

**CITY OF FORT ATKINSON**  
**City Council Minutes ~ July 2, 2019**

CALL MEETING TO ORDER.

Pres. Kotz called the meeting to order at 7:00 pm.

ROLL CALL.

Roll call present: Cm. Becker, Cm. Johnson, Cm. Scherer, Cm. Hartwick and President Kotz.  
Also present: City Manager, City Attorney, Deputy Clerk and City Engineer.

APPROVAL OF MINUTES OF JUNE 18, 2019 REGULAR COUNCIL MEETING.

Cm. Hartwick moved, seconded by Cm. Scherer to approve the minutes of June 18, 2019 regular council meeting. Motion carried.

PUBLIC HEARINGS

None.

PUBLIC COMMENT

None.

PETITIONS, REQUESTS AND COMMUNICATIONS

*a. Report by Baker Tilly on City's Financial Statements as of December 31, 2018 and communication to those charged with governance and management.*

Andrea Jansen, Baker Tilly was present to review the summary of the financial statements. The City received an unmodified opinion, highest level opinion to receive from Auditor. She reviewed the implementation of GASB 75, which mirrors the pension standard GASB 68. Jansen reviewed various balances, outstanding debt and discussed policies on purchasing. Discussion took place on monitoring financials and the budget throughout the year.

Cm. Becker moved, seconded by Cm. Johnson to accept and file the Report by Baker Tilly on City's Financial Statements as of December 31, 2018 and communication to those charged with governance and management. Motion carried.

*b. Presentation by Baird of historic and projected General Obligation debt levels.*

Justin Fischer, Baird was present to discuss the debt levels. Discussion was held on debt practices and comparison of past year debt levels.

Cm. Becker moved, seconded by Cm. Johnson to accept and file the presentation by Baird of historic and projected General Obligation debt levels. Motion carried.

RESOLUTIONS AND ORDINANCES

*a. Resolution Authorizing the Issuance of \$5,500,000 General Obligation Promissory Notes and the Issuance and Sale of \$5,500,000 Note Anticipation Notes in Anticipation Thereof.*

Justin Fischer presented the Resolution. Local banks, Premier Bank and Badger Book provided the same rate and agreed to split the full amount of the Promissory Note.

RESOLUTION NO. 1319  
RESOLUTION AUTHORIZING THE ISSUANCE OF  
\$5,500,000 GENERAL OBLIGATION PROMISSORY NOTES  
AND THE ISSUANCE AND SALE OF

\$5,500,000 NOTE ANTICIPATION NOTES IN ANTICIPATION THEREOF

WHEREAS, the City Council hereby finds and determines that it is necessary, desirable and in the best interest of the City of Fort Atkinson, Jefferson County, Wisconsin (the "City") to raise funds for public purposes, including paying the cost of fire station renovation and expansion (the "Project");

WHEREAS, the City Council hereby finds and determines that the Project is within the City's power to undertake and therefore serves a "public purpose" as that term is defined in Section 67.04(1)(b), Wisconsin Statutes;

WHEREAS, cities are authorized by the provisions of Chapter 67, Wisconsin Statutes, to borrow money and issue general obligation promissory notes for such public purposes;

WHEREAS, it is the finding of the City Council that it is necessary, desirable and in the best interest of the City to authorize the issuance of and covenant to issue general obligation promissory notes (the "Securities") to provide permanent financing for the Project;

WHEREAS, the Securities have not yet been issued or sold;

WHEREAS, cities are authorized by the provisions of Section 67.12(1)(b), Wisconsin Statutes, to issue note anticipation notes in anticipation of receiving the proceeds from the issuance and sale of the Securities;

WHEREAS, it is the finding of the City Council that it is necessary, desirable and in the best interest of the City to authorize the issuance and sale of note anticipation notes pursuant to Section 67.12(1)(b), Wisconsin Statutes (the "Notes"), in anticipation of receiving the proceeds from the issuance and sale of the Securities, to provide interim financing to pay the cost of the Project; and

WHEREAS, it is the finding of the City Council that it is necessary, desirable and in the best interest of the City to sell the Notes to Badger Bank and Premier Bank (the "Purchasers"), pursuant to the terms and conditions of the Preliminary Private Placement Memorandums attached hereto as Exhibit A and incorporated herein by this reference (the "Proposals").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City that:

Section 1. Authorization and Issuance of Securities. The City hereby authorizes the issuance of and declares its intention and covenants to issue the Securities pursuant to the provisions of Chapter 67, Wisconsin Statutes, in an amount sufficient to retire any outstanding note anticipation notes issued for the purpose of paying the cost of the Project. There is hereby levied on all the taxable property in the City a direct, annual, irrevocable tax sufficient to pay the interest on said Securities as it becomes due, and also to pay and discharge the principal thereof.

Section 2. Authorization and Sale of the Notes. In anticipation of the sale of the Securities, for the purpose of paying the cost of the Project, there shall be borrowed pursuant to Section 67.12(1)(b), Wisconsin Statutes, the principal sum of FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$5,500,000) from the Purchasers in accordance with the terms and conditions of the Proposals. The Proposals are hereby accepted and the City Manager and City Clerk or other appropriate officers of the City are authorized and directed to execute an acceptance of the Proposals on behalf of the City. To evidence the obligation of the City, the City Manager and City Clerk are hereby authorized, empowered and directed to make, execute, issue and sell to the Purchasers for, on behalf of and in the name of the City, Notes aggregating the principal amount of FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$5,500,000) for the sum set forth on the Proposals, plus accrued interest to the date of delivery. Each of the Purchasers will purchase Notes in the principal amount of \$2,750,000.

Section 3. Terms of the Notes. The Notes shall be designated "Note Anticipation Notes"; shall be issued in the aggregate principal amount of \$5,500,000; shall be dated their date of issuance; shall be in the denomination of \$100,000 or more; shall be numbered R-1 and upward; and shall bear interest at the rate per annum and mature on February 6, 2020 as set forth on the schedule attached hereto as Exhibit B and incorporated herein by this reference (the "Schedule"). Interest shall be payable at maturity. Interest shall be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board.

Section 4. Redemption Provisions. The Notes are subject to redemption prior to maturity, at the option of the City, on November 6, 2019 or on any date thereafter. Said Notes are redeemable, as a whole or from time to time in part, by lot, at the principal amount thereof, plus accrued interest to the date of redemption.

Section 5. Form of the Notes. The Notes shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit C and incorporated herein by this reference.

Section 6. Security. The Notes shall in no event be a general obligation of the City and do not constitute an indebtedness of the City nor a charge against its general credit or taxing power. No lien is created upon the Project or any other property of the City as a result of the issuance of the Notes. The Notes shall be payable only from (a) any proceeds of the Notes set aside for payment of interest on the Notes as it becomes due and (b) proceeds to be derived from the issuance and sale of the Securities, which proceeds are hereby declared to constitute a special trust fund, hereby created and established, to be held by the City Clerk or City Treasurer and expended solely for the payment of the principal of and interest on the Notes until paid. The City hereby agrees that, in the event such monies are not sufficient to pay the principal of and interest on the Notes when due, if necessary, the City will pay such deficiency out of its annual general tax levy or other available funds of the City; provided, however, that such payment shall be subject to annual budgetary appropriations therefor and any applicable levy limits; and provided further, that neither this Resolution nor any such payment shall be construed as constituting an obligation of the City to make any such appropriation or any further payments.

Section 7. Segregated Debt Service Fund Account.

(A) Creation and Deposits. There be and there hereby is established in the treasury of the City, if one has not already been created, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Debt service or sinking funds established for obligations previously issued by the City may be considered as separate and distinct accounts within the debt service fund.

Within the debt service fund, there hereby is established a separate and distinct account designated as the "Debt Service Fund Account for Note Anticipation Notes-2019" (the "Debt Service Fund Account") and such account shall be maintained until the indebtedness evidenced by the Notes is fully paid or otherwise extinguished. There shall be deposited into the Debt Service Fund Account (i) all accrued interest received by the City at the time of delivery of and payment for the Notes; (ii) any proceeds of the Notes representing capitalized interest on the Notes or other funds appropriated by the City for payment of interest on the Notes, as needed to pay the interest on the Notes when due; (iii) proceeds of the Securities (or other obligations of the City issued to pay principal of or interest on the Notes); (iv) such other sums as may be necessary at any time to pay principal of and interest on the Notes when due and which are appropriated by the City Council for that purpose; (v) surplus monies in the Borrowed Money Fund as specified below; and (vi) such further deposits as may be required by Section 67.11, Wisconsin Statutes.

(B) Use and Investment. No money shall be withdrawn from the Debt Service Fund Account and appropriated for any purpose other than the payment of principal of and interest on the Notes until all such principal and interest has been paid in full and the Notes canceled; provided that such monies may be invested in permitted municipal investments under the pertinent provisions of the Wisconsin Statutes ("Permitted Investments"), which investments shall continue to be a part of the Debt Service Fund Account. Said account shall be used for the sole purpose of paying the principal of and interest on the Notes and shall be maintained for such purpose until the Notes are fully paid or otherwise extinguished, and shall at all times be invested in a manner that conforms with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and any applicable Treasury Regulations (the "Regulations").

(C) Remaining Monies. When all of the Notes have been paid in full and canceled, and all Permitted Investments disposed of, any money remaining in the Debt Service Fund Account shall be transferred and deposited in the general fund of the City, unless the City Council directs otherwise.

Section 8. Covenants of the City. The City hereby covenants with the owners of the Notes as follows:

(A) It shall issue and sell the Securities as soon as practicable, as necessary to provide for payment of the Notes;

(B) It shall segregate the proceeds derived from the sale of the Securities into the special trust fund herein created and established and shall permit such special trust fund to be used for no purpose other than the payment of principal of and interest on the Notes until paid. After the payment of principal of and interest on the Notes in full, said trust fund may be used for such other purposes as the City Council may direct in accordance with law; and,

(C) It shall maintain a debt limit capacity such that its combined outstanding principal amount of general obligation bonds or notes or certificates of indebtedness and the \$5,500,000 authorized for the issuance of the Securities to provide for the payment of the Notes shall at no time exceed its constitutional debt limit.

Section 9. Proceeds of the Notes; Segregated Borrowed Money Fund. The proceeds of the Notes (the "Note Proceeds") (other than any premium and accrued interest which must be paid at the time of the delivery of the Notes into the Debt Service Fund Account created above) shall be deposited into a special fund separate and distinct from all other funds of the City and disbursed solely for the purpose or purposes for which borrowed or for the payment of the principal of and the interest on the Notes. Monies in the Borrowed Money Fund may be temporarily invested in Permitted Investments. Any monies, including any income from Permitted Investments, remaining in the Borrowed Money Fund after the purpose or purposes for which the Notes have been issued have been accomplished, and, at any time, any monies as are not needed and which obviously thereafter cannot be needed for such purpose(s) shall be deposited in the Debt Service Fund Account.

Section 10. No Arbitrage. All investments made pursuant to this Resolution shall be Permitted Investments, but no such investment shall be made in such a manner as would cause the Notes to be "arbitrage bonds" within the meaning of Section 148 of the Code or the Regulations and an officer of the City, charged with the responsibility for issuing the Notes, shall certify as to facts, estimates, circumstances and reasonable expectations in existence on the date of delivery of the Notes to the Purchaser which will permit the conclusion that the Notes are not "arbitrage bonds," within the meaning of the Code or Regulations.

Section 11. Compliance with Federal Tax Laws. (a) The City represents and covenants that the projects financed by the Notes and the ownership, management and use of the projects will not cause the Notes to be "private activity bonds" within the meaning of Section 141 of the Code. The City further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the tax-exempt status of the interest on the Notes including, if applicable, the rebate requirements of Section 148(f) of the Code. The City further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Notes) if taking, permitting or omitting to take such action would cause any of the Notes to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Notes to be included in the gross income of the recipients thereof for federal income tax purposes. The City Clerk or other officer of the City charged with the responsibility of issuing the Notes shall provide an appropriate certificate of the City certifying that the City can and covenanting that it will comply with the provisions of the Code and Regulations.

(b) The City also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Notes provided that in meeting such requirements the City

will do so only to the extent consistent with the proceedings authorizing the Notes and the laws of the State of Wisconsin and to the extent that there is a reasonable period of time in which to comply.

Section 12. Designation as Qualified Tax-Exempt Obligations. The Notes are hereby designated as "qualified tax-exempt obligations" for purposes of Section 265 of the Code, relating to the ability of financial institutions to deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

Section 13. Execution of the Notes; Closing; Professional Services. The Notes shall be issued in printed form, executed on behalf of the City by the manual or facsimile signatures of the City Manager and City Clerk, authenticated, if required, by the Fiscal Agent (defined below), sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery (the "Closing"). The facsimile signature of either of the officers executing the Notes may be imprinted on the Notes in lieu of the manual signature of the officer but, unless the City has contracted with a fiscal agent to authenticate the Notes, at least one of the signatures appearing on each Note shall be a manual signature. In the event that either of the officers whose signatures appear on the Notes shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Notes and all such documents, certificates and acknowledgements as may be necessary and convenient to effectuate the Closing. The City hereby authorizes the officers and agents of the City to enter into, on its behalf, agreements and contracts in conjunction with the Notes, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and continuing disclosure, and rebate calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Notes is hereby ratified and approved in all respects.

Section 14. Payment of the Notes; Fiscal Agent. The principal of and interest on the Notes shall be paid by the City Clerk or the City Treasurer (the "Fiscal Agent").

Section 15. Persons Treated as Owners; Transfer of Notes. The City shall cause books for the registration and for the transfer of the Notes to be kept by the Fiscal Agent. The person in whose name any Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Note shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

Any Note may be transferred by the registered owner thereof by surrender of the Note at the office of the Fiscal Agent, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the City Manager and City Clerk shall execute and deliver in the name of the transferee or transferees a new Note or Notes of a like aggregate principal amount, series and maturity and the Fiscal Agent shall record the name of each transferee in the registration book. No registration shall be made to bearer. The Fiscal Agent shall cancel any Note surrendered for transfer.

The City shall cooperate in any such transfer, and the City Manager and City Clerk are authorized to execute any new Note or Notes necessary to effect any such transfer.

Section 16. Continuing Disclosure. The continuing disclosure requirements of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule") are not applicable to the Notes because each Purchaser will covenant that it will hold and not make a primary offering of the Notes, or otherwise will establish an exception to the Rule relating to the Notes.

Section 17. Record Book. The City Clerk shall provide and keep the transcript of proceedings as a separate record book (the "Record Book") and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Notes in the Record Book.

Section 18. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the City Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Adopted, approved and recorded July 2, 2019.

Matt Trebatoski, City Manager

ATTEST: Michelle Ebbert, City Clerk

Cm. Hartwick moved, seconded by Cm. Scherer to approve and adopt Resolution authorizing the Issuance of \$5,500,000 General Obligation Promissory Notes and the Issuance and Sale of \$5,500,000 Note Anticipation Notes in Anticipation Thereof to Badger Bank and Premier Bank at \$2,750,000 each. Motion carried on a unanimous roll call vote.

## REPORTS OF OFFICERS, BOARDS AND COMMITTEES

- a. *Minutes of Transportation and Traffic Review Committee meeting held June 13, 2019.*
- b. *Minutes of Sex Offender Residence Board meeting held June 18, 2019.*
- c. *Minutes of Historical Society Board meeting held May 16, 2019.*

*d. Minutes of Plan Commission meeting held June 25, 2019.*

Cm. Becker moved, seconded by Cm. Hartwick to accept and file the Reports of Officers, Boards and Committees. Motion carried.

#### UNFINISHED BUSINESS

*a. Recommendation from Transportation and Traffic Review Committee to designate five parking stalls in Lot 5, west of Post Office and east of South Main Street as two-hour parking from 9:00 a.m. to 5:00 p.m. weekdays, and Ordinance.*

Engineer Selle reviewed the recommendation and presented the Ordinance. The Traffic Committee had shared opposing viewpoints on the restricted parking after speaking with local business owners. Council discussed the existing layout and parking scenarios between the business owners, residents and post office employees.

Cm. Hartwick moved, seconded by Cm. Becker to approve the recommendation from the Transportation and Traffic Review Committee to designate five parking stalls in Lot 5, west of Post Office and east of South Main Street as two-hour parking from 9:00 a.m. to 5:00 p.m. weekdays, and Ordinance to second reading. Motion carried.

*b. Recommendation from Transportation and Traffic Review Committee to amend Ordinance restricting two-hour parking on McMillen Street from East Sherman Avenue to North Fourth Street on the east side only, and Ordinance.*

Engineer Selle stated this matter is to correct an ordinance currently on the records. The ordinance restricts parking on both sides of McMillen Street however it is believed that it should only have included the east side of the street. The west side is used for employees of the Hospital.

Cm. Hartwick moved, seconded by Cm. Becker to approve the recommendation from Transportation and Traffic Review Committee to amend Ordinance restricting two-hour parking on McMillen Street from East Sherman Avenue to North Fourth Street on the east side only, and Ordinance to second reading. Motion carried.

*c. Recommendation from Transportation and Traffic Review Committee to change speed limit on Janesville Avenue from 35 m.p.h. to 25 m.p.h. from South Fourth Street to Rockwell Avenue.*

Engineer Selle shared the discussion to reduce the speed limit with the anticipation of the pedestrian crossing on Janesville Avenue to Jones Park. Council members shared comments they have heard from the public.

Cm. Hartwick moved, seconded by Cm. Johnson to approve the recommendation from Transportation and Traffic Review Committee to change speed limit on Janesville Avenue from 35 m.p.h. to 25 m.p.h. from South Fourth Street to Rockwell Avenue and Ordinance to second reading. Motion carried.

*d. Recommendation from Plan Commission to approve Certified Survey Map creating one new lot on North Shore Road (extra-territorial).*

Cm. Hartwick moved, seconded by Cm. Johnson to approve the recommendation from Plan Commission to approve Certified Survey Map creating one new lot on North Shore Road (extra-territorial). Motion carried.

*e. Recommendation from Plan Commission to approve Certified Survey Map creating zero lot line dwellings and 304-306 East Highland Avenue.*

Cm. Becker moved, seconded by Cm. Johnson to approve the recommendation from Plan Commission to approve Certified Survey Map creating zero lot line dwellings and 304-306 East Highland Avenue. Motion carried.

*f. Recommendation from Plan Commission to approve Certified Survey Map creating a 35+/- acre lot on McIntyre Road (extra-territorial).*

Cm. Becker moved, seconded by Cm. Scherer to approve the recommendation from Plan Commission to approve Certified Survey Map creating a 35+/- acre lot on McIntyre Road (extra-territorial). Motion carried.

#### NEW BUSINESS

*a. Review and approve Developer's Agreement with Logan JS, LLC (Black Hawk Senior Residence) for a Community Development Investment Grant.*

Manager Trebatoski discussed the award of \$250,000 Wisconsin Economic Development Corporation Community Development Investments to assist Logan JS, LLC in renovating and expanding their downtown business. A Developer's Agreement was drafted by Attorney Westrick. There is no direct cost to the city. An independent CPA will be hired to conduct an audit of the grant; this will be reimbursed by the developer.

Cm. Hartwick moved, seconded by Cm. Johnson to approve the Developer's Agreement with Logan JS, LLC (Black Hawk Senior Residence) for a Community Development Investment Grant. Motion carried on a unanimous roll call vote.

#### MISCELLANEOUS

*a. Temporary Class "B" beer and/or wine license for the Americana on the Rock event at the Fort Atkinson Club on July 5, 2019.*

Cm. Hartwick moved, seconded by Cm. Becker to approve the Temporary Class "B" beer and/or wine license for the Americana on the Rock event at the Fort Atkinson Club on July 5, 2019 contingent upon having licensed operators and purchasing products from a wholesaler. Motion carried.

*b. Temporary Class "B" beer and/or wine license for Rhythm on the River event on August 24, 2019.*

Cm. Hartwick moved, seconded by Cm. Johnson to approve the Temporary Class "B" beer and/or wine license for Rhythm on the River event on August 24, 2019 contingent upon having licensed operators and purchasing products from a wholesaler. Motion carried.

*c. Granting operator licenses.*

Cm. Hartwick moved, seconded by Cm. Scherer to approve the granting of operator licenses. Motion carried.

CLAIMS, APPROPRIATIONS AND CONTRACT PAYMENTS

a. *Verified claims.*

Cm. Becker moved, seconded by Cm. Johnson to approve the list of verified claims submitted by the Director of Finance and authorize payment. Motion carried on a roll call vote.

ADJOURNMENT

Cm. Scherer moved, seconded by Cm. Hartwick to adjourn. Meeting adjourned at 8:45 pm.

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Kelly Voelker, Deputy Clerk

APPROVED:

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PRESIDENT OF THE COUNCIL