

MINUTES
CITY OF JEFFERSON COMMON COUNCIL
OCTOBER 7, 2003

The Tuesday, October 7, 2003, meeting of the City of Jefferson Common Council was called to order at 7:30 p.m. by Mayor Brawders. Members present were: Ald. Coffman, Ald. Wagner, Ald. Bare, Ald. Carnes, Ald. Gang, Ald. McGrath, Ald. Stewart and Ald. Stevens. Also present were: City Attorney Brantmeier, City Engineer Ludwig and City Clerk/Treasurer Stewart.

PUBLIC PARTICIPATION

The Mayor then read correspondence from George Koeppke, Hereford, Arizona he stated that he empathized with the City of Jefferson and its citizens, regarding the impact of the Tyson strike. He stated that he would join the boycott of Tyson products.

Charlotte Lehman, 142 North Wilson Avenue, addressed the Council regarding the Chamber activities. President Lehman stated that the recent Autumn Fest and City Birthday activities were well attended. Lehman then noted that the Jefferson Development Commission was hosting a Free Businesses Breakfast at Meadow Springs next Wednesday at 7:30 am. She stated that those who would like to attend should contact Steve Lewis.

Nancy Haberman, 536 East North Street, addressed the Council regarding the vacant City Administrator position. Haberman indicated that she had heard some discussion about the removal of the position. She stated that she has not heard anyone supporting the discontinuance of the City Administrator position. Haberman stated that there are too many important issues going on in the City right now to not have an administrator. She stated that she understood that the City had a "good faith" period to decide what they are going to do, but she feels since the former Administrator left in June and this delay is pushing it just a bit. She stated that the City Administrator position is a charter ordinance and thought does need to be given to changing the ordinance.

Patty Lorbecki, 714 Windsor Terrace, addressed the Council regarding Walmart. She stated that she hoped we weren't inviting a trojan horse inviting to the community. She questioned if Walmart would make Jefferson a better place to live. She stated that Walmart has 1M employees and banks \$7B in profits. She questioned how much the City would be willing to pay for low prices. Lorbecki then talked about the number of lawsuits that Walmart is involved in. She stated that the turnover is about 100% at a lot of stores, with some being as high as 300%. She stated that the "we buy American" mantra was eliminated after the late 90s and their worldwide purchasing headquarters was moved to China. She stated that 71% of Walmart's toys come from China and 1 out of 5 toys we buy come from Walmart. Lorbecki questioned how other retailers could be competitive; and stated that Walmart is squeezing out its competitors. She concluded by noting that Walmart wants to locate 1,000 more supercenters in the United States and it is anticipated that two grocery stores will close for each one that opens.

Bill Koehler, Highway K, addressed the Council regarding Walmart. Koehler stated that he has done a lot of research on Walmart and everything Mrs. Lorbecki said was correct. He then

handed out materials which discuss the economy and how it relates to Walmart. He stated that Jefferson doesn't need to become another Walmartville.

Mayor Brawders then announced that the Agenda was going to be shuffled around and the Council was going to go into closed session to confer with legal counsel. He stated that he was sorry for the inconvenience this caused to the audience.

Ald. Wagner, seconded by Ald. Stevens moved to adjourn to Closed Session of the Wisconsin State Statutes Pursuant to Section 19.85(1)(g) to confer with Legal Counsel. On call of the roll, motion carried unanimously.

Ald. Gang, seconded by Ald. Stevens moved to reconvene to open session. On call of the roll, motion carried unanimously.

PUBLIC HEARING ON A RESOLUTION TO PARTICIPATE IN THE WISCONSIN COMMUNITY DEVELOPMENT BLOCK GRANT FOR ECONOMIC DEVELOPMENT PROGRAM

Ald. Stewart introduced Resolution No. 79.

**CITY OF JEFFERSON
RESOLUTION NO. 79**

BE IT RESOLVED, by the Common Council of the City of Jefferson that the Common Council hereby authorizes the City of Jefferson's participating in the Wisconsin Community Development Block Grant for Economic Development program.

WHEREAS, Federal monies are available under the Community Development Block Grant program, administered by the State of Wisconsin, Department of Commerce, for the purpose of economic development; and

WHEREAS, after public meeting and due consideration, the Common Council has recommended that an application be submitted to the State of Wisconsin for the following projects:

**PURCHASE OF EQUIPMENT
TRAINING**

WHEREAS, it is necessary for the Common Council, to approve the preparation and filing of an application for the City to receive funds from this program; and

WHEREAS, the Common Council has reviewed the need for the proposed project(s) and the benefits(s) to be gained therefrom;

NOW, THEREFORE, BE IT RESOLVED, that the Common Council does approve and authorize the preparation and filing of an application for the above-named project(s); and

the City Engineer is hereby authorized to sign all necessary documents on behalf of the City; and that authority is hereby granted to the City Engineer and City Clerk/Treasurer to take the necessary steps to prepare and file the appropriate application for funds under this program in accordance with this resolution.

Ald. Stewart, seconded by Ald. McGrath moved to recommend Resolution No. 79. On call of the roll, motion carried unanimously.

CONSENT AGENDA

Ald. Wagner introduced Resolution No. 80.

CITY OF JEFFERSON RESOLUTION NO. 80

BE IT RESOLVED by the Common Council of the City of Jefferson that the consent agenda for October 7, 2003 is hereby adopted.

The consent agenda for tonight includes:

- ◆ Vouchers Payable for October 2003 in the amount of \$515,914.59 and Payroll Summary for September 19, 2003 and in the amount of \$98,408.94.
- ◆ Council Minutes from the September 16, 2003 Regular and Closed Session Meetings of the Common Council.
- ◆ Licenses as Approved by the Regulatory Committee
 - ▣ Operator's Licenses
 - ▣ Special Class B Licenses

Ald. Wagner, seconded by Ald. McGrath moved to recommend Resolution No. 80. On call of the roll, motion carried unanimously.

DISALLOWANCE OF CLAIM

Ald. Carnes introduced Resolution No. 81.

CITY OF JEFFERSON RESOLUTION NO. 81

BE IT RESOLVED by the Common Council of the City of Jefferson the claim submitted by Sherri Anderson concerning employee misconduct is hereby disallowed and the City Clerk is hereby directed to serve a notice of disallowance of claim and,

BE IT FURTHER RESOLVED that no action on this claim may be brought after 6 months of service of this notice.

Ald. Carnes, seconded by Ald. Stewart moved to recommend Resolution No. 81. On call of the roll, motion carried unanimously.

RESOLUTION AUTHORIZING A BUDGET ADJUSTMENT FOR FENCING ON THE NORTH STREET BRIDGE AND DESIGNATION OF A FUNDING SOURCE

Ald. Stevens introduced Resolution No. 82.

**CITY OF JEFFERSON
RESOLUTION NO. 82**

BE IT RESOLVED by the Common Council of the City of Jefferson that the City Engineer is hereby authorized to contract with Century Fence for the installation of fencing on the North Street Bridge in an amount not to exceed \$7,733.

BE IT FURTHER RESOLVED that funds shall be taken out the Bridge Fund and that the following budget adjustment be hereby adopted:

42-50000-40-447	North Street Bridge	\$7,733
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Ald. Bare stated that it thought chain link fencing was pretty ugly.

Ald. Coffman noted that there were two fencing options for options on each quote. He noted that the Finance Committee approved the more expensive option that will match the Pedestrian Bridge.

Ald. Stevens, seconded by Ald. Carnes moved to recommend Resolution No. 82. On call of the roll, motion carried unanimously.

TENSFELDT PARK PAVILION PROJECT

Ald. Gang introduced Resolution No. 83.

**CITY OF JEFFERSON
RESOLUTION NO. 83**

BE IT RESOLVED by the Common Council of the City of Jefferson that the Park, Recreation and Forestry Director is hereby authorized to spend a maximum of \$25,000 for the construction of a shelter/restroom facility at Tensfeldt Park.

Ald. Carnes and Ald. Gang noted that Resolution No. 83 was unanimous at Finance Committee and the Park and Recreation Commission.

Ald. Wagner asked if the Rotary has this money or if they were raising it.

Ald. McGrath asked about funding for the project. He stated that he did not want the Rotary Club to come back to the City and say that they needed more than the City's \$25,000 contribution.

Ald. McGrath, seconded by Ald. Wagner made a motion to table action on the resolution until all of the funding has been raised. On call of the roll, motion was defeated by a vote of 6 to 2. Ald. Wagner and Ald. McGrath voted in favor of the amendment.

Ald. Carnes clarified that construction will not begin until all the funds are raised.

Ald. Bare asked who was signing the contract? It was noted that it would not a City contract.

Ald. Gang stated that we planned on partnering on this project. He said that the Rotary Club will not commit to build until all funds have been raised.

Kevin Brumm, member of the Rotary Club Board stated that the Rotary Club did not want to go ahead and solicit additional funds for a project that the City had not given its blessing to. He stated that the project is a partnership with the City and that the remainder of the funds would be raised when they have a firm commitment with the City. He stated that it would be difficult to go to outside organizations for money if the Council isn't behind the project.

Ald. Wagner clarified that the Rotary Club would fundraising this winter and then potentially build next Spring.

Ald. Gang, seconded by Ald. Stevens moved to recommend Resolution No. 83. On call of the roll, motion carried 7 to 1, Ald. McGrath cast the dissenting vote.

RESOLUTION THANKING JOHN ROTH FOR HIS DEDICATED SERVICE TO THE CITY

Ald. Bare introduced Resolution No. 84.

CITY OF JEFFERSON RESOLUTION NO. 84

BE IT RESOLVED that the Common Council of the City of Jefferson does hereby thank John Roth for his dedicated service as the Chairperson for the Little League Booster Club.

Ald. Gang stated that the Commission wanted his contributions to the City recognized by the Council.

Ald. Bare, seconded by Ald. Wagner moved to recommend Resolution No. 84. Motion carried on a voice vote.

AUTHORIZATION TO PLACE SIGNAGE ON CITY RIGHT OF WAY

Ald. Coffman introduced Resolution No. 85.

**CITY OF JEFFERSON
RESOLUTION NO. 85**

BE IT RESOLVED by the Common Council of the City of Jefferson, Wisconsin that Fort Community Credit Union is authorized to place an advertising sign 10' by 7' on the City's property in the southeast corner of North Main Street and Mechanic Street. The sign shall be located outside the vision triangle for an arterial/arterial intersection.

Architect Ellsworth then provided the Council with information regarding the proposed signage. Ellsworth indicated that signage was one of the many items that is discussed in the developers agreement between the Credit Union and the City.

Ald. McGrath then asked about the liability the City would have if we locate a private sign on public property. He questioned what would happen if someone hit the sign or an accident was caused because of it.

Atty. Brantmeier stated that we have a City ordinance that does not allow advertising signs on public property. He noted that the Council's actions could be precedent setting. He stated that he felt that Ellsworth and Fort Community Credit Union had done a good job as far as not restricting sight, etc.

Ald. Coffman stated that the sign would be behind the 15-foot vision triangle. He stated that he had two questions, the first one questioned if the sign would be anchored into the contaminated lot.

Engineer Ludwig stated that the DNR will not demand remediation of the City if we do not dig into lot. He stated that to remediate the property it would cost the City at least a six figure sum.

Atty. Brantmeier noted that the DNR had stated that if the lot is covered, for example with blacktop, and not dug into everything is OK. Atty. Brantmeier and Engineer Ludwig indicated that they have some concern whether or not the DNR would approve the sign with footings, in the requested location.

Architect Ellsworth noted that in the developers agreement it states that they will not violate the provisions set forth in the DNR correspondence. Ellsworth stated that a foundation can be provided for this sign. He stated that the sign could be anchored with a floating slab, which would not need to penetrate down into the area that that City is concerned about.

Engineer Ludwig stated that the heaviest contamination on the lot is right where the proposed sign is to be located. He stated that there is also a monitoring well very close to the proposed location. Ludwig then stated that he did not know how a floating slab would work for a sign that is 70 sq ft and would create a significant amount of wind resistance.

Ald. Coffman then addressed the developers agreement. He stated that the agreement indicated a directional sign indicating a parking area. He stated that he felt that the plan called for a small sign. He stated his concern over a sign that now was 70 sq ft.

Architect Ellsworth stated that he did not show a small sign in the plan. Ald. Coffman stated that a 70 sq ft sign was not noted either.

Architect Ellsworth stated that the sign is very light and not of that size of a panel that it would require something (footing) exorbitant.

Ald. Carnes questioned that the footing wouldn't go into ground.

Architect Ellsworth stated that it would go in.

Ald. Carnes also questioned about the electrical service to the sign and how that would be run.

Architect Ellsworth stated that if necessary, the cabling could be run through the landscaping.

Ald. Gang asked if the City could lease the property to Fort Community to release the City from liability.

Atty. Brantmeier noted that the City already has a developer's agreement. Brantmeier noted that we cannot pass our contaminated property on to another party.

Ald. Coffman stated that he would abstain from the vote on this matter. He stated that if this is approved, he would be coming to the Council personally for two variances to put signs on City right-of-way.

Ald. Bare stated that this situation might be a little different, just because of the contamination issue.

Ald. Coffman stated that he did not feel this was different at all.

Atty. Brantmeier stated that we are partners on this project. Which delineates some difference between future requests and the one before the Council this evening. However, he noted, he was not sure if there was enough of a difference to make a difference.

Ald. Gang stated that moving the sign 88 feet makes it "legal". Gang indicated that they (Fort Community and Architect Ellsworth) have a plan and it sounds correct. Unfortunately we have the Big A contamination problem. He stated that we need to find a way around it.

Ald. Wagner stated that the City has said no to advertising signs on City property for Meadow Springs and to several others, therefore, he can't support this request.

Ald. Carnes stated that he is not sure that he can vote on this at this time with certain questions unanswered.

Atty. Brantmeier then addressed the transfer of liability when contamination present. Atty. Brantmeier stated that regardless of the developers agreement, if too much is excavated on the lot the City is still liable for breaching the agreement with the DNR. He stated that the City could then go after Fort Community for the damages, we can't get rid of liability, we can only play defense.

The suggestion was then made that Architect Ellsworth resubmit the plan for this particular sign to the DNR for approval prior to installation.

Architect Ellsworth stated that the only reason Fort Community does not own the property is because of the contamination issue. Attorney Brantmeier indicated that the City couldn't sell the property and the credit union wouldn't want to buy it.

Architect Ellsworth stated that the City has easements on the property. Engineer Ludwig stated that the easement agreements have not been executed.

Architect Ellsworth stated that he could submit a plan to the DNR. Ellsworth stated that he is at a point that he needs to start curbing and needs to run the conduit.

Mayor Brawders asked if approval in two weeks would be OK.

Architect Ellsworth stated that he would get nothing out of the DNR in two weeks.

A suggestion to move the signage to the property across the street (on a residential lot) was then made.

Engineer Ludwig stated that you cannot have advertising signs on property that you do not own. Ludwig reiterated that sliding the sign makes it a legal. He stated that the City's ordinance reads that profitable signs are not allowed on public property.

Architect Ellsworth stated that Fort Atkinson has a similar ordinance and they just approved a sign in public right-of-way. He stated that the City could avoid a variance and go with the developer's agreement.

Ald. Bare, seconded by Ald. McGrath made a motion to add that approval to construct the sign is granted as long as the DNR approves the placement and the installation plan. On call of the roll, motion carried by a vote of 4 to 3, with one abstention. Ald. Wagner, Ald. Carnes and Ald. Stewart voted against the amendment. Ald. Coffman abstained from the vote.

Ald. Coffman, seconded by Ald. Gang moved to approve Amended Resolution No. 85. On call of the roll, motion carried by a vote of 4 to 3. Ald. Wagner, Ald. Carnes and Ald. Stewart voted against the amendment, Ald. Coffman abstained from the vote.

Ald. Wagner, seconded by Ald. Gang moved to adjourn to Closed Session of the Wisconsin State Statutes Pursuant to Section 19.85(1)(c) to confer with Legal Counsel and Consider Employment. On call of the roll, motion carried unanimously.

Ald. Stevens, seconded by Ald. Carnes moved to reconvene to Open Session. On call of the roll, motion carried unanimously.

Ald. Wagner, seconded by Ald. Stevens moved to adjourn the October 7, 2003 meeting of the Jefferson Common Council. Motion to adjourn carried on a voice vote.

The minutes of the October 7, 2003, meeting of the Common Council are uncorrected. Any corrections made thereto will be noted in the proceedings at which time the minutes are approved.