

**CITY COUNCIL MINUTES
FORT ATKINSON, WISCONSIN
APRIL 1, 2008**

1. CALL MEETING TO ORDER

A regular meeting of the City Council was called to order by President Mielke at 7:00 p.m. in the Council Chambers of the Municipal Building.

2. ROLL CALL

On call of the roll, members present were:

LaVerne Behrens
John Mielke
Jim Simdon
Steve Tesmer
Mark Zastrow

Also present were the City Manager, City Engineer, City Attorney, Park & Recreation Director.

3. APPROVAL OF MINUTES OF MARCH 18, 2008 REGULAR COUNCIL MEETING

Cwmn. Behrens, seconded by Cm. Simdon, moved to approve the minutes of the March 18, 2008 regular Council meeting. The motion carried on a voice vote.

4. PUBLIC HEARINGS

Before beginning the public hearings, President Mielke addressed those in attendance and indicated that there are three public hearings on tonight's agenda. The public hearings will be opened and anyone wishing to address the item will be asked to come forward and make comments on the agenda item. It is requested that comments are made on the item that appears on the agenda, because we are required to provide notification to the public of matters being heard.

a. PUBLIC HEARING ON SIX-MONTH BEER LICENSE FOR FORT ATKINSON GENERALS TO USE AT JONES PARK.

President Mielke opened the public hearing on a Six-Month Beer License for the Fort Atkinson Generals to use at Jones Park and stated if anyone wished to speak on this topic, he or she should come to the podium and state his or her name and address for the record.

After three calls and hearing no comments, President Mielke closed the public hearing on a Six-Month Beer License for the Fort Atkinson Generals to use at Jones Park.

Cm. Zastrow, seconded by Cwmn. Behrens, moved to approve the Six-Month Beer License for the Fort Atkinson Generals to use at Jones Park. The motion carried on a voice vote.

b. PUBLIC HEARING ON SIX-MONTH BEER LICENSE FOR FORT ATKINSON LIONS CLUB TO USE AT RALPH PARK.

President Mielke opened the public hearing on a Six-Month Beer License for the Fort Atkinson Lions Club to use at Ralph Park and stated if anyone wished to speak on this topic, he or she should come to the podium and state his or her name and address for the record.

After three calls and hearing no comments, President Mielke closed the public hearing on a Six-Month Beer License for the Fort Atkinson Lions Club to use at Ralph Park.

Cm. Zastrow, seconded by Cm. Tesmer, moved to approve the Six-Month Beer License for the Fort Atkinson Lions Club to use at Ralph Park. The motion carried on a voice vote.

c. PUBLIC HEARING ON 2008 SIDEWALK PROGRAM.

City Manager Wilmet stated that notices have been mailed to the affected property owners along the proposed project on Endl Boulevard and Banker Road.

President Mielke opened the public hearing on the 2008 sidewalk program and asked that anyone interested in addressing this item step up to the podium and state his or her name and address for the record.

Steve Wiesen, 1203 Endl Boulevard, addressed the Council at this time. Mr. Wiesen's question was what options they have to pay the special assessment for the sidewalk installation? City Manager Wilmet said the property owners have the option of either paying the special assessment when they receive the final notice on cost from the City, or if the owners choose not to pay it at that time, it will be placed on their tax bill.

President Mielke then made a second and third call, and after no one else came forward, the public hearing was closed.

5. PETITIONS, REQUESTS AND COMMUNICATIONS

- a. REQUEST BY FORT ATKINSON GENERALS TO HOLD BASEBALL FEST AT JONES PARK FROM JUNE 19-22, 2008.

City Manager Wilmet said this event has been held for a number of years, and the Generals have been generous in donating profits back for improvements to Jones Park. Cm. Zastrow, seconded by Cm. Tesmer, moved to approve the request by Fort Atkinson Generals. The motion carried on a voice vote.

- b. REQUEST BY BUCKSKINNERS RENDEZVOUS COMMITTEE TO HOLD ANNUAL EVENT AT ROCK RIVER PARK FROM MAY 23-25, 2008, AND FOR WAIVER OF GUN DISCHARGE ORDINANCE.

City Manager Wilmet indicated this is an annual event held by the Buckskinnners over the Memorial Day weekend. A letter recommending approval to the use of the park as well as the waiver to the gun discharge ordinance was received from both the Park & Recreation Director, as well as the Police Chief. It has been a very safe event, and there have been no problems whatsoever with the event.

Cm. Simdon, seconded by Cm. Tesmer, moved to approve the request by the Buckskinnners Rendezvous Committee. The motion carried on a voice vote.

6. RESOLUTIONS AND ORDINANCES

- a. FINAL RESOLUTION FOR 2008 SIDEWALK PROGRAM.

The following Resolution was placed on the overhead projector at this time:

RESOLUTION NO. 1132

FINAL RESOLUTION AUTHORIZING IMPROVEMENTS AND LEVYING SPECIAL ASSESSMENTS AGAINST BENEFITED PROPERTY

WHEREAS, the City Council of the City of Fort Atkinson, Wisconsin has held a public hearing in the Council Chambers of the Municipal Building at 7:00 p.m. on April 1, 2008, for the purpose of hearing all interested persons concerning the Preliminary Resolution and Report of the City Engineer on the proposed improvements for the following street:

- A. Sidewalk construction for the following sections:

Endl Boulevard:

East side from Adrian Boulevard to the mid-point of parcel 226-0514-0914-020.

Banker Road:

West side from Madison Avenue to West Cramer Street.

Proposed assessment for sidewalk construction shall be \$16.41 per parcel sidewalk frontage foot.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fort Atkinson as follows:

- 1). That the Report of the City Engineer pertaining to the construction of the above-described public improvements, including plans and specifications therefore, is hereby adopted and approved.
- 2). That the City Manager is directed to carry out the work of such improvements in accordance with the Report of the City Engineer.
- 3). That payment for said improvements be made by assessing the cost of the property benefited as indicated in said report.
- 4). That benefits and damages shown on the Report, as modified, are true and correct and hereby confirmed.
- 5). That the assessments for all projects included in said Report are hereby combined as a single assessment, but any interested property owner shall be entitled to object to each assessment separately both assessments jointly for any purpose or purposes.
- 6). The City Council declares its intent to exercise its police powers pursuant to Section 66.0703(4), Wisconsin Statutes of 2005-2006 to levy special assessment.

The City Manager indicated the project will take place on Endl Boulevard and Banker Road. The cost per front foot is \$16.41, and notices will be sent to the property owners when the project is complete, and they will be given the option to either pay it at that time, or have it placed on their tax bills.

Cwmn. Behrens, seconded by Cm. Simdon, moved to approve the Final Resolution for the 2008 Sidewalk Program. On call of the roll, the motion carried unanimously.

b. RESOLUTION ACKNOWLEDGING SERVICE BY JOHN LAMPERT.

At this time, the following Resolution was read into the record by President Mielke, as well as being placed on the overhead projector:

RESOLUTION NO. 1133

WHEREAS, John Lampert has served the City of Fort Atkinson and its citizens as Municipal Judge since 1978 and having been elected a total of 15 times to that position; and

WHEREAS, John Lampert has served in the capacity of Municipal Judge fairly, effectively and impartially; and

WHEREAS, John Lampert has decided not to run for an additional term as Municipal Judge after his present term expires.

NOW, THEREFORE, BE IT RESOLVED:

- 1). That the City of Fort Atkinson hereby congratulates John Lampert for his service to the City not only as Municipal Judge, but as an involved citizen; and
- 2). That the City of Fort Atkinson hereby expresses its appreciation to John Lampert for the years he has served as Municipal Judge; and
- 3). That the City of Fort Atkinson hereby wishes John Lampert good luck and happiness in his future plans.

John Lampert then addressed the Council indicating that he appreciated the recognition from the City, and also the cooperation he has gotten from the City government, especially the City Manager.

Chris Rogers said he has practiced before John Lampert for at least 20 years, and it was an extreme pleasure.

Cm. Zastrow, seconded by Cm. Simdon, moved to approve and adopt the Resolution acknowledging the service by John Lampert. On call of the roll, the motion carried unanimously.

- c. THIRD READING OF ORDINANCE PROHIBITING FISHING ALONG THE RIVERWALK FROM THE PEDESTRIAN BRIDGE EAST TO THE END OF THE RIVERWALK.

The following ordinance was displayed on the overhead projector at this time:

ORDINANCE NO. 661

The City Council of the City of Fort Atkinson does hereby ordain as follows:

That Chapter 58, OFFENSES AND MISCELLANEOUS PROVISIONS, Article VI, Fishing Restrictions, Sec. 58-203, be created as follows:

Sec. 58-203.

- (a) It shall be unlawful to hook, cast, net, seine or otherwise engage in any other activity that attempt to catch fish or other aquatic creatures in the following areas:
 - (1) The Downtown Riverwalk (“the Riverwalk”) from the Pedestrian Bridge east to the end of the Riverwalk. This prohibition includes any paved area of the relevant portions of the Riverwalk, the lands between the paved areas of the Riverwalk and the Rock River, and any other lands in which the City of Fort Atkinson has acquired a right-of-way along the relevant portions of the Riverwalk. The prohibitive area shall be marked by appropriate signage.
 - (2) Any person violating this section shall be punished pursuant to Section 94-243 of this Code.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

This ordinance shall take effect and be in force from and after the date of its passage and publication.

The City Manager said this is the third reading of this Ordinance.

City Attorney Rogers indicated there has been discussion in the media and elsewhere about a concept known as the “ordinary high water mark”. The law in the State of Wisconsin, as well as most of the rest of the Nation, is that the public has a “trust” over all of the State’s navigable bodies of water up to the ordinary high water mark, and that is the term that is somewhat hard to define. The basic definition is a point on the bank or shore where the water is present often enough that the lake or stream bed begins to look different from the upland. Basically, it is usually markers that you can see, that is where the river normally ends. In the Rock River, it is easily discerned because we have had a riverwall built since the 1930s. Therefore, it is his legal opinion that that is where the ordinary high water mark of the Rock River goes up to the riverwall. If that is a point of concern among any of the members of the Council, that is his legal conclusion of where the public’s right to transverse the Rock River begins or ends.

City Manager Wilmet stated that there was some research done through the Wisconsin Park & Recreation Association as far as use of stewardship money. In certain cases when we applied for stewardship money, a list of activities that would go on, were included. In certain areas of the riverwalk, we did not include fishing, but irregardless if we didn’t, part of the rule is with the receiving of those funds that you should not restrict or preclude fishing, hunting, and other things that come along with stewardship money. The exception of that is if any of the three factors you feel may be a concern, you can restrict certain activities. Those factors are: 1. Public safety; 2. Protection of unique plant or animal communities;

or 3. A combination of usership park patterns. If we feel that any of those items are happening, it gives us the right to enforce rules and regulations.

Cwmn. Behrens requested that a letter received from Lou Stark Schwemmer's be entered into record. Ms. Schwemmer's letter read as follows: *"Dear President Mielke and the Fort Atkinson City Council Members: First, I would like to take this opportunity to thank Councilwoman LaVerne Behrens for addressing one of my concerns. Second, I would like to thank Councilman Jim Simdon for questioning and allowing LaVerne to clarify her comment on my behalf. No, I am not afraid of fishermen. Yes, I am concerned about what is lying on the riverwalk to get tangled in and/or trip over. For this reason, I am no longer comfortable walking near the river's edge-especially in the evenings.*

A more important concern of mine is the accessibility for the disabled (ADA). As a city, we have convenient parking and a beautifully landscaped handicap area on South Water Street East, leading to the riverwalk, but if no one is actually able to maneuver their wheelchairs on the riverwalk, how accessible is it? My experience has shown me that most people in this situation already are uncomfortable about drawing attention to themselves, the last thing they want to do is confront someone and ask them to move or remove their belongings so they may continue on. My neighbor used to take her husband in his wheelchair down to enjoy the river, but has since stopped because of the lines and equipment across the riverwalk. She said it was no longer "convenient".

The catalyst of my husband, Greg Schwemmer, and I attending the council meeting on Tuesday evening, March 18th, was the 'tone' of which the Letters to the Editor in the Daily Jefferson County Union were beginning to take on. As time progressed, we noticed the letters were becoming more personal, finger-pointing and almost with a 'lynch-mob' attitude. This is NOT how we feel about our city and the direction this issue should be heading. Although we are not as politically involved in the issues of Fort Atkinson as some (we leave that to those of you who are able to represent us in a more eloquent manner), we ARE very protective of the image that is and should be portrayed. The accessibility of the riverwalk is a 'community' issue as it affects all 12,000 of us, not a personal one that singles out individuals.

Fort Atkinson is my mother and her friends that live in Riverview Manor that would enjoy a quiet evening walk on the well-lit riverwalk than to be on a busy main street or a dimly lit residential side street. Fort Atkinson is families with strollers that want to make memories, as well as the fishermen and their families. Fort Atkinson is couples, like my husband and myself, that just enjoy sitting on the benches on a summer's evening enjoying the peacefulness and watching the moon reflect off the water. Fort Atkinson is a place of many wonderful businesses. Some of which just happen to be located near the water. What a beautiful draw for locals and tourists as well! Unfortunately, Vern's is now closed, but we have enjoyed dinner on I Love Funky's patio and a wonderful Sunday brunch on Café

Carp's river-facing porch. (They are fortunate to have a higher elevation and to be set back a distance). All of these places we chose because of the river.

As a property and business owner, I respectfully ask each of you to set your personal opinions and your political affiliations aside and come together with your hearts, open minds and the resolve to do what you do best. I ask all of you to be our voice. To give us back what we once had. A place that is clean, accessible, beautiful and peaceful. A place that is not 'littered' with too many informational signs. Is it in Fort Atkinson's best interest to inconvenience a lot of people to accommodate a few?

Gentlemen and Councilwoman Behrens, I apologize for the lengthiness of this letter and sincerely thank each of you for your time."

Cwmn. Behrens said people keep saying we are banning fishing on the riverwalk, and we are not; we are defining where it should happen. The riverwalk cannot be all things to all people in her opinion; we need to look at it with a point that the majority has the right to use the riverwalk, and not a designated group. This is not about fishermen; this is about the use of the riverwalk for everyone.

Cm. Tesmer said that his position is opposing the proposed ordinance, and said that he has also received several calls on this issue, most of which were in opposition to the ban. Most of the people that he spoke with, expressed the same opinions that were included in a letter from the Chamber of Commerce read at the last Council meeting, which stated that if indeed there is a problem, and Cm. Tesmer acknowledged that at times there is a problem, that we do have the tools to deal with that such as our existing Ordinances against littering and urination, and the suggestion of additional signage. These would be the appropriate first steps in dealing with the issue as opposed to what he feels is a rather drastic step of banning fishing in the downtown area of the riverwalk.

Cm. Simdon addressed the Council indicating that one of the items that has been brought up is that fishing is not part of the tourism, and he takes issue with that comment. By the very definition of what a tourist is, we have them coming to town every day. I believe it is tourism. Whether we are enticing them to return and spend money here, that is the City of Fort Atkinson's issue, but they are certainly tourists. He doesn't think that disallowing fishing in that section of the river is going to continually solve the litter problem or the other problems that go along with any public park. Someone mentioned a point that we may in fact see more vandalism in that area because there is no one there many hours of the day, and obviously that is when vandalism does occur. On the other hand, he couldn't help but go back to the history of the south side of the river and realize that until 1977 there really was no public property to fish on. Fishing was being done only by the generousness of the people who owned the property; it could have been shut off at any time – the whole stretch. The only exception would be the Purdy Street and Grant Street right-of-ways. In 1977 when the Bicentennial Park

became City property, we then obtained 300+ feet of actual public river frontage. As it stands right now, if we were to restrict the fishing from the walking bridge east, we would still have over 800 feet of river frontage available for fishing on the south side of the river. He doesn't think the City is throwing the fisher-people under the bus on this thing. You can assume you can fish there all you want, but those of us who have hunted and fished for the last 40 years know that just isn't the case unless it is publicly owned; you are at the mercy of the owner as to whether or not you are going to be able to trespass. He thinks we have made great strides in the last 30 years obtaining public right-of-ways to the river. He doesn't think we are trying to alienate fishermen on this, what we are trying to do is mold a riverfront that is going to be useful to everyone, and everyone includes fishermen, people who want to jog and walk on the walking path; people who want to push baby carriages and wheelchairs on the walking path, and people who want to stroll and dine on the walking path. As it turns out, there is a very narrow stretch of property that it seems is going to be in continual conflict with these uses. The one issue that hasn't been brought up yet, but it is going to start this year, is that there is going to be piers in this area also. I know there is going to be private piers and there is also slated to be public piers put in. Cm. Simdon isn't sure how the fishing and the boaters are going to resolve that, but it seems that it is going to be just another conflict in this stretch of property. It is difficult for him to bring himself, as a shore fisherman growing up in Fort Atkinson, to say it's okay to restrict it in a certain area, but he really thinks that with all that has happened, it would only be fair to the other people to give them a spot where they can go sit, walk, push carriages and wheelchairs and things without having to worry about someone being in their way.

Cm. Zastrow then addressed the Council indicating that he wanted to reiterate comments he had made at the last meeting, and that is in his mind, we are not banning anything, it is designating areas of the 4,000 linear feet of riverfront that we have that is publicly accessible in the downtown area, and on over 3,000 of those feet, according to this ordinance, fishing would be allowed. We created the walkway in the new Bicentennial Park specifically to accommodate both fishing and people who want to walk, jog, sit or whatever, and because of the lay of the land, that was not able to be accommodated in the area that is designated in this Ordinance. Safety of the general public is our main concern as well as making this riverwalk as accessible to the greatest number of people at all times. A path of signage and self-policing was a recommendation from a civic group, and Cm. Zastrow said he didn't see that as being viable.

President Mielke said he has been contacted by people on both sides of the issue as well, and they have been well-reasoned and insightful, and thanked the many citizens who have contacted him. He said he received many more contacts from citizens who urged him to oppose the Ordinance. From his perspective, he feels that the riverwalk was constructed for more than just walking. It is his hope that people not only walk on the riverwalk, but also lounge, picnic, dine and do other things on the riverwalk. Like fishing, any one of those activities has the potential

to interfere with walkers and has the potential to result in trash being left behind. When any of those activities conflict with one another, it is appropriate that we take measures to try to resolve the conflict. He thinks before action is taken to prohibit fishing on portions of the riverwalk, it is appropriate that we implement some of the intermediate steps suggested by the Chamber of Commerce, the Rock River/Koshkonong Association and also reiterated in the April 1st editorial published of the Daily Jefferson County Union, and for that matter suggested by many private citizens, both fisherpersons and non-fisherpersons. He did say that from his opinion, if the intermediate steps fail to address the conflict, then restricting fishing or other activities may be the best alternative.

Cm. Zastrow, seconded by Cwmn. Behrens, moved to adopt the Ordinance prohibiting fishing along the riverwalk from the pedestrian bridge east to the end of the riverwalk. On call of the roll, the Ordinance was adopted on a 3-2 vote with Cwmn. Behrens, Cm. Simdon and Cm. Zastrow voting in favor, and Cm. Tesmer and Cm. Mielke voting against.

7. REPORTS OF OFFICERS, BOARDS AND COMMITTEES

Cm. Tesmer, seconded by Cwmn. Behrens, moved to accept and file the minutes of the Public Works Committee meeting held March 17, 2008; the minutes of the Historical Society Board meeting held February 21, 2008; and the minutes of the Planning Commission meeting held March 25, 2008.

8. UNFINISHED BUSINESS

a. RECOMMENDATION FROM PUBLIC WORKS COMMITTEE TO APPROVE NEIGHBORHOOD VEHICLE ORDINANCE.

The following Ordinance was placed on the overhead projector at this time:

ORDINANCE NO. 662

An Ordinance Creating Chapter 94, Article IX
Neighborhood Electric Vehicles

The City Council of the City of Fort Atkinson, Jefferson County, Wisconsin, does hereby ordain as follows:

That Chapter 94, TRAFFIC AND VEHICLES, Article IX, Neighborhood Electric Vehicles, Secs. 94-701 – 94-715, be created as follows:

Sec. 94-701. Definitions.

In this Section, *Neighborhood Electric Vehicle* means a self-propelled motor vehicle that has successfully completed the Neighborhood Electric Vehicle America test program conducted by the Federal Department of Energy, and that conforms to the definition and requirements for low-speed vehicles as adopted in

the Federal Motor Vehicle Safety Standards for low-speed vehicles under 49 CFR 571.3(b) and 571.500. Neighborhood Electric Vehicles do not include a golf cart.

Sec. 94-702. Standards.

- (a) Neighborhood Electric Vehicles shall:
 - (1) Be four-wheeled and have a speed range of at least 20 miles per hour and not more than 25 miles per hour on a paved surface. Neighborhood Electric Vehicles do not include an electric golf cart.
 - (2) Have a Vehicle Identification Number (VIN) that complies with Federal law. (49 CFR 565).
 - (3) Meet the general test conditions under 49 CFR 571.50056.

Sec. 94-703. Limitations.

- (a) Neighborhood Electric Vehicles authorized pursuant to Sec. 349.26, Wis. Stats., will be allowed to operate on the public roads within the City of Fort Atkinson, subject to the following restrictions:
 - (1) Neighborhood Electric Vehicles shall not operate on any public road within the City of Fort Atkinson where the speed limit exceeds 30 miles per hour.

Sec. 94-704. Driver's License and Registration Required.

- (a) Any person who operates a Neighborhood Electric Vehicle on any City street must hold a valid driver's license.
- (b) Any person who operates a Neighborhood Electric Vehicle on any City street must register the Neighborhood Electric Vehicle. Registration shall be in accordance with State of Wisconsin Statutes and as required by State law.

Sec. 94-705. Penalties.

- (a) Any person who violates the provisions of this Ordinance shall be subject to the penalties set forth in Sec. 1-10 of this Code of Ordinances.

Sec. 94-706—94-715. Reserved.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

This ordinance shall take effect and be in force from and after the date of its passage and publication.

City Manager Wilmet indicated the State authorized these types of neighborhood electric vehicles back in April of 2006 to be used on public streets, and in December of 2007, the State shifted responsibility for titling and registering these vehicles from the local communities to the State Department of Motor Vehicles. The requirements of these vehicles are a number of things in the Statutes. They

must have four wheels, top speeds between 20-25 m.p.h., weigh less than 2,500 pounds, require headlights, taillights, turn signals, reflectors, and those types of items. Thirty-five states have now adopted something of this sort, and 18 communities and have adopted it in Wisconsin. The major change that we have in our proposed Ordinance that most communities had originally adopted was the speed limit of the streets they are allowed on. In our Ordinance we say they are allowed on streets that have 30 m.p.h. or less. Typically, it was 35 m.p.h. in the boilerplate ordinances that other communities have adopted. Based on the speed limit signs in the City, they can still pretty much get everywhere in the City.

Cm. Tesmer, seconded by Cm. Simdon, moved to suspend the rules and move the Ordinance through its second and third readings. On call of the roll, the motion carried unanimously.

Cm. Tesmer, seconded by Cm. Simdon, moved to adopt the Ordinance approving the use of Neighborhood Electric Vehicles. On call of the roll, the motion carried unanimously.

b. **RECOMMENDATION FROM PUBLIC WORKS COMMITTEE TO ADOPT MAILBOX REPLACEMENT POLICY.**

The City Manager stated this comes into play when mailboxes are damaged by snow plowing operations. He said that several local area policies were reviewed in developing this proposed Policy. The Policy basically says that if the City damages a mailbox during plowing operations, the owner may choose from either a standard mailbox replacement installed by the City after the frost is gone from the soil, or they shall receive a check to cover the replacement in kind not to exceed \$50.00. There was discussion at the Public Works Committee meeting that as property owners are putting in their own mailboxes, and some are quite decorative and expensive, the feeling was that the City needs to limit the exposure to a maximum of \$50.00, and if they chose the cash amount, they could install any type of mailbox that they so choose.

Cm. Simdon also wanted it known that the Public Works Committee discussed that there are specifications in our policies for mounting mailboxes and if they are not mounted properly, they would not be allowed the repayment for the cost to replace them.

Cm. Mielke also stated that at the Committee meeting it was indicated that there is an avenue for an appeal if the owner for some reason did not feel the policy was fair, they could ask for an appeal to be heard by the Public Works Committee.

City Manager Wilmet stated that we did have quite a few mailboxes damaged this year because of the amount of snow we were moving.

Cm. Simdon, seconded by Cm. Zastrow, moved to adopt the mailbox replacement policy. On call of the roll, the motion carried unanimously.

c. RECOMMENDATION FROM PUBLIC WORKS COMMITTEE TO AMEND TREE ORDINANCE TO INCLUDE INFESTATION OF EMERALD ASH BORER.

The following Ordinance was placed on the overheard projector at this time:

ORDINANCE NO. 663

The City Council of the City of Fort Atkinson does hereby ordain as follows:

That Chapter 102, VEGETATION, Article II, Trees, Division 2, Dutch Elm Disease, be amended as follows:

Division 2. Dutch Elm Disease **and Emerald Ash Borer**

Sec. 102-51. Public nuisances declared.

The Council having determined that the health of the elm **or ash** trees within the City is threatened by a fatal disease known as Dutch elm disease **or an infestation of Emerald ash borer**, hereby declares the following to be public nuisances:

- (1) Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus or which harbors any of the elm bark beetles Scolytus multistriatus (Eichh) or Hylurgopinus Rufipes (Marsh).
- (2) **Any living or standing ash tree or part thereof infested with the ash boring beetles Agrilus planipennis Fairmaire.**
- (3) Any dead elm **or ash** or part thereof, including logs, branches, stumps, firewood or other elm **or ash** material from which the bark has not been removed and burned or sprayed with an effective ~~elm~~ bark beetle destroying insecticide.

Sec. 102-54. Abatement of Nuisances.

- (a) If the City Forester upon inspection and examination shall determine that any public nuisance as defined in Section 102-51 exists in or upon any public street, alley, park or other public place, including the terrace strip between curb and plot line within the City and that the danger to other trees within the City is imminent, he/she shall cause it to be removed and burned or otherwise abate the same in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease **and/or Emerald ash borer** or the insect pests or vectors known to carry such disease fungus.

- (b) If the City Forester upon shall determine with reasonable certainty that any public nuisance exists in or upon private premises and that the danger to other elm or ash trees within the City is imminent, he/she shall immediately serve upon the owner of such property, if he/she can be found, or upon the occupant thereof, a written notice ~~to abate such nuisance by the following April 15. If such owner or occupant does not abate the nuisances within the time limited, the City Forester shall cause the same to be abated.~~ of abatement by City crews to be effected as soon as said abatement is possible. No damages shall be awarded to the owner for destruction of any elm or ash tree, elm or ash wood, or any part thereof pursuant to this section.
- (c) If the City Forester is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected with Dutch elm disease or Emerald ash borer, he/she shall forward specimens from the tree for diagnosis and report to the State Department of Agriculture and shall proceed as provided in subsection (b) of this section upon receipt of a positive report from the Department.

Section 102-57. Transporting of Elm or Ash wood prohibited.

No person shall transport within the City, any bark elm or ash wood or material without first securing the written permission of the City Forester.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

This ordinance shall take effect and be in force from and after the date of its passage and publication.

City Manager Wilmet said the infestation of the Emerald Ash Borer did get close to Wisconsin last year and in the event that it gets closer, the City foresters have put together some means and methods on what we would do if it does get into our community, and think it is a proactive approach on how we are going to handle it, if in fact it does infest Fort Atkinson.

Cm. Simdon, seconded by Cm. Tesmer, moved to suspend the rules and pass the Ordinance through its second and third readings. On call of the roll, the motion carried unanimously.

Cm. Simdon, seconded by Cm. Tesmer, moved to adopt the tree Ordinance to include infestation of Emerald Ash borer. On call of the roll, the motion carried unanimously.

9. NEW BUSINESS

- a. REVIEW AND APPROVE BID FOR PICK-UP TRUCK FOR PARKS DEPARTMENT AS BUDGETED.

Two bids were received for a 3/4 ton, 4x4 pick-up truck for full-season use in the parks as follows:

Havill-Spoerl (Fort Atkinson)	\$22,850.00
Capitol (Madison)	\$20,697.00

There is \$24,000 budgeted for this purchase. It was also indicated by the Park & Recreation Director, that they will be purchasing a plow blade for approximately \$3,000 to go on this truck.

Cm. Zastrow, seconded by Cwmn. Behrens, moved to approve the purchase of 3/4 ton, 4x4 pick-up truck for the Parks Department from Capitol of Madison, in an amount not to exceed \$20,697.00. On call of the roll, the motion carried unanimously.

10. MISCELLANEOUS

- a. GRANTING OPERATOR LICENSES.

Cm. Simdon, seconded by Cm. Tesmer, moved to approve the following list of applicants for operator licenses for the 2006-2008 license period:

REGULAR:	Jeanie M. Lehman	for use at	Fat Boyz
	Polianna S. Jones	“ “	Lennigan’s

The motion carried on a voice vote.

- b. CLOSED SESSION AFTER COUNCIL MEETING PURSUANT TO SECTION 19.85(1)(e), WISCONSIN STATUTES, TO DISCUSS LAND ACQUISITION.

Cm. Zastrow, seconded by Cwmn. Behrens, moved to go into closed session immediately following the regular Council meeting. The motion carried on a voice vote.

11. CLAIMS, APPROPRIATIONS AND CONTRACT PAYMENTS

- a. VERIFIED CLAIMS.

Cm. Simdon, seconded by Cm. Tesmer, moved the bills in the amounts of \$200,130.07 for the City (Fund 1); \$45,905.60 for the Sewer Utility (Fund 2); \$14,232.27 for the Water Utility (Fund 3); \$118,648.67 for Fund 12; \$168.00 for

Fund 13; \$124,542.53 for Payrolls 6 and 6-A as per Schedule N-67 on file in the office of the City Clerk/Treasurer and as audited and approved by the Finance Committee be allowed and orders be authorized drawn on the proper funds for their payment. On call of the roll, the motion carried unanimously.

12. ADJOURNMENT

Cm. Tesmer, seconded by Cm. Zastrow, moved to adjourn the March 18, 2008 regular City of Fort Atkinson Council meeting at 8:09 p.m. into closed session. The motion carried on a voice vote.

/s/ Leila Carl
Acting Secretary