

Badger Oversight Management Commission

FINAL REPORT



MAYES | WILSON & ASSOCIATES, LLC

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MAYES | WILSON & ASSOCIATES, LLC

advises nonprofit organizations and agencies, educating board and staff leaders, facilitating planning, building consensus, and mentoring positive change.

The firm's expertise includes organizational assessment, board governance, leadership development and transition, strategic and annual planning, meeting/retreat facilitation and volunteer program development.

Clients span a full continuum—from organizations with decades of experience to newly founded organizations; from local all-volunteer groups to multi-state agencies with highly specialized staff and budgets of several million dollars.

MAYES | WILSON & ASSOCIATES (MWA) is an independent small business with no political affiliation and no relationship to any of the parties involved in the Badger Oversight and Management Commission. The views expressed in this report were derived from more than 30 years of experience working with the leaders of organizations, agencies, and nonprofit boards, in combination with research, data-collection, and analysis of the views of the Badger Oversight and Management Commission's members.

MWA functions in an advisory capacity only, and the recommendations contained in this report are not intended to constitute legal or financial advice. BOMC must review its forming documents and bylaws, and consult with its own legal and financial professionals to determine how laws or recommendations discussed herein apply to its specific circumstances.

Although survey and interview responses were carefully analyzed and certain records were examined in detail, the reviewers depended in large part on information online and provided by Sauk County staff. There is a possibility that some of the information provided was not complete, or that it was misinterpreted by the reviewer. We assume full responsibility for any misinterpretations or factual mistakes, however, if such errors exist, we trust that they will not compromise the overall validity of the report.

Final Report

Respectfully submitted to the Badger Oversight and Management Commission on December 3, 2014

Background

In October 2014, MAYES|WILSON & ASSOCIATES (MWA) was contracted to guide the BOMC through a decision and collaboration process “of an unknown outcome” to assist the BOMC in reaching a conclusion on the following deliverables:

3.3.1 Reaffirm or redefine the BOMC structure.

3.3.2 Understanding of the role the BOMC will play within the context of the Badger Reuse Plan.

3.3.3 Reaffirm or redefine the Stakeholder participation process.¹

As part of the project, MWA conducted an on-line survey of current Commissioner and appointed Stakeholder representatives and interviewed many Commission members and liaisons to the Commission to identify major areas of consensus and disagreement and to seek areas of common ground and possible solutions. The link to the online survey was emailed to all of the current appointed Stakeholders and Commissioners on October 20, 2014.

MWA also reviewed the BRP, MOU, IGA, Mission, and Bylaws, as well as recent minutes, agendas, and news reports to gather background information about the situation.

Information gathered through surveys was compiled to identify member perspectives on the major issues and potential ways forward. To establish and maintain confidentiality, names were redacted and comments are presented anonymously. Ten of the twelve Commission members participated in the Survey. The Survey report was presented to the Commission during a facilitated meeting on November 20, 2014, by Sara Wilson, MWA Principal Consultant.

Results of facilitated discussion and recommendations

The following project deliverables were discussed at the facilitated meeting of November 20, 2014.

3.3.1 Reaffirm or redefine the BOMC structure. After discussing potential scenarios of creating a nonprofit or a coalition structure the Commission arrived at unanimous consensus to reconfirm the BOMC structure. The group feels that the current structure provides the best mechanism to bring government, stakeholder, and landowner representatives together to discuss Badger.

3.3.2 Understanding of the role the BOMC will play within the context of the Badger Reuse Plan. There was a strong feeling that its role is already established in the documents that created the Commission and the fact that the BOMC's role is advisory was confirmed in the survey, in phone conversations, and during the facilitated meeting. There is consensus that the BOMC's role is advisory, centered on the values of the Badger Reuse Plan. It was suggested, and there is some agreement that its role should be revisited as after the landowners have been finalized and they begin to implement their plans.

3.3.3 Reaffirm or redefine the Stakeholder participation process. There also seemed to be consensus on reaffirming the Stakeholder participation process: Appointed Stakeholders should continue to be involved in deliberations and to have all of the rights of the Commissioners except for voting.

¹ RFP for Collaboration and Facilitation Professional Services,
https://www.co.sauk.wi.us/sites/default/files/fileattachments/bomc_rfp_6_30_2014.pdf, June 30, 2014, p. 2.

Project Summary

The Badger Oversight and Management Commission, despite its name, is legally limited to an advisory role. The absence of key documents and the existence of misleading language on the official Sauk County website are a likely source of some misunderstandings among the Commission's members and the public concerning the BOMC's mission, purpose, and authority. These inaccuracies, in turn, have led to an atmosphere where some of the members question technicalities, while others are perceived as bullying the landowners when they communicate their interpretations of the Badger Reuse Plan. Adding to the discord, while there is agreement that the BOMC's role is advisory, there seems to be a lack of regard for the type of courteous communication that is appropriate within the parameters of an advisory role.

Gathering accurate and complete information about the Commission and its legal structure has been an ongoing challenge throughout this project, pointing to a need for BOMC's documents to be reviewed, archived, updated, uploaded, and shared. The consultants were initially directed to the Sauk website for background documents, but in the process of using the information discovered that the website does not contain a complete archive and some of the information is inaccurate. For instance the history section states that "the use of the name 'oversight and management board' reflects a decision by the BRC that this entity shall have considerably more authority than what would be implied with an 'advisory board.'"² The Memo of Understanding (MOU) and Intergovernmental agreement (IGA) are quoted in part rather than provided as complete PDFs; notably absent are the clauses that specifically limit the authority of the Commission, the posted bylaws are not the most recent amended version, many of the meeting minutes are missing, the number of acres of the Badger site varies from one paragraph to the next, and the unrevised agenda for the November 18 facilitation meeting is posted on the website.³ As another example, the IGA and MOU that were ultimately provided to the consultants via email are not final signed and dated legal documents.

The Commission has a recent history of quibbling over details of language and authority to the detriment of teamwork, coalition-building, and consensus. Significant quantities of meeting time have been spent discussing topics such as the accuracy and completeness of the minutes, the history and intent of the Commission, meeting procedures, and whether or not BOMC's decisions are valid if one of its members refuses to attend meetings or if there is no formal vote. In theory, the Commission's greatest strength lies in its ability to represent the region's jurisdictions and stakeholders to the Badger landowners, thus helping to shape the public use plans in the public's interest. In our opinion, the Commission is at risk of continuing to decline in value and participation unless it makes significant changes. Recommendations are provided in this document.

Some of the divisive comments that have been reported by the media and directed to the Commission Chair confirm the importance of the group codifying its decision-making process: Does it rely on consensus, voting, or a combination of the two? Can Stakeholders move and second? What issues must come to a vote? Whether or not an appointed Stakeholder or Commissioner remains on the Commission indefinitely after they stop attending meetings is one example of a question that needs formal resolution. Bylaw adoption and revision is another. If bylaws are approved by "preliminary consensus" and they are held up by the organization to be its bylaws there is little choice but to accept them as such, but it is not clear that they are a valid legal document.

To prevent wasted time and unnecessary conflicts, the chair (with oversight by the group as a whole) must ensure that all Commission decisions are finalized, recorded, and placed in the public record. If more information is needed to decide a question, it should be referred to committee and revisited in a future meeting. Someone must be responsible for reviewing and posting documents online to ensure that the information available to Commission members and the public is correct and complete. Without adequate administrative support, it will be increasingly difficult for BOMC to maintain accurate and complete records that are open and available to the public. Sauk County has announced that it will stop providing legal and

² Sauk County website, Badger Oversight and Management Commission page, <https://www.co.sauk.wi.us/planningandzoningpage/badger-oversite-management-commission>, accessed 11-30-2014

³ Sauk County website, BOMC page, <https://www.co.sauk.wi.us/cpz/bomc-0>, accessed 11-30-2104

administrative services. MWA recommends that the Commission find a way to replace or reinstate these services. This represents a significant cash or in-kind expense.

Recommendations:

Ensure all Commission members have current and accurate information. Make available all of the final versions of the BOMC's founding documents, minutes and any other pertinent documents. The MOU, IGA, current bylaws, and recent minutes should also be provided as part of an orientation packet for all future Commission members.

Upload accurate information to the Sauk County website or any future location the information is to be stored.

Improve meeting management. The Executive/ Finance Committee should recommend and the Commission should discuss, revise if necessary, and adopt rules of order. The rules can be a strict or loose interpretation of Robert's Rules of Order, a consensus process, or something in-between, but they must be clear and consistent so that the Commission's decisions are finalized and recorded. The Commission should vote on utilizing a process and then implement it consistently.

Review Commission meeting frequency. Consider meeting less frequently as a full Commission; quarterly or bi-monthly meetings of the full Commission may be adequate. This discussion and resulting recommendation should be undertaken by the Executive/Finance Committee, presented to the Commission and voted upon. Update bylaws to codify the decision.

Review and formalize agenda procedures. Implement procedures that prioritize topics, move preliminary discussion to committee, and limit discussion to the most relevant subjects.

Continue improving and leveraging committee structure. The Finance/Executive Committee was recently revitalized and is beginning to function. The other committees listed in the bylaws should be reviewed and revived or the bylaws should be revised if the committees are not appropriate in the near term (1-2 years).

Create a written job description (charter) for each committee. The charter, drafted by the Executive/Finance Committee, should provide duties and specify the limits of authority. The draft should be reviewed and revised by the associated committee. The charter should then be presented to the Commission, discussed, voted upon and, if approved, archived as an official Commission document.

Bring work into the committees. Research and discussion should take place in committees and be developed into concise written reports that are distributed to the Commission prior to meetings. Reports should clearly lay out background information, pros and cons, financial consequences, and other information to help the Commission discuss and decide on priority questions. Committees should meet as needed to achieve their work.

Consider inviting volunteers from outside the Commission to help populate committees. This is a good way to develop leadership and to increase the capacity of the Commission.

Address how BOMC can renew itself. There have been recent efforts to recruit new Stakeholder and Commissioner representatives. Commission members should consider other Stakeholder organizations and/or jurisdictions that might have an interest in participating, and whether it would be appropriate to add the other jurisdictions to the pool of voting members.

Develop a process to address inactive members, including replacement or removal. Is attendance at meetings expected? How will non-attendance by Commissioners be addressed? Is there an expectation that government representatives attend or do they hold their seats indefinitely without attending meetings? Are emails with input acceptable?

Review and revise bylaws to reflect current practices, or revise current practice to comply with the bylaws. The Commission should formally adopt the changes and update the document. The words “Approved Updated [DATE]” should be on the document.

Assign responsibility for BOMC administration. Duties should be clearly delineated and include sending out or posting meeting notices, agendas, and materials; archiving and making available all minutes and other official documents; and reviewing and updating online information. Funding may be necessary.

Consider BOMC Finances. The Ho-Chunk Nation provides money annually to support the BOMC. In the past, funds have been used to support the administration of the BOMC by a Sauk County employee. This service is reportedly no longer going to be provided. The Executive/Finance committee should identify where the funds will be held, by whom, who makes decisions on use and how. This should be presented to the Commission and voted upon. An annual budget should be created, approved and implemented.

Review BOMC’s evolving mission, vision, and purpose. As the lands transition into the landowners’ management it would make sense for Stakeholders to continue to meet directly with landowners to understand how they can assist with areas such as implementing programming, raising funds, and advocating for the lands. It may make sense for landowners to support the creation of a friends’ organization.

Reconfirm a commitment to a respectful, collegial atmosphere. The Commission should re-establish and adhere to ground rules of respect during all meetings. Yelling, monopolizing conversations, and off-agenda conversations must be managed by the Chair and supported and managed by all Commission members.

Conclusion

The Commission, through its inclusive participation, has created a significant tool for landowners of the Badger lands to use in the future. The Commission is advisory; landowners have not given up any rights to manage their lands. Given that this is a fundamental pillar of the forming documents of this Commission, the discussions, communications, and relationships between all parties should be grounded in this understanding.

The landowners and other Commissioners are more likely to attend meetings if the discussions are respectful, time is used efficiently, and valuable information is presented. To remain relevant, the Commission’s members must agree that their efforts will continue to be guided by the Values of the BRP, that they will make good faith efforts to represent and present the views of the region’s citizens and stakeholders, and accept that their influence over the landowners’ management plans is advisory. Likewise, it seems reasonable to expect that the landowners, in keeping with the intergovernmental agreements and the spirit of collaboration that the Reuse Plan represents, will make good faith efforts to manage the lands in a manner consistent with the Values that are detailed in the BRP.

The work and achievements of this Commission should be celebrated. While valuing the history of the group’s accomplishments, the members of the Commission must listen carefully and empathetically and take personal responsibility for maintaining a collegial and productive atmosphere—there is a need to make changes as presented in our recommendations. Change does not equal failure or lessened importance of the Badger lands or of the work that went into the original planning process. Change may help the Commission remain relevant and refocus its efforts on implementing positive programs on Badger lands in partnership with landowners. Some of this is beginning to take place; the Commission now has the opportunity to help the Badger lands reach their full potential as a place for education, research, wildlife and prairie, recreation, and an economic draw to the area. This will require a genuine partnership between all parties.

Appendix

The following table of responses from the facilitated meeting lists positive and negative aspects of BOMC's current organizational structure.

Positive	Negative
Provides forum for discussion Supported by Plan Wields public influence Forum for public input Landowners vote Public accountability as a governmental entity, particularly regarding finance and records Need to renew Unites layers of government Has impact/clout Empowers Stakeholders and the public Provides a single venue for input Broad public involvement Locally-driven process Process to bring in new stakeholders exists Public discussion forum for Badger as a <u>whole</u> Long history with legal standing Formal partnership Tension leads to creativity	Two-tier structure is a problem if voting participation is lacking it leads to contention Need more broad input Landowners vote No outreach support Limited public communication Adversarial potential Procedural difficulties Landowners are perceived to need to involve Commission when they converse informally Communication is difficult Pressure to always involve BOMC Need to renew Lack of resources; lack of quorum Leaves out other voices; not all Stakeholders are included Governance vs. the people Difference of opinion in how to run meetings Missing Stakeholders Balance of Stakeholders and Commissioners Vulnerable to external distortion and hidden agendas Lack of clear “management” authority

The group felt that a different structure would have more negatives. These included lack of funding, structure, and leverage; less government input; the current timing (maybe a “friends” group will be appropriate later), and a perception that a different structure would be less powerful.