

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

6:55 P.M. NOTICE OF MEETING OF BOARD OF REVIEW

M. Czubkowski called the Board of Review to order 6:55 p.m. and read the notice. The meeting was adjourned at 6:55 p.m. The Board of Review will meet on July 24, 2003 from 7-9 p.m.

7:00 P.M. COUNCIL MEETING

CALL TO ORDER

Mayor Craig called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited

ROLL CALL

Present

Mayor Paul Craig  
Jeff Krickhahn, Ald.  
Phil Schuman, Ald.  
Erv Sadowski, Ald.  
Mike Roberts, Ald.  
Marily Gardner, Adl.  
Linda Kuklinski, Ald.  
Don Swain, Ald.  
Matt Carlson, Administrator  
Marilyn Czubkowski, Clerk

**Items listed under the Consent Agenda are considered in one motion unless Common Council Member requests that an item be removed from the Consent Agenda.**

1. APPROVE MINUTES OF APRIL 21, 2003

**L. KUKLINSKI MOVED TO APPROVE THE MINUTES OF THE APRIL 21, 2003 MEETING. M. ROBERTS SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

2. CITIZEN'S COMMENTS ON ITEMS PERTAINING TO THIS AGENDA.

Bob Borkowski, 4521 Vettelson Road - As you can tell by my attire, guess what I'm here for or against -- It is about Village Square. It's on the docket for tonight, assuming that it will be voted on tonight. I ask you to please reject the plan as stated. No compromises - just straight no. Why would a developer hold you at bay with a lawsuit? Again, last time I spoke or at the Plan

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Commission said if they're this hard to deal with and they haven't even gotten permission to do anything, what would happen if they are building or have built and have problems, how are you going to resolve them? If this has been going on a year for this, how many years would it be for something if there was something going on. Again, I want to talk about police and fire protection – the quality and the cost; security and theft. The highest crime rate right now is at Hwy. 83 and Hwy. 94 where we have a lot of development right now. The Chief of Police in a meeting at the Fish Hatchery six months ago or so, was asked the question, "what is the highest cost to the City for protection and what kind of development?" and he stated flat out it was commercial retail as the highest cost to the city for any kind of police protection. Again, lighting, noise, screening of parking, deliveries, snow removal, garbage, preserving privacy to adjacent properties, hours of operation, a water runoff, water containment, well and septic contamination – all of these things – and the incompatibility with adjacent property uses, not zoning – this is not compatible with. Please reject this. Thank you.

Mayor Craig: Thank you.

Sherry Meyers, 4447 Vettelson Road – I just wanted to say in October you deemed that this plan, this was the same plan we were looking at in October as we are now, was not compatible and it was too intense for this property. What has changed since then? Nothing. It's the same plan. So I'm hoping that the only thing that has really changed is we now are looking at a lawsuit. So, I'm thinking if the vote changes, we're showing as a City that we can be turned around by a lawsuit, which is not a good message. I'm just hoping you stick by your guns with what you did in October and say this is just too intense and it's not compatible with surrounding properties. That's all I have to say.

Mayor Craig: Thank you.

Connie Anderson, Atty. for Three Dog Development – I'm here for the portion of the agenda where you'll be discussing Faire Lakes Commons to answer any questions you might have. I'm assuming I can participate at that point. Thank you.

Mayor Craig: Thank you.

Larry Schouten, 4518 Vettelson Road – I pondered for a long time today to try and think of what I could say that you hadn't already heard. You already know the shopping center, for example, is far too massive for this area and that the traffic problems it'll produce are going to be horrendous. And you know that the potential water problems far outweigh any tax benefits that might be gained by its presence there. And you know that noise and light pollution will affect the neighbors for quite some distance around. You know that the vast majority of the people who spoke at all these meetings regarding this development have opposed it. You know that the Plan Commission has recommended twice that this development be denied. It's now up to you to honor the recommendation of the Plan Commission, whose members have spent many hours evaluating this

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proposal and have voted to deny it on a 6-0 and a 5-1 vote, respectively. Development for the sake of development serves no benefits to anybody but the developer. Thank you.

Mayor Craig: Thank you.

Jim Zahorik, 1948 West Shore Drive – First item, old business, item 5c. I stand here as a person that has been very involved in petitions and getting grass root support. A little over a year ago or better, we purchased 30-some acres over on Hwy. 83 to make this city better. It was over \$1M and I have not heard a great deal of complaining – because I go door-to-door talking to people. I'm not running for office, you all know that, but I try to speak on behalf of a lot of people that are trying to stay here and they don't want to see Delafield fail or deteriorate. As many people have spoken at public hearings concerning Village Square, I won't belabor the point of why it just shouldn't be allowed. I'm here tonight to say that you are being threatened with a lawsuit. That sometimes seems formidable for people that aren't in constant litigation. You always hear this – I'm just a dirt farmer; but I'm in litigation. I'm in litigation a lot. But if it's right and you succumb, you fail in the eyes of the public. The public is looking to you and they've given you many, many reasons why this should be voted down. A lawsuit is like a gun to your head; either you go down on your knees and you say, "please don't shoot" or you stand up to it and say, "this is what's right, it's not going to work in this community." Item 4i, our committee reports, one of them being the library board, and I want to set the record straight if there is a certain amount of speaking. We had a good turnout last April and it was voted down. the bonding was voted down, and it was because we thought the library would be built with private money. Now I've heard that there is an attempt to get a building for under \$1M, and that I have no opposition to that. I'm telling you, putting for public record; I have no opposition to it, as long as it's privately funded. We can't raise our mill rate any more. People have to be able to stay here. So please, as I don't know what happens in closed sessions, but I'm looking at the purchasing of public properties and I don't know what it involves, and I don't want to know because it's a closed session. But if it has to do with this type of a situation, remember that we voted down bonding for the library because we want it to be built with private money. The last thing has to do with Genesee Street Reconstruction. As we can see there are a lot of cones going up right now and they'll be a certain amount of disruption to businesses.

Mayor Craig: You're on thin ice here. Keep it pertaining...

J. Zahorik: Don't bury a pipe. That's all I have to say. Thank you.

Mayor Craig: Thank you, Jim.

Mayor Craig asked three times if there were any more citizen's comments. There were none.

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M. Czubkowski: For the record, I just would like to mention some of our correspondence that's on our table. We did receive a protest and I would like to acknowledge that they were filed with the City on May 2<sup>nd</sup> regarding Village Square. We also received several correspondence either by fax or e-mail regarding Village Square which I have copied them as I have always copied them in the past. Mr. Bill Restock asked that this become part of the official record. These are all regarding Village Square and also we received a letter today from Jon Spheeris regarding Village Square.

Mayor Craig: Thank you. And you do keep us abreast of those letters quite well.

**P. SCHUMAN MOVED TO CLOSE CITIZEN'S COMMENTS. L. KUKLINSKI SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

3. CONSENT AGENDA

**L. KUKLINSKI MOVED TO APPROVE. MIKE ROBERTS SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- a. APPROVAL OF MEMORANDUM OF AGREEMENT WEIGHTS AND MEASURES INSPECTION WITH STATE OF WISCONSIN/DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION.

4. COMMITTEE REPORTS

- a. LICENSES

None.

- b. PLAN COMMISSION

P. Schuman: We met last Wednesday and finished up some of the business from the 30<sup>th</sup> of last month. One of them is on the agenda today. We'll talk about Faire Lakes.

Mayor Craig: That was a spillover meeting – it was spilled over from the one at the end of the month. We had other items to deal with.

L. Kuklinski: Just real quickly, I wanted to know how the Plan Commission responded to, there were a couple of the restaurant establishments that had requested some outside, or I think for dining and for music. Just what was the outcome of that?

P. Schuman: There was an adjustment on the hours of the music to 10:00. The other one, the Prickly Pear, there was a lot of discussion on the location of outside chairs. I believe we passed that with some

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limitations. It's going to have less seating out there. It's for a year, if I remember.

Mayor Craig: Yeah, both of them are one year.

P. Schuman: Trial situations.

Mayor Craig: Kuhlenbeck's also was not only limited in night time – we ended it earlier than they requested, but also we asked for an enclosure to be established and we were assured it would not be rock music. It's a very similar type of music that has been in that establishment for at least a good two-three years.

c. LAKE WELFARE COMMITTEE (DRAFT MINUTES OF APRIL 9, 2003 MEETING INCLUDED)

P. Schuman: We met last Wednesday and discussed the meeting. Everyone thought it went quite well. We're concerned about getting more surveys back for the dredging feasibility study. If citizens have them and have not returned them, please do that. We're also talking about sending out copies in a mailing. So Matt and I will talk about that.

L. Kuklinski: Did they get on the website?

P. Schuman: Matt?

M. Carlson: It's on the website.

P. Schuman: That's good. So citizens can look at the survey on the website. You can download the survey and mail them back or drop them off at City Hall or your representative to the Lake Welfare Committee. Then the other thing we're talking about is potential location of the spoils, where it might go. We have a few ideas about that. We discussed city parks and there are a few other landowners we need to contact. So this is a work in progress. We're looking for ideas.

Mayor Craig: Okay. Thank you.

d. PARK AND RECREATION COMMISSION (DRAFT MINUTES OF MAY 5, 2003 MEETING INCLUDED)

M. Gardner: We met on May 5<sup>th</sup> – our regularly scheduled meeting is this Wednesday, but May 5<sup>th</sup> we met to take a vote on awarding the RFP for the Veteran's Memorial Riverwalk and that was unanimously voted on Schrieber Anderson and Foth & Van Dyke. That was the extent of our meeting. Just to take the vote and then we meet Wednesday.

Mayor Craig: And also in the last meeting the Council had it was approved also. Just for keeping things straight.

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M. Gardner: Right.

P. Schuman: Marily, I notice in your agenda you're talking about the Bleeker Street launch. What type of improvements were you thinking about doing? The Lake Welfare Committee looked at that and we thought we might want to put off any major improvements until after the dredging is done.

M. Gardner: You know, not being the head of Park and Rec right now, I'm not really sure. I think what we're looking at is the improvements of the launch itself.

P. Schuman: That's kind of what we're looking at.

M. Gardner: The launch itself and the outlying area. It's been in the budget and was approved for the last two-three years and nothing's been done. Not necessarily blacktop the parking lot, but just to redo the boat ramp - to have that redone and possibly the existing water line.

P. Schuman: Didn't we take that out of the budget?

M. Carlson: It has not been in our annual budget, it's on our five-year capital improvements program, but it has not been in our annual budget. It's on our five year capital improvement list. So it's an out year project.

P. Schuman: Yeah, we looked at that Lake Welfare and because we have this dredging feasibility study, the thoughts were that if we do the dredging, the engineers who do this will probably use that ramp. There's heavy equipment going in and out of that, so you may not want to do something to make it pretty and have it torn up by the engineers and barges.

M. Gardner: When do you expect that feasibility study to be done?

P. Schuman: It should be done by August, then we're talking about some budgetary hearings on it, how we're going to do it maybe in a year. Depending on how it goes.

M. Gardner: I heard their concern was to address the situation since it's been in the capital improvement for five years to address it and see where we're going with it.

P. Schuman: I don't want to get into a territory turf here, but just to let you know what our thoughts were with this.

Mayor Craig: It actually might not be a bad idea to have the two of you work together with Beth Leonard and get in contact with her and make sure she's squared away.

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P. Schuman: Sure. I'll give Beth a call.

e. PUBLIC WORKS

D. Swain: We met on May 7<sup>th</sup>. There is a DOT requirement for a turning inlet on Hillside Drive on Hwy. 83. They came in and showed the layouts of how it's going to be at the intersection there. Hillside Terrace is under the assumption they're going to be paying for it and doing it. They also wanted to change, for their parking lot, there's two run off drains in the parking lot and they wanted to change it to one because the two of them - one ran off the one pond, dry pond, and the other one ran off of the other one. Now they're going to just have one go to the larger pond and the rain off the roof is going to go out to the other pond to equal out the water on both of them.

Engineers came in with a recommendation for the stormwater management at Carriage Hills subdivision. They came up with a plan. There's going to be like four retention ponds and they have them set up so when we get the heavy rains they will all fill up at the same time and all go down at the same time so there won't be any over flowing. Also, the way they have it developed, the people who have water runoff now, down by West Shore Drive, it's supposed to help them out. They won't be having water running down anymore.

Mayor Craig: Very good.

f. DEL-HART COMMISSION

L. Kuklinski: Groundbreaking tomorrow at 2:00 p.m. with a meeting to follow.

g. RECYCLING COMMITTEE (DRAFT MINUTES OF APRIL 28, 2003 MEETING INCLUDED)

E. Sadowski: The next meeting is scheduled for July 14<sup>th</sup> and it will basically be for hopefully expanding the board and increasing effectiveness.

h. POLICE AND FIRE COMMISSION

No meeting.

i. LIBRARY BOARD

J. Krickhahn: The library board met on May 13<sup>th</sup>. We discussed quite a few things. One of them is right behind you. There are overflow storages. We are out of other spaces in this building to stock those items. In fact, the Friends of Library are having a meeting tonight. The

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Advisory Board meeting also met on the 15<sup>th</sup>. There's a few things going on that the public will know – some rumors are out there. They are entertaining an idea that there's been a building presented to them for sale on 711 Wells Street. The building itself is a two-story – at full build-out it would be 18,500 square feet plus a 3800 square foot basement for storage. They're looking into the possibilities at this point in time. There's nothing said that yes, they're going to or no, they're not going to. In fact they're going to get together (the library board and the advisory board) next Thursday to walk through the building and ask questions. So at this point in time it's simply in the planning stages. So to any fires that are out there saying we're going to be spending money, it's not true yet. We're looking into it and keeping our eyes open at this point in time.

Mayor Craig: As you have eluded to, there are several rumors running around out there and I want to make it perfectly clear, folks, that I am not looking to bring back a referendum in November until the Friends of the Library, as I told them the night of the defeat at the Fish Hatchery, until you bring me some private money, I can't see support on this group or through myself. I am looking for the private funds to be raised.

J. Krickhahn: We are talking about possibly closing on Thursday's during the summertime. We're talking about maybe being closed a couple of days to reorganize some shelves and things of that nature and depending upon, they're going to keep their options open during the heaviest part of the construction, they may change some hours, too. We're going to play that as it goes along throughout the summer.

Mayor Craig: Is that closed all day?

M. Gardner: Why did they pick Thursday?

J. Krickhahn: I believe that was the day that had the least amount of people coming through. They wanted to keep the Sunday's open. We're one of the few libraries around the area that are open on Sunday's and they wanted to keep that going. The group agreed to take the building project back to its roots. A proposal was given to the library board for the Lang properties to consider the Lang Color Press building as a possible site. Again, images of traditional Delafield buildings were sent to consider for new renderings. They're just all conceptual things. They're just looking at it as ideas. So at this point in time, I hate to be vague, but that's all there is. Just kicking around different ideas. We have never once said anything about referendums or anything. Hopefully, I'll bring back more to you next month.

Mayor Craig: I do know the Friends are out there busy, quietly trying to raise the money and I think that's excellent. I think that needs to be noted that they are still trying to do that which is a great thing.

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J. Krickhahn: If nothing else, I believe that this whole situation has made them stronger and they're going to go forth and do it.

j. FINANCE ADVISORY

L. Kuklinski: We met on the 13<sup>th</sup>. Dave Anderson of Ehlers (our Financial Consultant) was introduced to the board. We had a quite a lengthy discussion on our current ratings, on notes that were issued as a result of the 2003 budget process and discussions on TIF revenues and repayment schedules. We also met with Kevin Kryzynski from Johnson & Block who presented the draft of the audit and a management letter. The Finance Advisory Board would be prepared, based on discussion and some additional information we requested, to provide a recommendation to Council if that's the direction Council desires from us. I look at that as a very positive function of the board, but being new, we're trying to establish exactly what the Council is looking for. If you would give me that direction, in fact we could possibly even replace the entire presentation to the Council, you of course would get copies. If you'd like me to summarize that and provide recommendations based on that, I need that direction specifically from the Council.

P. Schuman: Do you need that tonight, Linda?

L. Kuklinski: No, we won't meet again until July, but if that's something that we should be thinking about, I'd like some preparation time. We had talked about it quite a bit. We came up with a few things and asked for some additional information from Dave Ehlers, Kevin Kryzynski from Matt Carlson, so again, these are opinions that we think this is the group of people that can bring that to you in the terms probably most understandable and link it to how it impacts the City.

P. Schuman: I would like to maybe, since this is a new committee and we're kind of working out our partnership with this, perhaps we could have a joint meeting to start with and then I could see what recommendations they bring back. I'd have a comfort level with the Finance Committee's recommendations and the process. If I have a comfort level, I can delegate that to them.

Mayor Craig: Are you looking for having the members come here to a Council meeting?

P. Schuman: Maybe have a joint meeting. Maybe at the Fish Hatchery or something like that. A special workshop where it could be taped.

Mayor Craig: One of the things, I have to be honest as I was with them, this is a committee of people who have very short availability of time. We've limited the number of meetings because of that. I don't want to diminish their role in this government. I look forward to their input and

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I'm wondering if they could just make that presentation at a meeting and you'd feel comfortable at that?

P. Schuman: I could go to their meeting, too. I'm not trying to be hard-nosed. I would like to be invited to this so I get a comfort level of their process; of the numbers, how they handle it, what questions they have. I'm going to be relying on their recommendations.

L. Kuklinski: So, July 15<sup>th</sup> will be the next meeting. 7:00.

P. Schuman: Will there be a presentation by Ehlers & Associates at that meeting?

Mayor Craig: We hadn't planned it.

L. Kuklinski: He's already made the presentation. What we were going to do is take that information. It will be quite a detailed discussion.

P. Schuman: What time is this meeting again?

L. Kuklinski: 7:00.

P. Schuman: And the date again?

L. Kuklinski: The 15<sup>th</sup> of July. Which, of course, is still ample time for us to make a recommendation for the budget process—critical points that we'd want to make for consideration during that process.

Mayor Craig: We have the draft. This body hasn't seen that draft. Perhaps could we see the draft and then if there were questions this body would ask?

M. Carlson. No. The way it works is the Finance Advisory Board gets their crack at the draft after the department heads have reviewed it. The audit report gets finalized and Kevin Kryzynski traditionally has made a presentation to the City Council on the final audit. What I think Linda is saying is do you want to bypass Kevin Kryzynski's presentation and have the Finance Advisory Board either the Chairperson or members of the Board make that presentation?

L. Kuklinski: That's exactly right.

M. Gardner: We're taking direction from the Board. I would think that you would be the one to report, is my feeling.

M. Roberts: When does the budget process start, Matt?

M. Carlson: It's already started.

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L. Kuklinski: I would invite them all of them to come and add to anything. For the items that specifically get addressed in the management letter and that, it's sufficient time. The budget process for the department heads and everything, that's well underway. These are issues that can be addressed and July is still a good time period. And we had that discussion. Whether we wanted to make those recommendations, but we wanted to have as much input as we could so that we could give you the best recommendation.

E. Sadowski: How will this affect if we have more than a quorum there – if we would attend one of your meetings?

L. Kuklinski: It is noticed because it's a public meeting.

M. Roberts: So it wouldn't matter if we had five or not.

Mayor Craig: Why don't you make your presentation?

L. Kuklinski: In addition, we reviewed a high level analysis that was completed. Brian Ferrise did a lot of work on this. What we were looking to do was insure that the value of a higher rating exceeded the investment required by the City specifically to the fund balance. The intent is to confirm that the fund balance number has enough of an impact from a hard dollar perspective to justify the progress to raise the fund balance. It's a discussion, again, that we had the budget time; should we, should we not, how much more should we contribute. The ordinance specifies a 25% fund balance and again in an effort to give the Council some support and some understanding of the importance of that fund balance, we did some review on that. And the ratings, as part of Dave Anderson's report, very specifically, the only reason we are downgraded is because of our fund balance. So it definitely has an impact.

P. Schuman: Was there a feel for what type of lower rates we could get when we bond if our rate was higher?

L. Kuklinski: Well, again, that's why I said that it was high level, because what we did was to look historically. The whole underwriting process for bonds and notes is somewhat obscure, so you couldn't go back and say well, if we had this rating, the rate would have been this, and we got this. Because there's always a range that they work in. So what we did was take a median average of several like-issues and said that the likelihood is we would have been somewhere in this range and somewhere in this range and what this particular study did was actually take one actual bond issue and in one issue for the life of the bond it was about a \$90,000 savings had we been that. So if you multiply that, and you know that's a fairly conservative number, and that's over the life of the note, that's ten years, but if you multiply that by the number of outstanding notes and bonds we have, it can come to some pretty

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significant savings. So that tells you that the impact of that fund balance is real.

E. Sadowski: Linda, a quick question. Have you looked over some of the bonding that we have out there and if we would consolidate it?

L. Kuklinski: That's looked at on a regular basis. Ehlers takes a look at that and in fact when the rates started to go, we did actually reduce some of those and we have a real smoothing out of those notes and bonds. He's done a real good job with that so that there's not any one year where we have a big spike where we're making a huge principal and interest payment. It's pretty even throughout the course of the next ten years.

E. Sadowski: That's looked at annually?

L. Kuklinski: Yes. We also looked at investment manager proposals. We've begun an RPF process and Marie Williams in the office did a great job putting those together and getting those out. We had ten people respond. One responded saying they didn't wish to put in a proposal, but nonetheless they did respond and we reviewed those. Marie gave a recommendation and we will be bringing in three of them to give us a report. Here again the intent is to see if there's any opportunity for the City to benefit from an investment manager. We'll do a cost justification process and bring it to the Council. If there's an opportunity there to actually put an investment manager on, can they bring in enough return to cover the expense of bringing them on, or is this not a good idea at all and the City can do just fine on their own. But, it's certainly a process worth taking a look at and again, just trying to make sure we can capitalize on any opportunities that are out there. The Board also reviewed a preliminary draft that we're going to discuss further at the next meeting. It's a presentation intended to be given at the budget workshop and work with Matt directly to do a short education process for the benefit of the citizens out there prior to getting in to the budget process. So, everybody has a copy of that draft and we're going to go into discussion, including Matt, and comments he's heard and other people have heard. Likewise, if you're getting any specific questions on the budget, people having questions on a particular area or particular impact if it's something we can address on a very general level, that's what we're trying to do with that. The presentation is intended to be part of that budget workshop that's already scheduled for August. That'll be coming up - if you look at the website or in any of the information. Those dates are already set.

Mayor Craig: August 7<sup>th</sup> - Goals and Priorities.

L. Kuklinski: Finally, we reviewed a fee schedule from several of the communities. We're going to get some additional information and include the Delafield fee schedules in there and take a look at our

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current levels and make sure that our fees are in line with what they should be and again, just see if there's any opportunity where we can make recommendations to the Council.

E. Sadowski: Do those fees include like parking, things like that, or does that go more towards police and fire?

L. Kuklinski: As far as like a fine?

E. Sadowski: Yeah, parking tickets and that. They seem extremely low and I was just wondering if that's something you touch on?

Mayor Craig: You're dealing more with building fees and user fees.

E. Sadowski: So the others would be police and fire.

L. Kuklinski: That's my report and I guess again if anyone has any input; hopefully everyone feels we're on track with the kinds of things that we're doing and taking a look at, we'll continue to move ahead.

k. OTHER

None.

5. OLD BUSINESS

a. STATUS UPDATE REPORT ON THE DESIGN AND TIMELINE FOR WELLS AND MAIN STREET

A drawing was presented at the meeting and papers were distributed to the Commissioners regarding a Summary of Costs.

M. Carlson: At our last City Council meeting you requested some dialogue to put this on our agenda for our next meeting, the issue of the construction timetable for Wells Street and Main Street. So I talked to Fred Welch about it and Fred is here to walk us through those issues tonight and respond to any questions you might have.

Mayor Craig: Welcome, Fred.

Fred Welch: Is this adequate?

Mayor Craig: Yes, the camera is right there.

F. Welch: This project is broken down into three segments. We have Main Street - Genesee Street going west, then we have Wells Street, going west. Then we have the intersection. The benefits of this program are to 1) Correct this very dangerous intersection. People that drive through that know that it's very difficult to see cars going west on Main Street.

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So this proposal would eliminate that intersection. 2) it would replace a failed stormsewer system in Wells Street. We've got a stormsewer system out there and we don't know where it goes.

Mayor Craig: That's scary.

M. Carlson: And there's the pipe that's crushed.

F. Welch: Yes, it's completely failed. We would provide a safer access for pedestrian traffic from the WEPCO to the downtown area. The red here is a sidewalk on both plans. So it would provide access for people getting to the WEPCO right-of-way to the downtown area.

M. Roberts: Instead of a sidewalk, how about a bike lane or something on that Main Street?

F. Welch: Snow storage area?

M. Roberts: I don't care what you want to call it, but I don't think a sidewalk is appropriate for that area.

F. Welch: That's for you to decide.

Mayor Craig: It was something that was put in the plan.

M. Roberts: I know...

P. Schuman: Well, we've got some recreational facilities there now and doesn't that triangular spot belong to Bob Lang and doesn't he have some plans for that down the road?

F. Welch: Yes, he owns all that, except this parcel right here is my understanding. And the sidewalk would provide access or whatever, a storage lane to the baseball diamonds. There are people that walk there.

M. Roberts: Not that many.

L. Kuklinski: Fred, where's the Fish Hatchery on there?

F. Welch: This building right here. Here's the existing parking lot - this is Dopkins Street, Genesee. It would replace streets in very poor condition, especially Wells as you go in this area, notice you get a rumble there. It'll be a surprise when we take that off, although I'm sure it's railroad ties, something underneath it. It's called an old corduroy road so we'll see who wins that bet. But, people deviate lanes trying to get away from that.

3) And it will provide some stormwater management and treatment for the water that's tributary to Wells Street. These areas I've designated

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here where we would abandon a portion of the existing roadway, we can use for stormwater treatment and so forth. This will be the outlet. So those are the benefits of what we're proposing to do. The other important thing to understand this is under TIF. It can be under TIF and the time is running out this year. So if you want to get the benefits of TIF, I guess this is your last chance for this.

L. Kuklinski: The blue, that's the stormwater?

F. Welch: Blue is stormwater, right. We have a new stormwater system in here in Dopkins that we put in with the parking lot. So the water that is tributary from this area from Genesee Street over would go to Dopkins. Genesee Street will continue north to the river. There were some plans and ideas that we could take the stormwater and provide a large, regional basin here, but that did not materialize.

P. Schuman: How does that meet our own regulations for stormwater management? For example, do we need to have a retention basin for our own stormwater? Is that part of our own regulations?

F. Welch: No, not on this. It will be a plus for us. We are going to do it, but is it required? No.

P. Schuman: We will have a place for stormwater retention then.

L. Kuklinski: Were you actually going to put some small basins in?

F. Welch: The City owns this triangular section from here clear up to this point, so we're going to be tearing this section of the roadway out. We'll put a basin in here and probably a two-tier basin here because this has a grade drop (we haven't gotten to the specifics of it), but we can utilize this and we can utilize this.

L. Kuklinski: So, do you have an approximation of how much each of those would hold?

F. Welch. No. A couple of acre feeds, three acre feeds, something like that. It will provide good treatment for small storms which are the ones you really want to target. Those are the ones that are the most polluted. It will provide treatment for the smaller storms.

L. Kuklinski: So, it'd provide treatment and the overflow will actually go over...

F. Welch: There's an existing culvert right here - this ditch goes through here to the Bark River. There's also a culvert at this point.

L. Kuklinski: And right now, it all goes there with no retention.

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F. Welch: Correct.

P. Schuman. That we know about. There's some pipe we don't know where it goes.

M. Gardner: The culvert that goes to the Bark River, is that functioning?

F. Welch: There's a 24" corrugated metal pipe right here that's backing water up here?

M. Gardner: Have you seen the water through there? That's what scares me.

F. Welch: This is declared navigable. That's a navigable stream there.

M. Gardner: I know, but have you seen the condition of the water?

F. Welch: Pretty messy.

M. Gardner: So this will help that, is what I'm deducing.

F. Welch: Well, hopefully, when you design your path up here, you can address this. I think if that were lowered, that would allow this to drain so it wouldn't be so stagnate in there. There are a lot of things that can be done. You could re-vegetate this into proper wetland materials, provide a great deal of treatment in here. This is one of the systems we were looking at when we looked at this whole area bringing it through here.

I don't believe the sidewalk goes to Hawks Inn, but it will now. This is Hawks Inn right here. So it will benefit the apartment area here, too. They will have access to this area.

M. Gardner: My question about the sidewalks is will that be in line with what is now a currently a walking and bike riding path?

F. Welch: Which street?

M. Gardner: On Main Street. You know how the path goes down Main Street.

L. Kuklinski: Will that replace it, is that what you're saying?

M. Gardner: No, it stops. There's no place to go once you get on the path.

F. Welch: It goes right here. It will go to WEPCO.

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M. Gardner: So then will we as a City allow bikes to be on the sidewalk then?

Mayor Craig: We do now. There's a middle section of no walkway from Lake Road, or is it Mill Road? It could be Mill Road. This kind of gives it some unity aspect.

M. Gardner: It sort of stops right at that corner and then you don't know where to walk - it's kind of dangerous. So, it does butt up to that.

F. Welch: I've seen women with baby carriages in this area, too. I don't know if they can use the WEPCO right-of-way with that or not. It's kind of bumpy. I don't know where they come from.

Mayor Craig: Two questions: The stormwater that's on the west side of the triangle, there's a great deal of water that comes from the southern area from there. Is that going to help that area?

F. Welch: That will probably bypass directly into this culvert here. We'll see what we can do with it.

Mayor Craig: There's been some ponding on private property in that area that I know when I was going around in that area many of the people commented that that can be a problem. The water rushes down into that area and then pools.

F. Welch: This is an open ditch from this point on. It will be closed, but it would then be a treatment area or whatever, a basin here. That water normally went to here. Now whether we treat it here, bring it back here or do this, we have the option. We haven't looked at it that closely yet.

Mayor Craig: Is this plan proposing eliminating the parking in front of Hawks Inn?

F. Welch: We have an alternative that would provide the same 90-degree parking here. In this instance, the sidewalk would jog down and go around. What we are looking at and have been asked to look at and talked to Bob Lang since he owns these, is extending the 90-degree parking here now, we will continue with that in front of the restaurants and convert this to 90-degree parking here. We would pick up a great deal of parking down to this point on the north side.

L. Kuklinski: Then how does that affect the proposed sidewalk?

F. Welch: It would be just like this. As you'll notice, this is the property line - here's the sidewalk. We have grade differentials down here which forces over against the pavement. We'll have a curb there - it'll be the barrier so it'll be safe. But what we would do, we'd just bring the

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sidewalk along the property line and it would be the same configuration we have here.

M. Roberts: Do we need that much parking?

F. Welch: Hawks Inn would like it, so would Mr. Lang.

Mayor Craig: But definitely Hawks Inn. When they have tours and that, it gets pretty busy.

L. Kuklinski: The current parking that he has there, though, isn't that a requirement?

Mayor Craig: Are you saying the one in front of Hawks Inn?

L. Kuklinski: No, the one in front of Lang's now. I would imagine that those spots are there for a reason.

M. Carlson: I don't know what the requirements were when the campus was created.

L. Kuklinski: And the 90-degree, even with the sidewalk put in, would still be safe you think?

F. Welch: It would be just like we have here now. You know, in front of the restaurants? It would be identical to that except we have a curb. The sidewalk would be seven feet wide. We really only need five. But we do have the curb there; cars would go up to that point. Some of them would project over the curb one to two feet. So you'd still have your five feet of sidewalk. So, we've put in seven feet of concrete there. We could put paver in or something to dress it up, but in talking to Mr. Lang, he is not for that. He wants functional. We proposed this area where the car bumpers would overhang be a paver brick or something like that, and he said no, let's keep the cost down and use concrete. So that's what we've done. Or are proposing.

E. Sadowski: I just had a question – when you figure out the cost of the sidewalk, is it by foot? It's "X" amount of dollars per foot – is that how you figure out what a sidewalk costs?

F. Welch: Per square foot.

E. Sadowski: What is the cost per square foot for a sidewalk?

F. Welch: \$2.00 to \$3.00 per square foot. So a normal five-foot wide sidewalk, rule of thumb is \$10/foot – linear foot. This is a bigger picture of it. This is Genesee Street. This is Lang's. This is the 90-degree parking now. We'd have parallel parking over here. This is Dopkins. And the sidewalk instead of going down against the curb would stay just

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like this. So we would duplicate this going down the street. We've got another problem here. We not only have the high towers – the metal towers on the south side, we've got very large wooden poles with lots of stuff on it. So, we're not going to move them, we're just going to put islands around them and try to make an amenity, put a planting there. But probably try to keep costs down on this.

P. Schuman: Sounds like we don't have enough money to extend what we're doing on Genesee Street over here.

F. Welch: We met with Mr. Lang and he does not want it.

P. Schuman: That's part of the TIF district money. And he's not paying that directly. Indirectly he is through his taxes.

F. Welch: We can design it however you want.

M. Gardner: He does not want what?

F. Welch: The brick. We have one drawing that shows an elaborate landscaping system similar to what was on Genesee Street

M. Gardner: You keep saying does not want "it" and I want to know what "it" is.

F. Welch: It is the same landscape and aesthetics that are proposed for Genesee Street.

L. Kuklinski: Is that a regular crosswalk section there? I'm thinking further on when you get down to where Hawks Inn is and the sidewalk would end on the south side.

F. Welch: Yes, there would be a crosswalk there and we had proposed that that would be the brick and so forth that we'd have on Genesee Street. He said no. I think part of the problem is he has had such problems with their brick on their site that they did not want it here.

L. Kuklinski: Yeah, it looks great when it first goes in, but after ten years and everything starts to shift, it looks bad.

F. Welch: I think he used clay bricks, so I'm not sure the ones for Genesee.

M. Carlson: He set it on concrete.

F. Welch: There's been big improvements in paver brick. I imagine what's going in Genesee is probably concrete rather than clay. I'm not certain.

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M. Carlson: It'll be clay brick, but we're going to set it on a concrete base and then on top of that concrete base will be sand. We're not going to imbed the clay bricks directly in the concrete. That's how his sidewalks and his stoops are. Then it becomes very susceptible to the freeze and thaw cycle and it has a tendency to crack the brick. But with the sand, they move.

F. Welch: The brick that we have out here now that we put in 15-20 years ago, that does not have the concrete under it; that's just sand. So, those do move a lot, but at that time, and the theory is you can go in there every year and re-level them. So there's maintenance with those. What Matt is describing is more permanent. We've learned over the years what works and what doesn't work.

L. Kuklinski: At what point in the Genesee Reconstruction would you be looking to do this part?

F. Welch: Our plan was to start one of these projects after Delafield Days. We did not want to do anything while Delafield Days is going on because they're going to utilize this whole area. So, the plan was to start this and do this section. That would leave Wells Street open for traffic coming through. This could be completed probably by September. And then at the end of September, start this and be completed by November.

L. Kuklinski: So it's possible to get all of it done this year?

E. Sadowski: That's basically a lose it or use it for the rest of the project.

F. Welch: I'll defer to Matt on that.

M. Carlson: That's correct.

E. Sadowski: Okay. So in other words, as long as we pay for it this year, even if it's not completed...

P. Schuman: There's some you can carry over, but as long as it's under contract and started, I think you can set aside the funds or something. There's ways of doing it.

M. Carlson: As long as it's committed and it's obligated by contract, then we're fine.

L. Kuklinski: And all of this was part of the original budget dollars?

M. Carlson: Correct.

F. Welch: Those are the figures you have in front of you.

P. Schuman: Has this been bid out, Fred?

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F. Welch: No. All the fieldwork has been done. We've got preliminary plans cross sections. We're probably 60-70% done with the plans.

P. Schuman: Are we looking for a motion to approve this tonight.

Mayor Craig: This is strictly a status update. It's already been approved.

L. Kuklinski: I just have one more question. The point where Wells Street and Main Street, where that intersection would be improved and the cross from Wells over to Main...

F. Welch: I'll give you larger scale.

L. Kuklinski: ...from where those two would come together to the WEPCO right-of-way, do you know approximately how many feet that is? I'm talking about the extension of the sidewalk and for reference.

F. Welch: 400-500 feet.

M. Carlson: So at \$10 per linear foot you're talking about \$4,000 to \$5,000.

Mayor Craig: There's a daycare in that area, Fred, and I'm assuming that the eastern pond would have to have some safety guards there.

F. Welch: Yes. Around something like this you might even fence it. It depends, if it's a wet basin, dry basin, a lot of different things to consider here.

M. Gardner: Well the daycare is fenced in anyhow.

Mayor Craig: Any other questions for Fred? Thank you for coming.

M. Carlson: I interpret that full speed direction. Everybody's on board with the time line, schedule, let's get it done.

M. Gardner: Looks good to me.

Mayor Craig: Let's go.

J. Krickhahn: One quick question. Regarding the type of materials that we'll be using, will that be up for discussion later on then or who's going to decide and make the decision whether they're going to be using the brick for the cross walk and that type of thing?

M. Carlson: The way we worked it before was a recommendation that worked its way through the Genesee Street Steering Committee, through the Plan Commission, City Council. The Public Works Committee was

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also involved in that process. If we want to run the streetscape elements back through that same type of a process, we would start at the Public Works Committee, run it through the Public Works Committee, stop at the Plan Commission and end up here at the City Council. Otherwise, it would be done with traditional materials. Concrete sidewalks, asphalt streets, the same street light fixtures that we've used in downtown Delafield would be used on Main Street. What's your preference?

M. Roberts: Standard. Why spend the extra money? They're side roads.

M. Carlson: The theory was when we reviewed the Genesee Street stuff, we wanted to do something different with that street. It was the main entryway into our community. This one we checked with the major property owner along Wells Street and his preference was to make it functional. It doesn't have to be the same level.

Mayor Craig: Let's use the process we've used in the past. Bring it to the Plan Commission let them get a crack at it and then bring it back to us so that we do get a voice.

L. Kuklinski: I would say if it's anything other than standard, that we would ask it to come through because we've gone through the process and seen the presentations, we've gotten input. If it were other than the standard that they would like to do, then I would like to see it.

Mayor Craig: I'm just thinking that this could give the citizens a voice also.

L. Kuklinski: But that's what we went through the whole Genesee...

Mayor Craig: It wasn't with these two roads. That was very minor.

L. Kuklinski: Yeah, but these two roads have always been part of the proposed project.

Mayor Craig: In concept. But I'd like to get some more citizens comments on it.

M. Gardner: If we do that, how is that going to hold up the project if you go through those steps?

Mayor Craig: If we run it through the Plan Commission and then bring it back to this body...

P. Schuman: Didn't it come through the Plan Commission once?

Mayor Craig: Genesee did, but I don't believe these plans have.

M. Carlson: Main Street east did.

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Mayor Craig: But not west.

P. Schuman: Why don't you research it and see if it's gone through...

F. Welch: Public Works a couple of times, I'm not sure about Plan Commission.

P. Schuman: Why doesn't staff review it and see if it needs to come before Plan Commission?

E. Sadowski: As long as it's normal materials and it's coming in at budget, I myself don't think we have to look back at it again.

*The other commissioners agreed.*

L. Kuklinski: Genesee Street is basically on the agenda each time, so if there are citizen's comments, they're always welcome.

Mayor Craig: Not a problem.

b. **SHOPPES OF NAGAWAUKEE CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.**

M. Carlson: The City Council has previously approved the General Development Plan for the Shoppes of Nagawauke. There were contingencies. Those contingencies included the completion of a conditional use permit and the development agreement. We circulated the documents to the Plan Commission about three months ago. We received comments from the Plan Commission and incorporated those comments into the documents that you see. We go back and forth with the property owner from the Shoppes of Nagawauke. Unfortunately, they could not be here tonight. But, this is a three-way deal between the City, Told Development Company and Charles Dix. Charles Dix is anxious to close on the sale of his property to Told Development. Told Development is holding up the closing of that property to make sure that they get their conditional use permit and their development agreement approved by the City Council. I worked with Bill Chapman to put these documents together and recommend approval.

L. Kuklinski: Do you want a separate motion for each?

Mayor Craig: I'd like to ask a question. I'm reading through these and I'm not seeing the phrasing of build-out around. We have had a number of recent buildings, Purity and Colders are just two that come to mind real quick. These are high visibility buildings that we need to maintain that level of building material. Did I miss it or?

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M. Carlson: You recall that The Shoppes of Nagawaukee was an amendment to the existing Nagawaukee Center general development plan. There is already an approved general development plan and conditional use permit that governs the entire site. So this is an amendment to that document. I believe that there's language in the conditional use permit. It's on about the fourth page in, fifth page in, bullet point number nine that talks about the architectural design and the materials. You may recall that when the general development presentation was made at the Plan Commission, there were architectural renderings of the how the buildings would look when they came in for the SIP. The bullet point #9 was intended to identify that they need to be coordinated so as to complement the overall theme that's out there for buildings that have already been approved. You're right, the buildings that have been approved since August 1999 have been four-sided architecture. The Colder's building, the Purity Office building, the Michelson Office buildings, the Daybreak Mobil Center, they've all been four-sided architecture. If you'd feel more comfortable including that reference of four-sided architecture, then we should do it both in the conditional use permit and the development agreement.

Mayor Craig: In those pictures that you mentioned, just happen to have, we're talking about storefronts and we're not showing anything else. That's what concerns me is that these buildings are going to be seen from Hwy. 83 and I-94. We have had a high standard and I would like to continue that.

M. Gardner: Do we need to make a motion?

M. Carlson: Yes.

L. Kuklinski: Including that condition.

M. Gardner: Would we do it under #9?

M. Carlson: I would do it in the Conditional Use Permit under Item #9 on the fifth page.

**M. GARDNER MOTIONED TO APPROVE CONDITIONAL USE PERMIT WITH THE AMENDED ITEM #9. P. SCHUMAN SECONDED THE MOTION.**

**E. SADOWSKI: I HAD A QUESTION I CAN'T FIND IT, I DIDN'T HIGHLIGHT IT. BUT IT WAS TO DO WITH THE DIX PROPERTY AND IT'S INTENDED, IT DIDN'T SAY IT WILL BE A RETENTION POND, DOES ANYONE REMEMBER READING THAT OVER? RIGHT NOW, I CAN'T FIND IT.**

**L. KUKLINSKI: IT'S PROBABLY IN THE DEVELOPMENT AGREEMENT.**

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**M. CARLSON: IT'S ITEM #5-2, REGIONAL STORMWATER FACILITIES. THE DEVELOPER SHALL PURCHASE THE SO-CALLED DIX PROPERTY AND CONVEY THE SAME TO THE CITY OF DELAFIELD AT NO COST FOR PURPOSES OF CONSTRUCTING A REGIONAL STORMWATER RETENTION FACILITY ON SAID PROPERTY. TITLE OF PROPERTY SHALL BE CONVEYED TO THE CITY NO LATER THAN 120 DAYS AFTER THE DATE THE COMMON COUNCIL APPROVES THIS DEVELOPMENT AGREEMENT FOR THIS COMMERCIAL DEVELOPMENT. TITLE INSURANCE ACCEPTABLE TO THE CITY SHALL BE PROVIDED BY THE DEVELOPER.**

**MAYOR CRAIG: DO YOU HAVE A QUESTION ON THAT?**

**E. SADOWSKI: NO, I WAS READING OVER SO MUCH STUFF, APPARENTLY I MIGHT HAVE MISREAD IT.**

**MAYOR CRAIG: WE'RE STILL LOOKING IN THAT WHOLE AREA. THIS IS ONE OF THE OPTIONS. THERE ARE STILL OPTIONS BEING EXPLORED.**

**M. CARLSON: WE'RE STILL LOOKING AT THE RIGHT-OF-WAY THAT THE STATE OWNS THAT IS PARALLEL TO I-94. THE CONCERN THAT WE HAVE ABOUT THAT SITE IS THAT ALONE THAT SITE DOESN'T HAVE ENOUGH STORMWATER CAPACITY TO CAPTURE ALL THE STORMWATER THAT WE'RE TRYING TO CAPTURE AND FILTER BEFORE IT GOES INTO NAGAWICKA LAKE. SO, THE RIGHT-OF-WAY ALONG THE STATE HIGHWAY COULD BE IN ADDITION TO A PROJECT ON THE DIX PROPERTY, BUT YOU CAN'T SUBSTITUTE ONE FOR THE OTHER.**

**E. SADOWSKI: OH, I SEE.**

**M. CARLSON. IT'S JUST NOT LARGE ENOUGH.**

**MAYOR CRAIG: ANY FURTHER QUESTIONS ON THIS MOTION?**

**ALL WERE IN FAVOR. MOTION CARRIED.**

**L. KUKLINSKI MOVED TO ACCEPT THE DEVELOPMENT AGREEMENT FOR THE COMMERCIAL DEVELOPMENT OF THE SHOPPES AT NAGAWAUKEE. M. ROBERTS SECONDED THE MOTION. NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- c. CONSIDERATION OF VILLAGE SQUARE DEVELOPMENT PLAN RECOMMENDED DENIAL BY THE PLAN COMMISSION.

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Mayor Craig: I've got to tell you folks, we've been talking about this item for a long, long time. I started on this government talking about this parcel, and I'm still talking about it now. It's incredible. Different development, same piece of land. It's my recommendation that we get a motion from the floor to accept the recommendation by the Plan Commission or go against their recommendation and then open it up for discussion and comments at that time.

**L. KUKLINSKI MOTIONED TO ACCEPT THE PLAN COMMISSION RECOMMENDATION TO DENY THE ORIGINAL GDP PRESENTED TO THE CITY OF DELAFIELD WHICH IS THE PLAN WE WERE DIRECTED BY THE COURTS TO TAKE ACTION THEREON. E. SADOWSKI SECONDED THE MOTION. THE FOLLOWING DISCUSSION TOOK PLACE.**

J. Krickhahn: If I may start? The recommendation, the notes that we have, the minutes if you will, I believe was intended on line 19 with the Southeastern Wisconsin Regional Planning Commission having to do with the SEWRPC, that the line "there shall be no infringement on the delineated isolated natural area that will cause a loss of the designation". That line was supposed to be eliminated from there, I believe. It still shows in here.

L. Kuklinski: But Jeff, that's related to the conditions. I think we need to clarify that the motion to deny is really unrelated to the conditions.

J. Krickhahn: Okay.

L. Kuklinski: This is a denial of the plan, so the conditions would not be relevant.

J. Krickhahn: Okay - I just wanted to clarify that.

L. Kuklinski: That's why I think it's real important that we're considering this on the court's direction. I have and I know most everyone else has given full consideration to all our options, including the option to possibly approve it, with conditions. And I have a high regard for the amount of time the Plan Commission spent on that and reviewing those possible conditions for the development. But in my mind, setting the conditions is not our responsibility. The basis for the conditions was input from prior development for the parcel, public hearing comments from two public hearings, numerous citizens comments and correspondence, Plan Commission discussions and referral to the Council and the October 2002 Council decision which at that time gave direction and opportunity to the developer to use those comments and basically gave him the opportunity to use that input and come up with the conditions. Rather than work through that process, the developer made the demand through the court system and I feel that's why we need to respond in that manner. Setting the conditions isn't our

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responsibility. That's the opportunity to the developer and that's why I feel that the no on the original plan as presented, which was the direction we received from the court. In looking at it, I guess I do have a number of issues I'd like to bring up. The City of Delafield comprehensive plan that was adopted in March 1991 states the following under the economic development and community appearance section. Under economic development "is to identify areas suitable for corporate office and related types of development to encourage non-retail businesses to locate in business parks that are planned and designed within the context of plan developments and to attract higher technology white-collar, higher value-added industries." And further in the community appearance it says, "to encourage neighboring properties to plan and design both building and sites to achieve a coordinated and harmonious appearance with respect to their neighbors." Under the land use plan classifications of that same document it says, "development and plan mix use areas should be subject to deed restrictions and protective covenants." I also have Plan Commission notes - I was going to read them because they were notes as part of the discussion from the land use planning and that, but it's not the final. It does bring out what the intention is. The discussion on the November 29<sup>th</sup> Plan Commission meeting does specifically talk about the northeast quadrant, Vettelson Road. It says, "draw new dividing land use line on the northern boundary of residential lots on the north side of Vettelson Road. Designate lots along the north side of Vettelson Road as low density residential. Keep open area north of these lots and south of Hwy. 16 as commercial and change the lands north of Hwy. 16 to office." And at that same point in time, there was a request by one of the landowners to move this to a medium or high-density and the Commission made no change in the low density classification. Ultimately, the document for our reference is our own zoning code. Our zoning codes are adopted under the Wisconsin Statutes and Section 17.02 it says, "the purpose is to promote the health, safety, morals, prosperity, aesthetics, orderly development and general welfare of this community." That's the purpose. The second important point is the intent. The intent of the zoning chapter is to "regulate and restrict the use of structures and lands, regulate and restrict lot coverage, population distribution and density and the size and locations of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways and further conservation of natural resources and appropriate use of the land." Neither of which is in that original proposal from the developer. The third point is in Section 17.05, the interpretation. The interpretation and application, the provisions of this chapter shall be held to minimum requirements, shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes." Each Council member has reviewed the language on the purpose, intent and interpretation and I know that we have some more comments specifically on the B6 Zoning itself.

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M. Gardner: I thought it was really important to put my thoughts into writing since what we have – the intensity of the discussion, the fact that we are under litigation – I think it’s important that I state personally my ideas on this. One conflicts with the City comprehensive plan land use designation for this area. On the plan, the northwest corner of Hwy. 83 and 16 interchange is designated for local and highway business and southeast corner was designated for high density residential. When you look at the master plan at the map, the colors in which it’s zoned, say that it’s for planned mix use. The most logical way to interpret this designation is that the site would be developed as carefully planned mix of several types of land uses. Residential, commercial, office, open space. This type of development encourages the preservation of open space and isolated nature area and can minimize traffic impact by co-mingling peak and off-peak traffic generators. Even though the text of the comprehensive plan document describes a future plan, if you look at the future plan commercial development plan, the plan map does not label the area as commercial, it labels it as mixed use. So if you look and see what I’m looking at then – the red vs. the yellow...

Mayor Craig: It’s actually brown vs. yellow. The red is north.

M. Gardner: But, that’s what I’m talking about. That’s what was designated local and highway business, not the brown, the red. Contrary to the goals and objectives outlined in the comprehensive plan, community growth and development goal #3 – discourage commercial use in predominantly residential neighborhoods. On the plan map, existing and future residential development is shown along the entire stretch of Vettelson Road from Hwy. 83 running west to Nashotah. The only exceptions are the University Lake School, even Lake Country School property was designated as a rural area. Goal #4 in the comprehensive plan – avoid unplanned commercial strip development at key interchanges and along highway frontages. Preferred development forms are businesses and commercial parks. So, I’m just reading the goals of our comprehensive plan. Extra territorial plan goal #1 – coordinate city planning and zoning with adjoining municipalities. The Village of Hartland and Chenequa are both opposed to this development. Hartland’s Village Manager attended the public hearing and went on the record on behalf of the Village and made several valid arguments against Village Square plan. I think that’s kind of debatable, but it’s in our goal. What I’m trying to operate off of is things that I could find in writing and support. Community appearance is also goal #1 – enhance and protect the aesthetic quality of the major highway corridors and interchanges which form the entrance into Delafield. I think that’s kind of debatable on what’s being put in there. Also, I was given a handbook when I was on the Plan Commission and that handbook is The Center for Land Use Education Plan Commission Handbook. In describing the benefits of community planning, the handbook states, “a sound comprehensive plan is a pre-requisite of effective zoning decisions. Thus, zoning is subservient to planning. Zoning is one of the tools through which a plan

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is implemented.” So that’s saying that the zoning is a subservient tool to the comprehensive plan, not the comprehensive plan is subservient to the zoning. Planning provides a rational basis for local decisions. Plans provide a factual and objective basis to support local decisions if challenged in court. Planning under the comprehensive planning and Smart Growth law is required of all local governments by 2010 if they take action by related and land use. So that is my decision to concur with what Linda is saying if there is any discussion on that. Erv, you look confused.

E. Sadowski: No, I’m – I think that was...

M. Czubkowski: Do you mind if I clarify the statement? The property in question or where Village Square was to be is a planned mix use designation and the property that is to the north of it is classified as office.

M. Gardner: Rather than what the color is.

M. Czubkowski: Local and highway business. It is office. If you look at the commercial where it is highway, it definitely is a different red.

M. Gardner: Okay.

P. Schuman: I have a couple of comments. I voted against the one run by Janet Matt and Told Development when it first came here. I thought the traffic would be too high for the roads. I voted against this one in the Plan Commission. I did not vote against it this last Plan Commission meeting. We have a lawsuit. People say, well don’t negotiate with a gun to your head. I’ve been in the business world a long time. Shortly after my wife and her partner started their business, they put an ad in the paper to add some more people. They interviewed people, they rejected one lady. She then sued for age discrimination. My wife and her partner talked to an attorney who referred them to another attorney. The attorney said he never lost a case like this. I think the lady wanted something like \$3,000 to go away. They ended up losing the case and spending maybe \$40-50,000 on this. I made a phone call today to Betty Dow; the Clerk for Summit Township. They have a thing over there called Target Distribution Center. Many of you remember seeing this on Hwy. 67. Summit fought this, unsuccessfully, and their legal fees were \$350,000. \$350,000 which the taxpayers of the Town of Summit had to pay. I have several people in my district who want me to vote against this and I respect this. I also have several people in my district whose opinion I also respect. Tom Shannon is an attorney, he says we’ll probably lose on this. Two of the other developers on this site live in my district. Jim Behrend was the first one. His project was approved by this Council. He couldn’t get it off the ground finance-wise. He feels that if we go to court we cannot deny the use of the situation. Janet Matt and Told Development had the other one. I voted against that one. At the

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time Janet told me she was rather disappointed, she understood why I voted against it. She felt she had a case should she go to court to force the use of the property. She chose not to do it because she lives in Delafield. I think we need to know what our down side risks are if we turn this down. This should be on the record. \$350,000 in legal fees – that's one. That was Summit that they paid to fight the Target Distribution Center.

Mayor Craig: I'm not sure that you can bring the two together in the aspect that yes, that was a case that was fought and was lost, but I'm not going to...

P. Schuman: I'm just telling you what the facts are and we have a potential lawsuit...

M. Carlson: We have a pending lawsuit.

P. Schuman: Pending lawsuit. This is real. You have to know what the cost of fighting it is and that's what the fight cost was in another community. If we lose, Jim Behrend says that there's a good chance that the court will set the conditions. The court will decide what's going to be there and anything we have on conditions, those five hours we developed, would be thrown out the door. The developer is offering \$400,000, for example, for the roads. Linda just mentioned the value of a fund balance. This would go into our fund balance which would enhance our ability to borrow money at a much lower rate.

Mayor Craig: I'm not sure that \$400,000 would go into our fund balance. That's money dedicated for...

P. Schuman: We negotiate this. The letter from Spheeris today says it will go into our fund balance. If we want to put a fence around it for that, that's something else we can negotiate. We have major reductions to the schools for school aid and to us. There's an article today in Lake Country Reporter about minor changes made to the Arrowhead budget. Though no residents of the school district besides the board members and the district employees were at the meeting, they ran through the budget. We've got a lot of people complaining about what we're spending, and I'm not knocking the schools, but 70% of my real estate taxes are the schools. The schools get money a couple of different ways – they tax my home and your home, they get money from state aid and they have bake sales. If their aid goes down, and the Milwaukee Journal had an article on that, about potential aid loss for all the schools, what's going to happen is they're going to reduce services or it's going to end up on our property taxes. This is one way we have of partnering with private enterprise. It's available now, it may not be the best we want – we may not like what has happened, but it's a way a developer can create wealth, \$10-13M, depends on what we do there, we get taxes on that. We had independent financial analysis of the taxes. Again, depending on

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the size of development, for discussion purposes, it could be \$250,000; \$50,000 comes to the City, the other \$200,000 is split up between the schools. This could be the difference for the schools of having a music teacher or special ed teacher. This could mean the difference...

Mayor Craig: Be careful, you're not interpreting the funding of schools exactly correct. We also have a revenue cap that all schools are operating under which is a ceiling that they can tax. So, as far as will they raise property tax, they can't.

P. Schuman: They declare a levy and the levy is on my taxes.

Mayor Craig: And that levy must be underneath the revenue cap.

P. Schuman: This does create money for the schools. What they do with it is not under our control. I suggest we do approve some of the conditions we can live with and we avoid litigation and we can negotiate something for our fund balance. As far as the uses go, we have other B6's, the Marcus Theater and we have to be able to defend why it's okay to put a Marcus Theater next to a pure residential area and it's not okay to put a mixed-use business in an area that's judged both residential and business. So that's our challenge tonight.

L. Kuklinski: I think we're very specifically laying out the reasons for denial and I do want to make a comment on your economics – obviously that's another huge factor that we've all taken a look at. I'm not sure at what point the studies came in, if that was part of the original one or not.

P. Schuman: Yes, it was.

L. Kuklinski: We do know that the current development did show a positive affect on the total tax base, which includes the City's pieces, but that was true only in the Lake Country School District.

P. Schuman: But, Linda, we have four school districts in the City of Delafield?

L. Kuklinski: Well, you have Lake Country, which is inclusive of Arrowhead, Kettle Moraine and a small area of Oconomowoc. That essentially then is only one-third of the city that we represent that would get that positive impact. The weight of the factor for the economic impact in my mind, and this is up for discussion, the factoring for that particular issue is much less than some of these other issues. To me, the cost of the quality of life has far more impact than those economic issues.

P. Schuman: The discussion of what the quality of life is open for interpretation. The quality of life does mean you give money to schools, to have good schools. Again, we can debate what happens there.

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Sometimes quality of life is close to shopping and entertainment. Quality of life is also \$350,000 ...

L. Kuklinski: A lawsuit is very real.

M. Gardner: The \$350,000 bothers me because that's the Town of Summit.

P. Schuman: I don't know what it's going to be. Nobody knows what it is. I know that one situation where they fought a development – Target – and that's what it cost them.

M. Gardner: Exactly right. And when you used the analogy of your wife not hiring a person that's kind of blanket everything. People are going to turn around and no matter how hard you try are going to find something to try to sue.

P. Schuman: You're going to get sued. One of the things you try to do is avoid the lawsuits. You can have conditions. If you make them too rigorous, it looks like you're defeating it, if it's too generous you're walking away from it. I know we negotiate with developers all the time. I have other developers in my district and they say there's a lot of money in this – negotiate hard with it.

L. Kuklinski: We did give them conditions the first time around and they chose not to cooperate. Why would I be led to believe that if we offered them conditions this time that they would want to consider them?

P. Schuman: It'd be their choice to walk away.

L. Kuklinski: It was their choice on October 12<sup>th</sup>.

E. Sadowski: What I want to do is bring this back to Delafield. I'd like to bring this back exactly some thoughts that we have concerning Delafield with all respect to Town of Summit or anything else. I think, and this is mainly for the people out in the audience and also anyone else watching on TV, what our concern is and where I've based a lot of my decision is on B6. B6 is a commercial holding zone. What I want to do, and I'd like for record, to just read the intent of a B6 zoning and what it really is and what it's going to mean to Delafield. The intent is, "any development of this district must occur as a planned development, conditional use under the terms and conditions of Section 17.75 thru 17.84 of this chapter or successive provisions. The intent of the zoning is to create a district which will enable flexibility in terms of the specific types of land uses, but will assure that any development occurring in this area will be planned and designed within the context of integrated planned development. Permitted uses: No uses are automatically permitted or excluded." Then, I would just like to go to one other section, which is Section 6 and that's the land use compatibility. "A planned development

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permit variety of land uses and allows applicants flexibility in land use planning. However, all land uses within a planned development in the B6 zoning district must be compatible with the other land uses within the proposed development and compatible with the land uses of adjoining properties.” This is right in writing, under 6A. “Evaluation of compatibility between residential and commercial uses should specifically include the lighting impact, the screening of parking areas, outside storage, loading areas, preserving privacy, noise impact and hours of operation.” So it is very specific in a B6 commercial holding zone what land use compatibility there is and what the intent of this ordinance is. I’m basing a lot of my decision on our municipal zoning as I’ve done my research.

J. Krickhahn: I just wanted to say, Phil, I understand what you’re saying. I don’t believe it’s fair for either party to put as much weight on the pending lawsuit as perhaps you’re stating. The point of the matter is is we have to look at it as does it fit, does it fit our zoning, does it fit the needs and is it going to be best for the City? The lawsuit needs to be set aside. It cannot be there in our discussions or in our decisions tonight. It just can’t.

M. Gardner: I agree with you.

J. Krickhahn: It’s not fair for the people; it’s not fair for the developer.

Mayor Craig: I think it’s fair to keep in mind that there is the lawsuit there. But anything we do, as I have been trying to do all along this process, is to make sure we dot our i’s and cross our t’s. Ask the questions that we’re supposed to be asking, ask the questions that may be germane. And I think that this body and Plan Commission has done that. So you do have to keep it in mind, there’s no doubt that you can ignore a \$5M lawsuit. But, on the same hand, if you follow procedure, if you follow what has been set up for you in this book and in all the proceedings that this body has done.

J. Krickhahn: On the merit of it, solely on that.

M. Gardner: And of the master plan.

J. Krickhahn: Correct.

M. Gardner: Or comprehensive plan, however you want to do it. And in my research, that’s what I wanted to base it on. It’s the people and citizens that do the comprehensive plan. That’s how the zoning and the ordinances are created.

L. Kuklinski: Which is supported by all the zoning.

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M. Gardner: Which is all created. So, when there's directive given to take the emotion out of it, you can take the emotion out of it, but nevertheless that is still the people that have made up the zoning and the regulations and the master plan. I felt that I had to research the master plan and find in it actual verifications of what I felt was important and so that's why I do have it in writing. I think it's all left up to interpretation, like anything is.

Mayor Craig: Jeff, I need to point out to you that those minutes and facts are in draft form – they have not been approved by the Plan Commission at this time. Just so that you're aware.

J. Krickhahn: I understand. I just wanted to bring that forward in case anybody was using that as discussion for this evening.

M. Gardner: One other point that I wanted to make, and it's been made before, but in reference, Phil, to what you said about the taxes. I think that does have merit. You're absolutely right. If you add something to the tax base it's going to help us all out financially. But, when it was researched and the Plan Commission came back with how much we were going to profit from it, but when you added the services that needed to be given to an actual retail based property, the dollars kind of washed. It really wasn't a huge profit we would make. Then the concern with having to add more services, police and fire – things like that. I do think this is developable, and I think we need to add to our tax base, but I think it needs to be the right thing and we need to look at the mixed, what it says in the comprehensive plan.

P. Schuman: Well, there's about five hours of items we talked about and one of the concerns was exactly that. What we did in one of our conditions was to make sure that the taxes we received covered the services. If they did not, the developer would pay extra. Now you know how many police calls you make, how many fire calls you make, ambulance, and we can determine how much it costs us to operate and do make runs. These are things that are measurable. Then you add to that cost and then you bill them extra for that. So that makes it up for that.

L. Kuklinski: But that condition was never proposed by the developer.

P. Schuman: No, it wasn't, but we determine what that is. What we were doing at that Plan Commission meeting is deciding what we would accept. We're telling them whatever you do, we don't care what you propose, this is what you will meet and this is the conditions of that. And we got to the point where we say we want to vote on our own conditions, the Plan Commission turned down their own plans as far as I'm concerned.

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L. Kuklinski: They didn't turn down their plan, they were using that as a base and when they determined that those were conditions that they voted on the plan itself. Conditions were separate from and although they had that option, and I can't speak for why you voted or each of those individuals voted in that way, but I know that ultimately even based on all that time and effort they felt that this plan didn't meet that. For whatever reason, they obviously felt that the conditions weren't to be pursued with that.

P. Schuman: They determined what their own conditions were.

L. Kuklinski: But again, the motion that's on the Board, the conditions aren't relevant.

P. Schuman: I understand. This is what the attempt was. People say I know that something is going to be there. I just don't like this. In my discussions with constituents, what would you like to see? Well, I don't know, but I don't want this. There's no opening with that.

L. Kuklinski: If the developer would chose to come back, then he would have a base to come back. And there's nothing to say that the developer could not come back.

P. Schuman. You're absolutely right.

Mayor Craig: Amend that comment from the aspect that I've talked to a number of people up in that area and they have specified what they would like to see, more office, smaller retail and the sort. There are people that are specifying exactly what they would see that are attached to that piece of property.

L. Kuklinski: Those were all comments again in the public hearing. The citizen's comments and comments alluded to in the council reference before.

P. Schuman: One of the conditions we had did not exceed 150,000 square feet and be no more than 75% retail. This was voted on and that's what the conditions of this development will meet. If for some reason that the Plan Commission felt it wanted a smaller amount, they could have suggested 100,000 or some other amount. That was voted on.

L. Kuklinski: You're making assumptions, Phil, that they would accept those.

P. Schuman: What you do is you set the conditions.

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L. Kuklinski: It's still their responsibility to set the conditions. They're the developer, they're the ones who are supposed to develop the plan to make a presentation.

P. Schuman: Well, we come back with conditions on everything. We've done that tonight with what we've approved for Nagawaukee Shopping Center. We've made the conditions change on that.

Mayor Craig: We haven't heard from Don or Mike. Do you have words of wisdom that you'd like to add?

M. Roberts: Not right now.

Mayor Craig: I'm just trying to allow you the opportunity to join in here.

D. Swain: I want to make a point. I do agree with all the work that Linda's done and the points she's made—I do agree with them. I do believe that the developer is not willing to work with us now. I don't think he's going to be working with us in the future very well either. If it does get turned down, if they want, they can always come back with a new development if they wanted to.

M. Gardner: I think that's a good point because we're denying them to develop their property. It's not a constitutional property right – we're not denying them to develop it. We're saying that we would like something different. So we're not, in my eyes, I'm sure that's up to legal interpretation, we're not invading their constitutional property rights. They can develop it, but it needs to be a different development.

Mayor Craig: More compatible to our zoning and comprehensive is what you're saying.

M. Gardner: And I come back to the southwest corner is designated as a planned mixed use. And I think that's important – mixed use. And this is not a mixed use. Even if you throw in, and I don't know when they threw in the retirement home or village of whatever you want to say, senior housing, it wasn't part of the plan so it is an afterthought. I wouldn't consider that as a planned mix use.

E. Sadowski: We actually, I'll go through this a little bit. We actually have criteria for approval. It's written right in our zoning code. And it's under 17.75 #8, and it's criteria for approval. It spells everything right out in black and white. The intent of a PD, planned development, procedure is to enable the developer to have a greater flexibility in planning for land uses and site design than would be permitted under standard zoning provisions. However, there are some general criteria that the Plan Commission will follow in reviewing and approving the PD's criteria for approval. And this includes everything that I think people have been talking about. We're basing this on something. And I'm

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basing my decision on our actual zoning code. The first one is the character and intensity of the proposed development must be compatible with the physical character of the site. Point B: Existing mature vegetation and natural topography will be preserved to the greatest extent feasible. Next point: The character and intensity of the proposed development must be compatible with existing and planned land uses on nearby and adjoining properties. D: The proposed development must not result in diminishing of property values of adjoining or nearby properties. Sorry, but I'm going to through the other four because you have to base your opinion on what our zoning codes says and that's what I'm basing this on. E: Existing and planned street and highway improvements are adequate to handle the projected volume of traffic generated by the proposed development. F: There is adequate capacity in the public sanitary, sewer and stormwater sewer system to handle the projected demand. G: The proposed circulation system and the design and layout of utilities has taken into account existing and potential streets and utility systems of adjoining parcels. And the last point that I'm basing a lot of this on—the extent of paving, drainage patterns of topographic modifications will not disrupt natural drainage patterns on adjoining or nearby sites or otherwise result in environmental damage to downstream areas. And the point I want to make, the City of Delafield was formed to protect Lake Nagawicka. Pine Lake is the north of it. If you look at the criteria for approval, under #8, out of all eight points, does it meet all of these, none of these, or not many of them? That's what you have to base your decisions on. Our zoning code and how this project fits into Delafield and the future of Delafield. That's where a lot of my research has been done.

L. Kuklinski: I guess I'd like to get specific on those so people understand that and coordinated with that section in 17.75 is 17.40 which is conditional use approval. That says that provided such conditional uses and structures are in accordance with the purpose and intent of this chapter and are found not to be hazardous, harmful, offensive or otherwise adverse to the environment or value of the neighborhood or the community. And very specifically, offensive land use compatibility. I understand the zoning, but I understand that across the street is residential and the current land use of the adjoining properties is residential. The adverse environmental impact is the lack of preservation of the isolated natural corridor and mature vegetation, namely the trees. There's the lack of value for the adjoining residential properties, there's a lack of value of community retail needs that are not already being met. In fact, there's a border agreement on Hwy. 83 specifically restricting retail, adverse traffic generation and movement in this residential area and near residential driveways. This is also an academic corridor with Lake Country School and University Lake School. Right now there is a lack of highway support on Hwy. 83 and on the exits of Hwy. 16. That support from Hwy. 83 is years down the road. And the negative impact on the quality of life outweighs the tax-base value. And

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that's why I conclude that this is not in the best interest of the City of Delafield.

P. Schuman: Let's hope if it goes to court that the judge agrees with you. Reading Mr. Spheeris' letter today, perhaps he won't do that. He says, "in closing, we would like to say that we understand that due to financial reasons we've had to have taken various legal positions with regard to the City's decisions in dealing with this development, this should not be construed as an unwillingness to compromise on other issues." I'm not sure what that means, but there is a lot of opposition to this. I'm aware of that. I think part of my role is to just explain what the other side is, what the down side is.

L. Kuklinski: Absolutely. And they were considered very seriously by everyone.

P. Schuman: This is dollars and cents and some people whose opinions I respect. Opinions are important. You can have 100 people say that dot on my forehead is just a freckle, but if the 101<sup>st</sup> person says it's some skin cancer, for example, and that person is a board-certified dermatologist, I'm going to take that person's opinion, more than someone else's. We have some people in my district I respect. I respect all of them. I can't take everybody's opinion and do it because you can only vote one way. But I hear the predominance of evidence here and the feeling of the Council, and it sounds like Mr. Spheeris is willing to do some negotiating now where before he wasn't.

L. Kuklinski: With the letter he provided at 4:15 this afternoon.

P. Schuman: Yes, it's a little late. When I was at the Plan Commission, he said either vote it up or vote it down. Well, I didn't like what he wanted to propose.

L. Kuklinski: And that is the main point, Phil.

P. Schuman: I agree with you - 100%.

L. Kuklinski: We're voting up or down here and everyone is taking into consideration all of the input; both sides of the input. But, ultimately, my decisions and it's obvious that the decisions of others are based on what's here. What is the plan, what is in the zoning? That's ultimately what the decisions are based on. We obviously want to hear from the people, we listen to the people, we listen to both sides of the people. One doesn't necessarily outweigh the other, but the direction is right here in front of us.

E. Sadowski: I'd just like to add and believe me this is only three sentences I'm reading. But this is under the zoning code 17.42, "the decision of the Common Council shall be final and the applicant will be

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deemed to have exhausted his administrative remedy upon such a decision.” So to echo what Linda said, we’re basing our decisions under exhaustive research, much input from not only the constituents, the City of Delafield, but what we’re seeing in black and white. And this decision is not being made adversely or without a lot of thought and care. I’m basing my decision on what’s in black and white and how the City was set up. I’m part of it and I represent it.

L. Kuklinski: Call the question.

Mayor Craig: The question has been called.

M. Carlson: Could I help with a couple of comments before you vote on the issue?

Mayor Craig: I’ve got to say that it’s not a debatable item here. When the questions been called. I’m sorry. Without objection, I will allow it, though.

P. Schuman: That’s fine.

M. Gardner: I have no objection.

*The other commissioners did not object.*

M. Carlson: Linda, I disagreed with one thing that you said. When you were talking about whose responsibility it is to assign the conditions. Very clearly it is your responsibility as City Council to approve the final conditions. You do it with the conditional use permit, you do it with the development agreement, so I don’t think that’s what you meant to imply. I just wanted to clarify that.

L. Kuklinski: Okay. If you’ve made the comment, I’ll go ahead and clarify. I thought that I circled back, but yes, the Plan Commission, as well as the Council, does have the opportunity to place conditions on proposals that have come forward. My point is we already have provided those conditions. We have given that opportunity and those conditions to the developer and he has chosen not to act on them. Therefore, I don’t choose to keep giving him different conditions and different conditions until he finally agrees. So by denying this based on all of the work and input and our zoning and our master plan, hopefully now they will come back and meet these conditions and meet these concerns that I think we have articulated very specifically tonight.

M. Carlson: Okay. Second point I want to make is that if and when the developer does come back with another plan, it’s important to understand that it’s not something that’s being generated by this group. This group is a responsive body. You respond to proposals that are provided to you. I don’t see anybody on the City Council or on staff or

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anybody that's associated with the City of Delafield out there shaking the trees trying to get a developer to come in with a development plan for this property. We're not cooking up our own development plans. We respond to those kinds of responses. The point I want to make is a public point. Don't shoot the messenger if and when they come back with a new plan. You're required to hear it. I heard this criticism at the beginning of the presentation of the Village Square project. Well why are you listening to this or why are you entertaining this idea?

L. Kuklinski: Because we have to. And we want to.

M. Carlson: That's the point. And then the last comment I'd like to make is that very clearly the courts are going to be involved with this project in one form or another. So you very quickly get to a point where although it may not be the basis of your decision as Alderman Krickhahn pointed out, it shouldn't factor in to the way you go about your business as tonight's discussions. You have to keep in the back of your mind that you are going to get sued in one form or another. And that one party or one side of this whole equation is not going to be happy with the end result. And so if we think this a little bit further and say okay, what happens if the courts decide these issues? The court then is imposing an answer to this issue. There is an alternate method of land use disputes or land use decision-making that can be completely different from what we've been going through here in the last five years as a community. And that is a developer brings in a development plan, they hold their public hearing, they get yelled at, staff gets yelled at for doing review, you get yelled at, you get calls, both sides get really involved in it and everybody goes away from the whole process feeling very disappointed that their input was either ignored or it didn't result in something that the people could say yeah, we rolled up our sleeves and we did the best job we could. And that process is called a charette. The American Planning Association provides a planning team that can come out to a community and they're planning professionals from throughout the country. You have to pay them to come out. They sit in a room over a long period of time and they create through a design process what amounts to be an acceptable land use plan.

P. Schuman: Like arbitration, Matt?

M. Carlson: It's similar to arbitration, only in arbitration there's finality – someone wins and someone loses. And I guess what I would say is we may not have this option available to us. The courts step into this thing and they decide it one way or the other, it may not be an option that's available. But should the developer chose to come back to the community with a new plan, perhaps this new process where you put interested parties in the room, property owners, homeowners, school representatives, church representatives, you put all of these interested parties in the room together and you come up with the best consensus land use plan that you can come up with.

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M. Gardner: Are you talking for a specific parcel or are you talking in general?

M. Carlson: I'm talking about a specific parcel.

L. Kuklinski: I think that this body as well as the other bodies that were involved would welcome an opportunity to have that exchange of dialogue rather than be forced in to a position to accept or reject any one single plan. So, I think that would be excellent.

M. Carlson: I guess I would just throw that out.

Mayor Craig: It also needs to be clarified, this body would then still have to approve or deny that plan.

M. Carlson: This body and the Plan Commission would have to make a recommendation.

Mayor Craig: The legislative process needs to be ...

M. Carlson: It doesn't replace the legislative process, it's an addition to that. It's very similar to the Genesee Street Steering Committee process. It didn't replace the need for the Public Works Committee or the Plan Commission to be involved in it or your final approval. It was in addition to it. So, I would suggest that if the Council votes to accept the Plan Commission recommendation and the developer decides to come back with a new development plan outside of the context of a lawsuit, then perhaps a better result would come from that process.

J. Krickhahn: Did they not say something like that in the Plan Committee as far as the developer getting together with adjacent land owners and other people to review it and discuss it?

M. Carlson: But that's after the project has been approved.

Mayor Craig: That was one of the conditions if the project was accepted that they would come to the neighborhood and talk to them and explain it to them.

J. Krickhahn: I guess it would just make sense to put it before that.

M. Carlson: That's kind of what I'm saying here. The developer has another path - sure they can exercise their legal rights, but if they should chose to come back to the community, perhaps there's a better method of approaching this land use issue, but it's entirely up to the developer to try and walk down that path and it's up to you and the Plan Commission and the community to participate in that kind of a process.

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M. Gardner: There's also other avenues and I don't know if this is the time to kick things out, but in what you're saying, it also kind of runs along the line of some things that I've said in the past, is have the developer in a lobbyist point of view, go door-to-door, talk to people in the community and then come to us meeting the criteria. Well, did you do this, do they like this, and here's the points.

M. Carlson: The developer claims that he did that early in the process. I don't know who he talked to, you're not going to please everybody, and what information he gleaned from it. But all I'm suggesting, if the developer should decide to drop the shield and the sword and pursue a different path, perhaps there is a different path that's available that could result in an end product that you'd be happy with, the Plan Commission would be happy with, the neighbors would be happy with, and still profitable for the developer.

L. Kuklinski: I think that the opportunity for that kind of forum would do exactly what you said, only it's just going to bring it in to a single spot similar to some of the meetings that we have where we rather than going door-to-door, you open the doors and say, please come and please provide your input.

M. Gardner: Like a design workshop.

L. Kuklinski: And then we'd strongly, strongly encourage the citizens to be participants in the process before it gets to that point.

M. Gardner: Open-minded participants.

J. Krickhahn: I would have absolutely no problem orchestrating something like that.

M. Gardner: I think design workshops are just key to what we've been dealing with over the last couple of years.

Mayor Craig: The question was called. Debate is starting to wander from the motion.

E. Sadowski: Can we have the exact motion that was made so we know which way to vote on that?

**L. KUKLINSKI MOVED TO ACCEPT THE RECOMMENDATION TO DENY. E. SADOWSKI SECONDED THE MOTION. NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

Mayor Craig: And I want to thank you all, those of the citizens, those on this Board, the Plan Commission, all the staff that have put countless number of hours in on this project. I want to deeply thank you all and we're going to move on.

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6. MAYOR'S REPORT

a. APPOINTMENTS

Promotional & Tourism Committee  
Mary Daniel

Mayor Craig: I did receive a letter from the Delafield Chamber of Commerce that met on May 8<sup>th</sup> and asked for their representative to the Promotion and Tourism Committee be Mary Daniel. This is a position that's been vacant for about a year with conflict of times being able to meet and also trying to find somebody that's willing to serve it from the Chamber. Mary is a member of the Lang Company and they feel that she's a good candidate for it, so I'm going to bring that nomination forth.

**M. ROBERTS MOVED TO ACCEPT. D. SWAIN SECONDED THE MOTION. NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

Mayor Craig: To let you know, your Mayor has been a busy little boy. He's been meeting with the Tourism and Promotion. You'll be seeing some banners from the Promotion and Tourism going up in the area of Golf and Hillside. I'm sorry to say that we are not going to putting banners on Genesee, due to the construction. I don't think the poles being down would look good with flags. It would be very disrespectful, also.

I have been meeting with Matt.

I have talked to all of you, talked to a number of citizens.

I was honored to be able to witness our CIT demo out at St. John's. Outstanding. I knew this people were coming in the room and when they came in the room my hair still went up on end. It was quite impressive.

Two sessions of Plan Commissions.

Office hours that were abbreviated due to one of the Plan Commissions.

Again I was very honored to help the American Legion with their poppy sale.

I also saved the best for last. Friday night I attended an Eagle Scout Court of Honor at St. John's and it took me back to when I became an Eagle Scout. This young man has done a great deal of community service to our community. He has helped build and restore some of the work at Cushing School. They are looking to continue this sort of behavior at the Academy and I was very honored to meet this man. The

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gentleman's name is John Edward Nelson. A young man that I think we're going to see quite a bit of in this country. He's a very dedicated civil servant minded type of young man. Looking forward to that. That is the end of the Mayor's Report.

7. NEW BUSINESS

- a. DEL HART FINANCING RESOLUTUION 2003-03 ENTITLED CITY OF DELAFIELD COMMON COUNCIL MEETING MAY 19, 2003 AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$5,000,000 SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003, AND PROVIDING FOR OTHER DETAILS AND COVENANTS WITH RESPECT THERETO.

M. Carlson: Dave Anderson from our independent financial advisor, Ehler's & Associates is here to walk us through the Del Hart financing. For those of you who are on the Del-Hart board, you know this project very, very well. We are using Clean Water Fund loans to finance our improvements and expansion of the Del-Hart Sewage Treatment Facility. The resolution that's before you authorizes the issuance and the sale of \$5M which is our portion of the commitment. The Village of Hartland is also issuing a \$5M commitment to finance this project and then the balance of the funds will come from the healthy fund balances over at the Del-Hart facility. They knew that expansion project was on the horizon and they dedicated streams of revenue from the Town of Summit project to help pay for their expansion. Dave, I don't know if you want to add anything to that summary. The one issue that we are still waiting for is a letter of concurrence or review from Chuck Jerik from our bond counsel, Chapman & Cutler, and I think we would feel very comfortable with the City Council approving this resolution, subject to us receiving a favorable letter from Chuck Jerik from our bond counsel.

Mayor Craig: Do you concur with that?

Dave Anderson: Yes, I concur with that. I'll be very brief. This just authorizes the bond which is the Clean Water Fund loan. The Clean Water Fund makes a loan at 2.75% for 20 years. That's the best financing that you can possibly get. They will not make that loan directly to the Del-Hart Commission, so therefore they require a separate document from you and a separate document from Hartland, \$5M in each document. Now this does not affect your rates at all, it's still being paid through the normal process, through the Commission, but just adds a security measure. Each community is putting up a bond for that amount of money.

Mayor Craig: Just to make it perfectly clear, there is none of the city tax money being put forth towards this \$5M. In addition to that, the City of Delafield has no intent at this time to raise the fees. The fees that are currently being collected are able to cover this.

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L. Kuklinski: The payments toward the \$5M bond by investment instruments as they mature over 80% of the payments for this bond are already set aside by Del-Hart.

M. Carlson: That's impressive.

L. Kuklinski: And they have paid off all of their other debt, so aside from this, the Del-Hart Commission is debt-free.

E. Sadowski: And Hartland's okay to bond?

P. Schuman: We had a joint meeting before you came on the Council with Hartland.

L. Kuklinski: We've already adopted resolution to do this. This is just the official resolution of the bond procedure.

D. Anderson: This is final action on the bonds.

**L. KUKLINSKI MOVED TO APPROVE THE RESOLUTION 2003-3 SUBJECT TO A FAVORABLE LETTER FROM THE BOND COUNCIL AND SUBJECT TO APPROVAL BY VILLAGE OF HARTLAND. E. SADOWSKI SECONDED THE MOTION. A ROLL CALL VOTE WAS TAKEN: J. KRICKHAHN, AYE; P. SCHUMAN, AYE; E. SADOWSKI, AYE; M. ROBERTS, AYE; M. GARDNER, AYE; L. KUKLINSKI, AYE; D. SWAIN, AYE. ALL WERE IN FAVOR. MOTION CARRIED.**

Mayor Craig: Thank you, Dave for coming out this evening.

- b. APPROVAL OF GENERAL DEVELOPMENT PLAN, CONDITIONAL USE PERMIT, DEEDS, COVENANTS & RESTRICTIONS AND STORMWATER MANAGEMENT AGREEMENT FOR FAIRE LAKES COMMONS SUBDIVISION.

Mayor Craig: This deals with Faire Lakes Commons Subdivision. I believe we have Connie Anderson, who introduced herself at the Citizen's Comments. If you'd like to come forth. Do you have a statement or presentation that you'd like to make first of all?

Connie Anderson: Just to keep things short, I think we've got a very small subdivision. It's a five lot subdivision. They are at least a minimum of three acre lots in the subdivision and should be all upscale homes that are being proposed. We have prepared and presented the development agreement, the conditional use permit, the declaration of restrictions and covenants and the stormwater management measures. We have gotten feedback from the engineers on that and have incorporated their comments and also from your attorney, Bill Chapman, and those comments have been incorporated. This was at the Plan

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Commission on Wednesday night, and it's my understanding that there were two or three issues that came up that we would be happy to address. One of them has to do with whether the road should be a collector street or a minor road. It sounds like a significant difference between the two is the width of the right-of-way. That on a collector it's 66' that you'd like and on a minor street, there's 60' that you'd like. We're happy to expand that to the 66' that you're looking for. I also know that there are some questions that I can try to answer about the area where the new street intersects the existing street. That seems to be one issue that's a concern, as well as some trees that there are on the west right-of-way line that was brought up. Basically, these are using documents that you recommended and have been approved by your staff and representatives.

Mayor Craig: There's a cover letter that's been distributed to all of you summarizing the changes that the Plan Commission put forth to this plan and document since we didn't have the minutes. You should know that were eight points that we thoroughly discussed. The intersection that was of great concern; the developer was very gracious and is allowing us more right-of-way for some flexibility of that in the future to come. The 66' right-of-way was very important and was deeply discussed. This, most likely, will be a road that will be connected to Cardinal Lane on Hwy. 83.

M. Roberts: Where is this at right now?

M. Czubkowski: Just north of the Bark River on Nagawaukee Road.

M. Carlson: To perhaps accelerate this, the staff recommends approval of the Plan Commission recommendation with one addition: that is an amendment to the letter of credit requirements to require 115% of the total value of improvements, not the 15% that is included in the development documents.

C. Anderson: And obviously that's an oversight - it should be 115%.

Mayor Craig: This developer has been really very accommodating to all our needs and desires. He is one that's going to be moving into the subdivision, so this is not a hit and run.

L. Kuklinski: Based on everything that they've incorporated, you know, it's all of the things that we are looking for with a working partner and all of the stormwater issues and the coordination of some of the studies that we have ongoing. So the condition, then, Matt, do they relate directly to the developer's agreement?

M. Carlson: Some of them are language right from the conditional use permit. The Plan Commission approved all of these documents and the preliminary plat, per the staff recommendation and per the items 7 & 8

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that's included on my staff memo that I've distributed. The deeds, covenants and restrictions will include language encouraging the use of natural fertilizers and pesticides, the developer will relocate a tree on the west side of Nagawaukee Road that's currently in the vision triangle and city right-of-way rather than cutting the tree down and the 115% of the total value, rather than 15%.

**L. KUKLINSKI MOVED TO ACCEPT THE DEVELOPERS AGREEMENT FOR FAIRE LAKES COMMON SUBDIVISION AND THE RELEVANT PLAN COMMISSION CONTINGENCIES. M. ROBERTS SECONDED. NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

**L. KUKLINSKI MOVED TO ACCEPT THE ORDER GRANTING CONDITIONAL USE TO THREE DOG DEVELOPMENT, LLC FOR THE FAIRE LAKES COMMONS SUBDIVISION ALSO WITH THE RELEVANT PLAN COMMISSION CONTINGENCIES. M. GARDNER SECONDED. NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

**M. GARDNER MOVED TO ACCEPT THE RESTRICTION AND COVENANTS FOR FAIRE LAKES COMMON SUBDIVISION AS DRAFTED BY THE PLAN COMMISSION. E. SADOWSKI SECONDED. NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

**M. GARDNER MOVED TO ACCEPT THE STORMWATER MANAGEMENT MEASURES FOR FAIRE LAKES COMMON SUBDIVISION AND OF THE MAINTENANCE AGREEMENT TO ACCEPT IT AS WRITTEN WITH THE CONTINGENCY OF THE MAY 19<sup>TH</sup> LETTER. M. ROBERTS SECONDED. ALL WERE IN FAVOR. MOTION CARRIED.**

C. Anderson: Thank you very much. This is a side comment. We work with a lot of communities. Your city staff has been wonderful to work with; as has Welch-Hanson, Roger Dupler has done a great job getting back to us and your city attorneys. So, thank you for making the job as easy as you did on your side.

J. Krickhahn: Just a point of order. I believe when Marily made the motion for the declaration of restrictions and covenants for the Faire Lakes Common Subdivision it was not contingent...I don't believe that got put down.

Mayor Craig: She referred to the letter. We're covered.

8. ADMINISTRATOR'S REPORT

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M. Carlson: A couple of highlights since we last got together. I've held several meetings with department heads, met our new assessor, got an update on where we are with data conversion and computerizing our database. Doing very well on that issue. Met with property owners in Delafield; held an orientation meeting with our new Plan Commission member, Dick Kuchler; conducted interviews for our Public Works Director position. We have another round of interviews scheduled for the Tuesday after Memorial Day. We have three scheduled for that day with the possibility of adding a fourth.

E. Sadowski: Are these second interviews?

M. Carlson: For two candidates it is a second interview. Met with property owners on the east side of the Carriage Hill Subdivision on West Shore Drive regarding stormwater issues. We're making some progress on that issue. We met again today and shared a draft easement for stormwater management with the neighbors along that route. We have a meeting scheduled tomorrow with the representatives from the DNR and we're going to see if we can get them to agree the approach for designing a stormwater improvement on the east side of West Shore Drive. Prepared and participated in the Finance Advisory Board meeting and our Special Plan Commission meeting and then I have two pieces of good news to share with you. I have accepted an appointment to the Board of Directors for the Town & Country YMCA Board and also the Wisconsin City Managers Association Board of Directors slot for the Wisconsin Law Enforcement Accreditation Committee.

*Congratulations were given to Matt.*

9. CLERK'S REPORT

a. NOTICE OF BOARD OF REVIEW 2003

M. Czubkowski: Just a reminder that Board of Review will be held on July 24<sup>th</sup> and the agenda will be put together on July 22<sup>nd</sup>. Open vote is) July 7<sup>th</sup> and July 8<sup>th</sup> and it was all noted in your City Newsletter. I hope you all received it and enjoyed it.

L. Kuklinski: That was an excellent edition.

10. FINANCIAL REPORT

a. APPROVE VOUCHER LIST

**M. ROBERTS MOVED TO APPROVE. E. SADOWSKI SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

11. CORRESPONDENCE

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None noted.

12. ADJOURN INTO CLOSED SESSION PER §19.85(E) DELIBERATING OR NEGOTIATING THE PURCHASE OF PUBLIC PROPERTIES, THE INVESTING OF PUBLIC FUNDS, OR CONDUCTING OTHER SPECIFIED PUBLIC BUSINESS WHENEVER COMPETITIVE OR BARGAINING REASONS REQUIRE A CLOSED SESSION (CONSOLIDATED SERVICES).

**E. SADOWSKI MOTIONED TO ADJOURN INTO CLOSED SESSION. M. ROBERTS SECONDED THE MOTION. A ROLL CALL VOTE WAS TAKEN: J. KRICKHAHN, AYE; P. SCHUMAN, AYE; E. SADOWSKI, AYE; M. ROBERTS, AYE; M. GARDNER, AYE; L. KUKLINSKI, AYE; D. SWAIN, AYE. ALL WERE IN FAVOR. MOTION CARRIED. ENTERED INTO CLOSED SESSION AT 9:35 P.M.**

13. RECONVENE INTO OPEN SESSION

**P. SCHUMAN MOTIONED TO RECONVENE INTO OPEN SESSION. M. ROBERTS. A ROLL CALL VOTE TOOK PLACE: J. KRICKHAHN, AYE; P. SCHUMAN, AYE; E. SADOWSKI, AYE; M. ROBERTS, AYE; M. GARDNER, AYE; L. KUKLINSKI, AYE; D. SWAIN, AYE. ALL WERE IN FAVOR. MOTION CARRIED. OPEN SESSION RECONVENED AT 10:10 P.M.**

14. ACTION OF ITEMS DISCUSSED IN CLOSED SESSION.

No action was taken.

15. ADJOURNMENT

**L. KUKLINSKI MOVED TO ADJOURN FROM THE MEETING. M. ROBERTS SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED. THE MEETING ADJOURNED AT 10:11 P.M.**

Respectfully submitted:

Minutes Prepared By:

Marilyn Czubkowski, CMC  
City Clerk/Treasurer

Accurate Business Communications LLC