

**CITY COUNCIL MINUTES
FORT ATKINSON, WISCONSIN
April 21, 2009**

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 Clerk/Treasurer, City Engineer, City Attorney, and Public Works Superintendent.

3. APPROVAL OF MINUTES OF APRIL 9, 2009 REGULAR COUNCIL MEETING

The minutes of the April 9, 2009 regular Council meeting were approved by consent.

4. PUBLIC HEARINGS

None.

5. PETITIONS, REQUESTS AND COMMUNICATIONS

- a. **REQUEST BY CHAMBER OF COMMERCE TO HOLD RHYTHM ON THE RIVER ON SATURDAY, AUGUST 29, 2009 AND FOR VARIOUS STREET CLOSURES.**

The City Manager indicated this is the seventh annual Rhythm on the River event, and the request is basically for the same area.

Cm. Simdon, seconded by Cm. Tesmer, moved to approve the request by the Chamber of Commerce to hold Rhythm on the River on Saturday, August 29, 2009 and for the various street closures. The motion carried on a voice vote.

- b. REQUEST BY MEMORIAL DAY COMMITTEE TO HOLD ANNUAL PARADE ON MONDAY, MAY 25, 2009 FROM LEGION DUGOUT TO EVERGREEN CEMETERY.

The City Manager stated this is the Memorial Day Committee's annual request and they are working with the Police Department for the parade route.

Cm. Tesmer, seconded by Cm. Simdon, moved to approve the request by the Memorial Day Committee to hold the annual parade on Monday, May 25, 2009 from the Legion Dugout to Evergreen Cemetery. The motion carried on a voice vote.

6. RESOLUTIONS AND ORDINANCES

- a. RESOLUTION OPPOSING GOVERNOR DOYLE'S PROPOSED CHANGES TO THE PREVAILING WAGE LAW.

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

RESOLUTION NO. 1151

**RESOLUTION OPPOSING PROPOSED CHANGES TO
PREVAILING WAGE LAW**

WHEREAS, Governor Doyle's proposed biennial State Budget, AB 75, makes the prevailing wage law applicable to any public works contract over \$2,000; and

WHEREAS, under current law, the prevailing wage requirements only apply to multiple trade public works projects over \$234,000 and single trade public works projects over \$48,000; and

WHEREAS, reducing the threshold to \$2,000 will increase the cost of small public works projects previously exempted from the prevailing wage requirement; and

WHEREAS, the cost increase will be passed on to municipal property taxpayers or will force municipalities to reduce other services; and

WHEREAS, the Governor's proposed State Budget also, for the first time, makes the prevailing wage law applicable to private projects that receive public financing; and

WHEREAS, many of the tools communities use to encourage development within a tax incremental financing district would be considered under the governor's proposal to be public financing of a private project and would therefore make

private construction projects within TIF Districts subject to the prevailing wage law, thereby significantly increasing the developer's project costs; and

WHEREAS, the Wisconsin Statutes and decisions of the Wisconsin Supreme Court have allowed municipalities to require developers of private development to contract at their cost certain public infrastructure such as roads, sanitary sewer and municipal water improvements and such law has been in effect for over 50 years; and

WHEREAS, applying the prevailing wage law to private projects receiving public financing will be a major disincentive to economic development and job creation; and

WHEREAS, the Department of Workforce Development has interpreted the law to require a prevailing wage rate determination when the Development Agreement for a subdivision or commercial development requires the developer to construct sewer and water mains and the streets, thus adding to the developer's project costs and increasing the cost of home and business ownership, which interpretation is contrary to existing law.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Fort Atkinson opposes the changes to the prevailing wage law included in Governor Doyle's State Budget proposal, AB 75, and hereby urges the Wisconsin State Legislature to remove these items from the Budget Bill and that Legislation be introduced to prevent the Department of Workforce Development from requiring municipalities to obtain prevailing wage determinations when developers are required to construct streets and utilities as part of a residential subdivision or private commercial development.

The City Manager said in the Governor's proposed Budget, prevailing wages would apply to all projects over \$2,000; whereas currently it is subject to projects with a single trade of \$48,000 and multiple-trades of \$234,000. The Budget proposal also speaks to public financing of private projects. There have been a number of interpretations coming out of the Budget meetings indicating this would be detrimental to T.I.F. Districts. The assumption could be if the City puts in the public infrastructure, the projects in the T.I.F. Districts would all be subject to prevailing wage rates. The City Manager said he is not sure that everyone in the Legislature is aware of how this will impact various projects. There is a lot of documentation and regulations to meet the requirements.

The City Manager said approximately 40 communities have adopted this Resolution opposing the changes, and indicated it is important that the City go on record as being opposed, as we are beginning discussion on another T.I.F. District.

Pres. Mielke said the Resolution is based on a draft Resolution sent out by the League of Municipalities. The two key items that he feels are bad for local government are that by lowering the limit to \$2,000 you are including very small projects, and that prevailing wages would be applied to private development that receives financial assistance. He further stated he feels this creates a disincentive for development in T.I.F. Districts, which will run the risk of development happening elsewhere, making it harder for the City to control the development and also not generate an increment from the T.I.F. District. Pres. Mielke said these provisions are buried in a 1,700 page Budget Bill and should not be in there. If it is a policy that can live on its own merits, it should be introduced as a separate piece of legislation and fully debated.

Cm. Tesmer asked Pres. Mielke could briefly explain the prevailing wage law. Pres. Mielke said the State Department of Workforce Development sends out a survey to about 16,000 contractors around the State, of which approximately 3,000 are returned, and of which approximately 2,000 make it into the survey results. They then rank those from highest to lowest rates of pay by counties. After that, they eliminate the bottom 50% of the wages and use a weighted average of the top 50%. Pres. Mielke said in this way, the wages end up being higher than market rates in a community. He also said there are over 70 job classifications for the prevailing wages.

Cm. Zastrow, seconded by Cwmn. Behrens, moved to approve and adopt the Resolution opposing Governor Doyle's proposed changes to the prevailing wage law. On call of the roll, the motion carried unanimously.

7. REPORTS OF OFFICERS, BOARDS AND COMMITTEES

Cwmn. Behrens, seconded by Cm. Simdon, moved to accept and file the minutes of the Dwight Foster Public Library Board meeting held March 2, 2009; the minutes of the Planning Commission meeting held April 4, 2009; the minutes of the Jefferson County Economic Development Consortium meeting held March 11, 2009; the minutes of the Historical Society Board meeting held February 19, 2009; the minutes of the Historical Preservation Commission meeting held April 7, 2009; and the minutes of the Historical Society Board meeting held March 19, 2009. The motion carried on a voice vote.

8. UNFINISHED BUSINESS

- a. RECOMMENDATION FROM PLANNING COMMISSION TO APPROVE REVISED PRELIMINARY CERTIFIED SURVEY MAP CREATING ONE LOT ON HOARD ROAD (EXTRA-TERRITORIAL).

The City Manager said this was reviewed previously by the Planning Commission, however the lot split at that time was in the southeast corner. The County reviewed the Survey and requested the owner move the split to the

southwest corner of the property. The Planning Commission unanimously recommended approval of the Survey.

Cm. Simdon, seconded by Cm. Tesmer, moved to approve the revised Preliminary Certified Survey Map creating one lot on Hoard Road (extra-territorial). The motion carried on a voice vote.

- b. RECOMMENDATION FROM PLANNING COMMISSION TO APPROVE PRELIMINARY CERTIFIED SURVEY MAP CREATING ONE LOT AT SOUTHSIDE SHELL, 1680 JANESVILLE AVENUE.

The City Manager said this Survey would split the carwash from the service station. The Planning Commission unanimously approved the Survey.

Cm. Tesmer, seconded by Cm. Zastrow, moved to approve the Preliminary Certified Survey Map creating one lot at Southside Shell, 1680 Janesville Avenue. The motion carried on a voice vote.

- c. RECOMMENDATION FROM PLANNING COMMISSION TO APPROVE PRELIMINARY CERTIFIED SURVEY MAP CREATING ONE LOT ON CURTIS MILL ROAD, EAST OF N2695 (EXTRA-TERRITORIAL).

The City Manager said this is to split off a one-acre parcel, and was unanimously approved by the Planning Commission.

Cwmn. Behrens, seconded by Cm. Zastrow, moved to approve the Preliminary Certified Survey Map creating one lot on Curtis Mill Road, East of N2695 (extra-territorial). The motion carried on a voice vote.

- d. REVIEW AND APPROVE AGREEMENT REGARDING ROAD DEDICATION WITH RAMESH SHAH.

This Agreement will settle a long-standing dispute on who is responsible for constructing a road which would basically be a frontage road behind Taco Bell. The Planning Commission also had a lengthy discussion on levying special assessments to abutting property owners. This Agreement puts the burden on the T.I.F. District. In the Agreement, there are some conditions that state in order for this Agreement to be fully executed and in effect, there needs to be a developer that is coming forward to build an apartment complex which would provide the increment to help pay for the road.

The conditions in the Agreement include: The City would approve a Certified Survey Map creating this 4.1 acre parcel and purchased by Affordable Housing, LLC; creation of a T.I.F. District by September 1, 2009; and the buyer making application for the construction of a 48 to 54 unit senior apartment project. This

is a significant condition, as that guarantees construction of the facility which provides the increment. Mr. Shah has signed the Agreement.

Cm. Zastrow, seconded by Cm. Tesmer, moved to approve the road dedication agreement with Ramesh Shah. On call of the roll, the motion carried unanimously.

11. CLAIMS, APPROPRIATIONS AND CONTRACT PAYMENTS

a. VERIFIED CLAIMS.

Cm. Zastrow, seconded by Cm. Simdon, moved the bills in the amounts of \$287,477.82 for the City (Fund 1); \$56,414.58 for the Sewer Utility (Fund 2); \$15,453.68 for the Water Utility (Fund 3); \$330.00 for Downtown Economic Development (Fund 13) and \$131,147.27 for Payroll #7 as per Schedule N-92 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.

At this time, Cm. Zastrow presented a plaque to Pres. Mielke for his leadership as Council President over the past year. Pres. Mielke then thanked the Council members who were finishing their terms at this meeting. The City Manager also thanked the outgoing Council members for their support and said that he and City staff enjoyed working with them.

MOTION TO ADJOURN SINE DIE

Cm. Zastrow, seconded by Cwmn. Behrens, moved to adjourn Sine Die, the April 21, 2009 meeting, the final regular 2008-2009 City of Fort Atkinson Council meeting, at 7:15 p.m. The motion carried on a voice vote.

OATHS OF OFFICE

The City Clerk/Treasurer administered the oaths of office to the three newly elected Council members – Loren Gray, Davin Lescohier and Richard Schultz.

Council members in attendance for the first meeting of the 2009-2010 City of Fort Atkinson Common Council:

Loren Gray
Davin Lescohier
John Mielke
Richard Schultz
Mark Zastrow

The City Clerk/Treasurer distributed ballots to the Council members to vote for President of the City Council and after counting the votes, John Mielke was elected President.

President Mielke stated the next order of business is the ballot for President Pro-Tem. Upon counting the votes, Mark Zastrow was elected President Pro-Tem.

SELECTION OF COUNCIL MEMBER ON PLANNING COMMISSION.

President Mielke stated he would recommend Cm. Gray serve on the Planning Commission.

Cm. Schultz, seconded by Cm. Zastrow, moved to appoint Cm. Gray as the Council representative on the Planning Commission. The motion carried on a voice vote.

DESIGNATION OF OFFICIAL NEWSPAPER.

Cm. Schultz, seconded by Cm. Lescohier, moved to designate the Daily Jefferson County Union as the Official City Newspaper. The motion carried on a voice vote.

9. NEW BUSINESS

a. REQUEST BY SUPERINTENDENT OF PUBLIC WORKS TO REALLOCATE FUNDS FOR COMPUTER PURCHASE.

The City Manager said the Superintendent of Public Works is asking to purchase this computer in advance of its planned timeframe (2010). One of the computers being used at the City Garage is no longer working and needs replacement. The City Manager said there were funds left over in the City Garage account and he is recommending that they be allowed to use that for the computer purchase and delete it from the 2010 capital improvement budget.

Cm. Zastrow, seconded by Cm. Gray, moved to approve the purchase of a computer for the Department of Public Works at a price of \$1,500, and to reallocate the funds. On call of the roll, the motion carried unanimously.

10. MISCELLANEOUS

a. GRANTING OPERATOR LICENSES.

Cm. Gray, seconded by Cm. Zastrow, moved to approve the following list of applicants for operator licenses for the 2008-2010 license period:

Regular:

Kay L. Enslin
Andrea L. Rogers

Paddy Coughlin's Pub
Soup's On

Steven M. Lemke

Rock River Lanes

Provisional:

Chad D. Suter

Lions Quick Mart

The motion carried on a voice vote.

b. SET SPECIAL COUNCIL MEETING DATE FOR APPOINTMENT OF MUNICIPAL JUDGE.

The City Manager said the notice for the Municipal Judge vacancy has been published. In order for the new Judge to meet the mandatory State training, which is the week of May 5th, it is important for us to have a special Council meeting on April 28, 2009 at 5:00 p.m. to select the person to fill the unexpired term of Municipal Judge. The City has received two applications so far for this position. It is a personnel issue, so the Council has the option to go into closed session to discuss the appointment.

Cm. Gray asked how the Judge's position is compensated. The City Manager said the annual wage for the Judge is \$15,375, and it does not include benefits.

Cm. Gray, seconded by Cm. Schultz, moved to set a Special Council meeting to go into closed session on April 28, 2009 at 5:00 p.m. for the consideration of candidates for the Municipal Judge position, and then to return to open session to make the appointment. The motion carried on a voice vote.

c. CITY, SEWER AND WATER FINANCIAL STATEMENTS AS OF MARCH 31, 2009.

The City Manager presented a quarterly update report on the financial statements to the Council.

Cm. Zastrow, seconded by Cm. Gray, moved to accept and file the City, Sewer and Water Financial Statements as of March 31, 2009. The motion carried on a voice vote.

12. ADJOURNMENT

Cm. Zastrow, seconded by Cm. Gray, moved to adjourn the April 15, 2008 regular City of Fort Atkinson Council meeting at 7:39 p.m. to the Special City Council meeting of April 28, 2009 at 5:00 p.m. The motion carried on a voice vote.

/s/ Matt Trebatoski,
City Clerk/Treasurer