

**CITY COUNCIL MINUTES
FORT ATKINSON, WISCONSIN
October 20, 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
Dick Schultz
Mark Zastrow
Pres. Mielke

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

3. APPROVAL OF MINUTES OF SEPTEMBER 29, 2009 CAPITAL IMPROVEMENT PROGRAM WORKSHOP, AND MINUTES OF OCTOBER 6, 2009 REGULAR COUNCIL MEETING

The minutes of the September 29, 2009 Capital Improvement Program Workshop were approved by consent.

The minutes of the October 6, 2009 regular Council meeting were approved by consent with an amendment to the third paragraph on Page 5 under item 8-b. Cm. Schultz requested that the second sentence be amended to read: "His concern is that *if* the Canton came along just out of the blue . . ."

4. PUBLIC HEARINGS

a. PUBLIC HEARING ON "CLASS B" COMBINATION LIQUOR AND FERMENTED MALT BEVERAGE LICENSE FOR CANTON CHINESE RESTAURANT FOR USE AT 120 NORTH MAIN STREET.

Pres. Mielke opened the public hearing on the application for a "Class B" Combination Liquor and Fermented Malt Beverage License for Canton Chinese Restaurant for use at 120 North Main Street, 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.

Salena (Shu Ling Zhou), the applicant for the license at the Chinese Restaurant, addressed the Council at this time. She said she realizes this has been a hard decision for the Council to make. Her profits come from the food and drink and if she is not granted a liquor license, it is taking away part of her profits. Cm. Lescohier asked Salena when the last time the business was operated as the Canton Restaurant. Salena said it was September of 2006.

Bonnie Scholl, W5104 Highway 106, said she has known Salena and her family for approximately ten years and had enjoyed their business immensely. She said this business is a viable community asset to Main Street. She said it is a family orientated restaurant. To have a liquor license would not be a case where this restaurant would be operating as a bar, but would be operating more as a family restaurant. She also noted that in a City that is rich with history, a Chinese restaurant also offers another cultural diverse restaurant within the locale.

After a second call, Jorge Alvarado, of 317 North Main Street, of the El Patron Mexican Restaurant, agreed that the license should be granted to the Chinese Restaurant. He said it is much better to work hand by hand for competition with the Cozumel Mexican Restaurant.

After a third and final call and hearing no further comments, Pres. Mielke closed the public hearing.

5. PETITIONS, REQUESTS AND COMMUNICATIONS

None.

6. RESOLUTIONS AND ORDINANCES

a. ORDINANCE RAISING ALCOHOL BEVERAGE LICENSE FEES.

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

ORDINANCE NO. 692

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

That Chapter 110, FEE SCHEDULE, Sec. 110-2, Alcohol beverages, paragraphs (1), (3), and (4) be amended as follows:

Sec. 110-2. Alcohol beverages.

- (1) Class "A" fermented malt beverage, per year \$100.00
- (3) Class "A" intoxicating liquor, per year \$500.00
- (4) Class "B" intoxicating liquor, per year \$600.00

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.

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

Cm. Gray, seconded by Cm. Schultz, moved to adopt the Ordinance raising the alcohol beverage license fees. On call of the roll, the motion carried unanimously.

b. **ORDINANCE AMENDING SPEED LIMITS ON MADISON AVENUE FROM BANKER ROAD TO THE HWY. 26 BYPASS.**

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

ORDINANCE NO. _____

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

That Chapter 94, TRAFFIC AND VEHICLES, Article VIII, Traffic Schedule, Division 2, Speed Limits, Sec. 94-332, Zoned and posted limits, (2) U.S. Highway 12 (Madison Avenue) paragraph a., be amended as follows:

- (2) *U.S. Highway 12 (Madison Avenue).*
 - a. 40 miles per hour from a point 0.01 of a mile west of its intersection with Banker Road, to a point 0.12 of a mile northwest of its intersection with Reena Avenue (Hwy. 26 Bypass).

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 Engineer stated he had contacted the Department of Transportation (DOT) regarding the proposed change in speed limits and their response was that it is their policy to set speed limits within a ± 5 m.p.h. range of the 85th percentile speed, which after conducting a speed study along this segment of U.S.H. 12 between Banker Road and the Hwy. 26 Bypass, ranged from 39.2 m.p.h. to 45.6 m.p.h. Therefore, the 40 m.p.h. speed limit meets their criteria. The DOT also indicated that after the connecting highway agreement is signed by the City, the

speed limits on this segment of USH 12 will be under the City's jurisdiction. If conditions change after the new connecting limits have been established, the City will have the authority to conduct its own study and establish appropriate speed limits within the connecting highway limits.

Cm. Gray asked how long it would take to accomplish the jurisdictional change. The City Engineer said when this was done back in the early 1990s, it took approximately one and a half months. The City Engineer said he believes the signs will be changed prior to the jurisdictional transfer. By not changing the Ordinance to coincide with the signed speed limits, enforcement issues would become confusing.

Cm. Schultz said the City should just let the State put up the signs and for whatever degradation there is in safety by increasing the speed limit to 40 m.p.h. that would be on the State. Increasing the speed limit at the two intersections makes no sense at all and he intends to vote against the DOT's request.

Cm. Lescohier agreed. It is a mistake to increase the speed limit in this area. The intersection at Banker Road, includes a crosswalk, a left turn lane and two bike lanes which force pedestrians to cross five lanes of traffic and bike lanes making it more dangerous at an increased speed limit.

Pres. Mielke said it would be a disservice to the residents to have an Ordinance that conflicts with signage.

Cm. Zastrow said anyone who has an issue with the speed limits would blame the City; they will have no knowledge that it was the DOT that set this limit. He agreed that the Ordinance and signage should be in concert with each other.

Cm. Gray asked if it was typical to have an Ordinance covering an area which we do not have jurisdiction over. The City Engineer said there are several areas where the City limits have gone past the jurisdictional limits.

Cm. Zastrow moved to suspend the rules and move the Ordinance through its second and third readings. The motion died for lack of a second.

This Ordinance will appear again on the next Council agenda.

7. REPORTS OF OFFICERS, BOARDS AND COMMITTEES

Cm. Schultz, seconded by Cm. Gray, moved to accept and file the minutes of the Library Building Committee meeting held August 17, 2009; the minutes of the Dwight Foster Public Library Board meeting held September 14, 2009; the minutes of the Planning Commission meeting held October 13, 2009; and the minutes of the Jefferson County Economic Development Consortium meeting held September 9, 2009. The motion carried on a voice vote.

8. UNFINISHED BUSINESS

- a. RECOMMENDATION TO APPROVE A “CLASS B” COMBINATION LIQUOR AND FERMENTED MALT BEVERAGE LICENSE FOR CANTON CHINESE RESTAURANT FOR USE AT 120 NORTH MAIN STREET.

The City Clerk/Treasurer stated the Council made this recommendation at their last meeting and a public hearing was held earlier at this meeting on the application.

Cm. Gray said that he wanted to go on record that he does not believe that granting this application is in the best interest of the use of the license that is in a limited supply to the City.

Cm. Lescohier hoped the Mexican restaurants who had also applied for this license understand how agonizing this decision was for the Council. It is extremely unfortunate that the Council’s hands are tied, but supply in this case doesn’t meet the demand; this has not happened in the past.

Pres. Mielke said there is a Bill being heard by the Legislature on Thursday, October 22, 2009, that would create an exemption for full-service restaurants.

Cm. Schultz, seconded by Cm. Zastrow, moved to approve the “Class B” Combination Liquor and Fermented Malt Beverage License for Canton Chinese Restaurant for use at 120 North Main Street, contingent on the business being open within ninety (90) days of approval of the license. The motion carried on a 4-1 voice vote, with Cm. Gray opposed.

- b. RECOMMENDATION FROM PLANNING COMMISSION TO APPROVE PRELIMINARY CERTIFIED SURVEY MAP CREATING ONE (1) LOT ON EDGEWATER ROAD (EXTRA-TERRITORIAL).

The City Manager said this Survey was approved unanimously by the Planning Commission.

Cm. Zastrow, seconded by Cm. Schultz, moved to approve the Preliminary Certified Survey Map creating one (1) lot on Edgewater Road (Extra-territorial). The motion carried on a voice vote.

- c. RECOMMENDATION FROM PLANNING COMMISSION TO APPROVE PRELIMINARY CERTIFIED SURVEY MAP CREATING A 6.2 ACRE PARCEL AROUND THE GOODWILL/FORMER PIGGLY WIGGLY SITE ON MADISON AVENUE.

The City Manager indicated this Survey was approved unanimously by the Planning Commission.

Cm. Zastrow, seconded by Cm. Gray, moved to approve the Preliminary Certified Survey Map creating a 6.2 acre parcel around the Goodwill/former Piggly Wiggly site on Madison Avenue. The motion carried on a voice vote.

9. NEW BUSINESS

None.

10. MISCELLANEOUS

a. GRANTING OPERATOR LICENSES.

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

Regular:

Susan L. Huebner Sal-Mart 2

The motion carried on a voice vote.

11. CLAIMS, APPROPRIATIONS AND CONTRACT PAYMENTS

a. VERIFIED CLAIMS.

Cm. Gray, seconded by Cm. Zastrow, moved the bills in the amounts of \$266,374.53 for the City (Fund 1); \$17,545.95 for the Sewer Utility (Fund 2); \$31,414.27 for the Water Utility (Fund 3); \$124.74 for Klement Business Park (Fund 12); \$715.00 for Downtown Economic Development (Fund 13); \$856.39 for Northwest Corridor Development (Fund 14) and \$132,703.74 for Payroll #20 as per Schedule O-05 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. Zastrow, moved to adjourn the October 20, 2009 regular City of Fort Atkinson Council meeting at 7:29 p.m. The motion carried on a voice vote.

/s/ Matt Trebatoski
City Clerk/Treasurer