

**MINUTES
CITY OF JEFFERSON COMMON COUNCIL
TUESDAY, MAY 2, 2006**

The Tuesday, May 2, 2006 meeting of the City of Jefferson Common Council was called to order at 7:30 p.m. by Mayor Myers. Members present were: Ald. Wagner, Ald. Tully, Ald. Beyer, Ald. Peachey, Ald. Benka, Ald. Havill, Ald. Stewart and Ald. McGrath. Also present were: City Administrator Bierma, City Engineer Dan Ludwig, City Clerk/Treasurer Stewart and City Attorney Brantmeier.

PUBLIC PARTICIPATION

John Foust, 235 South Main Street, addressed the Council regarding Open Meetings Law. Mr. Foust stated that he was concerned that the City's use of closed session is being stretched. Mr. Foust read an AG legal opinion about the use of closed session for bargaining purposes. He stated that the discussions that the Council had in closed session regarding the Schweiger property may have been improper and added that the Council's discussion regarding the Wal-Mart developer agreement in closed session may also be improper. He encouraged the Council not attend those closed session discussions when they feel there may be a potential violation. Foust indicated that the open meetings fines would be issued to the Council members individually and not to the City Administrator or Attorney who say it is OK to go into the Closed Session. He stated that it is his belief that the discussion regarding the Developer's Agreement with Wal-Mart should be done in open session.

PROPOSED TRAFFIC IMPROVEMENTS of STH 26 by WAL-MART

Justin Sudyham, representing Wal-Mart, then presented the access options for Wal-Mart to the Common Council and the public.

He stated that the Traffic Impact Study that was prepared in September 2002 considered three different access alternatives. He stated that the study was prepared to WISDOT TIA guidelines. He stated that the report was then reviewed by WISDOT District #1.

He stated that the following access alternatives were considered:

- 1) No access to Highway 26.
- 2) Limited access to Highway 26 (Ryan Road) – no signals until jurisdictional transfer
- 3) Full access on Highway 26 – signalized intersection

He then gave an overview of what would be needed for each plan and then emphasized that all improvements would be at Wal-Mart's cost. He summarized that Alternative #1 was not feasible for many reasons, but commented on the potential ROW impacts. He noted that Alternative #2 would allow for a temporary acceptable operation. He concluded by stating that Alternative #3 is the best solution stating for this area and noted that this would be the best alternative whether or not Wal-Mart located in Jefferson. In general, improving the overall safety in this area.

Mayor Myers then noted that he would be asking for the Council's permission to move Resolution No. 11 and Resolution No. 12 to immediately after the presentation.

Nathan Bryant of McClure Engineering then provided the Council with additional information regarding the proposed alternatives. He gave an overview of the Wisconsin Department of Transportation guidelines for breaking access and the procedures required for changes to their policy. Bryant noted that Wal-Mart could live with limited Hwy 26 access temporarily, but would prefer a fully signalized intersection. He then turned his attention to the potential traffic impact on Collins Road and the potential need for the acquisition of right-of-way. He stated that for many reasons a signalized intersection (or Alternative #3) would be preferred. However, they can work with a limited access to Highway 26 until the jurisdictional transfer of Highway 26 is completed.

Bryant concluded by stating that McClure Engineering, on behalf of Wal-Mart, would be updating the traffic study. However, he indicated that the results and outcome of the analysis are expected (by McClure and the State Department of Transportation) to be very similar to the 2002 findings.

CITY OF JEFFERSON SUPPORTS CREATING A BREAK IN ACCESS ALONG STH 26 OPPOSING RYAN RD THEREBY CREATING ACCESS TO THE PROPERTY CURRENTLY OWNED BY THE ROGER SHERMAN TRUST TO STH 26

Ald. Benka introduced Resolution No. 11.

**CITY OF JEFFERSON
RESOLUTION NO. 11**

BE IT RESOLVED, by the Common Council of the City of Jefferson that authorization is given to Staff on behalf of the Roger Sherman Trust to request an access break on STH 26 and forward the request on to WISDOT

Ald. Beyer asked if this resolution would make Ryan Road a thru street. Atty. Brantmeier indicated that it would not at this time.

Ald. McGrath stated that this resolution is premature at this time because a developer's agreement is not even in place at this time. He stated that he would not support these resolutions.

Ald. Havill questioned the access break process and the ability to signalize the intersection at this time.

Nathan Bryant of McClure Engineering explained access breaks on a state highway and the difficulty in having them granted. He stated that the study process that has been done (TIA), gives rational and justification to request a break in access. Bryant reiterated that regardless of the development, it would be in the best interest of development in the City to request the "break". (He added that the additional resolution is requesting traffic lights now instead of later, noting that this is preferred for their development.)

City Engineer Ludwig stated that the City probably would not gain jurisdiction until 2010 or 2011. He stated that it is his thought that it would be in the best interest of the traveling public and the community to only disrupt the traffic flow once. He stated that if signals are not granted immediately the intersection will probably need to be disrupted twice within an approximately five year time frame.

Ald. Stewart asked if the engineers could provide an analysis of how much less traffic would be funneled to Collins Road by moving from Alternative #2 to Alternative #3.

Mr. Bryant asked that they have a few moments to try to compile an answer.

Ald. Beyer stated that requesting a break in access to Highway 26 is nothing new for Jefferson. She added that breaks have been requested for other businesses in the area, as well as, for Maple Grove Homes. She noted that the break was requested far in advance of any type of agreement with the Webers. Beyer noted that this process is not unusual for the City.

Ald. Havill asked if Resolution No. 11 is necessary for Resolution No. 12.

City Engineer Ludwig indicated that one is dependent upon the other.

Ald. Havill asked if the signals, in the opinion of the City Engineer, are needed.

City Engineer Ludwig indicated that, in his opinion, signals would improve the safety of the intersection -- even as it exists today.

Nathan Bryant, then stated that he was prepared to answer the question posed earlier by Ald. Stewart. Mr. Bryant stated that during a peak time period (a Saturday between 10 & 11am), it is estimated that 155 left hand turns would be made. He stated that theoretically we could expect that 95% of the traffic burden would be moved away from Collins Road if a signalized intersection was allowed (Alternative #3) as opposed to Alternative #2.

Ald. Benka, seconded by Ald. Beyer moved to recommend Resolution No. 11. On call of the roll, motion carried by a vote of 7 to 1. Ald. McGrath cast the dissenting vote.

CITY OF JEFFERSON APPROVES THE ACCESS BREAK FOR THE PARCEL OWNED BY THE ROGER SHERMAN TRUST ALONG STH 26 AND RECOMMENDS A FULL SIGNALIZATION AT INTERSECTION OF RYAN RD AND STH 26 FOR THE DEVELOPMENT OF A SUPER WAL-MART STORE

Ald. Beyer introduced Resolution No. 12.

**CITY OF JEFFERSON
RESOLUTION NO. 12**

BE IT RESOLVED, by the Common Council of the City of Jefferson that the City of Jefferson approves the access break for the Parcel Owned by the Roger Sherman Trust along

STH 26 and recommends full signalization at intersection of Ryan Rd. and STH 26 for the Development of a Super Wal-Mart Store

Ald. Wagner asked if Wal-Mart was going to encourage Fort Atkinson residents to use Highway K as a method of alleviating traffic. He stated that he felt the traffic was going to be really bottlenecked.

Nathan Bryant stated that Highway K access was not going to be encouraged. He stated that it was their hope to get traffic moving in the traffic patterns as established in the TIA.

Ald. Benka stated that even with the existing circumstances it is his belief that signals would be a benefit. He added that he would vote for the resolution because he believed that they would improve the traffic flow and safety in the area.

Ald. Beyer, seconded by Ald. Wagner moved to recommend Resolution No. 12. On call of the roll, motion carried by a vote of 7 to 1. Ald. McGrath cast the dissenting vote.

PUBLIC HEARING AND ACTION ON AN ORDINANCE TO AMEND SECTION 300-19 B. OF THE MUNICIPAL CODE OF THE CITY OF JEFFERSON RELATED TO THE REZONING OF A PROPERTY LOCATED AT 117 SOUTH WHITEWATER AVENUE

Mayor Myers called the public hearing to order.

City Administrator Bierma read the Notice of Public Hearing.

City Engineer Dan Ludwig gave an explanation of the proposed amendment to the official map.

Mayor Myers then announced that if any citizen wished to address the Common Council on this issue, they could stand and give their name and address and address the Council at this time.

Ren Rodee, 203 South Whitewater Avenue, stated that he was pleased that a zoning of R-1. He stated that he felt the need to keep commercial and multi-family zoning out of this area.

Hearing from no one else, Mayor Myers closed the public hearing.

Ald. McGrath introduced Proposed Ordinance #5-06 for its second reading.

**CITY OF JEFFERSON
PROPOSED ORDINANCE #5-06**

An Ordinance to Amend Section 300-19 B. of the Municipal Code of the City of Jefferson Related to Rezoning.

The Common Council of the City of Jefferson, Wisconsin, do ordain as follows:

Section 1. Section 300-19 B. of the zoning map, City of Jefferson, Wisconsin, which is herein made a part, is amended to change district boundaries by deleting the following area from its zoning designation of BC (Central Commercial) to R-1 (Single Family Residential):

Description: Lot 3, Block 3, Orig Plat of Jefferson

Parcel #: 241-0614-1112-014

Address: Address Not Yet Assigned-Adjacent to 111 South Whitewater Avenue

Current Zoning Designation: BC (Central Commercial)

Permanent Zoning Designation: R-1 (Single Family Residential)

Section 2. This ordinance shall take effect and be in full force after passage and publication as provided by law and notification and attestation of the district boundary changes incorporated herein the zoning map, City of Jefferson.

Ald. McGrath, seconded by Ald. Benka moved to recommend Proposed Ordinance #5-06. On call of the roll, motion carried unanimously.

AN ORDINANCE TO AMEND CHAPTER 33 OF THE CITY OF JEFFERSON MUNICIPAL CODE RELATED TO THE REMOVAL OF THE TOWNSHIP OF SUMNER FROM THE CITY'S MULTI-JURISDICTIONAL COURT AND CLARIFICATION OF THE MUNICIPAL JUDGE TERM

Ald. Tully introduced Proposed Ordinance #7-06.

**CITY OF JEFFERSON
PROPOSED ORDINANCE #7-06**

An Ordinance to Amend Chapter 33 of the Municipal Code of the City of Jefferson Related to the Removal of the Township of Sumner from the City's Multi-Jurisdictional Court and Clarification of the Municipal Judge Term.

The Common Council of the City of Jefferson, Wisconsin, do ordain as follows:

Section 1. Section 33-1. Creation.

There is hereby created and established a Municipal Court under the provisions of Ch. 755, Wis. Stats., to be designated as "Municipal Court for Central Jefferson County," which shall consist of the City of Jefferson, the Village of Johnson Creek, and the Town of Aztalan, ~~and the Town of Sumner.~~

Section 2. Section 33-2. Municipal Judge.

Such Court shall be under the jurisdiction of and presided over by a Municipal Judge, who shall be an attorney licensed to practice law in Wisconsin and who resides in the City of Jefferson, the Town of Aztalan, or the Village of Johnson Creek. ~~Such Municipal Judge shall be elected at large in the spring election for a term of two years~~

~~commencing on May 1.~~ The Municipal Judge shall be elected in odd-numbered years for a term of four years commencing ~~March~~ May 1, 2007. All candidates for the position of Municipal Judge shall be nominated by nomination papers as provided in § 8.10, Wis. Stats., and selection at a primary election if such is held as provided in § 8.11, Wis. Stats. The Common Council of the City of Jefferson, the Village Board of the Village of Johnson Creek ~~and~~ the Town Board of the Town of Aztalan ~~and the Town Board of the Town of Sumner~~ shall provide for a primary election in the event that more than two candidates file nomination papers for such position of Municipal Judge as provided in § 8.11(1)(a), Wis. Stats., and such primary election shall be held on the third Tuesday of February as provided in § 5.02(22), Wis. Stats.

A. Election. The municipal clerk of each municipality shall see to compliance with §§ 5.58(1c), 5.60(1)(b) and (2), 7.10(1)(a), 7.60(4)(a) and 8.10(6)(a), Wis. Stats., to provide for the election of a Municipal Judge under § 755.01(4), Wis. Stats.

B. Oath and bond. The Judge shall, after election or appointment to fill a vacancy, take and file the official oath as prescribed in § 757.02(1), Wis. Stats., and at the same time execute and file an official bond as required by statute. The Judge shall not act until the oath and bond have been filed as required by § 19.01(4)(c), Wis. Stats., and the requirements of § 755.03(2), Wis. Stats., have been complied with.

C. Salary. The salary of the Municipal Judge shall be fixed by the Common Council of the City of Jefferson, the Village Board of Johnson Creek, and the Town Board of the Town of Aztalan at \$7,009 per year which shall be in lieu of fees and costs. No salary shall be paid for any time during the term during which such Judge has not executed the official bond or official oath, as required by § 755.03, Wis. Stats., and filed pursuant to § 19.01(4)(c) Wis. Stats. The municipalities may, by separate ordinance, allocate funds for the administration of the Municipal Court pursuant to § 66.30, Wis. Stats. For the term ending April 30, 2007, the Village of Johnson Creek shall tender the sum of \$4,500 per year, commencing May 1, 1998, and annually thereafter to the City of Jefferson. The Town of Aztalan ~~and the Town of Sumner~~ shall tender \$25 per case administered to the City of Jefferson. The City of Jefferson shall pay the Municipal Judge's salary as set forth above. The City of Jefferson shall pay the Municipal Clerk's salary as budgeted from time to time.

Section 3. 33-3. Jurisdiction.

The Municipal Judge of the Municipal Court shall have such jurisdiction as provided by §§ 755.045 and 755.05 Wis. Stats., and as otherwise provided by state law.

Section 4. 33-4. Hours.

The Municipal Court shall be open at such location and at such times as determined by the Municipal Judge.

Section 5. 33.5. Forfeitures.

The Municipal Judge may impose punishment and sentences as provided by Ch. 800, Wis. Stats., and as provided in the ordinances of the City of Jefferson, the Town of Aztalan, ~~the Town of Sumner~~ and the Village of Johnson Creek. All forfeitures, fees, penalty assessments and costs shall be paid to the Treasurer of the Municipality within which the case arose within seven days after receipt of the money by the Municipal Judge or other court personnel. At the time of the payment, the Municipal Judge shall report to the Treasurer the title of the action, the offense for which the forfeiture was imposed, and the total amount of the forfeiture, fees, penalty assessment and costs, if any. The City of Jefferson shall retain all forfeitures after township trials.

Section 6. 33-6. Contempt procedure.

A. The Municipal Judge may impose a sanction authorized under § 800.12(2), Wis. Stats., for contempt of court, as defined in § 785.01(1), Wis. Stats., in accordance with the procedures under § 785.03, Wis. Stats.

B. The Municipal Judge may impose a forfeiture for contempt under § 800.12(1), Wis. Stats., in an amount not to exceed \$50 or, upon nonpayment of the forfeiture and costs, fees and surcharges imposed under Ch. 814, Wis. Stats., a jail sentence not to exceed seven days. [**Amended 10-18-2005 by Ord. No. 17-05**]

Section 7. 33-7. Abolition.

The Municipal Court hereby established shall not be abolished while the agreement under § 755.01(4), Wis. Stats., is in effect.

Section 8. This ordinance shall take effect and be in full force after passage and publication as provided by law and notification and attestation of the district boundary changes incorporated herein the zoning map, City of Jefferson.

Ald. Peachey questioned when Sumner could join our municipal court.

City Attorney Brantmeier stated that they could join our municipal court when their judges term expires – 4 years. Brantmeier then provided background on the Town of Sumner’s request to join our municipal court.

Ald. Wagner asked if this had gone to Personnel for a recommendation since the term was being increased to four years.

Attorney Brantmeier stated that it did not need to go to Personnel because the change to a four-year had occurred sometime ago.

Ald. Tully, seconded by Ald. McGrath moved to recommend Proposed Ordinance #7-06. On call of the roll, motion carried unanimously.

CONSENT AGENDA

Ald. Wagner introduced Resolution No. 7.

**CITY OF JEFFERSON
RESOLUTION NO. 7**

BE IT RESOLVED, by the Common Council of the City of Jefferson, Wisconsin that the consent agenda for May 2, 2006 is hereby adopted.

The consent agenda for tonight includes:

- ◆ Vouchers Payable for May 2006 in the amount of \$100,412.22 and Payroll Summary for April 14, 2006 in the amount of \$116,286.61.
- ◆ Council Minutes from the Regular, Closed and Organizational Session of the April 18, 2006 Common Council Meeting.
- ◆ Licenses as Approved by the Regulatory Committee.
 - ◆ Operator’s Licenses
 - ◆ Special Class B Licenses
 - ◆ Combination Class B License – The Jefferson Depot

Ald. Wagner, seconded by Ald. McGrath moved to recommend Resolution No. 7. On call of the roll, motion carried unanimously. Ald. Tully and Ald. Peachey abstained from the approval of the Regular and Closed Session minutes of the April 18, 2006 meeting.

RESOLUTION SHOWING SUPPORT TO THE COUNTY OF JEFFERSON FOR WORKING COOPERATIVELY IN ITS EFFORTS THE FUTURE LOCATION OF COUNTY OFFICES

Ald. Peachey introduced Resolution No. 8.

**CITY OF JEFFERSON
RESOLUTION NO. 8**

WHEREAS, the County of Jefferson has done a facility needs assessment

WHEREAS, Public Buildings are both socially and economically important to a downtown

WHEREAS, Municipal buildings, courthouses, libraries and post offices are essential components of healthy, strong, and vibrant downtowns

WHEREAS, Federal, state, and local government leaders are beginning to recognize their role in complementing efforts to revitalize downtowns

WHEREAS, County governmental offices located downtown create a more vibrant downtown

WHEREAS, Retail Trade and Professional, Scientific, and Technical Services, Education, Healthcare and Social Assistance locate downtown by government buildings

WHEREAS, The City of Jefferson recognizes the value of having County Government Offices in its downtown

BE IT RESOLVED, by the Common Council of the City of Jefferson WI that the City of Jefferson will work in cooperation with the County of Jefferson to retain the County Government offices in the downtown area

Ald. Peachey, seconded by Ald. Benka moved to recommend Resolution No. 8. On call of the roll, motion carried unanimously.

RESOLUTION APPROVING THE SMART GROWTH GRANT AND WORKING COOPERATIVELY WITH OTHER JURISDICTIONS IN DEVELOPING THE SMART GROWTH MASTER PLAN

Ald. Stewart introduced Resolution No. 9.

**CITY OF JEFFERSON
RESOLUTION NO. 9**

THIS AGREEMENT is made and entered into by and between the State of Wisconsin (“State”), Department of Administration (“Department”) and the City of Jefferson (“Grantee”). This Agreement is complete and effective upon the signature of all parties.

WHEREAS, the Department administers the Comprehensive Planning Grant (“Grant”) through the Division of Intergovernmental Relations (“Division”) to provide funds for eligible activities; and

WHEREAS, it is the intention of the parties to this Agreement that all activities described herein shall be for their mutual benefit; and

WHEREAS, the Grantee has submitted an Application for the Grant to the Department and the Department, on reliance upon the representations set forth in the Application, approved and aware to the Grantee in the amount of \$129,000; and

WHEREAS, the terms and conditions herein shall survive the performance period and shall continue in full force and effect until the Grantee has completed and is in compliance with all the requirements of this Agreement; and

WHEREAS, the said communities found in attachment a have agreed to the terms and conditions herein; and

WHEREAS, the Grantee is eligible for one Grant every ten years for developing and adopting a new or updated comprehensive plan(s) as defined by s. 66.1001(2); and

WHEREAS, this Agreement is a mutually exclusive with, and is distinguished from, all previous agreements between the Grantee and the Department, and contains the entire understanding between the parties;

NOW, THEREFORE, in consideration of the mutual promises and dependent documents, the parties hereto agree as set forth in Articles 1 through 16 which are annexed and made a part hereof.

(Please see attached document for “General Terms and Conditions”, “Fiscal Terms and Conditions” and “Attachment A”.)

City Engineer Ludwig gave an explanation of the grant process. He stated that this resolution was to accept the \$129,000 offered by the State. He stated that the grant was pursued as a group as funding would be more readily available for municipalities, which had a need and willingness to work together. He stated that the group of municipalities comprises approximately 42% of the County’s population.

Mayor Myers then commended and thanked City Engineer Ludwig for his work on this project.

Ald. Stewart, seconded by Ald. Beyer moved to recommend Resolution No. 9. On call of the roll, motion carried unanimously.

BUDGET ADJUSTMENT FOR RECEIVING AND DISBURSING MONIES RECEIVED FROM WISDOT

Ald. Havill introduced Resolution No. 10.

**CITY OF JEFFERSON
RESOLUTION NO. 10**

BE IT RESOLVED, by the Common Council of Jefferson, Wisconsin that the City of Jefferson Police Department will be participating in the “Click It” program for enforcing safety belts and child passenger restraint laws

BE IT FURTHER RESOLVED, that the following budget adjustment is hereby adopted

BUDGET ITEM	ACCOUNT #	CURRENT BUDGET	BUDGET ADJUSTMNT	REVISED AMOUNT
<i><u>Revenue</u></i>				
Grants/Other Funding PD	01-00000-48-315	\$0.00	\$4,000.00	\$4,000.00
<i><u>Expense</u></i>				
Wages-Sworn Overtime	01-52110-10-112	\$32,000.00	\$4,000.00	\$36,000.00

Ald. McGrath questioned where the funds were coming from.

City Administrator Bierma indicated that they were pass thru funds from the Department of Transportation.

Ald. Havill, seconded by Ald. Benka moved to recommend Resolution No. 10. On call of the roll, motion carried unanimously.

Ald. Wagner, seconded by Ald. Beyer moved to adjourn to closed session pursuant to section 19.85(1)(c), 19.85(1)(e) and 19.85(1)(g) of the Wisconsin State Statutes to Discuss the Renewed Employment and Compensation of the LTE General Administration Receptionist, Conferring with Legal Counsel as it Relates to Case No. 06CV196 Town of Jefferson and William J. Koehler v. City of Jefferson, Deliberating and Negotiating the Purchasing of Public Properties as it Relates to Hansen Property Management LLC and for the Negotiations Related to the Construction of a Wal-Mart Super Center and the Developers Agreement. On call of the roll, motion carried unanimously.

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

**RENEWAL OF EMPLOYMENT FOR LTE GENERAL ADMINISTRATION
RECEPTIONIST**

Ald. Tully introduced Resolution No. 13.

**CITY OF JEFFERSON
RESOLUTION NO. 13**

BE IT RESOLVED, by the Common Council of the City of Jefferson, Wisconsin that the employment of Shannon Juris as LTE General Administration Receptionist be renewed at an hourly wage rate of \$11.00.

BE IT FURTHER RESOLVED, that this position is for a limited term of one year and will be reviewed by the Personnel Committee in May of 2007.

Ald. Tully, seconded by Ald. Beyer moved to recommend Resolution No. 13. On call of the roll, motion carried unanimously.

Ald. McGrath, seconded by Ald. Peachey moved to adjourn the Tuesday, May 2, 2006 meeting of the Common Council. On call of the roll, motion carried unanimously.

The minutes of the Tuesday, May 2, 2006, meeting of the Common Council are uncorrected. Any corrections made thereto will be noted in the proceedings at which time the minutes are approved.

Please Publish: ASAP

Need an affidavit

Not in the legal section