

CITY OF DELAFIELD COMMON COUNCIL MINUTES

CALL COMMON COUNCIL MEETING TO ORDER

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

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present

Absent

Mayor Phil Schuman  
Jeff Krickhahn, Ald.  
Beth Leonard, Ald.  
Erv Sadowski, Ald.  
Michele De Yoe, Ald.  
Gerald Mac Dougall, Ald.  
Lynn Morrison, Ald.  
Matt Carlson, Administrator

Ron Miskelley, Ald.

Also Present

Mark Sewell, City Attorney  
Tom Hafner, Director of Public Works  
Roger Dupler, City Planner

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 OCTOBER 1, 2007 COMMON COUNCIL MEETING.

**E. SADOWSKI MOTIONED TO APPROVE THE MINUTES FROM THE OCTOBER 1, 2007 MEETING. M. DE YOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- 2. CITIZEN'S COMMENTS FOR ITEMS NOT ON THE AGENDA

Before any comments were taken Mayor Schuman stated that he developed a policy for Citizen Comments. This is City business; comments must be respectful in all ways. There will be no dialog. It is okay to disagree, but comments must be respectful. The occupation of a person will not be disrespected. Any complaints involving employees should be directed to the Mayor in private. No direct questions should be directed to council members or employees; these, too, should be handled in private. During citizen's comments, there will be no dialog with council members or staff. Questions raised during citizen's comments will be dealt with during the meeting itself.

## CITY OF DELAFIELD COMMON COUNCIL MINUTES

Only the Mayor or presiding officer will address the citizen's during the comment period. Concerns raised during citizen's comments that are not on the agenda may be put on a future agenda or responded directly to the citizen who raised the concern. This will make the meetings more orderly, and more civil.

E. Sadowski read a statement that he had prepared for an item not on the agenda. He addressed his request for putting an item on the agenda that was not placed on the agenda by Mayor Schuman. At the October 1, 2007 Common Council Meeting, E. Sadowski stated that he asked for two actions items to be placed on the agenda for the meeting tonight (October 15, 2007). The first was to create the position of Clerk/Treasurer. The second item was to appoint an interim clerk and/or treasurer. These items were also proposed by Alderperson De Yoe in August. E. Sadowski stated that Mayor Schuman broke his word and refused to put the item concerning the appointment of an interim clerk and/treasurer on tonight's agenda. He felt that this was an attempt to maintain the status quo with all the controls still remaining with the City Administrator and obstructed the Council from restructuring the Administrative Department. He believed that this reorganization would be in the best interest of the City Department. E. Sadowski felt that the Mayor broke his word and contradicted his own public statement. He quoted from the Mayor, "I have never not put an item on the agenda that an alderman has asked for." He then stated, "This will be on." He felt that Administration is obstructing the will of the Council. E. Sadowski stated he is very disappointed with the lack of honesty that this administration shows in dealing with the Council and that Mayor Schuman and Administrator Carlson have lost his respect and trust. E. Sadowski continued to read from his prepared statement asking for patience and support as they attempt to restore a system of checks and balances in the local government. He feels they will succeed, despite the roadblocks the administration is placing before them.

Tim Neubert, 40 Nashotah Road – Addressed the NW quadrant. He spoke regarding this sector, particularly the MLG proposal made at the last Plan Commission meeting. As far as public participation, he stated there were NW Quadrant meetings that he was not aware of and individuals present do represent that area of the city and are landowners with skewed bias. He asked for another opportunity for individuals like himself to speak in regards to the future development of this area. He looked at the Master Plan and took a strong interest in this. He asked that the Common Council and Plan Commission adhere to the Master Plan. He decided to live in this area because of what the Master Plan showed. The Master Plan is the road plan. He moved to the Lake Country because of the "country." When looking towards the future, he asked that the City act accordingly. He referenced green space preservation as an article in a recent Waukesha Freeman newspaper. The MLG development doesn't promote green space preservation.

Ed McAleer, 3413 Lake Drive – He addressed the budget using the sample that was handed out with the budget packet. The sample should have been more representative of the amount the assessment increased. He also discussed the

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

refinancing of the current \$20M debt. He suggested it would be feasible to lower debt service payments and spread out the \$1.5M that are due in each of the next four years with the goal being to reduce the 8.25% levy increase down to the 2.2% increase. He asked the Common Council to figure out a way to keep the levy down to 2-2.5%. There needs to be a solution. It needs to come down from the 8.25%.

John Durr, 2237-E Circle Ridge Drive – He lives by the ponds, formerly the Dix property. The condition of the pond was discussed. The pond has totally failed. He asked if there is anything that can be done about cleaning this up if this is still in litigation. He lives 50 yards from the property. The ponds have failed since the beginning. The prairie grass has not been maintained properly since the beginning. He mentioned that there is an expert nearby that could be hired. He has not seen any action. He suggested doing things that wouldn't interfere with litigation such as removing the dead trees and maintaining the prairie grass. The City needs guidance from people who know how to maintain prairie grass. The area looks terrible. He hoped that something would be done.

**CITIZEN'S COMMENTS FOR ITEMS ON THE AGENDA**

Lynda Holton, 485 Lillian Court – She discussed Ordinance 560 adopted by the Common Council in July. She spoke against this ordinance at both the Plan Commission and Common Council meetings. Her reasons were that: this was initiated as a text change when in actuality it is a zoning change requiring a new ordinance; the timing did not allow enough time spent to deliberate; there was no discussion of why existing code specifically denied the flexibility; there was no discussion of the consequences of making those errors; no discussion of why the existing code as it was prior to Ordinance 560 specifically denied the flexibility of Plan Commission determination of major and minor in the case of commercial/conditional use; previous existing code protected all three powers of the city – the public, the Plan Commission and the Common Council. It provided for equal input; commercial conditional use affects a far greater area than surrounding 300 feet and causes more issues (i.e., traffic, lighting, buffers, water issues, noise, hours of operations) than a residential PUD would cause; slips through the cracks or details buried in paperwork or the omitting from the report will be less likely with increased and varied input; future complaints, etc. could be minimized and addressed before the fact; it is a balance of power issue, not a lack of faith in the Plan Commission issue; the previous code would force concise petitions and discourage “plan as you go”; the previous code minimized petition for changes and reduced public hearings; a request was made for a definition of major and minor by way of a cap- either a dollar amount or a percentage of the project. She felt that the previous code was meant to protect public. It should not be amended lightly.

No other citizens wished to speak.

**G. MAC DOUGALL MOTIONED TO CLOSE CITIZENS COMMENTS. B. LEONARD SECONDED THE MOTION. THERE WAS NO FURTHER**

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

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

3. CONSENT AGENDA

- a. RESOLUTION 2007-23 – FINAL ACCEPTANCE OF WATERLEAF SUBDIVISION

**J. KRICKHAHN MOTIONED TO APPROVE CONSENT AGENDA. M. DE YOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

4. COMMITTEE REPORTS

- a. LICENSES - APPROVAL OF THE FOLLOWING LICENSES

Two-year Bartender

Elaine VanPortfilet, Brookfield; Pick 'n Save  
Steven Moore, Oconomowoc; Pick 'n Save  
Annette Schenkel, Neosho; White Oak Grille  
Brad Golemgski, Nashotah; Pick n Save

**E. SADOWSKI MOTIONED TO APPROVE. L. MORRISON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- b. PLAN COMMISSION

1. FINAL APPROVAL OF AN EXTRATERRITORIAL CERTIFIED SURVEY MAP FOR THE TOWN OF DELAFIELD TOWN HALL SITE.

The Plan Commission reviewed the certified survey map for the Town of Delafield Town Hall. Items were identified that needed to be corrected. The items were corrected and resubmitted. R. Dupler reviewed and stated that any land division that occurs within 1.5 miles of the City is reviewed by the City.

**L. MORRISON MOTIONED TO APPROVE. B. LEONARD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

2. RECOMMENDATION TO APPROVE REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

United Properties contributed \$1.5 million for infrastructure that needs to be paid back through special assessment. Parity is being looked at from one end of Hwy 83 to the other.

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

c. LAKE WELFARE COMMITTEE

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

The meeting was held on October 10, 2007. Representatives from Park & Rec were in attendance to discuss common projects. They spoke to the representatives from Foth & Van Dyke and discussed the timeline for DNR submission. The Bleeker launch is almost 100% complete with landscaping. At the end of Oak Street there is an easement on which non-native plants were killed. On Friday, October 19, 2007, at 9:00 a.m. the final planting of plants will be done at both of these locations. The public was invited to help with the planting.

T. Hafner spoke about the status of FEMA and reported on the dam status. In regards to FEMA, the Wisconsin DNR denied the City's appeal. The City appealed the denial of the appeal. A separate motion LOMA (letter of map amendment) was filed. He will follow-up with the DNR to find out if individual property owners who submitted appeals will receive DNR's response.

The DNR has inspected the City's new dam and are very satisfied with structural elements of the rehabilitated dam. There is only one piece of work left which is the fencing on concrete control structure. It is scheduled to be on-site and installed on October 23, 2007. This will substantially complete the dam.

L. Morrison stated that B. Leonard attended the Lake Welfare Committee meeting. All Lake Welfare Committee members are aware that prism maps will be sent to the property owners in the dredging areas. However, it is their opinion that the present time is not the best time to do this. A later date will enable the answers to be available for possible questions.

The City's park site at Oakwood Road is the proposed disposal site for the spoils. On October 29, 2007 at 6:30 p.m. B. Leonard will hold a meeting at Oakwood Church and discuss this. A postcard will be sent out to all District 2 residents.

d. PARK AND RECREATION COMMISSION

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

E. Sadowski stated he and Chris Smith (Park & Rec Chairman) were invited to the Lake Welfare Committee meeting regarding

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

concerns in the park. Both the Lake Welfare Committee and Park & Rec are in harmony and will work together.

Mayor Schuman asked the City Engineer to determine a cost for designing a park for Lois Jensen Park. The Park & Rec Committee will discuss this at a future meeting. If worthwhile, it could be brought forward to budget.

e. PUBLIC WORKS COMMITTEE (MINUTES OF OCTOBER 3, 2007)

1. RECOMMENDATION FROM TRAFFIC COMMITTEE AND PUBLIC WORKS COMMITTEE TO DENY INSTALLATION OF A STOP SIGN AT GLEN OAK COURT.

The Public Works Committee voted to approve the Traffic Committee recommendation to not install a stop sign on Glen Oak Court at the intersection with Evelyn Avenue. Rather, the brush on the northwest corner of the public right-of-way will be removed as well as some trimming of tree branches. This will improve visibility. The Traffic Committee recommended restricting the first three parking spaces west of Oneida Street on the south side of Milwaukee Street to eliminate SUV, truck and van parking. This was proposed to improve the visibility of this intersection. After discussion, a compromise was reached to reduce the restricted spaces from three to two spaces.

**L. MORRISON MOVED TO ACCEPT THE PUBLIC WORKS COMMITTEE'S ACCEPTANCE OF THE TRAFFIC COMMITTEE'S REJECTION OF A STOP SIGN AT GLEN OAK COURT AND EVELYN AVENUE. B. LEONARD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

2. CONSIDERATION OF ORDINANCE 580 REGARDING ANGLED PARKING REGULATIONS ON MILWAUKEE STREET.

**L. MORRISON MOTIONED TO ACCEPT ORDINANCE 580 TO RESTRICT TWO PARKING SPACES IMMEDIATELY WEST OF ONEIDA AND ON THE SOUTH SIDE OF MILWAUKEE STREET. M. DE YOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED.**

3. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

The next meeting is November 7, 2007 at 6:30 p.m. Discussion will include assessment policies/procedures on the sewer system layout.

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

The brush pick-up is Saturday, October 20, 2007. Brush drop off will be canceled due to brush pick-up taking place. Brush should be placed by the street, stumps facing the street by 7 a.m. Pertinent information is on the city's website. All leaves should be placed in brown biodegradable bags. Volunteers for pick up on October 27, 2007 and November 3, 2007 are being sought. G. Mac Dougall would like to encourage those who use the brush drop-off to volunteer.

J. Krickhahn thanked M. Carlson and T. Hafner for resolving the driveway issue on Blue Spruce.

f. DEL-HART COMMISSION

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

No report. The next meeting is October 16, 2007 at 7 p.m.

g. POLICE AND FIRE COMMISSION (MINUTES OF OCTOBER 9, 2007 MEETING)

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

Minutes were included the Commissioner's packets.

h. LIBRARY BOARD (MINUTES OF SEPTEMBER 25, 2007)

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

There is a position that needs to be filled due to the vacancy of Anita Ziffren.

J. Krickhahn received confirmation of Terry Zignego's Grade 1 certification.

The budget was discussed. The Library Board does not see anything to embrace the St. John's merger at this time and stand by the original Plan B Committee's recommendation for the downtown campus.

The next meeting is November 13, 2007 at 7:00 p.m.

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

i. FINANCE ADVISORY BOARD (MINUTES OF OCTOBER 4, 2007 MEETING)

1. ACTION TO CHANGE CITY CODE TO REMOVE SUNSET CLAUSE PER RECOMMENDATION OF FINANCE ADVISORY BOARD.

Due to the success of the Finance Advisory Board and in great part due to the leadership of the Chairman, B. Faracy, a unanimous vote eliminating the sunset clause of the Finance Advisory Board and to remain an on-going committee took place. Budget requests for 2008 will be reviewed at a public hearing on November 5, 2007 at 7:00 p.m. The semi-final budget process takes place on November 12, 2007 at 5:00 p.m. at which time the Finance Advisory Board will make their recommendation regarding the budget and the tax levy. The final part of the budget process takes place on November 19, 2007 at 7:00 p.m. where the 2008 budget and City portion of the tax levy is approved.

Mayor Schuman asked that the financial policies be reviewed by the Finance Advisory Board to see if there are any changes that they would recommend.

2. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

No discussion took place.

j. BOARD OF ZONING

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

No future meetings are scheduled at this time. At the last meeting, a variance was granted regarding a set-back.

k. PROMOTIONAL AND TOURISM COMMITTEE

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

Debra Smith is the Chamber and Tourism Executive Director. All ads until the end of 2007 are in to the various publications. The calendar for 2008 is being worked on. The pumpkin illumination is well underway. The reindeer and Christmas breakfast are being worked on. The Chicago Daily Arrow had an article on the City of Delafield that was distributed. The next big project in conjunction

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

with the Chamber is getting a person from State Department of Tourism to come in and help with strategic planning to determine a mission and shared values. Once this is accomplished, the improvement of the website will take place.

1. PLAN B COMMITTEE (MINUTES OF OCTOBER 5, 2007)

1. ST. JOHN'S PARTNERSHIP REPORT

Meetings have taken place the last two Fridays. A recommendation for the St. John's Library Location has been drawn up. K. Kemnitz was present at the Common Council meeting to present the report and copies were distributed to the Common Council members. All members of the committee were or will be signing the document. Before it goes on the website, all of the signatures will be obtained.

In their initial report of September 4, 2007, they stated that would like to have a Plan B discussion with the Common Council. E. Sadowski stated that he spoke with G. Mac Dougall. G. Mac Dougall stated that if there is to be a referendum in February 2008, by January 8, 2008 a referendum needs to be worded and approved. He requested that the November 5, 2007 meeting start at 6:30 p.m. to develop the wording for the referendum and to answer any questions that the Common Council may have of the Plan B Committee. The Plan B Committee is ready to assist the Common Council with any questions. J. Krickhahn suggested having a special meeting night to discuss the Plan B Committee's recommendations with the Library Board and Common Council. Funds for the sprinkler system of the Safety Campus would need to be put in the 2008 budget and could be supplied by the Plan B Committee. A special meeting will be set up, possibly November 6 or 7, 2007. This special meeting will be televised. B. Leonard would like the referendum issue to be publicized in the Communicator.

2. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

No further discussion took place.

m. SIGN REVIEW COMMITTEE (MINUTES OF OCTOBER 5, 2007)

The Minutes were included in the packet. The Plan Commission will review issues at their next meeting. L. Morrison requested that someone attend a future Common Council meeting. M. Carlson will make this request to S. Binkowski.

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

5. OLD BUSINESS

- a. DISCUSSION AND POSSIBLE ACTION TO RESCIND THE PLAN  
COMMISSION APPROVAL OF A DRIVE-THROUGH AT VILLAGE SQUARE  
(STARBUCKS)

J. Krickhahn stated that this was not a personal attack on the Starbucks franchise, but to question the validity of the Planning Commission's acceptance of the drive-through. It was his impression that the only drive-through that would be allowed was for a bank. His question was how did it went from the General Development Plan that the Common Council voted on with no drive-through on a retail building to the SIP that the Planning Council had with a retail building with a drive-through attached to it. M. Carlson stated that the drawing was in the packet of July 28, 2005. J. Krickhahn asked how the drive-through was put on, who put it on and how it got approved to go to the Plan Commission with the drive-through. M. Carlson stated that the SIP's for all conditional use permits for all commercial developments are recommended by Plan Commission and approved by the Common Council. The packet materials provided go back to August 11, 1993. The Common Council approved the development plan for that site for 231,475 square feet of retail and office development at the same property as the Merchants Square is located. That was approved in 1994. Historically, M. Czubkowski, the former City Clerk, prepared the information in February 2004. The process for this project is the same as for all others. J. Krickhahn stated that in August 2004 there was a signed developers agreement, by all parties, on page 5, paragraph 9. It states no fast-food restaurants, gas or convenience stores or drive-through restaurants shall be allowed within the development. It also stated at that point in time that Exhibit A be the general development plan. M. Carlson stated that there was a misunderstanding between what was attached to the development agreement and what the Plan Commission recommended and the Council approved. The Settlement Agreement approved the general development plan and called for the creation of an SIP. The SIP was required to go through the normal Plan Commission approval process. The Plan Commission reviewed submittals for brick colors, layout of parking lots, and specific location of buildings. They included Phase I of their development plan and Phase II of their development plan where the buildings were and the Plan Commission approved those after Development Agreement was approved. The Development Agreement specifically called for the SIP to go through that process. J. Krickhahn asked his question again - the General Development Plan that he had did not show a drive-through attached to a retail building - who put it on? Who thought it was proper and prudent to bring it before the Plan Commission with a drive-through attached, knowing that paragraph 9 says no drive-through? Who or where did it start stretching the rules to say that maybe a drive-through could go through, when at that point in time it was discussed that the only drive-through that was allowed was a bank. Where did this problem start? Attorney Sewell stated that the

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

Settlement Agreement was used to approve the General Development Plan, saying that later you would have to come back and approve a specific implementation plan. The SIP was adopted in July 18, 2005. B. Leonard referred to the Development Agreement on page 2, Item #1A, Exhibit C. Mayor Schuman stated that if there was a problem or concern it should have been brought up in 2005. Mayor Schuman stated that the definition of restaurant for Starbucks took place at the Plan Commission level. It was not defined as a restaurant. J. Krickhahn wanted to know who and when the drawing and conceptual plan for the SIP was presented to before it went to the Plan Commission. R. Dupler stated that as Staff, the fact that there was a drive-through lane on the east side of the south building did not imply that it has to be a restaurant. There are a number of drive-through facilities in the City that are commonplace that are not restaurants, i.e., dry cleaners, pharmacies. A drive lane, unless strictly prohibited, is an element that would be considered not to be compliant with the GDP. It's no different than arranging parking angular vs. 90 degrees. It is a function of the movement of traffic via use and the ability for any type of establishment to have a drive-through attached to the side of their building. It is not something covered under GDP specifics. J. Krickhahn felt that this was an error because seeing it was specifically listed as a drive-through and was a change that should have come to the Common Council before it went to the Plan Commission. He felt that the Plan Commission made decisions that the Common Council was not aware of. He wants to make sure that this type of thing never happens again. Mayor Schuman stated that in the Plan Commission minutes it reflected that discussion took place as to whether or not this was a restaurant. J. Krickhahn referenced the Permit Application under item 5b, "type of business," it stated "retail/restaurant/specialty coffee". City Attorney Sewell stated that he reviewed the documents and understood how the GDP went to the SIP and it went through as retail with a drive-through. He felt that the issue in the Common Council is where they disagree with the Plan Commission action, which was to determine if Starbucks was or was not a restaurant in order to approve the Business Plan of Operation. He thought that the way it was set up is that when it comes to that type of specificity, the Common Council could act to amend the zoning ordinance to do something to have an appeal process or some kind of mechanism for potential review. The retail drive-through was not against the Settlement Agreement. Mayor Schuman reviewed a partial history of the Settlement Agreement. E. Sadowski addressed the time that the Common Council spent just to settle the a lawsuit with Roundy's and that there was so much going on that perhaps some things were missed in all the commotion. L. Morrison asked Attorney Sewell to describe the difference when the Common Council has things on the consent agenda and when it is a done deal on the Plan Commission. Attorney Sewell stated that the GDP goes through the Plan Commission and is approved by the Common Council. The Common Council also approves the SIP. The Plan Commission then deals with business plans of operation, what the hours will be, etc. Attorney Sewell stated that this is the first time he

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

has seen the Common Council object to a Business Plan of Operation approval. B. Leonard stated that the Business Plan of Operation turned it into a land use issue more than a business plan issue because of the drive-through issue. E. Sadowski stated that this was a unique situation. B. Leonard stated that since this is so unique, there is sensitivity that doesn't exist with any other property. Mayor Schuman stated that the Common Council handled the lawsuit. E. Sadowski stated that for the Common Council to start handling Village Square now would not be a good idea. Mayor Schuman stated that there is a "for lease" sign on that building. If Starbucks decides not to go in there, the developer would seek to lease it to someone else. In which case, if it's similar to a restaurant, he will bring it back to the Common Council and they can decide if it's a restaurant or a beverage place. Attorney Sewell stated that presently the business plans of operation go only to the Plan Commission according to the way the ordinance is currently set up. If there are things that are troubling, specific issues such as drive-throughs or restaurants, then the zoning ordinance would need to be changed. Procedures include a Class 1 Notice, Public Hearing in front of Plan Commission, the Plan Commission gives the recommendation and then the Common Council would approve. No one knows at this point if Starbucks was going in or not.

**J. KRICKHAHN MOTIONED TO RESCIND THE PLANNING COMMISSION'S APPROVAL WITH REGARD TO VILLAGE SQUARE REGARDING THE DRIVE-THROUGH AT THE STARBUCKS RESTAURANT. B. LEONARD SECONDED THE MOTION.** ATTORNEY SEWELL STATED THAT IT WAS CONTRARY TO THE CITY'S ORDINANCES. J. KRICKHAHN FELT THAT A MISTATKE WAS MADE. B. LEONARD STATED THAT IT WOULD BE IN COMPLIALNCE WITH THE SETTLEMENT AGREEMENT. G. MAC DOUGALL ASKED IF THE PLAN COMMISSION COULD RESCIND WHAT THEY HAVE DONE. ATTORNEY SEWELL FELT THAT THIS WAS A GRAY AREA. E. SADOWSKI'S FEAR WAS A POSSIBLE LAWSUIT AND HAVING THE CITIZENS PAY FOR LEGAL FEES. B. LEONARD ASKED WHAT THE POINT OF THE SETTLEMENT AGREEMENT WAS IF IT WAS NOT GOING TO BE FOLLOWED. ATTORNEY SEWELL STATED THAT THE QUESTION WAS THAT THERE IS AMBIGUOUS LANGUAGE, I.E., "FAST FOOD", WHO IS INTERPRETING WHAT THAT TERM, RESTAURANT, IS? THE WAY IT WORKED OUT WITH THE CODE AND SETTLEMENT AGREEMENT AND THE PLAN COMMISSION WAS THE ONE THAT GOT THE JOB OF DETERMINING WHETHER OR NOT STARBUCKS WAS A RESTAURANT IN TERMS OF THE SETTLEMENT AGREEMENT. R. DUPLER THOUGHT THAT THE ONE SOLUTION BEING SOUGHT WAS A DIFFERENT DEFINITION OF RESTAURANT IN THE ORDINANCE. CURRENTLY, THE DEFINITION IN THE ORDINANCES IS AN ESTABLISHMENT THAT EXCHANGES PREPARED MEALS FOR COMPENSATION. STARBUCKS IS NOT PREPARING MEALS, ONLY COFFEE. HE'S ASKING THAT STAFF DEVELOP A REVISED DEFINITION OF RESTAURANT. THIS WOULD STILL BE A ZONING TEXT AMENDMENT. **MAYOR SCHUMAN CALLED**

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

**THE QUESTION. TWO WERE IN FAVOR. FIVE OPPOSED. MOTION FAILED.**

J. Krickhahn asked to bring back a review of the ordinance to see if there is a way to stop this from happening again and how to challenge Plan Commission's rulings. Mayor Schuman recommended a discussion of the definition of restaurant. Attorney Sewell stated that these would be zoning text amendments.

The berming on the north side of the Vettleson Road property was checked. The City Engineer determined that there is an inadequate amount of space for the conveyance of water through that space so the berm was compromised for the sake of stormwater. A two to three foot high berm was what was negotiated. As for lighting, they are installing frosted bulbs and a custom-made shield on a couple of the lights. R. Dupler stated that Redmond is installing lower wattage lamps in three fixtures to be re-evaluated and will replace those along the west drive that connects to Vettleson Road if they are found to be acceptable.

- b. DISCUSSION AND POSSIBLE ACTION REGARDING THE VILLAGE SQUARE SETTLEMENT AGREEMENT AND SIP ISSUES TO INCLUDE ISB COMMUNITY BANK APPROVALS.

See above discussion.

- c. DISCUSSION AND POSSIBLE ACTION REGARDING CRITERIA AND GUIDELINES FOR MAJOR AND MINOR CHANGES TO CONDITIONAL USE PERMITS.

J. Krickhahn would like to return to the way it was and have a public hearing on every change. R. Dupler reviewed why there are major and minor changes and how this helps alleviate the Common Council from becoming bogged down with some of the rudimentary decisions that the Plan Commission has been making in the past number of years since the change. The Plan Commission hears the petitions for minor changes to conditional use permits and makes the recommendation to the Common Council and waits for the concurrence for the major or minor change. B. Leonard wanted the opportunity to see it before the major/minor final decision is made. R. Dupler clarified that this body, the Common Council, makes that final determination.

- d. DISCUSSION AND POSSIBLE ACTION TO CREATE THE POSITION OF CLERK/TREASURER IN THE CITY OF DELAFIELD.

The clerk is a mayoral appointment. It was confirmed that advertising and interviewing would take place for the position.

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

E. Sadowski would like to have two to three alderpersons, mayor, city administrator and M. Czubkowski on the committee to interview potential candidates.

It was stated that a position of clerk/treasurer or clerk and treasurer could be created.

**E. SADOWSKI MOTIONED TO CREATE POSITION OF CLERK/TREASURER AS ONE POSITION. J. KRICKHAHN SECONDED THE MOTION. DISCUSSION TOOK PLACE ON HAVING AN INTERIM PERSON TO DO THIS POSITION. ORDINANCE 579 WAS ADOPTED AT THE LAST MEETING. L. MORRISON THOUGHT THAT THE ORDINANCE CREATED THE CLERK AND THE TREASURER. IF IT IS COMBINED, THERE IS A JOB DESCRIPTION AND PAY SCALE, BUT PRESENTLY THEY ARE TWO SEPARATE JOBS. THE ORDINANCE ALLOWS FOR EITHER. THE ORDINANCE WAS PUBLISHED ON OCTOBER 9, 2007. THE POSITION CAN BE FILLED 60 DAYS AFTER PUBLICATION. E. SADOWSKI CALLED THE VOTE. ALL WERE IN FAVOR. MOTION CARRIED.**

- e. DISCUSSION AND POSSIBLE ACTION REGARDING JOB DESCRIPTION AND SALARY RANGE OF CLERK/TREASURER POSITION.

The job description and table of salary ranges were distributed prior to the meeting.

The 2007 salary range for Level 16 was \$23.34/hour - \$30.34/hour.

**B. LEONARD MOTIONED TO ACCEPT JOB DESCRIPTION AND SALARY RANGE. E. SADOWSKI SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.**

E. Sadowski suggested forming a committee with one to two alderpersons, the Mayor, the City Administrator and M. Czubkowski, as a citizen who knows the job best. B. Leonard felt that relationships with the alderpersons would be very important for this position.

E. Sadowski would like an action item to appoint an interim clerk and interim treasurer as an action item on the next agenda. Mayor Schuman will consider this.

6. MAYOR'S REPORT

- a. DUTIES OF THE MAYOR, PER 62.09(8), WISCONSIN STATS.

Section 62.09 Item 8, a & b stated, "Part of the job is to be chief executive officer. The mayor shall take care that city ordinances and state laws are observed and enforced and that all city officers and employees discharge their duties. The mayor shall from time to time give

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

the council such information and recommend such measures as the mayor may deem advantageous to the city.”

b. REPORT & DISCUSSION ON LEAGUE OF WISCONSIN MUNICIPALITIES ANNUAL CONFERENCE

A document entitled “Academy of Local Politics – Mission Statement of Citizens Against Apathy” was included in the Commissioner’s packets. Mayor Schuman read the document.

G. Mac Dougall thought that communication is the most important thing that can be done. He referenced the Plan B Committee. Citizens are becoming involved for space needs.

A sample resolution will be drafted for the next meeting.

c. LETTER FROM ANITA ZIFFREN DATED OCTOBER 3, 2007 ANNOUNCING HER RESIGNATION FROM THE LIBRARY BOARD.

A letter from A. Ziffren was included in the Commissioner’s packets. Mayor Schuman has made contacts in an effort to fill this vacancy, but no applicants have been found at this time. B. Leonard suggested having the Library Board suggest possible recommendations. G. Mac Dougall thought that a youth board member for this committee might be possible.

7. NEW BUSINESS

None.

8. ADMINISTRATOR'S REPORT

M. Carlson was out of the office attending an international city administrator’s meeting.

9. CLERK'S REPORT

a. PUBLIC HEARING – CONSIDERATION OF A CONDITIONAL USE PERMIT FOR LAUDERDALE LAKES MARINA

This is a boat sales operation to go into where “Vic’s Carpets” was located. Watertown Plank Road is the only way to access to this facility.

10. FINANCIAL REPORT

a. APPROVE VOUCHER LIST

**CITY OF DELAFIELD COMMON COUNCIL MINUTES**

**B. LEONARD MOTIONED TO APPROVE THE VOUCHER LIST. L. MORRISON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED.**

b. TREASURER'S REPORT – SEPTEMBER 2007

**L. MORRISON MOTIONED TO APPROVE THE TREASURER'S REPORT. M. DE YOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED.**

11. CORRESPONDENCE

a. Correspondence from Dorothy L. Peterson dated September 27, 2007 regarding supporting the Plan B Committee's recommendations.

12. ADJOURN

**L. MORRISON MOTIONED TO ADJOURN FROM THE MEETING. B. LEONARD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED. THE MEETING ADJOURNED AT 9:53 P.M.**

Minutes prepared by:

Accurate Business Communications, Inc.