

CITY OF DELAFIELD COMMON COUNCIL REVISED MINUTES

CALL MEETING TO ORDER

Mayor Craig called the meeting to order at 7:04 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present

Absent

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

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

1. APPROVE MINUTES OF FEBRUARY 7, 2005 MEETINGS

E. SADOWSKI MOTIONED TO APPROVE THE MINUTES OF THE FEBRUARY 7, 2005 MEETING AS PRESENTED. D. SWAIN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

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

Carol McAllister, 1925 Moraine End – Spoke regarding Item 7e. She stated that if this were passed, she would need to research everything out herself. She does not have that amount of time necessary to do this. Asked what the point was for having elected officials was if they were not allowed to exercise their judgment. She asked that the Common Council not bow to single individuals.

Bill Restock, 4527 Vettleson Road – Spoke regarding the Plat Approval, Page 3, Section 2(b) of the Development Agreement of Village Square. Asked that the “Development Agreement” not be approved until the developer identifies the

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proposed use of the entire parcel. Regarding the letter from M. Carlson to the Mayor and City Council, bullet points 4 and 5, B. Restock felt that M. Carlson and UPI should be required to provide “worst case” scenarios as to how much cost could be incurred by the City of Delafield in order to provide water and sewer services to Village Square. Do not approve the Development Agreement until you are fully aware of what costs the taxpayers have to subsidize. The third item he spoke about concerned “Exhibit A” and he felt that M. Carlson and UPI should be required to address the development as one parcel and require that the plans be presented for the entire development as one “whole” development. Item 4 – regarding “Exhibit B, Revisions to the Settlement Agreement”. Require M. Carlson and UPI to guarantee the City of Delafield that no taxpayer’s dollars will be used to subsidize the Village Square water supply. Item 5: regarding the memo to M. Carlson from T. Hafner. Requested that M. Carlson and the City of Delafield clarify their intent and the costs associated with requiring sewer hookup for the surrounding residential properties. In addition, he stated that it is frustrating as a citizen to comment on a project that will be presented later on in the meeting and hoped that in the future presentations could take place first and then comments be made after the presentation.

Bob Borkowski, 4521 Vettleson Road – Read the letter from Schober Schober & Mitchell SC regarding concerns with the Village Square Development Agreement.

Sheri Meyers, 4447 Vettleson – She agreed with the two previous speakers. Also stated that it looks like there could be a “raceway” through the development. The grading of the property in regards to the run-off was a concern to her.

Barb Begale, 1224 Woodside Street – Agreed with all of the comments made. She was concerned that the citizens haven’t had time to get together to discuss anything. Suggested a book entitled “Corporation”. Asked that the Common Council make sure that everything is sewn up tight in the way that the City wants before finalizing. She stated that a corporation can be classified as a minority.

Todd Riley, 1018 Milwaukee Street – Spoke regarding Item 7E – He urged the Common Council to consider the importance of leadership in making choices for this city. The Citizens rely on the elected citizens.

Tom Kelley, 2218 West Shore Drive – Spoke regarding Item 7E – He thought that the people should have input on items that cost more than \$1 million, but asked to delay the vote on this. He thought this would be healthy for the City.

Jim Zahorik, 1948 West Shore Drive – Spoke regarding Item 7E – “I would like to thank everyone on the Council for later on this evening considering what currently 566 people in this community have signed a petition for. Concerning Item 7A – Approval of Village Square Development Agreement subject to City Attorney’s Final Approval. And I refer to Section 17.40 of our zoning code. Under Conditional Uses, ‘Conditional Use approval and permit required in the B6 zoning, this is going to be a conditional use, and not use of buildings or premises classified as a

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conditional use in this chapter shall be undertaken, extended, or [emphasis added] changed, or continued except upon recommendation by the Plan Commission and approval by the Common Council. The Plan Commission may authorize the Administrator to issue a conditional use permit for conditional uses after review and a public hearing provided that such conditional uses and structures are in accordance with the purpose and intent of this chapter.' What is being presented to all of you, is the document you have in front of you, is a change from the previous. It is a different footprint, it is a different square footage, it has different impacts on the surrounding neighbors. Just because it is presented in a reduction of square footage, and you've already approved one of a higher square footage, many concerns brought up this evening have to do, number one, with the outlots, but number two I would hope that you live by your own ordinances and if someone comes in with a change and its covered under conditional use, it still has to go in front of the Planning Commission and a public hearing. Item 7B – 'Proposal from Earthtech regarding special assessment – water main and well design contingent upon approval of the Village Square Development Agreement.' In your packet, and I don't know where it is, is a memo to Matt Carlson from Tom Hafner with copies to the Mayor and Common Council regarding the engineering contract proposal for water system expansion. 'Attached is a contract proposal for the engineering services that would be required for the proposed water system expansion on the east side of Delafield. Due to the time constraints, a single proposal was solicited from Earthtech based on their work on the City's water master plan.' I want to refresh your memories; you are looking at the past president of the Delafield Coalition for Sensible Water and Land Use. In the City's water master plan, was soundly defeated in an advisory referendum because I and other members of that group did not see it fit to sue the City when we presented a previous Council with direct legislation to stop a city-wide water system. But those are the people who put it together. So, basing a single requirement from them and stating that due to time constraints a single proposal was solicited, just smells like it did a number of years ago when the agenda stated 'A feasibility study for water'. Citizen's comments had been completed. And Earthtech came up and presented a previous Council with a complete layout of the City, the costs \$25.1 million. It was voted upon and approved that evening. And then our group had a catch up and fight and we were successful. The fees associated with the proposed contract are as follows: Design construction related services with well drilling - \$31,000; design construction associated with well pumping - \$50,000; design services associated with water transmission - \$118,000; basic construction management, well facilities, water transmission means - \$37,800; total base compensation - \$237,500; optional services, water transmission main construction inspection - \$70,800; total contract with optional services - \$308,300. I have reviewed these fees with respect to average hourly rates as a percent of construction costs and as compared to the City's budgetary cost estimates for this work. The fees included in this proposal are reasonable for the scope of the work to be performed. In an effort to meet the proposed scheduled included in the Village Square Development Agreement, it is imperative that the well investigation surveying and design engineering work proceed immediately. It was assumed that the engineer would begin work on March 1st. It is my

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recommendation to City Council award the proposed contract to Earthtech for an amount not to exceed \$308,300.’ As a taxpayer of this City, don’t tell me about timelines. If this is hurry-up situation, on something that’s been four years in the making, we have a serious problem. And when we do not put a \$308,000 contract out to competitive bids, something is very serious here. I’m not pointing any fingers, but it’s not too late to change a process that really bothers me. And if it bothers me, believe me, it bothers every taxpayer in this City. And to leave on a pleasant note, I have another meeting, you people are busy, it’s going to be 11 o’clock short. So I’ll be back when, our agenda item. Thank you for your consideration.

Brian Faracy, 852 Scenic Heights Drive – Spoke regarding Item 7E – Prefers the representative form of government. Felt that the City Council does a pretty good job and there are many who agree. There are many people who feel that the elected officials represent the public. The system is not broken and therefore it should not be fixed. He discussed the costs and effects of referendums.

Mayor Craig asked three times if there were any more citizens who wished to speak. There were none.

E. SADOWSKI MOTIONED TO CLOSE CITIZENS COMMENTS. P. SCHUMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. CONSENT AGENDA

None.

4. COMMITTEE REPORTS

a. LICENSES

Two Year Bartender License

- Sarajane L. Bratberg, 2720 Nagawicka Road, Hartland; American Legion
- Elizabeth L. Nuernberger, W314 N731 Cambridge Ct, Delafield; American Legion
- Loriann Knapp, N8065 Lac La Belle Dr., Oconomowoc; American Legion

M. ROBERTS MOTIONED TO APPROVE THE ABOVE TWO YEAR BARTENDER LICENSES. D. SWAIN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

b. PLAN COMMISSION

The Plan Commission will meet this Wednesday.

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c. LAKE WELFARE COMMITTEE (DRAFT MINUTES OF FEBRUARY 9, 2005 MEETING INCLUDED)

The next meeting will take place on March 9, 2005. They will be discussing the WALC meeting that was held at WCTC on February 12, 2005 which five members attended. The buoy and boating survey is due at the end of the month. A call has been received from the CNR Bass Club. The annual meeting will be held on May 11, 2005 at 7 p.m. at the Fish Hatchery.

d. PARK AND RECREATION COMMISSION

An all-day workday for the Wisconsin Veteran's Memorial Riverwalk will be held on March 5, 2005. It is hoped to finish the rest of the path. This will complete Phase I. Wisconsin Harley Davidson and Hal's Harley Davidson will sponsor the Gulf War and War on Terrorism areas.

There are two vacancies on the Park and Recreation Commission. They are requesting Mayor Craig to appoint Evelyn Headley for one of the positions. The next meeting will take place on February 28, 2005.

A kick-off meeting for the new community park will take place on February 28, 2005 at the Fish Hatchery at 7 p.m.

e. PUBLIC WORKS

The next meeting is scheduled for March 2, 2005 at 6:30 p.m.

f. DEL-HART COMMISSION

Punch list items are being worked on. Potential signing for the facility will be coming to the Plan Commission. Special recognition will be given to Wally Severson who will retire on May 6. A new position will be advertised. Work is on schedule.

g. RECYCLING COMMITTEE

No meeting scheduled.

h. POLICE AND FIRE COMMISSION

No meeting scheduled.

i. LIBRARY BOARD

The minutes from the February 11, 2005 meeting were distributed. Carol Snyder has resigned from the Library Board. She will be honored for her

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years of service. J. Krickhahn is now the president of the library board and J. Maddente is the Vice President. The tri-partisan committee is working with the Chamber on Delafield Days. A candy bar promotion is taking place. The next meeting will be held on March 8, 2005.

j. FINANCE ADVISORY BOARD

No meeting scheduled.

5. OLD BUSINESS

None.

6. MAYOR'S REPORT

a. SPACE NEEDS STUDY UPDATE

The Space Needs Committee met on February 17, 2005. The Madison Building option has been withdrawn by the owner. The committee recommended two different combinations: Option #1, the Fish Hatchery Site for library and administration paired with Option #7, Police Station, Fire Station at the DPW Property (combined building). This option was chosen because it makes economical sense. The City Hall would be abandoned and put up for sale. The other alternative recommended was Option #7, Police Station, Fire Station at the DPW Property (combined building), paired with Option #8, Library & Administration Building at the City Hall site (addition and renovation). This was chosen because it would preserve the historic building and playing fields at the Fish Hatchery. However, this option was not widely shared by the committee. Mayor Craig thanked the Space Needs Committee.

E. Sadowski discussed the library's needs and was concerned about the square footage allocated to it. Mayor Craig stated that the Space Needs Committee strongly felt that by combining departments it would make efficient use of space. The City is the owner of the numbers and that they can be adjusted. The Space Needs Committee toured the present facilities and they were shocked and in awe at the lack of space and the need that there is in the City for more space. M. Carlson stated that the square footage numbers are gross numbers and includes hallways, mechanical rooms, bathrooms (non-usable space). Discussion took place on duplication of space. M. Gardner discussed the code violations in the present City Hall and felt that they needed to be looked at. It was stated that it has been established that there is a problem and this study is the first step in addressing the problem. Mayor Craig would like to bring this subject back at another time. The architect did not think that the present city hall should be renovated due to the extreme costs involved to update it. L. Kuklinski requested that the appraisals be made available to the

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alderpersons in addition to the square footage requests for immediate needs and how much square footage is needed for future expansion.

A copy of the preliminary study is available in the library.

Other activities that the Mayor participated in:

- Northwest corridor meeting
- Office hours
- American Legion
- Parking meeting
- Met with Mayor Sullivan and Administrator Gard of Oconomowoc to prepare the agenda for the Fire Merger meeting at the YMCA on February 24, 2005 at 7 p.m.
- Southeast Wisconsin GROW
- Del-Hart meeting
- Town of Summit meeting on Zerwekh's Dam

7. NEW BUSINESS

a. APPROVAL OF VILLAGE SQUARE DEVELOPMENT AGREEMENT SUBJECT TO CITY ATTORNEY'S FINAL APPROVAL.

M. Carlson reviewed. United Properties would like to acquire the development rights. The new developer is still required to comply with the terms and conditions of the Settle Agreement. It was clarified that the Development Agreement is in addition to the Settlement Agreement and does not replace it. UPI has agreed to limit the total square footage of the development to 125,000 sf, shift the development from the location identified in the Settlement Agreement to the eastern portion of property, to contribute \$1.2 million towards the costs of the well and water main to serve the parcel with potable water, to donate a parcel to accommodate the municipal well, and the help the city offset its cost to comply with the Federal Government radium standards. The developer will also contribute \$300,000 towards the cost of sanitary sewer services to the site. The \$1.2 and the \$300,000 are in addition to the costs that the developer will incur to provide interior utilities to the site. The City would establish a special assessment district to allocate the cost to the developer and allow the developer to spread that investment out over time. The sequence of documents that would need to be prepared was reviewed.

L. Kuklinski stated that the original agreement is still in place. This Development Agreement is in addition to the Settlement Agreement.

M. Carlson stated that the Settlement Agreement is still in place and the two documents must be read together. The Development Agreement does not circumvent the Plan Commission process. Discussion took place

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regarding the dividing of the parcel into smaller out lots. The City must process the application – it does not necessarily mean approval, but the City must process it. L. Kuklinski asked if the Settlement Agreement would be affected if separate tax key numbers (out lots) were created. M. Carlson stated that the 125,000 sf applies to all 27 acres regardless of how many tax keys numbers. M. Gardner asked what the advantage was for dividing it into separate tax keys – the developers will address this.

T. Hafner discussed utility system requirements; which includes water (to be paid for the by the developer and the users), and sanitary sewers.

Keith Ulstad, from UPI was present at the meeting. They view this process as just the beginning. They are aware that they will have to come back before the Plan Commission and Common Council. They do intend to have neighborhood meetings.

He responded to comments in Mr. Schober's letter. Bullet #1 – They will have neighborhood meetings to actively get the input of the neighbors. They do want to make sure that there is some sort of semblance of an agreement with the City on some of the macro financial issues before they take this step. They are not circumventing the process. Bullet #2, and Items 1, 4, and 10 – They are committed that the 27 acre parcel will be limited to 125,000 sf not including the basement of the grocery store for the entire 27 acres. There are ways to legally ensure that this will hold and is not circumvented. They would like the flexibility of out lots because more and more retailers want to own their own property. There will be a definitive governing document for the whole 27 acres. The City will not be giving up any control or flexibility. The City Attorney acknowledged that this could be accomplished. Initially there would be three buildings totaling 75,000 sf. He distributed a drawing showing the three buildings that they would like to construct first. They view this as a smaller scale, neighborhood type of development. They want to fit into the neighborhood. They clarified that a neighborhood meeting would be held before the SIP process. Discussion took place on the out lots. K. Ulstad clarified that the pond was not 50 feet deep. He addressed the comment regarding “the roadway being a raceway” and stated that he would not object to any of the city's three choices; however they are waiting for the Requirements Letter from the Wisconsin DOT. M. Carlson stated that the City Attorney would take up the legal issues presented in Mr. Schober's letter to make sure that the City's interests are protected in the Settlement Agreement should the City Council agree to authorize it's signature. On point #2 of the Schober letter – he stated that they would be amendable to take this out of the Development Agreement. He thought that they were affirmatively stating that all things that they are prohibited to do they can't do unless the City Council decides that they can. He did not think it would leave the door open to request any prohibitive uses. He again stated that he would be happy to take this out if that would be better. Point #5 – he stated that

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their performance under things that matter to the City will be secured with a letter of credit from them. Point #6 – referred to legal counsel. #7 – Needs to hear from the DOT. #8 – They are being asked to secure performance of the work they are agreeing to do within their site. There is no reason to say “except sanitary sewer” within the development. #9 – Of the \$1.2 million that they would pay towards the City’s water system would be secured through special assessments against the real estate.

He referenced Mr. Restock’s letter – item 3 – the legal description of the property lists two parcels – this is what it is now. All they are doing is saying that the 27 acres is described as two separate and distinct parcels. They are not trying to divide anything into two parcels.

He stated that the information from the DOT and the water system was needed before being able to make any projections on the building timeline.

M. Carlson stated that the legal issues raised in Mr. Schober’s letter would be transmitted to the City Attorney.

It was clarified that M. Carlson did not have any relationship with Bruce Carlson involved in this project.

P. SCHUMAN MOTIONED TO APPROVE THE VILLAGE SQUARE DEVELOPMENT AGREEMENT SUBJECT TO THE CITY ATTORNEY’S FINAL APPROVAL. M. ROBERTS SECONDED THE MOTION. L.

Kuklinski discussed the bonding for the sewer and water. There would be separate agreements subject to the language in this agreement. She questioned why an actual percentage would be put in. M. Carlson stated that they were looking at cap to quantify what the exposure would be. **The cap in the document will be changed to “up to 5%”.** M. Gardner discussed what the difference was between the Settlement Agreement (the umbrella agreement that covers the site) and the Development Agreement (a subset of the Settlement Agreement). J. Krickhahn stated that he was having a hard time agreeing to the motion because the community has not had a chance to act on it and because it dealt with a water issue. P. Schuman stated that it needed to be done. **P. SCHUMAN AMENDED HIS MOTION TO REFLECT CHANGING THE BOND RATIO TO BE UP TO 5%. M. ROBERTS AGREED TO THE AMENDMENT.** E. Sadowski discussed the water issue and stated that something needed to be done with the radium issue and the developer would be assisting the City with this. L. Kuklinski stated that this is a process that is beginning here. The issue of out lots was again discussed. The entire 27 acres will always and forever be subject to the Settlement Agreement whether it is as one parcel or several out lot parcels – it doesn’t change the Settlement Agreement and what can go on in the 27 acres. M. Gardner discussed the water issue. The way to correct the radium issue is to install a blending well south of 83. M. Gardner stated one constituent was concerned that a water line up 83

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would encourage denser development. L. Kuklinski stated that the control was with the City. In regards to the sanitary sewer, it has been planned and Del-Hart has stated that there is capacity. This does not affect any present residence unless they bring it forward. E. Sadowski discussed the past water history. He has always been opposed to water, but the City does have a radium problem. Typically two years are given to get into compliance. He felt that there was no problem with the Development Agreement, water being part of it, and felt that the City is saving the utility users \$200,000-\$300,000+ to come into compliance with the radium problems. L. Kuklinski discussed the contributions towards the system; this is their obligation. However, there is nothing in there about user fees. Language will be included in the Development Agreement that requires properties and future users to pay the normal and customary rates that all other customers in Delafield pay. L. Kuklinski would like a legal opinion on if there is an effect on any of the agreements because UPI is an LLC versus a corporation. M. Gardner asked what the effects would be on postponing this vote until the next meeting. M. Carlson stated that it would delay the process by two weeks. P. Schuman called the question and then withdrew it. Exhibit B-1, paragraph 1, - **A FRIENDLY AMENDMENT WAS MADE TO THE SQUARE FOOT LIMITATION OF APPROXIMATELY 125,000 SQUARE FEET - THIS WILL BE REVISED TO REFLECT "NOT TO EXCEED 125,000 SQUARE FEET". SECURITY SHOULD BE IDENTIFIED AS "FINANCIAL SECURITY" THROUGHOUT THE DOCUMENT. THE MOTION MAKER AND SECOND AGREED TO THE AMENDMENTS.** L. Kuklinski discussed the water and stated that it would eliminate the reliance on another community's system while maintaining control within our own community. **FIVE WERE IN FAVOR OF THE MOTION. J. KRICKHAHN AND M. GARDNER OPPOSED. MOTION CARRIED.**

Mayor Craig asked that if there were no objections, he would like to amend the agenda to the following order: Items 7b, 7e, and then 8a. Items 7c and 7d will not be discussed. There were no objections.

- b. PROPOSAL FROM EARTHTECH REGARDING SPECIAL ASSESSMENT WATER MAIN AND WELL DESIGN, CONTINGENT UPON APPROVAL OF THE VILLAGE SQUARE DEVELOPMENT AGREEMENT

M. Carlson discussed the notion of the no-bid contract. He explained why it is good judgment to proceed with Earth Tech. In 2000 the City designed an RFP for engineering services for a water system. A committee was formed to review the proposals. Interviews were held with four firms. From these four firms, the two final firms were Ruckert-Mielke and EarthTech. EarthTech was selected. Staff has recommended using EarthTech to complete the assignment. City Attorney Timothy Lovett stated that under Section 62.15(1) this type of service was not required to be bid out. T. Hafner stated that they have done good work in regards to water, and the stormwater utility on the Dix property.

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P. SCHUMAN MOTIONED TO APPROVE. D. SWAIN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. SIX WERE IN FAVOR. J. KRICKHAHN OPPOSED. MOTION CARRIED.

- c. RECOMMENDATION FROM POLICE AND FIRE COMMISSION REGARDING CHANGE TO ORDINANCE 5.04 ORGANIZATION

No discussion took place.

- d. APPROVAL OF THE NEW DEPUTY CHIEF – SHIFT COMMANDER JOB DESCRIPTION

No discussion took place.

- e. DISCUSSION ON DIRECT LEGISLATION PROPOSING A \$1 MILLION LIMIT ON ANY CITY OF DELAFIELD MUNICIPAL FINANCED PROJECT REQUIRING CITY CAPITAL EXPENDITURE. ACTION MAY BE TAKEN.

M. Czubkowski stated that she received the petition at 12:30 p.m. today. Mayor Craig stated that he has received a number of calls on this. He stated that this is a representative government. He does not see any distrust on the common council. Ninety-eight percent of the time people do not want to partake in the conversations at this table. The referendum process will be defended.

Attorney Lovett gave a brief outline of the procedure and options that the Council could take. The Clerk has 15 days to review the petition as to form and sufficiency. Once that determination is made, the Clerk will then certify to the Council as sufficient in form and content or reject it and recertify it back to the petitioner listed on the petition itself detailing the insufficiency in the petition itself for corrections to be made by the petitioner and resubmitted within 15 days from that date. If it is certified to the Council, the Council must accept the language verbatim without alteration, and can pass it as an ordinance verbatim or the Council can reject it and submit it to the voters for a referendum. He stated that at this point in time, there was nothing in front of the Council. The petition has been accepted by the City Clerk and the City Clerk has 15 days to make the certification either to the Council or back to the petitioner. The Council is free to consider a similar ordinance and pass it or refer it to committee. M. Czubkowski stated that there was not enough time for this to make it on the spring ballot. A memo from Attorney Lovett was included in the Commissioner's packets.

Discussion took place regarding the affect of direct legislation. M. Czubkowski stated that it cost approximately \$3,000 for every special election, but this did not include the communication necessary so that

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voters could make informed decisions. L. Kuklinski shared the percentages that the City Hall office put together regarding voter turnout.

Discussion took place on crafting an ordinance.

M. Gardner stated that if she is representing her district, she would be opposed to the petition. J. Krickhahn stated that he received calls stating that they were elected to represent the citizens. P. Schuman stated that something had to be done tonight. E. Sadowski stated that it was important to be fiscally responsible. An ordinance can be changed where a direct legislation is locked in for two years. He did not think that the petition with the type of verbiage it contained would protect the City. D. Swain stated that those who called him in his ward were against this.

Discussion took place and it was stated that health, welfare and safety of the City should be added, mandates have to be funded, and special assessments would be exempt from referendum. E. Sadowski stated that he would prefer to rule without referendum. The designated dollar amount was discussed.

The petition would not be effective if legislation were adopted akin to it.

E. SADOWSKI MOTIONED TO PROPOSE AN ORDINANCE IN A NEWLY CREATED CHAPTER 3.14 OF THE CITY CODE “REFERENDI REQUIRED FOR CITY CAPITAL EXPENDITURE”. PRIOR TO THE START OF ANY PHYSICAL CONSTRUCTION OF ANY MUNICIPALLY FINANCED (IN WHOLE OR IN PART) PROJECT REQUIRING A CITY CAPITAL OF \$1.5 MILLION OR MORE, THE COMMON COUNCIL SHALL SUBMIT TO THE ELECTORATE A BINDING REFERENDUM FOR APPROVAL OF THE PROJECT. FAILURE OF THE BINDING REFERENDUM SHALL PRECLUDE THE CITY FROM PROCEEDING WITH THE PROJECT. THE WORDING OF ANY REFERENDUM SHALL PROVIDE THE SPECIFIC PURPOSE, LOCATION AND COST OF THE PROJECT. NOTHING IN THIS PROVISION SHALL BE CONSTRUED TO PRECLUDE THE CITY FROM EXERCISING ITS ROLE IN THE PLANNING OR DESIGN OF SUCH PUBLICLY FINANCED PROJECTS. THIS SECTION SHALL NOT BE APPLICABLE WHEN THE COUNCIL DEEMS THE EXPENDITURE TO BE NECESSARY IN THE HEALTH SAFETY OR WELFARE OF THE CITIZENS OF THE CITY OF DELAFIELD AND WHEN THE GOVERNMENTAL MANDATES, OR ANY SPECIAL ASSESSMENTS, DICTATE FUNDS BE EXPENDED. L. KUKLINSKI SECONDED THE MOTION. DISCUSSION TOOK PLACE ON THE WORD “BINDING”. THE VOTE WAS CALLED. THE MOTION WAS READ AND REWORKED AS WORDED ABOVE. SIX WERE IN FAVOR. D. SWAIN OPPOSED. MOTION CARRIED.

J. Zahorik was given permission to speak. “Ladies and gentlemen, thank you very much for the consideration this evening. This was forced because

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of actions that have occurred in the City long before any of you were in office. But matter health, safety and welfare is the reason that there is a well on 83 & 94. Mayor Jim Behrens testified in front of the public service commission that that well was necessary for that particular reason and that within one year by ordinance, he would force all of the private wells that were currently serving those businesses to be abandoned. Consider that before you vote because tonight you are talking about \$1.5 million to rectify a problem. I have a solution to that problem. You can pass this out – it is from the EPA – I got it tonight off of the internet. The words that I highlighted could really change your courses of action on 83 & 94 and that is that the EPA standards of 5 ppl as far as radium is concerned only applies to municipal water systems and after your vote and so forth, I can also share with you in other arenas how you abandon that well and allow people like Home Depot, Target, etc., to sink their own wells at no cost, at no expense, that is any where near what you are contemplating right now. You said that correcting that problem would not be passed on to the taxpayers, obviously correcting the radium problem has to be passed on then to the consumer; the ultimate consumer of that tainted water. But I do thank you for considering the effort and I guess I made the mistake of not canvassing the city, but rather eight days. I believe that I could bring you in many more signatures. Only five of us went out and circulated. But thank you for your consideration tonight. It has been done very professionally. I hope I've presented myself in a professional manner.”

8. ADMINISTRATOR'S REPORT**a. COURT DECISION REGARDING CITY OF DELAFIELD V. LEON MUELLER**

M. Carlson reviewed. The Judge has ruled that the ordinance is too vague. The City can appeal to Circuit Court or amend the zoning code to read more specifically. L. Kuklinski stated that the zoning code should be amended and clarified so that there is no question as to what the intent is. M. Carlson will begin the process.

9. CLERK'S REPORT**a. ELECTION REPORT RESULTS**

No report.

10. FINANCIAL REPORT**a. APPROVE VOUCHER LIST**

This was not discussed.

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- b. TREASURER'S REPORT – JANUARY, 2005

No report.

11. CORRESPONDENCE

- a. Letter from Charles Winter dated February 14, 2005 regarding the Hartland Sportsman's Club

12. ADJOURNMENT

E. SADOWSKI MOTIONED TO ADJOURN FROM THE MEETING. M. ROBERTS SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT 11:23 P.M.

Respectfully submitted:

Minutes Prepared By:

Marilyn Czubkowski, CMC
City Clerk/Treasurer

Accurate Business Communications LLC