

**CITY COUNCIL MINUTES
FORT ATKINSON, WISCONSIN
July 7, 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:

Loren Gray
Davin Lescohier
Richard Schultz
Mark Zastrow
John Mielke

Also present were the City Manager, City Clerk/Treasurer, City Engineer and City Attorney.

3. APPROVAL OF MINUTES OF JUNE 16, 2009 REGULAR COUNCIL MEETING

The minutes of the June 16, 2009 regular Council meeting were approved by consent.

4. PUBLIC HEARINGS

- a. PUBLIC HEARING ON ZONING FOR ANNEXATION OF 1.92 ACRES AT THE SOUTHWEST CORNER OF NORTH MAIN STREET AND WEST BLACKHAWK DRIVE.

Pres. Mielke opened the public hearing on the zoning for the annexation of 1.92 acres at the southwest corner of North Main Street and West Blackhawk Drive, 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, Pres. Mielke closed the public hearing.

5. PETITIONS, REQUESTS AND COMMUNICATIONS

- a. PRESENTATION OF CERTIFICATE OF APPRECIATION TO GERRY RYBICKE.

Pres. Mielke presented a Certificate of Appreciation to Gerry Rybicke for her service on the Tourism Committee from 2007-2009. It was indicated that Ms. Rybicke and her husband are no longer in the lodging business and that is the position she held on the Tourism Committee and therefore felt she should give up her membership on the Committee.

- b. REQUEST BY ABILITIES, INC. TO WAIVE 2,500-FOOT SEPARATION AND 1% OF POPULATION REQUIREMENTS FOR AN ADULT FAMILY HOME TO BE LOCATED AT N2767 HIGHWAY 89 (PROPERTY IN PROCESS OF BEING ANNEXED).

Cm. Lescohier asked if municipalities have any power to deny these types of requests, or is it just a procedural matter. City Attorney Rogers said the ability to deny the requests are very limited. You have to show there is an undue hardship to the City that would be realized if this wasn't waived. There is a Federal law that puts municipalities on notice that we have to accommodate these types of requests.

Cm. Gray asked how many facilities are in the City and what percent of population encompasses those residents. The City Manager said the Building Inspector is currently mapping out the locations. He also said one of the conditions the City must look at is the burden on public service, which we are checking to see if there is a burden on our police, fire and ambulance services to those facilities. The City Attorney said that is what the City would have to prove to deny a request. Cm. Gray asked how many facilities Abilities, Inc. has in the City. Tyler Hansen of Abilities, Inc. said they have about 14 facilities in the City.

Cm. Gray, seconded by Cm. Zastrow, moved to approve the request by Abilities, Inc. to waive the 2,500-foot separation and 1% of population requirements for an adult family home to be located at N2767 Highway 89, contingent upon State licensure requirements. The motion carried on a voice vote.

- c. REQUEST BY ABILITIES, INC. TO WAIVE 2,500-FOOT SEPARATION AND 1% OF POPULATION REQUIREMENTS FOR AN ADULT FAMILY HOME TO BE LOCATED AT 325 EDWARD STREET.

Cm. Zastrow, seconded by Cm. Lescohier, moved to approve the request by Abilities, Inc. to waive the 2,500-foot separation and 1% of population requirements for an adult family home to be located at 325 Edward Street, contingent upon State licensure requirements. The motion carried on a voice vote.

- d. REQUEST BY ABILITIES, INC. TO WAIVE 2,500-FOOT SEPARATION AND 1% OF POPULATION REQUIREMENTS FOR AN ADULT FAMILY HOME TO BE LOCATED AT 117-119 HEALY LANE.

Cm. Gray asked if this was going to be operated as one facility or two. Tyler Hansen said it was going to be two, two-bed facilities.

Cm. Lescohier, seconded by Cm. Zastrow, moved to approve the request by Abilities, Inc. to waive the 2,500-foot separation and 1% of population requirements for an adult family home to be located at 117-119 Healy Lane, contingent upon State licensure requirements. The motion carried on a voice vote.

6. RESOLUTIONS AND ORDINANCES

- a. SUPPORT THE ESTABLISHMENT OF STATE OF WISCONSIN GLACIAL HERITAGE AREA (GHA).

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

RESOLUTION NO. 1153

Support for the establishment of the State of Wisconsin Glacial Heritage Area (GHA).

WHEREAS, Jefferson County is located within 50 miles of 50% of Wisconsin's population, and

WHEREAS, the Wisconsin Department of Natural Resources proposes to allocate \$125 to \$175 million over the next thirty years towards the establishment of a Glacial Heritage Area (GHA) with the possibility of further funds for land acquisitions made available through the Working Lands Initiative, the Wisconsin Department of Transportation and various federal agencies, and

WHEREAS, the state funded acquisition of undeveloped unique properties from voluntary sellers within Jefferson County will protect the environment and preserve the properties for recreational use generating attendant tourism and economic benefits; and

WHEREAS, Jefferson County's Agricultural Preservation and Land Use Plan, the Parks and Recreation and Open Space Plan, the Bicycle and Pedestrian Plan and the Economic Development Plan support the establishment of more outdoor recreational opportunities and the related expansion of tourism; and

WHEREAS, public hearings and information sessions over the past three years involving hundreds of citizens and community leaders have helped shape this project; and

WHEREAS, concrete planning and long term visions for the GHA will have positive on Jefferson County's future similar to the creation of the Kettle Moraine area eighty-years ago; and

WHEREAS, the Jefferson County Economic Development Consortium unanimously supports the GHA concept; and

WHEREAS, local governments and businesses strongly support the GHA concept for its economic stimulus estimated at \$50 to \$100 million annually after full development and its job creation potential up to 1,000 jobs; and

WHEREAS, the State's proposal offers the County a great opportunity to leverage state funds into land preservation, recreational opportunities and economic development and tourism.

NOW, THEREFORE, BE IT RESOVLED that the Fort Atkinson City Council strongly endorses the creation of the Glacial Heritage Area and its positive effect on economic growth, recreational opportunities and local land stewardship over the next thirty years and beyond.

BE IT FURTHER RESOLVED that the Fort Atkinson City Council petitions the Natural Resources Board through Jefferson County to approve the GHA Plan, and vision to provide funding for the initiative.

The City Manager said that prior to the June 2nd Council meeting there was a presentation on the Glacial Heritage Area and a synopsis of the State's plan was included with the agenda packet. The City Manager said he has been contacted by a number of County Supervisors as well as the County Parks Director requesting support of this Resolution. The City Manager said the County Board will be hearing this matter at their meeting of July 14, 2009.

Cm. Zastrow, seconded by Cm. Gray, moved to adopt the Resolution in support of the establishment of the State of Wisconsin Glacial Heritage Area (GHA). On call of the roll, the motion carried unanimously.

7. REPORTS OF OFFICERS, BOARDS AND COMMITTEES

Cm. Gray, seconded by Cm. Leschier, moved to accept and file the minutes of the Water Tower Committee meeting held June 13, 2009; the minutes of the Airport Committee meeting held June 11, 2009; the minutes of the Historical Society Board meeting held May 21, 2009; the minutes of the Planning Commission meeting held June 23, 2009; the minutes of the Joint Historic Preservation Commission and Water Tower Committee meeting held June 2, 2009; and the Electrical, Building and Plumbing Permit Reports for June, 2009. The motion carried on a voice vote.

8. UNFINISHED BUSINESS

- a. RECOMMENDATION FROM PLANNING COMMISSION TO APPROVE PETITION FOR ANNEXATION FROM CITY OF FORT ATKINSON FOR 0.300 ACRES AT EAST SHERMAN AVENUE AND NORTH FOURTH STREET, AND ORDINANCE.

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

ORDINANCE NO. 675

**AN ORDINANCE ANNEXING TERRITORY TO THE
CITY OF FORT ATKINSON, WISCONSIN**

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

Section 1. Territory Annexed. (Direct Annexation) In accordance with Section 66.0217 of the Wisconsin Statutes of 1965, and the petition for direct annexation filed with the City Clerk on May 27, 2009, **SIGNED BY ALL OF THE OWNERS** of all of the land in the area, in the territory, the following described territory in the Town of Koshkonong, Jefferson County, Wisconsin, is annexed to the City of Fort Atkinson, Wisconsin:

A part of the Government Lot 2 of Section 3, T5N, R14E, Town of Koshkonong, Jefferson County, Wisconsin, to-wit:

Commencing at a limestone monument at the north quarter corner of said Section 3; thence S88d21'45"E, 74.33 feet along the north line of said Section 3; thence continuing along said north line, S88d05'43"E, 673.13 feet; thence S01d54'17"W, 1184.59 feet to the intersection of the existing north right of way line of STH 106 and the southerly right of way line of Edgewater Road, being the point of beginning; thence northeasterly along said existing north line of STH 106, 177.94 feet more or less; thence N18d25'37"W, 78.52 feet to said south line of Edgewater Rd; thence N40d58'43"W, at right angle to said south line, 33.00 feet to the centerline of said Edgewater Rd; thence S49d01'17"W, along said centerline, 262.34 feet more or less to the intersection with said north line of STH 106; thence northeasterly, along said north line, 76.23 feet more or less to the point of beginning, containing 0.300 acres.

Section 2. Effect of Annexation. From and after the date of this ordinance, the territory described in Section 1 shall be a part of the City of Fort Atkinson for any and all purposes provided by law and all persons coming or residing within such territory shall be subject to all ordinances, rules and regulations governing the City of Fort Atkinson.

Section 3. Initial Zoning Classification. Upon recommendation of the Planning

Commission, the territory annexed to the City of Fort Atkinson by this ordinance is initially designated to be of the R-1 zoning of the City of Fort Atkinson for zoning purposes and subject to all provisions of Ordinance No. XV of the City of Fort Atkinson entitled “Zoning Ordinance” relating to such district classifications and to zoning in the City.

Section 4. Ward Designation. The territory described in Section 1 of this ordinance is hereby made a part of Ward 8 of the City of Fort Atkinson, subject to the ordinances, rules and regulations of the City governing wards. The population within this territory is zero (0).

Section 5. Severability. If any provisions of this ordinance are invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

Section 6. Effective Date. This ordinance shall take effect upon passage and publication as provided by law.

The City Manager said this annexation has been recommended for approval by the Department of Administration.

Cm. Zastrow, seconded by Cm. Gray, 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. Zastrow, seconded by Cm. Schultz, moved to accept the recommendation from the Planning Commission and approve the Petition for Annexation from the City of Fort Atkinson for 0.300 acres at East Sherman Avenue and North Fourth Street, and to adopt the accompanying Ordinance. On call of the roll, the motion carried unanimously.

- b. RECOMMENDATION FROM PLANNING COMMISSION TO APPROVE PETITION FOR ANNEXATION FROM CITY OF FORT ATKINSON FOR 2.530 ACRES OF MADISON AVENUE RIGHT-OF-WAY, AND ORDINANCE.

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

ORDINANCE NO. 676

**AN ORDINANCE ANNEXING TERRITORY TO THE
CITY OF FORT ATKINSON, WISCONSIN**

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

Section 1. Territory Annexed. (Direct Annexation) In accordance with Section 66.0217 of the Wisconsin Statutes of 1965, and the petition for direct annexation filed with the City Clerk on May 27, 2009, **SIGNED BY ALL OF THE OWNERS** of all of the land in the area, in the territory, the following described territory in the Town of Koshkonong, Jefferson County, Wisconsin, is annexed to the City of Fort Atkinson, Wisconsin:

A part of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 32, T6N, R14E, Town of Koshkonong, Jefferson County, Wisconsin, to-wit:

Beginning at the SW corner of Certified Survey Map # 3848, said point being on the north line of U.S.H. "12"; thence southeasterly along said north line 1120 feet more or less to a point of intersection with a line that is the extension of the east line of a survey by Claude L. Carrington; thence southwesterly, along said east line and its extension to the south line of said U.S.H. "12", point also being the NW corner of Certified Survey Map # 3385; thence northwesterly, along said south line, 1135 feet more or less to the easterly line of S.T.H. "26" ; thence northeasterly to the point of beginning, containing 2.530 acres.

Section 2. Effect of Annexation. From and after the date of this ordinance, the territory described in Section 1 shall be a part of the City of Fort Atkinson for any and all purposes provided by law and all persons coming or residing within such territory shall be subject to all ordinances, rules and regulations governing the City of Fort Atkinson.

Section 3. Initial Zoning Classification. Upon recommendation of the Planning Commission, the territory annexed to the City of Fort Atkinson by this ordinance is initially designated to be of the R-1 zoning of the City of Fort Atkinson for zoning purposes and subject to all provisions of Ordinance No. XV of the City of Fort Atkinson entitled "Zoning Ordinance" relating to such district classifications and to zoning in the City.

Section 4. Ward Designation. The territory described in Section 1 of this ordinance is hereby made a part of Ward 1 of the City of Fort Atkinson, subject to the ordinances, rules and regulations of the City governing wards. The population within this territory is zero (0).

Section 5. Severability. If any provisions of this ordinance are invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

Section 6. Effective Date. This ordinance shall take effect upon passage and publication as provided by law.

The City Manager said this annexation has been recommended for approval by the Department of Administration.

Cm. Gray, seconded by Cm. Schultz, 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. Gray, seconded by Cm. Zastrow, moved to accept the recommendation from the Planning Commission and approve the Petition for Annexation from the City of Fort Atkinson for 2.530 acres of Madison Avenue right-of-way, and to adopt the accompanying Ordinance. On call of the roll, the motion carried unanimously.

- c. RECOMMENDATION FROM PLANNING COMMISSION TO APPROVE PETITION FOR ANNEXATION FROM ABILITIES, INC. FOR 1.92 ACRES AT NORTH MAIN STREET AND WEST BLACKHAWK DRIVE, AND ORDINANCE.

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

ORDINANCE NO. 677

**AN ORDINANCE ANNEXING TERRITORY TO THE
CITY OF FORT ATKINSON, WISCONSIN**

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

Section 1. Territory Annexed. (Direct Annexation) In accordance with Section 66.0217 of the Wisconsin Statutes of 1965, and the petition for direct annexation filed with the City Clerk on May 29, 2009, **SIGNED BY ALL OF THE OWNERS** of all of the land in the area, in the territory, the following described territory in the Town of Koshkonong, Jefferson County, Wisconsin, is annexed to the City of Fort Atkinson, Wisconsin:

A part of the SE ¼ of the NE ¼ of Section 33, T6N, R14E, Town of Koshkonong, Jefferson County, Wisconsin to-wit: Commencing at the concrete monument at the E ¼ corner of said Section 33; thence N89d56'30"W along the East-West ¼ line, 523.07 feet; thence N00d09'E, 296.61 feet to an existing 2" pipe; thence S 89d44'W, 386.00 feet to an existing 1 ½" iron pipe; thence N00d09'E, 485.00 feet to a 1" pipe set and the point of beginning; thence continue N00d09'E, 236.42 feet more or less, to the north line of West Blackhawk Drive, thence S89d56'E, along said north line, 387.94 feet more or less, to the west line of North Main Street; thence S01d06'W, along said west line, 243.56 feet more or less to the north line of Evergreen Cemetery Association as set forth in Warranty Deed in Volume 409 of Records on Page 174; thence S89d44'W, along said north line

of Cemetery Association, 386.43 feet more or less to the point of beginning, containing 1.92 acres.

Section 2. Effect of Annexation. From and after the date of this ordinance, the territory described in Section 1 shall be a part of the City of Fort Atkinson for any and all purposes provided by law and all persons coming or residing within such territory shall be subject to all ordinances, rules and regulations governing the City of Fort Atkinson.

Section 3. Initial Zoning Classification. Upon recommendation of the Planning Commission, the territory annexed to the City of Fort Atkinson by this ordinance is initially designated to be of the R-3 zoning of the City of Fort Atkinson for zoning purposes and subject to all provisions of Ordinance No. XV of the City of Fort Atkinson entitled "Zoning Ordinance" relating to such district classifications and to zoning in the City.

Section 4. Ward Designation. The territory described in Section 1 of this ordinance is hereby made a part of Ward 3 of the City of Fort Atkinson, subject to the ordinances, rules and regulations of the City governing wards. The population within this territory is four (4).

Section 5. Severability. If any provisions of this ordinance are invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

Section 6. Effective Date. This ordinance shall take effect upon passage and publication as provided by law.

The City Manager said the zoning requested is R-3 and it is in Ward 3. Confirmation was received from the Department of Administration and because this annexation petition was not signed by the residents because of disclosure requirements under the HIPPA laws, the Department conferred with their counsel to confirm that it meets the requirements for filing and is in the public interest to annex.

The City Manager also mentioned that there are some outstanding special assessments that will be paid by the developer when it is annexed in an approximate amount of \$18,000 as well as the Town of Koshkonong's tax portion.

Cm. Gray, seconded by Cm. Schultz, 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. Zastrow, seconded by Cm. Lescohier, moved to accept the recommendation from the Planning Commission and approve the Petition for Annexation from Abilities, Inc. for 1.92 acres at North Main Street and West Blackhawk Drive, and to adopt the accompanying Ordinance, contingent on the payment of outstanding special assessments to the City and five year's tax payments to the Town of Koshkonong. On call of the roll, the motion carried unanimously.

d. REVIEW AND AWARD RE-BID FOR PAVEMENT MARKING CONTRACT.

On June 16, 2009, the bid for this project was rejected and the project was rebid after removing the line item for the eradication of the current lines as the City will be doing that work in-house.

The following three bids were received:

Brickline, Inc.	\$78,722.50
Century Fence	\$89,874.25
Guidelines Marking	\$91,598.00

The contract was rewritten so that if the North Main Street milling project is not complete when the contractor comes to do the other portion of the project, the contractor will be required to return when the milling of North Main Street is complete.

We will be attempting to do this project at night so that businesses, etc. are disrupted as little as possible. The removal by the Public Works Department will take place during normal business hours however. Our goal is to have the project done prior to school starting.

Cm. Gray asked what the previous bid from Century Fence was. The City Manager said it was \$161,000.00.

Cm. Schultz, seconded by Cm. Lescohier, moved to approve the pavement marking contract to Brickline, Inc. in the amount of \$78,722.50. On call of the roll, the motion carried unanimously.

9. NEW BUSINESS

None.

10. MISCELLANEOUS

a. GRANTING OPERATOR LICENSES.

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

Regular:

Katie R. Duesterbeck	Kwik Trip
Marie L. Harris	Bienfangs
Kristy J. Hebbe	South Side Shell
Colin D. Kincaid	South Side Shell
Molly C. Magnussen	Bp
Kimberly D. Meier	Central Coast
Trisha L. Pieper	Legion Dugout
Chad C. Suter	Lions Quick Mart

The motion carried on a voice vote.

- b. SET JOINT MEETING OF CITY COUNCIL AND PLANNING COMMISSION FOR WORK SESSION ON T.I.F. #8.

The City Manager said one of the first steps is to review the draft of the Project Plan for T.I.F. #8 Northwest Corridor Development. He is requesting this joint meeting be set for Tuesday, July 14, 2009 at 4:00 p.m. There were no objections and the date and time were approved by unanimous consent.

- c. REQUEST TO SET LICENSE COMMITTEE MEETING DATE.

The City Clerk is requesting that a meeting date be set for the License Committee for Monday, July 13, 2009 at 4:30 p.m. to review three applications for a Class B Combination License which is our final license of that type, and renewal of a Class A Beer License. The Committee members approved the meeting date and time.

11. CLAIMS, APPROPRIATIONS AND CONTRACT PAYMENTS

- a. VERIFIED CLAIMS.

Cm. Zastrow, seconded by Cm. Gray, moved the bills in the amounts of \$293,404.76 for the City (Fund 1); \$54,973.88 for the Sewer Utility (Fund 2); \$82,976.07 for the Water Utility (Fund 3); and \$159,788.85 for Payrolls #12 and 12A as per Schedule N-97 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. Schultz, seconded by Cm. Lescohier, moved to adjourn the July 7, 2009 regular City of Fort Atkinson Council meeting at 7:431 p.m. The motion carried on a voice vote.

/s/ Matt Trebatoski
City Clerk/Treasurer