

**MINUTES
CITY OF JEFFERSON COMMON COUNCIL
TUESDAY, OCTOBER 31, 2006**

The Tuesday, October 31, 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. Stewart, Ald. Endl, Ald. Havill and Ald. McGrath. Also present were: City Administrator Bierma, City Engineer Ludwig, City Attorney Brantmeier and City Clerk/Treasurer Stewart.

PUBLIC PARTICIPATION

Mayor Myers read a letter commending the Jefferson Firefighters for their life saving performance several weekends ago. He added that the dedication of the fire department members and of the Adsit's and McDermott's was nothing less than honorable.

Patti Lorbecki, 714 Windsor Terrace, then addressed the Council regarding Wal-Mart. Ms. Lorbecki stated that during the Wal-Mart debate, one of the promises touted by many was that Wal-Mart would bring tax relief. She stated that earlier today a presentation had been made that would put the retailer in a TIF District which would mean no immediate tax relief for the taxpayer. She stated that she agreed with Ald. McGrath and Engineer Ludwig, the City needs a sustainable revenue source.

John Foust, 235 South Main Street, addressed the Council regarding the 2007 Budget. He stated that he had an opportunity to review the anomalies and fat in the proposed budget. He stated that after review, he hopes that the Council will raise his taxes as he does not want to lose services.

AN ORDINANCE TO CREATE SECTION 300-96 AND REMOVE SECTION 294-6 OF THE CITY OF JEFFERSON MUNICIPAL CODE RELATED TO PARK FEES

Ald. Peachey introduced Proposed Ordinance No. 16-06 for its first reading.

**CITY OF JEFFERSON
ORDINANCE NO. 16-06**

An Ordinance to Create Section 300-96 and Remove Section 294-6 of the City of Jefferson Municipal Code Related to Park Fees.

**THE COMMON COUNCIL OF THE CITY OF JEFFERSON, WISCONSIN DO
ORDAIN AS FOLLOWS:**

Section 1. Section 294-6 of the Municipal Code is hereby removed:

§ **294-6.** Parks and open space.

A. ~~Dedication of public parks and other public sites.~~

- (1) ~~In the design of a subdivision, including minor subdivisions, or planned area developments, the subdivider shall dedicate sufficient land area and/or fees to provide adequate park, playground, recreation and open space to meet the needs to be created by and to be provided for the~~

~~subdivision, minor subdivision, or planned area development project. This includes any land division which creates new lots. It would also include any building permit for any more than one dwelling unit per existing lot (duplex, two flat or multifamily building). Single family homes and multifamily homes to be constructed on vacant lots, which predate the adoption of this chapter, would be the only dwelling units which would be exempt.~~

- ~~(a) At least 1,750 square feet of land shall be dedicated for each proposed residential dwelling unit within the approved final subdivision, minor subdivision or planned area development project and 484 square feet of land for each institutional residential unit. All lands dedicated under this section shall have at least 100 feet of frontage on a public street. The Plan Commission and Park, Recreation and Forestry Commission may adjust this frontage requirement if better alternatives for access are provided. Of the abutting frontage, all costs of public streets, sidewalks and utilities shall be paid for by the subdivider or developer.~~
 - ~~(b) Where a definite commitment is made by the subdivider with respect to the number of dwelling units to be constructed on any parcel of land, the dedication shall be based on that number. Where no such commitment exists, the dedication shall be based on the maximum number of dwelling units permitted in the zoning district. If the number of lots in the plat or survey is increased, or the zoning classification is changed to increase the number of dwelling units allowed, or the committed number of dwelling units is increased by the subdivider, developer or landowner, the Plan Commission shall require additional dedications for the allowed increase in dwelling units.~~
 - ~~(2) Where, at the discretion of the Plan Commission, acting on the recommendation of the Park, Recreation and Forestry Commission, there is no land suitable for parks within the proposed subdivision or planned development project, or the dedication of land is not feasible, or the dedication of land would not be compatible with the City's Comprehensive Master Plan and Park and Open Space Plan, or the Commissions determine that a cash contribution or combination of land and fees will better serve the public interest, the developer shall be required to pay a fee in lieu of making the required land dedication.~~
 - ~~(3) The amount of any fee imposed in lieu of land dedication shall be based on the lesser of either the fair market value of the amount of land which would otherwise be required to be dedicated or \$300 for each institutional residential housing unit and \$1,000 each for all other dwelling unit types. On January 1 of each year, the Parks and Recreation Commission shall review fees, and the maximum fee per dwelling unit may be adjusted annually for inflation per Common Council approval. [Amended 7-19-2005 by Ord. No. 14-05]~~
 - ~~(4) The City shall place any fee collected pursuant to the provisions of this section in a separate account to be used for land acquisition and development of adequate park, playground, recreation and open space to meet the needs created by the land development, land division or subdivision.~~
 - ~~(5) Payment shall be in a lump sum prior to the recording of a final plat or certified survey map or prior to the issuance of any building permit for a development where no plat or certified survey map is involved.~~
- ~~B. Credit for private park and recreation areas. Where private park and recreation areas are provided in a proposed planned area development district and such space is to be privately owned and maintained by the future residents of the development, such areas may be credited toward, but not to exceed 25% of, the requirement of dedication for park and recreation purposes.~~

Section 2. Section 300-96 of the Municipal Code is hereby created as follows:

§300-96. Park Fee Requirements.

- A. The following fees shall be required as a condition for any rezoning, conditional use permit, or design review for any residential unit receiving such approval within the

City, unless provision of fee, land or street frontage for the proposed developer has been applied previously to the real estate subject to the application.

(1) Fee in Lieu of Dedication.

- (a) Section 294-6(2) of the City of Jefferson Land Division Code requires all owners of real estate at the time of the land division to pay “\$300 for each institutional residential housing unit and \$500 each for all other dwelling units.”... Where at the discretion of the Plan Commission, acting on the recommendation of the Park, Recreation, and Forestry Commission, determines that there is no land suitable for parks, within the proposed development, or the dedication of land is not feasible, or the dedication of land would not be compatible with the City’s Comprehensive Master Plan and Park and Open Space Plan, or the Commissions determine that a cash contribution or combination of land and fees would better serve the public interest, the developer shall be required to pay a fee in lieu of making the required land dedication.
- (b) The fee to be imposed under §924.6(3) shall be \$300 for each institutional residential housing unit and \$500 each for all other dwelling units. In calculating the fee, the typical cost of land sold for residential subdivision or development shall be considered. The fee shall be collected and paid in lump sum prior to the recording of a final plat or Certified Survey Map or prior to the issuance of any building permit for a development where no plat or Certified Survey Map is involved.
- (c) The City shall place any fee collected pursuant to the provisions of this section in a separate account to be used for the land acquisition and development of adequate park, playground, recreation and open space to meet the needs created by the proposed development.

(2) Park Improvement Fee.

- (a) The developer shall pay, prior to issuance of a zoning permit or building permit, a per dwelling unit park improvement fee based on the lesser of either the fair market value of the amount of land which would otherwise be required to be dedicated, or \$300 for each institutional residential housing unit and \$500 each for all other dwelling unit types. The collected fees shall be utilized to construct park facilities for the plat, survey, or development. The Park Commission shall give priority to establishing the proper neighborhood park facilities according to the Plan for Parks and Open Spaces and the general accepted standards prior to expenditures for facilities in area or community parks. The

collected fees shall go into special segregated funds. The fee, per unit, relates to the cost of improvements for a neighborhood park.

[1] In accordance with the previously adopted municipal ordinance, for all developments in progress as of October 2006, a park improvement fee in the amount of \$1,000 would be required.

B. Severability. The provisions of this ordinance shall be deemed severable, and it is expressly declared that the City Council would have passed the other provisions of this ordinance, irrespective of whether or not one or more of the provisions may be declared invalid. If any provision of this ordinance, or the application thereof, to any person or circumstances, is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 3. This ordinance shall take effect upon passage and publication as required by law.

This was a first reading.

AN ORDINANCE TO AMEND SECTION 300-60, 300-61 AND 290-12, AMEND SECTION 300-62 (A) 3 AND REPEAL SECTION 300-62 (A) 4 OF THE CITY OF JEFFERSON MUNICIPAL CODE RELATED TO NON CONFORMING STRUCTURES

Ald. Havill introduced Proposed Ordinance No. 18-06 for its first reading.

**CITY OF JEFFERSON
ORDINANCE NO. 18-06**

An Ordinance to Repeal and Recreate Section 300-60, 300-61 and 290-12, Amend Section 300-62 (A) 3 and Repeal Section 300-62 (A) 4 of the City of Jefferson Municipal Code Related to Non-Conforming Structures.

**THE COMMON COUNCIL OF THE CITY OF JEFFERSON,
WISCONSIN DO ORDAIN AS FOLLOWS:**

Section 1. Section 300-30 of the Municipal Code relating to Nonconforming Uses, Structures and Lots is hereby repealed and recreated as follows:

§ 300-60. ~~Existing nonconforming uses~~ Restoration of Certain Nonconforming Structures.

~~The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this chapter may be continued although the use does not conform to the provisions of this chapter; provided, however, that:~~

A. ~~Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so to comply with the provisions of this chapter. Nonconforming residential uses may, however, be expanded to allow accessory uses or structures permitted in the R-1 District if such expansion conforms to lot area, lot width, yard requirements and lot coverage requirements of such district as contained in the definition of "building line, front" in § 300-17 and § 300-24 of this chapter. A nonconforming structure may be restored or repaired to the size, location and use that it had immediately before the damage or destruction occurred, and without regard to the cost of such restoration, repairs or improvements if both of the following apply:~~

- (1) The nonconforming structure was damaged or destroyed on or after the effective date of this subsection.
- (2) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

B. ~~The total lifetime structural repairs or alterations shall not exceed 50% of the fair market value of the structure at the time of its becoming a nonconforming use, unless it is permanently changed to conform to the use provisions of this chapter. The size of such nonconforming structure to which paragraph 3 applies may be enlarged if such enlargement is made necessary for the structure to comply with applicable state and federal requirements.~~

Section 2. Section 300-61 of the Municipal Code relating to Nonconforming Uses, Structures and Lots is hereby repealed and recreated as follows:

§ 300-61. Abolishment or replacement.

~~If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than 50% of its current market value, it shall not be restored except so as to comply with the use provisions of this chapter. A current file of all nonconforming uses shall be maintained by the Building/Zoning Inspector, listing the owner's name and address; use of the structure, land or water; and fair market value at the time of its becoming a nonconforming use.~~

A. The continued lawful use of a building, premises, structure or fixture existing at the time of the adoption or amendment of Title 10 may not be prohibited although the use does not conform to the provisions of the ordinance. The nonconforming use may not be extended. The total structural repairs or alterations in such a nonconforming building, premises, structure or fixture shall not during its life exceed fifty percent of the assessed value of the building, premises, structure or fixture unless permanently changed to a conforming use. If the nonconforming use is discontinued for a period

of 12 months, any future use of the building, premises, structure or fixture shall conform to the ordinance.

- B. No lawful use of a nonconforming building, premises, structure or fixture may be prohibited through any amortization ordinance, and no removal of such a lawful nonconforming building, premises, structure or fixture may be required after a specified period of time without the payment of just compensation.

Section 3. Section 300-62 (A) 3 of the Municipal Code relating to Nonconforming Uses, Structures and Lots is hereby amended and Section 300-62 (A) 4 is hereby repealed as follows:

§ 300-62. Existing nonconforming structures.

- A. A lawful nonconforming structure existing at the time of the adoption or amendment of this chapter may be continued although it does not conform to the provisions of this chapter, including, without limitation by enumeration, size, location, lot area, yard, height, parking, loading or access. Such structure shall not be extended, enlarged, reconstructed, moved or structurally altered unless such structure contains a conforming use and:
 - (1) Such extension, enlargement, reconstruction, move or structural alteration is required by law or order;
 - (2) Reconstruction or relocation of a moved structure complies with all provisions of this chapter;
 - (3) The enlargement, extension or structural alteration is itself in conformance with all provisions of this chapter;~~or.~~
 - (4) ~~The Board of Zoning Appeals grants a variance for extension, enlargement, or structural alteration.~~

Section 4. Section 290-12 of the Municipal Code relating to Nonconforming Uses, Structures and Lots in a Shoreland Wetland District is hereby repealed and recreated as follows:

§ 290-12. ~~Nonconforming structures and uses.~~ Restoration of Certain Nonconforming Structures in the Shoreland-Wetland District.

- A. ~~The shoreland wetland provisions of this chapter authorized by § 62.231, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure in existence on the effective date of the shoreland wetland provisions, or of any environmental control facility in existence on May 7, 1982, related to such structure. All other modifications to nonconforming structures are subject to § 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50% of current fair market value.~~ Restrictions applicable to damaged or destroyed nonconforming structures in this section shall not apply if the nonconforming structure is restored to the size, location and use that it had

immediately before the damage or destruction occurred, provided both of the following apply:

- (1) The nonconforming structure was damaged or destroyed on or after the effective date of this subsection.
 - (2) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
- B. ~~If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to this chapter.~~ The size of such nonconforming structure to which paragraph 6 applies may be enlarged if such enlargement is made necessary for the structure to comply with applicable state and federal requirements.
- C. ~~Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this chapter adopted under § 61.351 or 62.231, Wis. Stats., may be continued although such use does not conform to the provisions of this chapter. However, such nonconforming use may not be extended.~~
- D. ~~The maintenance and repair of nonconforming boathouses which are located below the ordinary high water mark of any navigable waters shall comply with the requirements of § 30.121, Wis. Stats.~~
- E. ~~Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.~~

Section 5. Any ordinance or part thereof that is inconsistent or in conflict herewith is hereby expressly repealed.

Section 6. This ordinance shall be in full force and effect upon passage and publication as provided by law.

This was a first reading.

CONSENT AGENDA

Ald. Wagner introduced Resolution No. 73.

CITY OF JEFFERSON RESOLUTION NO. 73

BE IT RESOLVED, by the Common Council of the City of Jefferson, Wisconsin that the consent agenda for October 31, 2006 is hereby adopted.

The consent agenda for tonight includes:

- ◆ Vouchers Payable for October 2006 in the amounts of \$109,769.61 and Payroll Summary for October 13, 2006 in the amount of \$96,543.36.

- ◆ Council Minutes from the Regular and Closed Sessions of the October 17, 2006 Common Council Meeting.
- ◆ Approval of 2007 Small Animal Collection Contract between the Jefferson County Humane Society and the City of Jefferson. -- \$15,818.16
- ◆ Licenses as Approved by the Regulatory Committee.
 - ◆ Operator's Licenses
 - ◆ Special Class B Licenses

Ald. Peachey, seconded by Ald. Havill moved to amend Resolution No. 73 by removing the Jefferson County Humane Society Contract. Ald. Peachey stated that this contract had not been reviewed by Finance Committee and it should be reviewed by them prior to Council approval. On call of the roll, motion carried by a vote of 7 to 1. Ald. Beyer cast the dissenting vote.

Ald. Wagner, seconded by Ald. McGrath moved to recommend Amended Resolution No. 73. On call of the roll, motion carried unanimously.

RESOLUTION ADDING A HEALTH INSURANCE POLICY STATEMENT TO THE CITY OF JEFFERSON PERSONNEL POLICY REGARDING SPOUSAL INSURANCE

Ald. Beyer introduced Resolution No. 74.

**CITY OF JEFFERSON
RESOLUTION NO. 74**

BE IT RESOLVED by the Common Council of the City of Jefferson, Wisconsin that the Common Council approves the following policy addition (highlighted italic section) to Section 5.1 of the City of Jefferson Personnel Policy.

5.1 – HEALTH INSURANCE

Health insurance is provided to all regular full-time employees on the first day of the first full calendar month of employment. The amount to be paid by the City will be established annually. Health Insurance is available to all regular part-time employees exceeding 20 hours per week on a regular basis. The amount to be paid by the City will be determined on a prorated basis, based on the employee's work hours. Provisions do permit a terminated employee to continue limited health insurance coverage at his/her own expense subject to COBRA regulations. Terminated employees with questions regarding COBRA coverage should contact the City Clerk's Office.

If an employee has a spouse who is also a City Employee, that Employee and the Employee's spouse will be entitled to only one family insurance contract between them from the City. (effective date 11/1/06)

Ald. Wagner questioned why this wasn't done when the employee was first hired.

City Clerk/Treasurer Stewart stated that this amendment was not meant to be retroactive and that any hires prior to the amendment would need to be dealt with on a case by case basis.

Ald. Beyer, seconded by Ald. Tully moved to recommend Resolution No. 74. On call of the roll, motion carried unanimously.

RESOLUTION ADDING A HEALTH INSURANCE POLICY STATEMENT TO THE CITY OF JEFFERSON PERSONNEL POLICY REGARDING THE AUTHORIZATION OF A 50/50 MEDICAL INSURANCE BUYOUT FOR NON-REPRESENTED EMPLOYEES WHO HAVE DOCUMENTED MEDICAL INSURANCE AND ADOPTION OF ADDENDUM C

Ald. Tully introduced Resolution No. 75.

**CITY OF JEFFERSON
RESOLUTION NO. 75**

BE IT RESOLVED by the Common Council of the City of Jefferson, Wisconsin that the Common Council approves the following policy addition (highlighted italic section) to Section 5.1 of the City of Jefferson Personnel Policy.

5.1 – HEALTH INSURANCE

Health insurance is provided to all regular full-time employees on the first day of the first full calendar month of employment. The amount to be paid by the City will be established annually. Health Insurance is available to all regular part-time employees exceeding 20 hours per week on a regular basis. The amount to be paid by the City will be determined on a prorated basis, based on the employee's work hours. Provisions do permit a terminated employee to continue limited health insurance coverage at his/her own expense subject to COBRA regulations. Terminated employees with questions regarding COBRA coverage should contact the City Clerk's Office.

If an employee has a spouse who is also a City Employee, that Employee and the Employee's spouse will be entitle to only one family insurance contract between them from the City.

A non-represented employee who currently is covered by two documented medical insurance contracts may elect to take a 50% premium buyout (of the portion of premium paid by the City) of insurance coverage subject to all provisions of Addendum C. Addendum C of this policy must also be signed and returned (along with any necessary documentation) to the City Hall Office prior to cancellation of the City's insurance coverage and any buyout payment. (Subject to Labor Attorney Review)

BE IT FURTHER RESOLVED, by the Common Council that Amended Addendum C (attached to this resolution) is hereby adopted and made a part of the City of Jefferson Personnel Policy.

Ald. Tully, seconded by Ald. McGrath moved to recommend Resolution No. 75.

Ald. Beyer asked if the Finance Committee had discussed this.

Ald. Havill stated that Finance had discussed this and were in favor of the proposal. Havill indicated that it would save the City approximately \$20,000 in insurance premiums for 2007.

Ald. Tully, seconded by Ald. Beyer moved to amend Addendum C to reflect language that states that the “City will reimburse 50% of the City’s contribution to medical insurance”. On call of the roll, motion carried unanimously.

Ald. Tully, seconded by Ald. McGrath moved to recommend Amended Resolution No. 75. On call of the roll motion carried unanimously.

Ald. Wagner, seconded by Ald. Peachey moved to adjourn to Closed Session pursuant to Section 19.85(1)(b) and 19.85(1)(e) of the Wisconsin State Statutes to Consider Dismissal, Demotion or Discipline of the City Administrator and the Consideration of Granting or Denying the Renewal of the City Administrator’s Contract and the Further Negotiation of the Purchase of Property located at 405 South Main Street. On call of the roll, motion carried unanimously.

CITY ADMINISTRATOR CONTRACT

Ald. Stewart introduced Tabled Resolution No. 66.

**CITY OF JEFFERSON
TABLED RESOLUTION NO. 66**

BE IT RESOLVED, by the Common Council of the City of Jefferson, Wisconsin authorization is given for the Personnel Committee to begin negotiations with the City Administrator for a new contract.

Ald. Stewart moved, seconded by Ald. Havill moved to approve Tabled Resolution No. 66. On call of the roll, the resolution was defeated unanimously.

Ald. Beyer, seconded by Ald. McGrath moved to adjourn the Tuesday, October 31, 2006 meeting of the Common Council. On call of the roll, motion carried unanimously.

The minutes of the Tuesday, October 31, 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