



# City of Madison

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

## Meeting Minutes - Approved HOUSING COMMITTEE

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Wednesday, February 4, 2009

5:00 PM

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

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### CALL TO ORDER / ROLL CALL

**Staff present: George Hank and Meg Zopelis**

**Present:** 9 -

Greg L. Rosenberg; Tobi L. LeMahieu; Alicia Bosben Gebhardt; Susan K. Day; Brian A. Munson; Victor E. Villacrez; David C. Porterfield; David R. Sparer and Eli Judge

**Absent:** 3 -

Detria D. Hassel; Brenda K. Konkel and Philip P. Ejercito

**Excused:** 2 -

Judith M. Wilcox and Curtis V. Brink

### APPROVAL OF MINUTES

A motion was made by Judge, seconded by Porterfield, to Approve the Minutes of December 3, 2008. The motion passed by voice vote/other.

### PUBLIC COMMENT

None

### NEW BUSINESS

1. [13100](#) Election of Housing Committee Officers

**Chair:** A motion was made by Sparer, seconded by Villacrez, to nominate Porterfield to be the new Chair of the Housing Committee. The motion passed by voice vote/other. Porterfield accepted the nomination and thanked the Committee. The meeting was turned over to Chair Porterfield.

**Vice Chair:** A motion was made by Porterfield, seconded by Day, to nominate Sparer to be Vice Chair of the Housing Committee. The motion passed by voice vote/other.

Ejercito showed up at 5:04 PM.

## ROLL CALL

**Present:** 10 -

Greg L. Rosenberg; Tobi L. LeMahieu; Alicia Bosben Gebhardt; Susan K. Day; Philip P. Ejercito; Brian A. Munson; Victor E. Villacrez; David C. Porterfield; David R. Sparer and Eli Judge

**Absent:** 2 -

Detria D. Hassel and Brenda K. Konkel

**Excused:** 2 -

Judith M. Wilcox and Curtis V. Brink

## ROLL CALL

**Present:** 12 -

Greg L. Rosenberg; Tobi L. LeMahieu; Alicia Bosben Gebhardt; Detria D. Hassel; Brenda K. Konkel; Susan K. Day; Philip P. Ejercito; Brian A. Munson; Victor E. Villacrez; David C. Porterfield; David R. Sparer and Eli Judge

**Excused:** 2 -

Judith M. Wilcox and Curtis V. Brink

## UNFINISHED BUSINESS

8. [12575](#) FOURTH SUBSTITUTE - Creating Sec. 34.42, amending Sec. 27.05(2)(w) and creating Secs. 32.06(2)(a)1.j. and 32.06(4) of the Madison General Ordinances to govern installation and maintenance of smoke alarms in residential buildings.

**Attachments:** [Version 1](#)  
[Version 2](#)  
[Version 3](#)  
[Version 4](#)  
[12575 Registration Stmt.pdf](#)

**Ald. Mike Verveer was present and asked that Item 8 on the Agenda be taken out of order. A motion was made by Judge, seconded by Munson to move Item 8 up on the Agenda. The motion passed by voice vote/other.**

**Ald. Mike Verveer and Ed Ruckriegel were present to speak on behalf of Legislative File 12575. Verveer is the main sponsor of this Ordinance. His rationale behind this Ordinance was the tragic house fire on N. Bedford Street on November 10, 2007, which is in Verveer's District. Peter Talen was killed in that house fire and the Ordinance is named in his memory. The existing Ordinance is not what it could be in terms of life safety. Ruckriegel and Hank have worked very hard on this for about one year and on the one year anniversary of the fire, this Ordinance was introduced by Verveer and others, including Judge. If you do a cost benefit analysis, there is no comparison for the value of a human life. Beyond that, the cost of replacing old 9 volt batteries every year compared to the ten-year lithium batteries that this Ordinance will mandate, among other things, works out favorably when you do the math.**

Ruckriegel spoke and said there is amazing support for this Ordinance. There is a third substitute because of the City Attorney's Office.

Sparer asked what the differences were in the most current version. Ruckriegel said the primary change is in the way they are handling required installation. The language was cleaned up to make it easier to understand.

Konkel arrived at 5:13 PM.  
Hassel arrived at 5:18 PM

A motion was made by Sparer, seconded by Judge, to Return to Lead with the Recommendation for Approval to the BUILDING CODE, FIRE CODE AND LICENSING APPEALS BOARD, due back on 2/17/2009. The motion passed by the following vote:

**Excused:** 2 -

Judith M. Wilcox and Curtis V. Brink

**Ayes:** 11 -

Greg L. Rosenberg; Tobi L. LeMahieu; Alicia Bosben Gebhardt; Detria D. Hassel; Brenda K. Konkel; Susan K. Day; Philip P. Ejercito; Brian A. Munson; Victor E. Villacrez; David R. Sparer and Eli Judge

**Abstentions:** 1 -

David C. Porterfield

## PRESENTATIONS

2. [12790](#) Presentation by Mario Mendoza, Office of the Mayor  
Property Tax Exemption for Not-For-Profit Providers of Income Restricted Housing and Tax Exemption for Low Income Housing Providers

**Mario Mendoza is an Assistant to the Mayor. His responsibilities in the Mayor's Office include being the City's Lobbyist at the State Capitol. For the past year, he has also had liaison responsibilities through the City Assessor's Office. He was asked to attend the Housing Committee Meeting to discuss property tax exemption for low-income housing providers.**

In 2003, the City of Kenosha had a case, the Columbus Park case, where then current Statute was interpreted in such a way as to send us into several years of attempts at fixing it. It read the Statute as requiring identity between a housing provider and a tenant. The tenant would need to be eligible for property tax exemption in order for the full development to have the property tax exemption. Clearly, there is generally not a property tax exemption for residential tenants themselves. So, all low-income housing providers became potentially subject to taxation. There was a fix of remedial legislation that was enacted and eliminated this need to have the tenants themselves be eligible for tax exemption. However, it left some other issues on the table. In particular, the language in the current Statute still requires that the rents received by a low-income housing provider be used exclusively for maintenance of the property and reduction of original construction debt service.

The City Attorney's office pursued a couple of test cases about low-income housing providers. While this was going on, we engaged in discussions with

members of the Legislature to try to get the language in the Statute fixed. We worked closely with the Senate Majority Leader, Senator Decker, and in the Assembly the lead person there was Representative Mark Gottlieb from the Port Washington area. The Legislature tried to expand the permitted uses for the rent, so they would not just be limited to maintenance and this original construction debt. Ultimately, a Bill was drafted and introduced, and passed by the Senate, but for a number of reasons, it died in the Assembly and never made it to the Assembly floor. The Legislature included a provision to fix this problem; to broaden the permitted uses for rent so as not to risk the loss of the property tax exemption. It passed both Houses and was sent to the Governor for his signature. The Governor then vetoed that portion of the Budget Repair Bill. The conclusion from the Governor's Office was that this was not fiscal policy and did not belong in a Budget Bill. It would be better addressed in separate legislation.

At the request of the Third Sector Housing Provider's Group, we pursued a number of things. We had this ongoing litigation in the background. We asked the Attorney General for an opinion regarding if we were reading the Statute incorrectly. The Attorney General did not answer the question and instead referred us to the Department of Revenue for an opinion.

The Budget Repair Bill did not fix our problem and then Judge Nowakowski, in Dane County Circuit Court, issued an opinion that essentially said that rent needs to be used for only those two purposes, maintenance and construction debt retirement and that made the parcels that were at issue in that litigation subject to the property tax and property tax bills did go out at the end of last year to those involved parcels.

The Department of Revenue then issued its opinion, which was consistent with Judge Nowakowski's ruling. We are hopeful that this year there will be a legislative fix. Mendoza is hearing at the Capitol that there is a desire to do it and we should hopefully get it this time. We would like to have it resolved in this session, sooner rather than later. It would be lamentable if we were into the fall and we still do not have the issue resolved. Not all housing providers received tax bills. We understood the ruling to limit us to the parcels that were at issue in that litigation, so tax bills went out regarding those.

Every so often, the Assessor's Office reviews information to help determine if an entity is eligible for the tax exemption. We have sent letters to all parties we believe are impacted by the Court ruling and Department of Revenue opinion, advising them of the Court ruling and its implications, and that we will be requesting information. The Mayor and Mendoza will continue to work with the Legislature at this time to get a Bill passed and signed into law.

Questions for Mendoza:

Rosenberg sat in on many meetings and it has been very frustrating, The issue of the City Attorney wanting to do a couple test cases is deeply offensive to Rosenberg because it puts the burden on the people who provide housing to people of low or very modest means. A test case is very expensive because you have to pay legal fees.

There were conversations between Assessors in different cities where there was interest in some test cases to clarify the law and apparently we need to do

that. In the meantime, non-profits have spent hundreds of hours on this issue and a lot of money on legal expense. Some of that has been pro bono and some has been paid for.

When the test case issue came up, it was initially presented as just wanting clarification. It became apparent that the City Attorney's Office was arguing for a narrow interpretation of this issue, which is what they got. After that, an e-mail went around saying, "We won!" and then they very quickly sent a copy of that decision over to the Department of Revenue. Now, there is a situation in the City in which non-profits are having a huge problem because of this narrow interpretation. This was completely unnecessary. Rosenberg is optimistic that the Legislature will pass something.

Sparer thanked Mendoza and said it is hugely important. The amount of money we are talking about in the property tax is a huge amount of money for these organizations. More Section 8 funding would be a more effective means of providing affordable housing than all of the Inclusionary Zoning work that was done. However, that was not within our power. Sparer asked Mendoza if the Mayor's Office has had discussions about whether the effort to push the collection of property taxes based on this recent ruling is going to put out of business a huge number of affordable housing providers, and is that the Mayor's goal?

Mendoza said, "No". This has been a huge issue that Mendoza has been working on, second only to the State Budget issue.

Konkel asked which City Attorneys are working on this and Mendoza said Michael May and Larry O'Brien.

Munson asked if they have calculated the tax exposure and Mendoza said no. Part of the problem is because many of these properties have been tax exempt for a period of time, some of them many years, we do not do assessments on those.

Villacrez asked if this includes City-owned property and Mendoza said that City-owned property is subject to a different section. Mendoza believed that CDA was also governed under a separate housing authority.

Porterfield asked how many units would be affected by this and Mendoza said he did not know. Porterfield then asked what the administration will be prepared to do about this, if it does come to happen. Porterfield wants to hear back from Mayor's office so we can plan in advance. If this does happen, we are going to have people who need to be taken care of in some fashion.

Konkel suggested receiving a copy of the ruling and court case and have Attorney May and Larry O' Brien come to a Housing Committee Meeting and/or provide written information.

Day asked who can be influenced to take a good look at the consequences of this. It sounds like some of the issues are not being heard.

Mendoza committed to providing a copy of this ruling and a copy of the court case and contacting the City Attorney's Office.

The Committee requested that City Attorney May and Assistant City Attorney Larry O'Brien be at the next Housing Committee Meeting to help answer some of the questions and/or relay the questions and have them put the information in writing for the Housing Committee.

The Assessor's Office and CDBG would have some of these answers.

Konkel listed the questions as:

1. What prompted us to seek clarification of this law?
2. Why are we aggressively pursuing removing the tax-exempt status when others around state are not doing that?
3. How does this apply to CDA?
4. What is wrong with the work around that we found with the Affordable Housing Trust Fund?
5. Clarify whether we can hold off on taxing these housing providers for a year to give the Legislature a chance to get their work done.
6. Why did the City Attorney ask Judge Nowakowski to take a narrow view of the property tax exemption?
7. How many potential units are impacted/affected by this? Which organizations are potentially impacted as they start to figure this out? If the work around through the Affordable Housing Trust Fund, what is the monetary exposure that is going to come out of that?
8. What will the administration be prepared to do about this if it does come to happen?
9. Could CDBG and the Home funds and others be used?
10. How are you going to get them financed and how are you going to preserve/maintain the existing units or are you willing to see those go away?

## ROLL CALL

**Present:** 11 -

Greg L. Rosenberg; Tobi L. LeMahieu; Alicia Bosben Gebhardt; Brenda K. Konkel; Susan K. Day; Philip P. Ejercito; Brian A. Munson; Victor E. Villacrez; David C. Porterfield; David R. Sparer and Eli Judge

**Excused:** 3 -

Detria D. Hassel; Judith M. Wilcox and Curtis V. Brink

3. [13101](#) Presentation by Gregg Shimanski, Chair of CDA  
Current Vision of the CDA

Shimanski extended his congratulations to Chair Porterfield. Shimanski was present to share the vision of the CDA. There is a great group of CDA Commissioners. Shimanski's first act as Chairman was to call a strategic planning meeting, which was held today at Goodman Community Center. This was to map out where the CDA is going in the next 24 – 60 months.

Allied Drive project is going on right now. Phase 1 is being built at this time (49 units). The second phase is coming up (about 60 units that will be owner-occupied). The next project will probably be designed around the Truax property that we now own and manage. There are 71 units of existing housing that will probably be the first phase of rehabilitation. Then there are additional units that are going to be built out there over the next 2 – 3 years.

The CDA went through a fairly sophisticated planning process with a firm out of Chicago, JJR. JJR helped evaluate the property and that turned out well. You can check the City website to look at information about Truax. The first low-income housing tax credit application should hopefully be made by April 15th for the first 71 units of rehabilitation and then plan for 2010 the second phase, which should be around 100 units of new construction.

Tom Landgraff has been very helpful to the CDA with Allied.

The CDA operates about 890 units of CDA-owned housing and oversees the Section 8 Voucher Program, which is about 1,350 Vouchers currently.

Villacrez asked about the rate of anticipated growth over the next 5 years. Shimanski answered that there will be no reduction in public housing units. The reality is that CDA oversees 900 units, which are 40-50 year old public housing units. Rents have gone up 2% in the last 5 years and expenses have gone up 38%. That is an economic model that is fairly unsustainable. The CDA hopes to replace older, antiquated housing with new housing that is more efficient to build and more efficient to operate. He suspects there might be an increase of 200 – 300 units.

Hassel left at 6:07 PM

Sparer asked about tax exemption. Shimanski said there is a status that exempts the CDA, but he is not sure where it is located right now. He will get the information.

Konkel said the Inclusionary Zoning Committee is wondering if the CDA intends to purchase anything. Shimanski said that it has not been proposed but the CDA would consider it. Konkel said it was in the Ordinance that the CDA is the body that does this. Konkel said there are funds available and the CDA just has to decide to do it. Konkel thinks Olinger should be letting Shimanski know about that.

Porterfield asked how the Housing Committee can be of assistance to CDA. We need to develop a strategy for all of the committees on how to proceed. Shimanski has been in this business since 1972, and we have no more affordable housing in the City 37 years after he started then when he began. We are very far behind other communities. Shimanski said we have a lot of resources available to us. The public sector has great opportunity right now and we are not taking advantage of the opportunities available. Shimanski said we have been too reactionary and not proactive enough.

Konkel asked if the CDA has done any rent studies lately. Shimanski said the CDA has not done overall rent studies of the City. They have done a rental study for each project that must be done for WHEDA financing. Shimanski said there has been a reduction in the Section 8 Vouchers.

Shimanski said that the CDA has not communicated well who they are and what they do. They are trying to create mission values on what they do. This should come out in the next 90 days.

Konkel is frustrated by information handed out at meetings, which is not

available in Legistar. There are no attachments and no copies at meetings. They are also holding meetings in locations that do not have internet connections and that makes it so people have to get paper copies.

Porterfield thanked Shimanski for attending the meeting.

Konkel wants to split this committee and make it into 2 subcommittees and take members of each of the committees that deal with housing, a CDA person, a CDBG person, and several people from each of the subcommittees of this group, and then put them together in a housing group. Konkel wanted to know if Shimanski saw value in that for the CDA. Shimanski said people should be talking with the Mayor's Office about this.

## REPORTS

4. [08595](#) Landlord & Tenant Issues Subcommittee

Sparer reported that the last meeting was in December and the main topic was the smoke alarm ordinance which came before the Housing Committee today. There were also discussions about goals for 2009.

5. [08596](#) Affordable Housing Subcommittee

Villacrez and Munson were not at the last meeting, and Day and Porterfield were there. Bill Clingan was present at the Housing Committee Meeting.

Konkel said they made a list of issues that they thought were important for homeowners and renters. At the next meeting they will try to come up with solutions for first time homebuyers who need more money for down payments. Pam Rood (CDBG) has a list of these items.

6. [11431](#) Common Council Update - Judge/Konkel

There were no items that had to do with housing. Porterfield asked if the Common Council was aware of the tax exemption issue that is looming. Judge said no. Porterfield recommends bringing it up at Council.

## DISCUSSION ITEMS

7. [13108](#) Discussion on production of an Annual Housing Report

**Attachments:** [Housing Reports from Clingan.pdf](#)  
[Annual Housing Report Subcommittee Minutes.pdf](#)

Clingan had copies of annual housing reports from: Rialto, Austin, Minneapolis and Santa Barbara. Copies will be provided for the Meeting Minutes. Clingan needs input for what Housing Committee wants in a report before writing a

report.

Munson has had conversations with Konkel and Munson said the report should be a basic understanding of what is out there and what has happened over the course of the year, not just affordable but the entire market. Konkel said this information is available from different County Offices and needs to be distributed in one place.

Clingan said this is a resource issue. He would love to collaborate with others to make this happen, but we need to define what information we want. What is important for us to have in report? We need agreement at the Housing Committee and then Clingan could make an effort to generate a report.

Konkel thinks this could be as simple as someone copying information and putting it in one spot. Let's figure out what we have and then put it together. Day asked if there is one area where the information can be dumped. Munson said the Neighborhood Indicators is a good start.

Rosenberg asked if there are models in other communities so we do not start from scratch. He referenced Burlington, Vermont as a good example.

A motion was made by Konkel, seconded by Sparer, to create a new, temporary ad-hoc subcommittee/work group which would meet once or twice to address the issue of what should be included in an Annual Housing Report. The motion passed by voice vote/other.

The subcommittee/work group would include Villacrez, Rosenberg, Munson (Konkel alternate). This meeting still has to be publically noticed with an Agenda – including notice of possible quorum of Housing Committee.

## UNFINISHED BUSINESS

9. [08594](#) 2009 Goals Discussion

Attachments: [Goals Discussion](#)  
[2009 Work Plan Items.pdf](#)

Continued to next meeting.

10. [11764](#) Parliamentary Procedure at a Glance and Pamphlet

Attachments: [Parliamentary Procedure.pdf](#)

The Parliamentary Procedure handout was very helpful.

## ADJOURNMENT

A motion was made by Sparer, seconded by Judge, to Adjourn. The motion passed by voice vote/other.