

**CITY COUNCIL MINUTES  
FORT ATKINSON, WISCONSIN  
JULY 3, 2007**

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 and City Clerk/Treasurer.

3. APPROVAL OF MINUTES OF JUNE 19, 2007 REGULAR COUNCIL MEETING.

Cm. Simdon, seconded by Cwmn. Behrens, moved to approve the minutes of the June 19, 2007 Regular Council meeting. The motion carried on a voice vote.

4. PUBLIC HEARINGS

None.

5. PETITIONS, REQUESTS AND COMMUNICATIONS

None.

6. RESOLUTIONS AND ORDINANCES

None.

7. REPORTS OF OFFICERS, BOARDS AND COMMITTEES

Cm. Zastrow, seconded by Cm. Simdon, moved to accept and file the minutes of the Park & Recreation Advisory Board meeting held June 13, 2007; the minutes of the Comprehensive Plan Steering Committee meeting held June 18, 2007; the minutes of the Historical Society Board meeting held May 17, 2007; the minutes of the Historical

Society Core Construction meetings held May 21, 2007 and June 11, 2007; the minutes of the Water Tower Committee meeting held June 21, 2007; and the minutes of the Planning Commission meeting held June 26, 2007. The motion carried on a voice vote.

8. UNFINISHED BUSINESS

a. REVIEW AND APPROVE CHANGE ORDER FOR SHERMAN AVENUE PROJECT.

The City Manager stated there were a number of unexpected items encountered during the installation of sewer, water and street on Sherman Avenue which resulted in additional costs. The total amount of the change order is \$54,202.96 of which \$36,414.56 will be charged to Sanitary Sewer, \$7,788.40 to Water and \$10,000 to Street. Each account has sufficient contingency funds to cover the costs.

Cm. Zastrow, seconded by Cwmn. Behrens, moved to approve the change order for the Sherman Avenue Project in the amount of \$54,202.96. On call of the roll, the motion carried unanimously.

b. REVIEW AND APPROVE BIDS FOR 2007 STREET PROGRAM.

The City Manager stated three bids were received for the alley work and B.R. Amon & Sons was the low bid at \$88,783.70. The low bidder for the chip seal work was Fahrner Asphalt at \$51,837.80.

Cm. Tesmer, seconded by Cm. Simdon, moved to award the alley work bid to B.R. Amon & Sons in an amount not to exceed \$88,783.70 and the chip seal bid to Fahrner Asphalt in an amount not to exceed \$51,837.80. On call of the roll, the motion carried unanimously.

c. RECOMMENDATION FROM PARK & RECREATION ADVISORY BOARD TO RENAME ROAD IN ROCK RIVER PARK.

The City Manager stated there was a conflict in the name of the road because part of it was Park Street and there is already a Park Street in the City, so the Police and Fire Departments suggested it be renamed. The Park & Recreation Advisory Board discovered that on old maps the road was called Sinnissippi Drive and is recommending it be changed to that name.

Cm. Simdon, seconded by Cm. Zastrow, moved to rename the road in Rock River Park to Sinnissippi Drive. The motion carried on a voice vote.

d. RECOMMENDATION FROM PLANNING COMMISSION TO APPROVE THE PRELIMINARY SUBDIVISION PLAT FOR LANGE MEADOWS ON ENDL BOULEVARD WITH NOTATION OF WATER MAIN EASEMENTS

ON LOTS 3 AND 8, AND DEVELOPER BEING RESPONSIBLE FOR LOOPING WATER MAIN.

Cm. Zastrow, seconded by Cwmn. Behrens, moved to approve the Preliminary Subdivision Plat for Lange Meadows on Endl Boulevard with notation of water easements on lots 3 and 8, and developer being responsible for looping the water main. The motion carried on a voice vote.

e. RECOMMENDATION FROM PLANNING COMMISSION TO APPROVE PRELIMINARY CERTIFIED SURVEY MAP CREATING TWO LOTS AND ONE OUTLOT AT MADISON AVENUE AND REENA AVENUE.

The City Manager stated this preliminary CSM creates two lots with one outlot and was recommended for approval by the Planning Commission.

Cm. Tesmer asked what the impact would be of approving the survey map without dedication of the right-of-way. The City Attorney explained that if the map is approved as recommend, the future street will only occur through dedication of land by the adjacent developer or by condemnation of the property by the City.

Laurette Greenhalgh – 424 S. High St., stated she and her husband made a trade with Mr. Shah seven years or more ago when he came to them requesting property so that Reena Avenue could go in. They wanted to cooperate with him and felt they could do something to make the street happen so they said they could trade land of equal size and the Greenhalgh's would take it to the south of their property.

Ms. Greenhalgh went on to state that at that time they were assured a road was going to go in to the south and they could not go any farther south and that is why they have a strange triangle that is a bit to the west of their property. The Greenhalgh's have always had two addresses at this property and so she felt putting this line in was a formality so they could look at the sale of the property. She was very surprised when the street issue came up again, because she felt that had all been explained when they made the trade years ago. They've seen the street on the map always at the south end starting at the end of their property and continuing south.

Greg Greenhalgh – 424 S. High St., stated asking for this portion of his land so this road can go through he thinks is unfair to him. It would eat up approximately one fifth of his total land that he has for sale and to him that is not an equitable swap. It has been stated to him that a road going through there would benefit him, but he sees little benefit to it. He has access to highway 12 now which will be there forever until that road should go through, he has water and sewer well septic tanks, there are separate driveways for both of the two properties he's proposing the land be split into and there is also separate street addresses and there's always

been separate fire numbers for it. They've been trying to sell this property for three years, but the size is too small for big buyers and too big for small buyers. Their new realtors suggested they at least get a survey done, so that if two smaller customers wanted to use those two properties they could.

Mr. Greenhalgh stated he does not feel there is that much of an advantage to him for a street to go there and for him to pay half of it. In his opinion there's little value to him to put the street back there. He doesn't need it and wouldn't use it.

Cwmn. Behrens pointed out that the property was stubbed out to the road on the map with the assumption that that is where the street was going to be.

Ramesh Shah stated he wanted to make a few things clear. When they swapped he gave 15,000 sq. ft. of land for 800 sq. ft. of the Greenhalgh's land, so nobody gave up anything. Second, they never had an agreement or discussion about the road going to the Greenhalgh's property. Finally, he stated he does not need the road, so he doesn't know where to go from here.

Mr. Shah stated there was a meeting three or four months ago and they walked away without an agreement, however he mentioned he is ready to cooperate.

President Mielke stated from the perspective of the Council and as elected officials, he believes it is the Council's job to evaluate the public policy implications of the decision and what's best for the citizens, not necessarily to act as an adjudicator between two parties with different understandings.

Cm. Zastrow stated he believes for the overall development of that corner of the City a street connecting Reena and Commonwealth, which has been the intention all along is critical.

Ms. Greenhalgh stated that she thinks the developer Mr. Shah has had that land to develop for many years now and apparently has not submitted a plat. She feels that is very separate from their land and they've had a business on that land for many years. Working off of what was stubbed in for the drawings of where the road would be and the idea that they are not developers, she thinks that it would be the developer's obligation to take care of that with the City, which removes her and her husband from having the obligation for that road.

Cwmn. Behrens stated she believes what they are really asking for is to have these lots split and she doesn't think it impacts the road or not unless you want to use it for leverage to force it.

President Mielke stated he would tend to agree, with the caveat that the public policy interest would be to have the street in there at some point in some configuration, whether it be 60 feet from one or 30 feet from both or to have the

City condemn property for right-of-way use. The public policy issue is to have a street through there at some point.

Cm. Simdon stated he agrees a street has to go through there at some point in time and it would make sense to connect it up with Commonwealth. If the plat is approved, does the Council possibly go back in five years and condemn the property and put a street in? Cm. Simdon stated it seems to him that it would be in everybody's best interest to have all three developers/parties meet and see if they can work something out.

Cm. Zastrow, seconded by Cm. Simdon, moved to table the issue and refer it back to the Planning Commission if the survey is altered, offer the services of the City Attorney and ask City staff to request the three parties involved meet and see if there is an appropriate agreement for the placement and dedication of the street. The motion carried on a voice vote.

9. NEW BUSINESS

None.

10. MISCELLANEOUS

a. GRANTING OPERATOR LICENSES.

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

|          |                    |            |                       |
|----------|--------------------|------------|-----------------------|
| REGULAR: | Lori D. Widish     | for use at | Stop-N-Go             |
|          | Manpreet S. Ghuman | “ “        | Shell Handy<br>Pantry |

The motion carried on a voice vote.

11. CLAIMS, APPROPRIATIONS AND CONTRACT PAYMENTS

a. VERIFIED CLAIMS.

Cm. Tesmer, seconded by Cm. Simdon, moved the bills in the amounts of \$457,580.61 for the City (Fund 1); \$110,229.24 for the Sewer Utility (Fund 2); \$63,273.20 for the Water Utility (Fund 3); \$1,529.13 for Downtown Economic Development (Fund 13); and \$145,804.88 for Payroll 13 & 13A as per Schedule N-49 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 July 3, 2007 regular City of Fort Atkinson Council meeting at 7:49 p.m. The motion carried on a voice vote.

/s/ Matt Trebatoski  
City Clerk/Treasurer