

CITY OF DELAFIELD COMMON COUNCIL MINUTES

CALL COMMON COUNCIL MEETING TO ORDER

Mayor McAleer called the meeting to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL for the March 16, 2009 Common Council meeting:

Present

Mayor Ed McAleer
Jeff Krickhahn, Ald.
Beth Leonard, Ald.
Erv Sadowski, Ald.
Michele DeYoe, Ald.
Gerald MacDougall, Ald.
Lynn Morrison, Ald.
Gina C. Gresch, Clerk-Treasurer
Jim Hammes, City Attorney

Absent

Ron Miskelley, 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 March 2, 2009 Common Council meeting.

G. MACDOUGALL MOVED TO APPROVE THE MARCH 2, 2009 COMMON COUNCIL MEETING MINUTES AS PRESENTED. M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED WITH ONE ABSTENTION BY J. KRICKHAHN.

2. Citizen's comments for items not on the agenda.

There were no Citizen's comments for items not on the agenda.

Citizen's comments for items on the agenda.

There were no Citizen's comments for items on the agenda.

M. DEYOE MOVED TO CLOSE CITIZEN'S COMMENTS AT 7:02 P.M. L. MORRISON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. Consent Agenda
 - a. Sale of surplus Fire Department Equipment.

L. MORRISON MOVED TO APPROVE THE ITEMS ON THE CONSENT AGENDA. M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

4. Committee Reports

- a. Licenses

1. Bartender license – 2 Year Licenses to expire June 30, 2010.
 - a. Marisa Johnson, Wales; Delafield Brewhaus
 - b. Bridget Davidoski, Oconomowoc; Noodles & Company
 - c. Tricia Knutson, Dousman; Delafield Brewhaus

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- d. Trevor Dickman, Oconomowoc; Pacific Bistro
- e. Cody Kreidler, Delafield; Daybreak Mobil
- f. Raul Perez, Waukesha; Lumber Inn
- g. Tanya Hoffmann, Waukesha; Pizza Hut

G. Gresch stated all bartenders passed their background check. L. Morrison asked if all bartenders' licenses expire in the same year. G. Gresch stated yes, 2010.

L. MORRISON MOVED TO APPROVE THE TWO-YEAR BARTENDER LICENSE(S). M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

b. Plan Commission – (Minutes of March 11, 2009)

- 1. Smart Growth Public Hearing – Monday, April 20, 2009.

B. Leonard reported on matters considered and actions taken at the meeting. She stated the Plan Commission adopted the Smart Growth resolution. There is a schedule/timeline for Smart Growth adoption in the Common Council packet. The public hearing was published and the hearing is set for Monday, April 20, 2009. E. McAleer stated he would like a special Common Council meeting for adoption of the Smart Growth plan on April 27, 2009. He would like a week between the hearing and adoption to incorporate any comments. There will be discussion after the public hearing.

- 2. Recommendation from Plan Commission to approve the Conditional Use for a mixed use office and multi-family complex for **DELC 0798.965.003, Genesee Street, Delafield. Owner/Applicant: Delafield Lakes; Agent: Joe McCormick**, subject to Planner and Plan Commission conditions set forth.

B. Leonard stated the other item on the agenda tonight has been on the Common Council prior to this meeting, and the developer asked for a 30 day extension. E. McAleer stated the easement still has to be approved the City Engineer.

B. LEONARD MOVED TO APPROVE THE RECOMMENDATION FROM PLAN COMMISSION TO APPROVE THE CONDITIONAL USE FOR A MIXED USE OFFICE AND MULTI-FAMILY COMPLEX FOR DELC 0798.965.003, GENESEE STREET, DELAFIELD. OWNER/APPLICANT: DELAFIELD LAKES; AGENT: JOE MCCORMICK, SUBJECT TO PLANNER AND PLAN COMMISSION CONDITIONS SET FORTH, AND ENGINEER LETTER DATED MARCH 13, 2009. J. KRICKHAHN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

c. Lake Welfare Committee – (Minutes of March 11, 2009)

- 1. Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.

L. Morrison stated the Lake Welfare Committee met last week and discussed several options for dredging funding. The Lake Welfare Committee started with seven options, brought it down to three or four, and will continue to finalize one or two options at the next Lake Welfare Committee meeting so the Lake Welfare Committee can bring the options back to the Common Council for feedback.

Also, the Lake Welfare Committee recommended approval for a boathouse modification to the Plan Commission. It has already been approved by both bodies, but when the builder starting work, he recommended it be rebuilt, so it needed to go back to the Lake Welfare Committee and Plan Commission.

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The Lake Welfare Committee also discussed runoff into the lake. They found it surprising that residents are finding as much runoff as they are. The Lake Welfare Committee will discuss the City's Storm Water Management plan so that they can respond to those questions. B. Leonard stated she received calls from a constituent about a dredging financing option he submitted to the Lake Welfare Committee about an upstream basin; is that something that will be pursued? L. Morrison stated not at this time because it doesn't meet the DNR permit requirements. It would also require eminent domain. The first permit needs to be followed through to its conclusion before another permit is applied for. B. Leonard asked who residents should call to report runoff. L. Morrison stated they should call the Department of Public Works.

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 there is no report. L. Morrison asked about the pier. E. Sadowski stated the pier is installed but the DNR doesn't want it to be used until June to let the grass grow. The pier had to be moved about 50' farther north than planned. He also encouraged everyone to use it when it is ready.

The next Park and Recreation Commission meeting will be held on March 23, 2009 at 7:00 P.M.

e. Public Works Committee – (Minutes of March 4, 2009)

1. Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.

There was nothing to report at this time.

f. Del-Hart Commission

1. Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.

The next Del-Hart Commission meeting will be held on March 17, 2009 at 7:00 P.M.

g. Police and Fire Commission

1. Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.

There was nothing to report at this time.

h. Library Board – (Minutes of March 10, 2009)

1. Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.

J. Krickhahn stated second Saturday of each month is the Friends of the Library Book Sale. They will have a book sale during the 50th Anniversary weekend and during the Art Auction, which will be October 17. Thursday, July 9, 2009 is the Library Movie Night during the 50th Anniversary event. Saturday, July 11, 2009 is Delafield Idol. Applications will be in the schools before the end of the year. Library circulation is up 8% again and it keeps going up. Thank you to Panera Bread for donating over 200 coupons during the Delafield Reads program.

The next Library Board meeting will be held on April 14, 2009 at 7:00 P.M.

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- i. Finance Advisory Board – (Minutes of March 5, 2009)
 1. Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.

G. MacDougall stated the Finance Advisory Board met and discussed the members' assignments to work with the Department Heads to understand each department's revenues and expenses. More work has to be done before any recommendations are to be made for budget. The next meeting date has not been set yet. The Board is doing good work towards finding ways to save money.

- j. Board of Zoning
 1. Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.
 2. Scheduled Hearings for March 26, 2009:
 - a. Case 759 – Appeal of David & Gail Abbot (owners) and Anthony Federspill, Anthony Thomas Builders, Inc. (agent) for proposed addition at 2129 West Shore Dr, DELC 0786.096, relating to Section 17.39(9)(n) regarding minimum open space requirements and maximum floor area ratio requirements.

- k. Promotional and Tourism Committee – (Minutes of March 3, 2009)
 1. Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.

L. Morrison stated the Committee is working on an ad schedule for the year. The Chamber Dinner is April 30 and is open to Chamber members and Common Council members. The new logo, website and strategic plan will be presented at the dinner. She asked the Common Council members to mark down the date. It is a very nice event at the Delafield Hotel.

- m. City of Delafield 50th Anniversary Celebration
 1. Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.

M. DeYoe stated some Committee members met Saturday with the Hawk's Inn people. They are working on locating and digitizing historic photos for the historical booklet the Lake Country Report is doing for the 50th Anniversary. It was also suggested that the residents that have lived in the City the longest be contacted and invited to a special recognition ceremony. The planning is coming along, the website is up and running. E. Sadowski stated there will be a Fish Fry on Friday night catered by the Delafield Brewhaus. The Lions will have a dunk tank and a duck race, and One Delafield is having a BBQ.

- n. Lake Country Fire Department Expansion Committee Meeting – (Minutes of February 26, 2009)
 1. Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.

G. MacDougall stated there hasn't been another meeting since the last Common Council meeting. The Committee's financial advisor will review both the merger funding formula and agreement articles. E. McAleer stated this is the most important meeting to be at and suggested the Common Council members attend. G. MacDougall stated there will be a public hearing on the matter; not sure if it will be joint or individual or when it will be scheduled for.

The next Lake Country Fire Department Expansion Committee meeting will be on March 26, 2009 at 7:00 P.M. at the Nashotah Village Hall.

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5. Old Business
a. LOMR Update.

There was nothing to report at this time.

- b. Presentation of Hydraulic Analysis and Dam Rehabilitation Cost Estimates for the Roller Mill Dam and discussion of possibly creating a lake district.

Neil Moores, 257 W. Main Street, Raffi Shirkaian 740 Mill Road and Mark Eleana, S9 W31380 Erwin Court, Wales gave a presentation to the Common Council. R. Shirkaian asked to open the floor to public comments before they proceed. Steve Schmoke, Margaret Zerwekh's representative, stated he wasn't aware of this presentation until today. He is here to gather information. He is concerned that Mrs. Zerwekh hasn't been involved in this process and hasn't been able to tell her side of the story. She would like to remove the dam. There was a lengthy public hearing and the decision is still pending. Once the decision is made, Mrs. Zerwekh will know better what to do. Whatever you do tonight, please keep in mind that she would like to be heard and has that right like anyone else. E. McAleer stated the Common Council is here to listen tonight. This was not the Common Council's initiative, it's the neighbors; they asked to be put on the agenda, like any citizen group is allowed to do. Will be thoughtful in their decision making process.

Clerk's Note: The presentation is on the website and is on file in the Clerk's Office.

The group reviewed the hydraulic analysis. Engineer Mark Eleana reviewed the key objectives which is to review the Mead & Hunt Report (Feb 2006), review the Hydraulic Analysis revised from 1983, to New FEMA 2008 FIS, review Hydraulic Sizing based on 2008 FIS and adjust Mead & Hunt cost based on 2008 FIS. He then reviewed information for a new dam, which included the flow rates, hydraulic requirements and a revised RFP with Mead & Hunt Probable costs. R. Shirkaian stated the updated RFP is based on a smaller sized dam. B. Leonard asked where the costs came from. R. Shirkaian stated these are actual numbers, less the engineering costs. J. Krickhahn asked if the DNR is on board with this. R. Shirkaian stated they used the revised guidelines to come up with numbers. They do not have a design submitted to the DNR. E. McAleer stated he would like to move on to the idea of a lake district.

R. Shirkaian stated the majority on the Roller Mill Dam residents want the dam. There is a 970 Acre Watershed Retaining Basin; it collects 340,000 pounds of sediment per year; there are 50,000 cubic yards of sediment currently contained; it protects existing property values; it retains recreation, scenic beauty and navigation; it maintains current wetlands and wildlife and it controls the river flow. The proposed dam operation is to have Department of Public Works control the water flow. Removing the dam has an adverse environmental impact. It will have a major impact on recreation, scenic beauty, navigation. It will have a major impact on property values; riparian rights lost; backyards are a mud hole. There are 50,000 cubic yards of silt. There is no plan for sediment mitigation, proper abandonment and no development agreement for the dam. He showed pictures of what the Roller Mill Pond now looks like. R. Shirkaian stated the residents have tried to work with the owner of the dam. That is why they are before the Common Council. The estimated cost for abandonment is \$231,000 to remove 2,800 cubic yards of sediment. There is still sediment left and who pays for that, they are not sure.

R. Shirkaian reviewed the proposed Lake District. He stated they feel they have a viable plan for dam reconstruction. There is no plan for proper abandonment and request the City of Delafield's support in taking the right course of action; which is the only one with a plan. They are proposing a minimal construction easement, minimal maintenance easement, and minimal easement for dam/spillway under/near the existing Bark River. N. Moores stated it is important to recognize that Mrs. Zerwekh has been with the City for a long time, has done a lot for the City. Her taking out the dam without anyone else's input was detrimental to the City. They are looking for a forum to bring the parties together to find an equitable solution. E. McAleer stated

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he called the City's financial advisor, and he agreed to review the proposal and give his opinion on the Lake District. He wants the financial advisor and attorney to give a detailed review of what a Lake District will mean for the City's taxpayers. He can have it done by the April 6, 2009 Common Council meeting.

J. Krickhahn stated Cushing Park is in the Lake District. The City would have to pay for a portion of that. City Attorney Hammes stated the City would have to determine what the boundaries would be. G. MacDougall stated it could be done without including the park. L. Morrison asked if there is a difference between access for construction purposes and eminent domain. J. Hammes stated his understanding Mrs. Zerwekh doesn't want any part of this. With that, have to exercise eminent domain to get any rights. Has anyone looked at the value of acquiring the easement would be? He stated there would be 10 property owners to bear this cost. He stated the City needs that amount so they can better analyze the financial impact to the City. He stated there needs to be a ballpark number for land acquisition. R. Shirkaian stated if they had a cooperating dam owner, they would have that answer. R. Shirkaian stated if asking from a real estate value, they can put together a proposal of what they think the costs are. J. Hammes suggested the group hire an appraiser and obtain a realistic number for land acquisition. The City needs that before he can give an opinion on the financials. There was further discussion about land acquisition costs and reviewing the financial impact of Lake District on the City. L. Morrison stated at prior meetings, the Nemahbin Lake District is quite interested in this. Instead of being responsible for abandoning the dam, she can get revenue and we can make this a win-win situation. E. Sadowski asked if the City would be responsible for the abandonment permit if the City uses eminent domain. J. Hammes stated the Lake District would be responsible. He proposed that the Lake District do all these steps, but the City operate the dam.

J. Hammes stated if the judge rules in favor of the abandonment, the Roller Mill Dam group can appeal it. There was discussion with a DNR representative about different situations with the Lake District and the City after the abandonment ruling. E. McAleer stated he would like the Common Council to send a letter to the judge requesting him to extend the decision timeline so that the group and the City can come up with a feasible way to resolve this. J. Hammes stated assuming the abandonment is ordered, the property owner has to follow the restoration plan and find a nonprofit organization to help contribute funds. If that is not done, the DNR will remove the dam if the property owner is found destitute. The DNR Representative stated the DNR has received partial removal plans which are public record. J. Krickhahn asked if the City goes through with this could we still be denied the dam. DNR Representative stated yes that is possible.

L. Morrison stated it is coming across in the paper that the DNR wants to get rid of dams. DNR Representative stated the DNR wants dams to either be removed or reconstructed properly. Margaret Zerwekh's representative stated it is Margaret Zerwekh's wish to abandon and remove the dam. It will cost her money with either decision. She owns the dam and that is her wish to remove it because she feels it is better to have a free flowing river for the City and the environment. L. Morrison stated Margaret Zerwekh's contribution to the dam could be for her to let these people reconstruct the dam and have a good looking property with little cost to her. Margaret Zerwekh's representative stated creating a new dam goes beyond creating a new spillway which wasn't addressed in the presentation.

J. KRICKHAHN MOVED TO DIRECT THE FINANCIAL ADVISOR AND CITY ATTORNEY TO REVIEW THE PRESENTATION MADE BY THE ROLLER MILL POND PROPERTY OWNERS TO DETERMINE THE FINANCIAL EFFECT OF A LAKE DISTRICT ON THE CITY'S TAXPAYERS, AND TO PRESENT THE FINDINGS AT THE APRIL 6, 2009 COMMON COUNCIL MEETING. M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

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G. MACDOUGALL MOVED TO SEND A LETTER TO HON. JEFFREY D. BOLDT, ADMINISTRATIVE LAW JUDGE, STATE OF WISCONSIN, DIVISION OF HEARINGS AND APPEALS, 5005 UNIVERSITY AVENUE, SUITE 201, MADISON, WI. 53705; RE: CASE NO.: IP-SE-2008-68-67868, CASE NO.: IP-SE-2008-68-67870, CITY OF DELAFIELD NEMAHBIN ROLLER MILL DAM, REGARDING THE SUBJECT CASES RELATING TO THE NEMAHBIN ROLLER MILL DAM ABANDONMENT, THE COMMON COUNCIL OF THE CITY OF DELAFIELD, WISCONSIN RESPECTIVELY REQUESTS A POSTPONEMENT OF YOUR DECISION. THE COMMON COUNCIL OF THE CITY OF DELAFIELD IS CURRENTLY DELIBERATING THE CREATION OF A LAKE DISTRICT DEFINED BY THE MILL POND BOUNDARIES FOR THE PURPOSE OF CONTROLLING AND RECONSTRUCTING THE DAM STRUCTURE WITH A NEW TAINTER GATE AND SPILLWAY. THE CASE WAS PRESENTED, AND RESOLUTION PROPOSED AT OUR MARCH 16, 2009 COMMON COUNCIL MEETING. WE REQUIRE ADDITIONAL TIME FOR CITIZEN COMMENT. WE ALSO WISH TO INSURE FULL COUNCIL ATTENDANCE FOR FURTHER DELIBERATION BEFORE ACTION IS TAKEN ON THE PROPOSED RESOLUTION(S). WE, THE COMMON COUNCIL OF DELAFIELD WISCONSIN, RESPECTFULLY REQUEST A POSTPONEMENT OF YOUR DECISION REGARDING THE ABANDONMENT TO INSURE WE HAVE TIME TO EXERCISE AN ADEQUATE DUE DILIGENCE PROCESS SO THAT WE MAY "FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF OUR ELECTED OFFICE" AS SWORN TO IN OUR OATH OF OFFICE. L. MORRISON SECONDED THE MOTION.

- c. Discussion and action to adopt Resolution No. 2009-06, A Resolution Authorizing the Submittal Documentations of Application for the Creation of the Roller Mill Lake District and Take Control of the Roller Mill Dam in order for the Roller Mill Lake District to Proceed with the Activities to Restore the Dam.

There was no discussion and action on this item.

6. Mayor's Report

- a. Discussion and action to adopt Arbor Day Proclamation.

E. McAleer read the proclamation into the record.

L. MORRISON MOVED TO PROCLAIM APRIL 24, 2009 ARBOR DAY IN THE CITY OF DELAFIELD. G. MACDOUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

7. New Business

- a. Discussion and action to award Milwaukee Street Basin Repair Project to Willkomm Excavating & Grading, Inc., subject to Public Works Committee recommendation.

E. SADOWSKI MOVED TO AWARD MILWAUKEE STREET BASIN REPAIR PROJECT TO WILLKOMM EXCAVATING & GRADING, INC., SUBJECT TO PUBLIC WORKS COMMITTEE RECOMMENDATION. G. MACDOUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. Discussion and action to adopt Resolution No. 2009-05, A Resolution Authorizing the Submittal of a Grant Application for the City Hall & Library Campus Property by the Department of Public Works Director and the Subsequent Appropriation of City of Delafield Funds for a Wisconsin Ready For Reuse Grant.

B. Leonard asked what this is. G. Gresch stated it's a housekeeping item that piggybacks on the resolution adopted at the last Common Council meeting for a Brownfield Grant.

E. SADOWSKI MOVED TO ADOPT RESOLUTION NO. 2009-05, A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION FOR THE CITY HALL &

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LIBRARY CAMPUS PROPERTY BY THE DEPARTMENT OF PUBLIC WORKS DIRECTOR AND THE SUBSEQUENT APPROPRIATION OF CITY OF DELAFIELD FUNDS FOR A WISCONSIN READY FOR REUSE GRANT. B. LEONARD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- c. Discussion and action to direct Mayor to sign and send letters to Congressmen and Senators to request stimulus money or any other available funding for lake dredging.

E. SADOWSKI MOVED TO DIRECT MAYOR TO SIGN AND SEND LETTERS TO CONGRESSMEN AND SENATORS TO REQUEST STIMULUS MONEY OR ANY OTHER AVAILABLE FUNDING FOR LAKE DREDGING. B. LEONARD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- 8. Administrator's Report
 - a. Report of City Officials
 - i. Administrator
 - ii. Clerk-Treasurer

G. Gresch stated the newsletter will be mailed this week. Absentee Ballots are now available for the April Election.

- iii. Council requests of future agenda items - NO DISCUSSION OF REQUESTED ITEMS.

B. Leonard asked that a status report on all capital improvement projects, costs and completion schedules be on the next agenda.

G. MacDougall asked that the discussion and action to possibly create Lake District be on the next Common Council agenda.

- 9. Financial Report
 - a. Approve voucher list

E. SADOWSKI MOVED TO APPROVE THE VOUCHER LIST AS PRESENTED. M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. Approve January Treasurer's Report.

G. Gresch stated the Treasurer's Report has been corrected and re-issued.

E. SADOWSKI MOVED TO APPROVE THE TREASURER'S REPORT AS AMENDED. M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- 10. Correspondence
 - a. Focus Newsletter
 - b. Letter from Time Warner Cable regarding channel lineup changes.

E. McAleer reviewed the correspondence with the Common Council members.

- 11. Adjournment

E. SADOWSKI MOVED TO ADJOURN THE MARCH 16, 2009, COMMON COUNCIL MEETING AT 8:26 P.M. M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

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Minutes Prepared By:

Gina C. Gresch, MMC/WCPC
City of Delafield Clerk-Treasurer
Waukesha County

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