

CITY OF DELAFIELD COMMON COUNCIL MINUTES

CALL MEETING 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

Present

Absent

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

Mike Roberts, Ald.

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 JANUARY 17, 2005 MEETINGS

E. SADOWSKI MOTIONED TO APPROVE THE MINIUTES OF THE JANUARY 17 2005 MEETING. L. KUKLINSKI SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. FIVE WERE IN FAVOR. M. GARDNER ABSTAINED. MOTION CARRIED.

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

Jim Zahorik, 1948 West Shore Drive – Spoke on Item 6a. Stated that the library is included as part of the renovation. Asked if a referendum is being considered. Will the taxpaying citizens have an opportunity to vote in form of a referendum on any recommended action? Mayor Craig stated that it would be too premature to answer this. J. Zahorik also commented about the meeting scheduled for February 10, 2005 concerning site analysis for the Northwest quadrant of Delafield. Mayor Craig clarified that this meeting was open to the public. J. Zahorik stated that this was not on the website or divulged to the City residents. He thought that many interested individuals who would like to listen to what is being proposed. He requested maintaining a good line of

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communication with the citizens. He would like this meeting to be noticed and broadcast on TV channel 25. Mayor Craig stated that this would be published. M. Carlson stated that this would also be reported on under the Administrator's Report. Letters have been sent to the surrounding property owners, and the Plan Commission and Common Council members have been encouraged to attend. The meeting will be held at 3:30 p.m. at the Fish Hatchery on February 10, 2005. J. Zahorik stated that in the November 17, 2004 Plan Commission minutes, Item #7 Zoning & Ordinance Revision, it referenced a workshop meeting. M. Carlson stated that this was another item on his report and that this meeting would be held Wednesday February 16, 2005 at 6:00 p.m. in the Council Chambers. J. Zahorik expressed his frustration and stated that things like this need to go out earlier so people can alter their schedules and be heard.

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

E. SADOWSKI MOTIONED TO CLOSE CITIZEN'S 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

Damon D. Kilbey, 138 Marcella St., Oconomowoc; Qdoba Mexican Grill

L. KUKLINSKI MOTIONED TO APPROVE. M. GARDNER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

Reserve Class B Liquor

The Gathering on Hillside, Inc., The Gathering, 3215 Hillside Drive;
Robert W. Geisinger, 1900 Norhardt Drive #117, Brookfield WI, Agent

R. Geisinger was present at the meeting. It was clarified that the former Stockade Restaurant had the Reserve Class B Liquor License. The census count and the affect it has on adding another Reserve Class B license was discussed. The new census figures will be available in August of 2005.

M. GARDNER MOTIONED TO APPROVE. P. SCHUMAN SECONDED THE MOTION. IT WAS CLARIFIED THAT ALL TAX QUESTIONS HAVE BEEN RESOLVED. ALL WERE IN FAVOR. MOTION CARRIED.

CITY OF DELAFIELD COMMON COUNCIL MINUTES**b. PLAN COMMISSION (DRAFT MINUTES OF JANUARY 26, 2005 MEETING INCLUDED)**

P. Schuman reviewed the actions taken other than the two items listed below at the Plan Commission meeting. They included plans of operation for Redi-Mix; Shoppes of Nagawicka: Marshalls, Sports Authority, and Applebee's; Trillium Development; and Mr. Geason's property.

L. Kuklinski asked what length of a timeframe the building approval for the future Kassens building was for. M. Carlson will check the record to see if there is a termination date for the approval. L. Kuklinski thought that it should be a common practice to put timelines on approvals. M. Carlson stated that for future deliberations of the Plan Commission, they could amend the zoning code pertaining to site plan approvals and put some kind of dissolving mechanism in the code that says if a building permit is not extracted or is not secured "x" months after the approval from the Plan Commission on the site plan, the site plan could be deemed to be withdrawn. The City attorney will be consulted on this. A zoning text amendment requires a public hearing before the Plan Commission, the Plan Commission recommendation then goes for final approval by the City Council.

1. RECOMMENDATION TO APPROVE MINOR ARCHITECTURAL CHANGES TO THE MARQUEE AND COLOR OF MARCUS THEATRE BUILDING.

Roger Phillips representing Marcus Theaters was present at the meeting. M. Czubkowski displayed a color rendering.

M. GARDNER MOTIONED TO APPROVE. J. KRICKHAHN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

2. RECOMMENDATION TO APPROVE CONSTRUCTION IN ACCORDANCE WITH THE CONDITIONAL USE PERMIT FOR THE HARTLAND SPORTSMAN'S CLUB.

Russ Meidenbauer, representing Hartland's Sportman's Club was present at the meeting. Mayor Craig encouraged him that construction also be completed on the 200 yard range in 2005. P. Schuman stated that there is a provision in the agreement to form a committee. A meeting will take place to determine the steps necessary to form this committee.

P. SCHUMAN MOTIONED TO APPROVE. L. KUKLINSKI SECONDED THE MOTION. IT WAS CLARIFIED THAT THE

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HOURS FOR NIGHT-TIME SHOOTING WERE LISTED ON PAGE 7 OF THE CONDITIONAL USE. ALL WERE IN FAVOR. MOTION CARRIED.

c. LAKE WELFARE COMMITTEE

The Committee will meet this Wednesday at 6 p.m. P. Schuman reviewed the items included on the agenda.

d. PARK AND RECREATION COMMISSION

At the last Park and Recreation Commission meeting they discussed the tree ordinance and tree committee in addition to the item listed below.

1. KICK-OFF FOR COMMUNITY PARK PLANNING PROCESS

A kick-off meeting for the Community Park Planning Process will be held on February 28, 2005 at the Fish Hatchery. This meeting will be posted. Personal invitation to interested parties, groups, organizations, etc. and notification to all adjacent property owners will be sent. All Common Council and Park & Rec members are encouraged to attend. B. Leonard has contacted the UWM Department of Urban Planning. They have agreed to work with the children in the area to see how they would like to see this designed. Citywide participation and neighborhood involvement is being encouraged.

e. PUBLIC WORKS

The Public Works Committee met February 2, 2005. The Shoppes of Nagawaukee Phase II plans were reviewed and approved with some contingencies. Phase III plans for The Shoppes of Nagawaukee were also accepted with contingencies. In regards to the resurfacing project, the Committee approved plans to be bid out with 3' snow storage lanes on each side of the road.

f. DEL-HART COMMISSION

At the last meeting appreciation service awards were given to the former Del-Hart Legal Council, Dale Arenz, who served the Commission for 33 years and to Richard Landwehr who has been involved with the commission since its inception and particularly for his 16 years as chairman. R. Landwehr continues to be part of the commission.

Del-Hart has filed and has signatures on the certificate of completion. A final punch list for construction will be developed.

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g. RECYCLING COMMITTEE

The Recycling Committee continues to solicit bids for garbage contracts. Obnoxious weeds were discussed and will continue to be monitored.

h. POLICE AND FIRE COMMISSION

The Police & Fire Commission approved A. Swayze's recommendation for the Fire Department and its restructuring. A demonstration of the new Taser guns that all of the police officers will have took place at the meeting.

i. LIBRARY BOARD

C. Snyder has resigned. Suggestions for another board member should be submitted to P. Craig. They are looking for someone from the downtown area.

j. FINANCE ADVISORY BOARD

No report.

5. OLD BUSINESS

None.

6. MAYOR'S REPORT

a. SPACE NEEDS STUDY UPDATE

The financial numbers did not come in until just recently. The Committee would like to extend the completion date with the final meeting scheduled for February 17, 2005 at 6:30 p.m. in the Council Chambers. The Committee will have three recommendations and the rationale for these choices will be compiled at this last meeting.

b. FIRE CONSOLIDATION DISCUSSIONS

The next meeting will be held on February 17, 2005. Thirty to forty people attended the last meeting. A presentation on the Neenah Menasha consolidation took place. The group started talking about how and what they want to deal with in the fire consolidation. The next meeting will deal with issues such as what equipment, where, and what the expectation is for the future for each particular community that would like to participate.

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c. WAUKESHA COUNTY COOPERATION COUNCIL

Discussion took place at this meeting regarding the following:

1. Federated Library System – an RFP request to study libraries in the county was put together to study the libraries within the county, and how it is operating. Documentation of a PowerPoint presentation was included in the Commissioner's packets. The study is being paid for by a grant.
2. Regional Water – SEWRPC is starting a regional two year study. The main point is sustainability: how much development can be sustained by the groundwater, where the groundwater sources are, and what we have. The study is being patterned after the Milwaukee area.
3. Communication System – All who signed up will be on board at the end of March. Phase II of the cell phone program is in operation at this time. Waukesha County is the only county in Wisconsin that has this program in operation.
4. Smart Growth – The county-wide committee is helping Delafield with the Smart Growth process. The intergovernmental element is being worked on. The cooperative council will be used for this.
5. Tax Assessment Plan – This deals with the amount of overlap and duplication of material that the clerks and many of the different people who are dealing with the taxes are doing. They are trying to streamline that process to make it more efficient. They are also looking at better ways that the counties are becoming involved in the tax assessment.

d. TOURISM

On January 22, 2005 Radio Disney Sleepover held at Cushing School. Pictures were displayed that were provided by Radio Disney. Mayor Craig stated that many compliments were received from this event. It was extremely successful.

e. OFFICE HOURS

Office hours will be held on February 9, 2005 from 6 – 8 p.m.

7. NEW BUSINESS

a. GENESEE STREET ERRORS AND OMISSIONS SETTLEMENT OFFER

M. Carlson reviewed the project, contracts, change orders, and construction of the project. The design engineer that completed the design work for Genesee Street was Ruckert-Mielke. In late 2001 the

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City entered into a contract with Ruckert-Mielke for a total dollar amount of \$230,814.71. This was broken up into expenses for Ruckert-Mielke and expenses for sub-contractors. Two change orders were issued for that contract: the first was in the amount of \$215.80; the second was in the amount \$12,949.16. The total contract was then \$243,979.67. A change order request was received in April 2003 (#3) in the amount \$30,982.32 and was described as redesign expenses for the Wells Street intersection, street lighting changes, additional public involvement, and utility coordination. A meeting with Ruckert-Mielke and EarthTech was held asking for additional justification for that change order and was not received. As a result, Change Order Request #3 was rejected. Construction proceeded for the project. The State selected Mead & Hunt to be the engineer to supervise the construction. The State hired EarthTech to serve as an extension of the DOT staff to help complete the work. During construction issues were raised regarding utility coordination, constructability of the crosswalks in downtown Delafield. The City filed an Errors and Omissions claim with the State with respect to those design issues. The assigned value of the errors and omissions from the DOT was included in the commissioner's packets as attachment #1. The proposed settlement offered by Ruckert-Mielke also included in the packets as attachment #2 and suggested that they would cover approximately \$57,000 worth of the expenses, that they would be credited \$42,000 in additional fees, and that the net bottom line to the City would be \$15,078.28 +/- net revenues to the City.

There are two options to resolving the Errors and Omissions:

- 1) Agree that it is time to resolve and accept the proposed settlement offer (a copy of the letter from Ruckert-Mielke with respect to the effort was given to the Commissioners at the meeting).
- 2) Reject the errors and omissions proposal and proceed with resolving the issues through other means.

M. Carlson stated that there are additional layers of the DOT that could be appealed to short of going to court. Letters have also been sent to the utility companies stating that the City believes that they were responsible for some of the cost overruns that were incurred. No response has been received from the utility companies. He expressed concern with the proposed settlement because as part of a routine settlement proposal, the company has requested that the City waive any claims that it may have in the past/future with respect to the design work. He is reluctant to do this since there are claims still pending with the utility companies.

E. SADOWSKI MOTIONED TO GO WITH OPTION 2 (REJECT ERRORS AND OMISSIONS PROPOSAL AND PROCEED WITH RESOLVING THE ISSUES THROUGH OTHER MEANS). M. GARDNER SECONDED THE MOTION. IT WAS STATED THAT BEFORE TAKING THIS TO COURT,

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IT WOULD BE TAKEN TO OTHER LEVELS WITHIN THE ORGANIZATIONS. THE PROPOSAL WAS REJECTED WITH THE IDEA OF FOLLOWING UP WITH OTHERS. E. SADOWSKI READ IN THE FOLLOWING SENTENCE: "THE CITY CAN SETTLE THIS MATTER AT ANY POINT IN TIME THAT WE BELIEVE WE RECEIVE THE BEST OFFER WE ARE GOING TO RECEIVE." E. SADOWSKI STATED THAT WE ARE GOING WITH A DIFFERENT OPTION TRYING TO GET MORE TAX DOLLAR VALUE AND THAT THE CITY DID NOT FEEL THAT OPTION 1 (TAKING THE \$15,000) IS THE BEST OPTION. MAYOR CRAIG WOULD LIKE TO SEE THE UTILITIES BROUGHT INTO THIS CONVERSATION. E. SADOWSKI ADDED THAT IN OPTION TWO THAT ALL PARTIES THAT HAVE MONIES OWED OR MONIES THAT WE ARE SEEKING WILL BE BROUGHT INTO THE DISCUSSION. M. GARDNER AGREED WITH THE AMENDMENT. L. KUKLINSKI ASKED IF ARBITRATION COULD BE REQUESTED. M. CARLSON STATED THAT THIS COULD BE DONE, BUT THE OTHER PARTY WOULD HAVE TO AGREE TO IT. ALL WERE IN FAVOR OF THE MOTION. MOTION CARRIED.

8 ADMINISTRATOR'S REPORT

Background information regarding impact fees was provided to the council members. The total amount of impact fees is now \$100,751.26. M. Carlson explained how the fee is broken down and reviewed the analysis. He stated that the money must be spent within ten years from the date it was collected. This is addressed in Chapter 3.13 of the Municipal code.

A downtown parking meeting will be held on 6 p.m. on February 16, 2005 in the Council Chambers. This meeting will be posted.

The Mill Road Bridge located at Mill Road and Main Street will be replaced in 2005. Construction will start around August 1, 2005 and will be completed around November 1, 2005. Mill Road will be closed during construction of the bridge. The Town of Summit will be doing the project.

Northwest Planning Workshop – It was clarified that this is not being planned down to the subdivision level. The object is to get people to talk about opportunities and synergy that can take place between property owners in order to create a bubble diagram which will then be presented to the Plan Commission. Mayor Craig stated that the City was not promoting the development of the area at this time. The meeting will be held at 3:30 p.m. at Fish Hatchery on February 10, 2005.

M. Carlson discussed a seminar that he attended on January 19, 2005 put on by the Lafollette Institute regarding taxing and spending limits in Wisconsin.

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An article from AARP Wisconsin dated January 12, 2005 entitled "New AARP Poll Shows Coloradians Ready to Dump TABOR" was distributed.

He attended a meeting of the Waukesha County Municipal Executives and a review of the issues that were discussed took place. These issues included SEWRPC's regional water study, structuring of a regional partnership for addressing water issues, consolidated federated library issue, and the Waukesha County Art Museum.

9. CLERK'S REPORT

a. ELECTION FEBRUARY 15, 2005

Elections will take place for state superintendent of schools and the Arrowhead School board.

b. COMMUNITY CALENDAR

The calendar is about 95% complete and was included in the commissioner's packets.

10. FINANCIAL REPORT

a. APPROVE VOUCHER LIST

E. SADOWSKI MOTIONED TO APPROVE. D. SWAIN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

b. TREASURER'S REPORT - DECEMBER 2004

L. KUKLINSKI MOTIONED TO APPROVE. D. SWAIN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

11. CORRESPONDENCE

- a. Letter from Carol Snyder dated January 19, 2005 regarding resignation from the Delafield Public Library Board of Trustees.
- b. Letter from Michelle Shea dated January 25, 2005 regarding resignation from the Park and Recreation Committee.
- c. Letter from Wisconsin Department of Transportation dated January 18, 2005 regarding availability of CMAQ Funding in 2005

12. ADJOURN INTO CLOSED SESSION PER §19.85(C) CONSIDERING EMPLOYMENT, PROMOTION, COMPENSATION OR PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE

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GOVERNMENTAL BODY HAS JURISDICTION OR EXERCISES
RESPONSIBILITY (CITY ADMINISTRATOR)

E. SADOWSKI MOTIONED TO ADJOURN INTO CLOSED SESSION PER §19.85(C) CONSIDERING EMPLOYMENT, PROMOTION, COMPENSATION OR PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE GOVERNMENTAL BODY HAS JURISDICTION OR EXERCISES RESPONSIBILITY (CITY ADMINISTRATOR). D. SWAIN SECONDED THE MOTION. A ROLL CALL VOTE WAS TAKEN: J. KRICKHAHN, AYE; P. SCHUMAN, AYE; E. SADOWSKI, AYE; M. GARDNER, AYE; L. KUKLINSKI, AYE; D. SWAIN, AYE. MOTION CARRIED. THE MEETING ADJOURNED INTO CLOSED SESSION AT 8:35 P.M.

13. RECONVENE INTO OPEN SESSION

P. SCHUMAN MOTIONED TO RECONVENE INTO OPEN SESSION. E. SADOWSKI SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING RECONVENED INTO OPEN SESSION AT 9:40 P.M.

14. ACTION OF ITEMS DISCUSSED IN CLOSED SESSION

E. SADOWSKI MOTIONED TO INCREASE THE ADMINISTRATOR'S COMPENSATION BY 4.83%. D. SWAIN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. FIVE WERE IN FAVOR. J. KRICKHAHN OPPOSED. MOTION CARRIED.

15. ADJOURNMENT

L. KUKLINSKI MOTIONED TO ADJOURN FROM THE MEETING. D. SWAIN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT 9:43 P.M.

Respectfully submitted:

Minutes Prepared By:

Marilyn Czubkowski, CMC
City Clerk/Treasurer

Accurate Business Communications LLC