2, 2010 CCOC Registrations](#)
[16909 - Registration Stmt 3-16-10.pdf](#)

Roll Call Vote to Place on File the original ordinance: Ayes - 5 - Alds. Bruer, Clear, Eagon, Compton & Schumacher, Noes - 2 - Alds. Bidar-Sielaff & Rummel, Non-Voting - 1 - Ald. Chris Schmidt (Alternate).

Substitute Ordinance for Adoption: Ald. Brian Solomon

Registrations:

Brian Benford, 2502 E. Mifflin Street, Support/Spoke

Bert Zipperer, 1337 Jenifer Street, Support/Spoke

Brian Benford spoke in favor of the ordinance. He is a member of the EOC but was representing himself. He remembered when he was an alder he relied on the committee reports at the Council meetings for recommendations. He stated that CCOC members may ask why this ordinance was necessary. He said that politics play a part in legislation moving forward and this ordinance would give civil rights issues the "light of day" by allowing the public to comment. He stated that there are times where there are no sponsors for legislation and this ordinance would provide an opportunity for public discussion.

Bert Zipperer spoke in favor of the ordinance. He stated that he saw the ability of these committees to sponsor legislation as a proactive, pro-civil rights issue. He wanted no barriers for committees to give their best unfiltered advice and recommendations. He said that these three committees wanted only to create ordinance/resolutions for introduction and that alders would need to still vote on the legislation. Mr. Zipperer stated that legislation should not be held hostage by alders.

Ald. Joe Clausius stated that he is the longest serving member on the Affirmative Action Commission. He was opposed to this ordinance amendment. He wondered why other committees shouldn't also be able to request sponsorship right. He did not want to take a step backward to 30 years ago when the Council didn't know who was sponsoring what. He also thought the City Attorney had enough work keeping up with alder requests for ordinance drafts. To the best of his knowledge there never has been an instance where an alder has refused to sponsor legislation related to civil rights or similar issues. He said the other argument that Personnel Board, Board of Public Works, and Plan Commission are able to sponsor legislation is inherent due to volume, technical drafting and confidentiality issues. He stated that the three commissions in the Department of Civil Rights do not meet the criteria needed to sponsor legislation.

Ald. Brian Solomon disagreed vehemently with Ald. Clausius' assessment. He understood his point and why a majority of alders leaned in a similar direction. He asked that members resist that first instinct. He encouraged members to make civil rights and equal opportunities as important as other city-wide issues. He thought it would be highly unlikely that this ordinance would be utilized. Ald. Solomon said that his point was if there is even the slightest chance that a civil rights or equal opportunity issue comes up and one of the three committees has passed it by majority and they can't find a single alder or the mayor to sponsor it, there must be a process in place for legislation to see the "light of day". Alders would then be required to justify not sponsoring a civil rights or equal opportunity issue in a public forum.

He also stated that citizen commissions have not been getting the most favorable commentary of late (e.g. Transportation Commission, Landmarks Commission) and a statement right now by the Council would be valuable in restoring the confidence of citizens serving on our committees. He also noted that power corrupts and alders would be making a huge statement by adopting this ordinance: that power does not corrupt.

Ald. Shiva Bidar-Sielaff asked if Ald. Solomon would accept adding language that committees would approach all alders and the Mayor first before proceeding with sponsorship. Ald. Solomon stated that he was comfortable with the amendment suggestion.

Ald. Mark Clear noted that Ald. Solomon stated that an alder refusing to sponsor legislation would unlikely occur and that he had no recollection of an occurrence where a commission wanted to sponsor something and all alders were hostile to sponsoring it. Ald. Clear asked any of the supporters of the ordinance to provide a hypothetical example. Mr. Zipperer stated that this very issue was an example and it was about protecting civil rights. Brian Benford thought that the creation of the Department of Civil Rights was contentious and if the Mayor didn't propose it first and the commissions had proposed it, he questioned whether it would have moved forward. Ald. Brian Solomon thought an example from the past was the creation of the Equal Opportunities Commission that dealt with civil rights. A future issue that may not be sponsored would be genetic identity added as a protected class.

Ald. Clausius stated that he thought the difficulty of the speakers to answer the question underlines the hypocrisy of the ordinance. He believed that certain individuals were trying to make the Council appear anti-civil rights. He believed the impetus for the ordinance amendment was the adoption of the chronic nuisance ordinance.

Ald. Michael Schumacher asked Ald. Brian Solomon if his sponsorship on this ordinance wasn't evidence that the system was working. Ald. Solomon responded that nothing is broken now but he envisioned this being an issue in the future.

Ald. Schumacher asked if he had considered any alternatives that would achieve the same result. Ald. Solomon stated he hadn't thought of any alternatives that would get at the same outcome. Ald. Schumacher asked if he felt comfortable if the Council were to do allow all committees to sponsor legislation. Ald. Solomon stated he was a big fan of citizen participation and

would be OK with that however he would be concerned that it may be overwhelming for the City Attorney's office. Ald. Solomon thought that these three committees rose above that because of their importance.

Ald. Schumacher asked Ald. Solomon his perspective on the elected representative's role vs. a committee member's role. Ald. Solomon indicated that there was a very clear distinction between the two; the accountability lies with the Council member, not the committee member. Ald. Schumacher asked how many members served on the EOC. Ald. Solomon stated that there are 13 members and 7 people constitute a majority. Ald. Schumacher asked how he saw the 7 working with the City Attorney on drafting legislation. Ald. Solomon said he would look at how it works with the Personnel Board or Board of Public Works, but it could be the chair of the committee or the staff representative to that.

Ald. Marsha Rummel asked how the City Attorney would interface with these committees if this ordinance were passed. City Attorney May indicated currently the Board of Public Works, Plan Commission and Personnel Board sponsor legislation. Personnel Board proposes changes dealing with employees, Public Works mainly due to the sheer volume and technicality and Planning also due to high volume and changes to existing text. City Attorney May thought that Lucia Nunez would work with his office.

Ald. Schumacher questioned the City Attorney on how his staff would interact with the committees. City Attorney May thought that the committee would vote and his office would work with Ms. Nunez. City Attorney May noted that the ordinance draft would be developed with committee input, then introduced at Council and referred to the committee for recommendation and report back to the Council.

Ald. Solomon noted that is what happens with staff currently. An example would be the Attorney's office involvement in the drafting of the chronic nuisance ordinance, although policy decisions were being made by the alder not the city attorney staff.

Ald. Shiva Bidar-Sielaff moved to approve the ordinance with an amendment, seconded by Ald. Marsha Rummel:

"(j) If after approaching all alderpersons and the Mayor no sponsor is secured, tThe Equal Opportunities Commission, Affirmative Action Commission or Commission on People with Disabilities, by majority vote, may approve the introduction of a resolution or ordinance, the subject matter of which is related to the powers granted to the respective commission."

Ald. Bidar-Sielaff stated she understood the trepidation by Council members not wanting to have things come to the Council without a sponsor and may not even end up being something that the Council would adopt. She didn't see an abuse of civil rights happening today but she has lived where the democratic process can change very quickly and civil rights get squashed. She stated that this ordinance gave a future opportunity where divisive issues can be heard in a public forum. She gave an example. If the EOC wanted to bring forth undocumented non-citizens as a protected class they would get one sponsor but it wouldn't take much for a Council not to support the discussion. This ordinance amendment provides citizens with an opportunity to have a public

forum to discuss the issue.

Ald. Compton stated that she was not convinced to support the ordinance after hearing the discussion. She can't imagine a time in the future where this city, or any city council, would turn its back on civil rights or not have EOC ordinances sponsored by any alder or a mayor.

Ald. Marsha Rummel stated that when you are living in history you don't see the issue, for example, lynching in the 1950's. There may be a time in the future where an issue is not seen as a violation but really is a violation.

Ald. Schumacher made the following points:

- Have a Department of Civil Rights, many municipalities do not have this layer of protection
- Have 20 alders and statistically it would be highly unlikely that not even one alder or the mayor could not be found to sponsor legislation
- Have many arenas for public debate – committees, media and the Council
- He had not hear of any current egregious cases or hypothetical cases that would require this ordinance amendment
- He could also argue that the ALRC should have the right to sponsor their own legislation because they regulate a commodity that turns a car into a lethal weapon – ultimate violation of a civil right

He did not see the benefit in adopting this ordinance.

Ald. Bidar-Sielaff and Ald. Rummel requested to be added as co-sponsors.

Ald. Mark Clear stated that this ordinance was designed to protect us from a hypothetical situation where all 20 alders and the mayor were evil. He believed that statistically having 20 alders guaranteed a higher rate of potential sponsorship. He also noted that the mayor appoints people to these three committees. A hypothetical evil mayor could appoint his cronies to these committees which can dismantle civil rights. That would be scenario statistically likely vs. 20 evil alders.

Ald. Compton thought adoption of this ordinance could lead to a next step; having committees create and implement policy.

Ald. Chris Schmidt stated that he believed their predecessors drew a line for a reason. He saw the sense in having Plan Commission sponsor legislation due to zoning and property rights and having it removed from the political process, the Personnel Board because of employee rights and the Board of Public Works due to the sheer volume of resolutions. He was not convinced that civil rights met those criteria. The ordinance as proposed assumes that they cannot find a sponsor among 21 people and that political pressure was not sufficient to have it sponsored. He stated that if the city is in those straits we are in a bad place and did not believe this ordinance would rectify it.

Ald. Clear stated that from his reading of 2.05 there are very specific requirements where committees are exempted from sponsorship process. He noted that policy issues are not definitely on that list:

2.05 (2) The requirements of Subsection (1) above do not apply to resolutions recommended by the Board of Public Works which

- (a) award public works contracts,
- (b) accept identified public works improvements,
- (c) approve plans and specifications and authorize the Board of Public Works to advertise and receive bids for identified public works contracts,
- (d) accept identified improvements by private contracts,
- (e) accept identified street improvements by private contracts,
- (f) approve plans and specifications for public improvements for identified subdivisions,
- (g) authorize construction to be undertaken, and
- (h) authorize amendments to previously executed contracts.

2.05 (6) Unless otherwise provided in these ordinances, no ordinance or resolution shall be introduced unless it is sponsored by a member of the Common Council or the Mayor or both. Use of a Common Council member's name as sponsor must be with his or her knowledge and consent.

This provision shall apply not only to ordinances and resolutions, but also to all substitutes and amendments. The provisions of this subsection shall not apply to the following:

- (a) Recommendations of the City Attorney or Risk Manager relating to claims.
- (b) Recommendations and advice of the City Attorney relating to litigation in which the City is or is going to become involved.
- (c) Changes to ordinances and resolutions which may be mandated by state or federal law.
- (d) Recommendations of the Personnel Board relating to the classification of positions.
- (e) Changes to ordinances and resolutions which may be required by the adoption of the annual City Budget.
- (f) Petitions for direct legislation pursuant to the provisions of Wis. Stat. § 9.20.
- (g) Ordinances and resolutions necessary to implement Public Works projects previously approved in the annual City Budget or allowed under sub. (2) of this ordinance.
- (h) Zoning map or text amendments allowed under Sec. 28.12(10)(b), MGO, to be sponsored by the Plan Commission or Planning Division.
- (i) Changes to ordinances recommended by the City Attorney which are intended to correct errors, omissions or inconsistencies therein.

Ald. Bidar-Sielaff stated that this brings forth a philosophical difference on the role of the legislative body. She thought members looked at it in a narrow/structured way by only having legislation on an agenda that has the potential of passing. She saw the potential of a democratic process where the elected body listened to issues that are brought forth to the body that alders may be oblivious to (due to political leanings). For example, she would like to attend and speak about immigration reform in a federal government forum but there is no place where Congress is opening their doors for citizens to express their thoughts on this issue. She believed that open forums should exist for people to have contact with their elected officials. There is no mechanism today for these issues to percolate in order to be discussed and debated by the legislative body.

Ald. Bryon Eagon thought that this ordinance is unique to civil rights. In the current structure committees do not have an opportunity to create the debate when legislation is not sponsored by an alder or the Mayor. He believed that this gives an opportunity for those issues in committee to have a public forum.

Motion to adopt as amended failed on the following vote 3-4:

Ayes: Ald. Bidar-Sielaff, Ald. Rummel, Ald. Eagon – 3

Noes: Ald. Bruer, Ald. Clear, Ald. Compton, Ald. Schumacher – 4

Non-voting: Ald. Schmidt (alternate)

A motion on the original ordinance was made by Ald. Mark Clear, seconded by Ald. Michael Schumacher, to RECOMMEND TO COUNCIL TO PLACE ON FILE - REPORT OF OFFICER. The motion passed by the following vote:

Ayes: 5 -

Tim Bruer; Mark Clear; Bryon A. Eagon; Judy Compton and Michael Schumacher

Noes: 2 -

Shiva Bidar-Sielaff and Marsha A. Rummel

Non Voting: 1 -

Chris Schmidt

17495

Creating new Sec. 33.08(2), renumbering current Secs. 33.08(2) through (6) to Secs. 33.08(3) through (7), and repealing Sec. 4.07 of the Madison General Ordinances to provide for Board of Review alternate members and to eliminate the Agricultural Use Value Penalty provision.

Sponsors: David J. Cieslewicz

Mike May explained that the ordinance amendment provides for the appointment of two alternate members to serve on the Board of Review when a member of the Board is absent or refuses to act due to a conflict and Sec. 4.07(3), MGO is being repealed because it is no longer applicable because the Wisconsin Legislature repealed the counterpart Wis. Stat. § 74.48 which required the City to collect agricultural use value penalties. Wis. Stat. § 74.485 replaces that statute and places the responsibility of collecting agricultural use value penalties on county treasurers.

Mark Hanson, City Assessor, was also present. He stated that allowing for alternate members will allow the Board of Review to deliberate in a more timely manner by achieving quorum (last year started in May and was not able to finish until December).

A motion was made by Ald. Shiva Bidar-Sielaff, seconded by Ald. Mark Clear, to Return to Lead with the Recommendation for Approval to the BOARD OF ESTIMATES. The motion passed by voice vote/other.

REPORT

[17635](#)

November 2009 - February 2010 Staff Report - Lisa Veldran, Common Council Administrative Assistant

Attachments: [December 09 thru February 10 Staff Report.pdf](#)

Lisa Veldran reviewed her staff report with CCOC members.

Ald. Michael Schumacher requested adding to the improvement plan that staff review procedures on fulfilling open record requests and also attend open records training (staff development).

Ald. Marsha Rummel stated that she supported the implementation of RSS feeds for alders.

Ald. Mark Clear asked what percentage of time is used fulfilling open records request. Lisa Veldran indicated typically one to three requests in a year but over the last four to six months she had received eight to ten requests. Ald. Schumacher would like to see how and who fulfills open record requests tightened up.

ADJOURNMENT

Ald. Marsha Rummel requested an update on the Central Library project.

A motion was made by Ald. Marsha Rummel, seconded by Ald. Shiva Bidar-Sielaff, to adjourn. The motion passed by voice vote/other. The meeting adjourned at 5:57 p.m.