


Legal Memorandum

To: Mayor Timothy Kabat

Cc: Finance Director, City Clerk, City Council

From: Stephen F. Matty, City Attorney 

Date: January 6, 2016

Re: Legistar 15-1197 – creation of Council Rule concerning adopting the City's budget

On January 5, 2016, the Judiciary and Administration Committee voted to not adopt the above legislation. The purpose of this memorandum is to try and identify the consequences of this decision and how the City's annual operating budget process must change without this proposed Council Rule. Notwithstanding, the Legal Department recommends adoption of the legislation.

The legislation at issue is commonly referred to as "housekeeping" legislation. It is not a substantive change to the City's current process. The legislation merely clarifies that when the annual operating budget is adopted, it does not need to be routed to any standing committee. Rather, it simply goes on to the City's operating budget agenda. This has been the City's past practice for decades in contradiction of its own Council Rules. In the absence of this proposed Council Rule, the legislation to adopt the annual operating budget must be introduced at a prior City Council meeting and routed to a standing committee before a final vote can be taken, or there must be a vote to suspend the rule that requires it to be routed to a standing committee.

Please note that pursuant to La Crosse Municipal Code § 2-318, the Board of Estimates is comprised of more than one-half (1/2) the City Council, including the entire Finance Committee. The absence of this proposed "housekeeping" Council Rule would require all legislation pertaining to the annual operating budget be submitted to the appropriate standing committee, specifically the Finance Committee. It would require the Finance Committee to approve the Board of Estimates' budget. This does not make sense. Due to the composition of the Board of Estimates, the Finance Committee would be voting and approving what it already voted on and approved as part of the Board of Estimates. The absence of this "housekeeping" Council Rule merely adds an additional level of bureaucracy as well as unnecessary cost and delay. Indeed, the absence of the proposed

“housekeeping” Council Rule defeats the City Council’s purpose of creating the Board of Estimates budget process in the first place.

Likewise, the creation of this new Council Rule would allow any legislation upon which the annual operating budget is based to also not require a suspension of the rules or be routed to standing committee either. The rationale is that anything pertaining to the budget would have been discussed, deliberated and decided by the Board of Estimates. The legislation most likely to accompany an annual operating budget would be legislation to approve the City’s fee schedule. After all, the annual budget must be based on certain assumptions of what the revenue will be for the upcoming budget year. A deviation from the Board of Estimates’ proposed fee schedule would change the annual operating budget because you would no longer have the same revenue upon which the Board of Estimates based its decision. This would require a budget amendment.

Assuming the City Council follows the Judiciary and Administration Committee’s recommendation to not adopt this legislation, the following process changes are recommended for future annual budgets:

- The Board of Estimates must approve its budget prior to the regular City Council meeting in October. The Board of Estimates’ budget must be introduced as new legislation at the regular October City Council meeting including any other legislation upon which the budget is based, for example, any fee change legislation. All of this legislation must be routed to the appropriate regular standing committees in the November legislative cycle.
- In the absence of a timely Board of Estimates’ decision on the budget, special meetings of the appropriate standing committees must be scheduled to take up budget-related legislation prior to City Council adopting the annual budget. If such special meetings are not feasible, then the legislation to adopt the budget requires a suspension of the rules and the agenda should be properly noted.
- The Finance Department may wish to specifically request each department to identify any proposed fee changes that are part of the budget. The Board of Estimates would then address the proposed fee changes as part of the budget process. Additionally, Council Members need to affirmatively ensure that they understand the fees upon which the annual budget is based.

Notwithstanding the above, it is the recommendation of the Legal Department that the proposed “housekeeping” legislation to create the Council Rule still be enacted as currently drafted. Adoption of the proposed “housekeeping” Council Rule saves the City and its taxpayers from additional expense and delay. If the issue is truly about understanding what specific fees are proposed in a given annual operating budget, there are other processes that can be put into place to address that concern without undermining the entire purpose of the Board of Estimates.
