

Special Meeting Minutes of the Fountain City Common Council
Monday, August 10, 2026, at 6:00 PM

The meeting was called to order at 6:00 PM by Mayor Ben Adank. Roll call: Stephen Qualy, Peter Schaffner, Barb Schmidtknecht, Mike Adank, Scott Feraro Present, C. Williamson Recused herself from the meeting. The Pledge of Allegiance was recited. Also present were two community members.

Complaint and Investigation – Property Located at 810 South Main Street

The Council reviewed the allegations and information related to the building located at 810 South Main Street, Fountain City, Wisconsin.

Summary of Allegations

The City received formal complaints concerning the property, along with photographs, narrative allegations, and supporting documentation. The matters raised included:

- Whether the required State of Wisconsin building plans, reviews, and inspections were obtained for the building.
- Whether the building was being used as a place of employment.
- Whether the location of the building resulted in a possible encroachment into the South Fountain Street public road right-of-way.
- Whether the property and building complied with applicable City ordinances and zoning requirements, including whether the use of the building was consistent with the applicable zoning district and whether the building's size, height, and characteristics complied with zoning requirements.

Actions Taken by the City

The City Council reviewed the actions taken by City regarding the complaints and investigation.

- The city reviewed the complaint with the City Attorney.
- The city responded to various public records requests concerning the matter which requires a significant amount of staff time.
- The City initially coordinated with the Wisconsin Department of Safety and Professional Services (DSPS) regarding State building code issues that had been raised.
- The DSPS matter has remained open since June 17, 2025.
- Site inspections were conducted on July 15, 2025.
- On September 3, 2025, a notice of violations and orders were issued requiring the property owners to submit building plans for review and approval, obtain the required inspections, and refrain from using the building until compliance was achieved. The compliance deadline identified by DSPS was November 24, 2025.
- The city followed up with DSPS in December 2025 and on multiple occasions thereafter. The city has been advised that the DSPS case remains open.
- The city has been waiting for the State matter to conclude because the State-approved plans would provide additional information for the City's investigation, including the building's dimensions, specifications, and general site information.
- After the compliance deadline passed and the matter remained unresolved, the city proceeded with its own investigation in January 2026.

- The City ordered an independent survey of the property and surrounding area.
- On February 16, 2026, the city received a variance request from the Williamsons. The city reviewed the request with City Attorney T. Madden. Based on that review, it was the City's understanding that a zoning variance would not resolve the issue concerning the structure's location within the public road right-of-way.
- In April 2026, the matter was placed before the Planning and Zoning Committee for formal review.
- Following that review, the city ordered a title search concerning Fountain Street. The results of the title search were brought back to the Planning and Zoning Committee in June 2026.

Building Permit and Building Information

The Council reviewed the original building permit information available to the city.

The original building permit received by the city was dated April 22, 2022. The permit identified the type of improvement as repair/replacement, with the proposed use described as garage/storage. The permit description stated that the project involved replacement of the existing garage, with an estimated project cost of \$85,000. The site drawing was described as being similar to the replacement of the existing garage on Fountain Street.

The materials available to the city did not provide dimensions for the new building.

City assessor records identified the previous garage as approximately 28 feet by 48 feet, or approximately 1,344 square feet.

The new building was identified through the City's investigation as approximately 40 feet by 80 feet, or approximately 3,200 square feet. The new building therefore has a footprint approximately 2.4 times larger than the previous garage.

The new building also appears to be considerably taller than the previous garage. However, the city does not currently have the State-approved building plans and therefore does not have verified information regarding the actual height of the building.

DSPS Status

The Council discussed that the DSPS investigation remains open. Based on the information provided to the City to date, the required State-approved commercial building plans were not submitted prior to construction and had not been submitted as of the City's most recent update.

As a result, the City does not currently have State-approved plans establishing the building's verified dimensions and specifications. The city has relied on its own research, inspections, surveys, and available records in continuing its investigation.

Building Location and Public Right-of-Way

The Council reviewed the independent survey obtained by the city.

According to the survey, the northeast corner of the building extends into the South Fountain Street public road right-of-way. The survey also identifies the property and lot layouts.

The Council reviewed the following lot information:

- Lot 5: Contains the subject building and most of the motel building. The lot is zoned residential.
- Lot 4: Located toward Highway 35 and contains a portion of the motel building and most of the parking areas. The lot is zoned residential.
- Lot 3: Located toward Highway 35 and contains a smaller portion of the parking area and primarily grassy area. The lot is zoned residential.
- Lots 2 and 1: Located closest to Highway 35 and are zoned commercial.

Mayor Ben Adank requested a motion to convene into closed session pursuant to Wis. Stat. § 19.85(1)(g) for conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, specifically regarding the complaint concerning the building at 810 South Main Street.

Council Member S. Qualy questioned whether C. Williamson had been recused from the hearing. Mayor Adank stated that he had not communicated with C. Williamson prior to the meeting regarding recusal.

S. Qualy asked whether C. Williamson was required to recuse herself. City Attorney T. Madden explained that the decision to recuse would be C. Williamson's decision. T. Madden further explained that Wisconsin law does not allow an elected member to be excluded from meetings. The City Attorney noted that there could be potential liability concerns if an elected official participates in a matter in which they have a conflict, and that the decision to recuse rests with the public official.

Mayor Adank stated that C. Williamson could potentially face a civil penalty if she failed to recuse herself and that the responsibility rests with the public official to recognize a conflict and recuse themselves when appropriate.

P. Schaffner made a motion to enter closed session. S. Qualy seconded the motion.

Roll Call Vote:

- S. Qualy – Yes
- P. Schaffner – Yes
- S. Feraro – Yes
- B. Schmidtknecht – Yes
- M. Adank – Yes

Motion carried 5-0.

Mayor Adank explained to the members of the community present that the Council would reconvene into open session following the closed session and that, if the Council decided to take action, any such action would occur in open session.

Council Reconvened into Open Session at 7:50 pm

Action Regarding Encroachment

B. Schmidtknecht, second P. Schaffner moved that the City of Fountain City Common Council, pursuant to Wisconsin Statute Section 86.04(1), order the owner of property at 810 South Main Street in the City of Fountain City to remove the encroachment of the building constructed in or about 2022 beyond the limits of South Fountain Street within 30 days. The encroachment of the building extends into the street by

about six (6) feet, and the encroachment extends for about 40 feet, more or less, as depicted in a survey prepared by Burt Surveying, and that the survey shall be served upon the owner along with the order. Motion carried 5-0.

Adjournment

Motion S. Qualy, second M. Adank to adjourn at 7:52 pm. Motion carried 5-0.