

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 May 3, 2010 Common Council meeting:

Present

Absent

Mayor Ed McAleer
Jeff Krickhahn, Ald.
Beth Leonard, Ald.
Erv Sadowski, Ald.
Michele DeYoe, Ald.
Gerald MacDougall, Ald.
Lynn Morrison, Ald.
Tim Aicher, Ald.
Tim Schuenke, Administrator
Gina C. Gresch, Clerk-Treasurer

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 April 19, 2010 Common Council meeting and April 20, 2010 Organizational Meeting.

E. SADOWSKI MOVED TO APPROVE THE APRIL 19, 2010 COMMON COUNCIL AND APRIL 20, 2010 ORGANIZATIONAL MEETING MINUTES AS PRESENTED. L. MORRISON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

2. City of Delafield Citizen's Comments for items not on the agenda.

None.

City of Delafield Citizen's Comments for items on the agenda.

Rick Simmons, 3482 Broken Bow Trail, stated there are a lot of emotions involved with the Hartland Sportsmen's Club. He reviewed instances in public where he and his wife have been vilified by people that are saying the Simmonses are traitors to the gun club. The emotions need to be kept in the meeting room.

Tracy Dallen, 3434 Broken Bow Trail, stated she has emotions over what has transpired the last couple weeks with the Hartland Sportsmen's Club and it makes her really sad. She came to the Common Council six years ago about the safety violations, which the club closed for a few weeks. The Common Council at the time assured the neighbors it would never happen again and now the unthinkable has happened: A patron at a neighboring business was hit by a stray bullet. She doesn't feel safe outside of her house. If there is litigation as a result of this event, an attorney can file an open records request and find the history of the club and its safety violations. She also stated the proximity of the club is not compatible to the surrounding neighborhood. The time is now for public safety. The City's shooting range was closed when one stray shot left the range; this is no different. It is time for the City to terminate the Conditional Use. She also spoke about the proposed Fireworks Ordinance on the agenda and this too is a known public safety issue. She wanted to know why the Common Council is making fireworks less regulated.

CITY OF DELAFIELD COMMON COUNCIL MINUTES

Richard Dallen, 3434 Broken Bow Trail, stated that Mr. Hickey is one of the gun club's past presidents, and he is denying the possibility of any bullets leaving the range. This attitude and the treatment of the Simmonses should not be allowed and should be condemned in the City of Delafield. He hopes the City of Delafield shuts down the gun club for the safety of the community.

L. MORRISON MOVED TO CLOSE CITIZEN'S COMMENTS AT 7:11 P.M. G. MACDOUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. Consent Agenda
4. Committee Reports - Report on discussion and action taken at previous meetings, future agenda items and upcoming scheduled meetings.
 - a. Licenses
 1. Bartender license – 2 Year Licenses to expire June 30, 2012.
 - a. Mary L. Goetzke, 3036 Nagawicka Ave, Delafield; Walgreens
 - b. Janelle L. Palmer, 12706 W Euclid Ave, New Berlin; Walgreens
 - c. Erin M. O'Day, 513 Grove Street, Waukesha; Walgreens
 - d. Pamela A. Schaeffer, 1610 Gabriel Drive, Unit 7, Waukesha; Walgreens
 - e. Wittney A. Shipley, 407 Morrissey Drive, North Prairie; Walgreens
 - f. Rebecca J. Taylor, 1012 Chelsea Circle, Hartland; Walgreens
 - g. Mary L. Tylke, N66 W27127 Tammamore Drive, Lisbon; Walgreens
 - h. Gina R. Miller, 4531 N. 70th Street, Milwaukee; Walgreens
 - i. Daniel L. Morse, 1809 Kensington Dr, Apt 5, Waukesha; Walgreens
 - j. Colleen R. Anderson, W287 N3197 Lakeside Rd, Pewaukee; Walgreens
 - k. Anthony D. Lowe, 427 W. Park Avenue, Waukesha; Pacific Bistro
 - l. Phillip V. Schuman, 1717 Nagawicka Rd, Hartland; Nagawicka Lake Yacht Club
 - m. Tacita M. Pietrantonio, 847 W. Devonshire Road; Open Pantry
 - n. Michael A. Wichman, 3549 S. 17th Street, Milwaukee; Sentry Foods

G. Gresch stated all bartenders passed their background check.

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.

2. Combination Class "B" Beer, "Class B" Liquor License for Twist 'n Olive, LLC.; Scott Westley Vieth, 2920 Stillwater Circle, Waukesha; Owner/Agent; Twist 'n Olive, 2730 Hillside Drive, Delafield WI. This is a change in ownership/agent only. Plan Commission approved the Business Plan of Operation Amendment on April 28, 2010.

G. Gresch stated this is a change in ownership/agent only. The Plan Commission approved the Business Plan of Operation Amendment on April 28, 2010. The new agent's renewal application will be on the June 7, 2010 Common Council agenda along with the rest of the license renewals.

J. KRICKHAHN MOVED TO APPROVE THE AGENT CHANGE FOR THE COMBINATION CLASS "B" BEER, "CLASS B" LIQUOR LICENSE FOR TWIST 'N OLIVE, LLC.; SCOTT WESTLEY VIETH, 2920 STILLWATER CIRCLE, WAUKESHA; OWNER/AGENT; TWIST 'N OLIVE, 2730 HILLSIDE DRIVE, DELAFIELD, WI. G. MACDOUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

CITY OF DELAFIELD COMMON COUNCIL MINUTES

b. Plan Commission – (Minutes of April 28, 2010)

M. DeYoe stated the Plan Commission had a lengthy meeting last week with three public hearings. Delafield Woods had four speakers with concerns about traffic and storm water. The Park & Recreation 5-Year Plan had one speaker which was in favor of park development. The Hartland Sportsmen's Club had more than 40 speakers commenting about the additional shooting hours. That item will be discussed later on the agenda. The Plan Commission also approved new businesses which include House of Handles, Jack Rose Engineering, Penzeys Spices and Expressume. Also, the Rocky Mountain Chocolate Factory opened last Friday, for which the Plan Commission approved outdoor seating. The Farmers Market was also allowed to sell meat products.

c. Lake Welfare Committee

There was nothing to report at this time. The next Lake Welfare Committee meeting is May 12, 2010 at 6:00 P.M.

d. Park and Recreation Commission – (Minutes of April 26, 2010)

T. Aicher stated David Brabson, Park & Recreation Commission member has coordinated some students to work with the Public Works Department to improve Lois Jensen Park by adding woodchips and another dog station. In the fall, parking spaces will be added to the east side of the road. The Cushing Road Bike Trail connection is complete and is a great improvement. Also, the Oakwood Park trails are open. There has been discussion about dedicating some of the land to any possible lake dredging needs for spoils. Residents neighboring the park are looking for natural screening. The Commission is looking for ideas as to what to develop the park into. People have also asked for better canoe access to Lake Nagawicka. The 5-Year Plan has been actively publicized and reviewed. In addition, the Nashotah House Annual Golf Outing is May 18, 2010 at Black Wolf Run. Go to www.Nashotah.edu for more information.

L. Morrison stated the Lake Welfare Committee members are willing to help with cleaning up the lower part of the lake for better canoe access. G. MacDougall asked about re-establishing parking on Cushing Park Road. T. Aicher stated that will be discussed at the next meeting. M. DeYoe stated that, based on comments she has heard from citizens near the bike trail, they are ecstatic over the improvement. The trail has been used heavily since the asphalt went down. She also mirrors the parking concern. If the City is looking for volunteers, the Kettle Moraine National Honor Society is always looking for service projects. She also stated that residents in her area want to see a shelter and maybe a picnic table and upgraded playground equipment in Cedar Valley Park. Also, a volleyball net in the large open area would be nice.

e. Public Works Committee

There was nothing to report at this time. The next Public Works Committee meeting is May 5, 2010 at 6:30 P.M. Wal-Mart, McDonalds and the Golf Road Feasibility Study will be discussed.

f. Del-Hart Commission – (Minutes of April 20, 2010)

M. DeYoe stated Del-Hart bought a truck for \$15,000 less than what was budgeted. G. MacDougall stated they will also be discussing DUE amendments. M. DeYoe stated they also received the audit which will be reviewed by the next meeting.

g. Police Commission

There was nothing to report at this time.

CITY OF DELAFIELD COMMON COUNCIL MINUTES

h. Library Board

There was nothing to report at this time. The next Library Board meeting is May 10, 2010 at 7:00 P.M.

i. Board of Zoning

There was nothing to report at this time. The next Board of Zoning Appeal meeting is May 13, 2010 at 7:30 p.m. The appeal is for a detached garage at 1022 Sunset Drive.

j. Promotional and Tourism Committee

There was nothing to report at this time. The next Promotional and Tourism Committee is May 4, 2010 at 7:00 a.m. at the Fish Hatchery.

k. Lake Country Fire Commission

There was nothing to report at this time.

l. Lake Country Fire Board – (Minutes of March 10, 2010)

G. MacDougall stated the day after the last Common Council meeting, the Fire Board received notification from the Social Security Administration approved the Lake Country Fire & Rescue Department into the Wisconsin Retirement System. The only decision that needs to be made by the state is whether to accept the Lake Country Fire & Rescue Department on January 1, 2011 or to make the decision retroactive to January 1, 2010. The next Lake Country Fire Board meeting is May 19, 2010 at 7:00 P.M. at the Nashotah Fire Station #2.

m. Dredging Plan B Committee – (Minutes of April 21, 2010)

B. Leonard stated DPW Director Tom Hafner received a voicemail from Jim Ritchey of the DNR regarding the Waterways Grant application. The DNR has approved and ruled out areas of the lake. The DNR ruled out certain areas because they feel that the project will not enhance the recreational use of the lake. The Committee feels the DNR's review is more subjective than objective. However, the project can move forward. The Committee's workgroups discussed their progress on subjects like creating a lake district and its pros and cons and basic payments. They also discussed areas that could be removed from the project, like Woodland Park Drive; however, no recommendations have been made yet.

T. Aicher stated if it seems like the Committee's progress is slow, it is because it is. The Committee is trying not to miss anything. The Lake Awareness Meeting is June 9. The Dredging Committee's goal is to have something to present at that meeting. They are working on permit based timelines. B. Leonard stated the presentation scheduled for the April meeting has been rescheduled for the May 6 meeting. Also there is a small group of property owners near St. John's Bay who may be proceeding on their own with a small scale dredging project; they are waiting to see what the DNR says.

5. Unfinished Business

a. LOMR Update.

None.

CITY OF DELAFIELD COMMON COUNCIL MINUTES

- b. Discussion and action to adopt Ordinance No. 637 An Ordinance Repealing and Recreating Section 9.17 of the Municipal Code of the City of Delafield, Waukesha County, Wisconsin Related to Distribution of Advertising Publications.

E. McAleer stated he received a phone call from Steve Lyles of Lake Country Publications stating the Milwaukee Journal is requesting the Common Council wait to adopt the ordinance until their attorney can review it. They are in favor of the ordinance, but are asking for time to review it. G. MacDougall stated there is no rush to adopt this. J. Krickhahn suggested the Administrator to be the contact with the Milwaukee Journal.

E. SADOWSKI MOVED TO POSTPONE ORDINANCE NO. 637 AN ORDINANCE REPEALING AND RECREATING SECTION 9.17 OF THE MUNICIPAL CODE OF THE CITY OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN RELATED TO DISTRIBUTION OF ADVERTISING PUBLICATIONS. G. MACDOUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- c. Discussion and action to adopt Ordinance No. 633 An Ordinance Amending Section 9.04 of the Municipal Code of the City of Delafield, Waukesha County, Wisconsin, Related to Fireworks.

T. Schuenke stated there is no liability risk for the City by issuing permits. The Attorney compares this ordinance to the getting a driver's license from the state. Your having a license doesn't make the state responsible for your driving. E. McAleer stated the Police and Fire Chief along with the Mayor need to sign the permit. There was further discussion about who signs the permit first, that this is improving, not lessening control and what is needed to obtain a permit. If a permit is not obtained, the Police Department will enforce the ordinance and issue tickets. There was discussion about the difference between a homeowner obtaining a permit versus a commercial operation obtaining a permit. T. Schuenke stated the commercial fireworks companies already obtain permits and submit certificates of insurance. A residential fireworks user will have to submit the application, fee, and a homeowner's insurance rider for \$1 Million dollars, and then will need to obtain the three required signatures. E. McAleer stated he expects full enforcement of this ordinance. M. DeYoe stated she has seen neighbors issued tickets for illegally shooting off fireworks. B. Leonard asked if the City anticipates increasing costs for enforcement. T. Schuenke stated no, but this may take some time to get everyone made aware of the new rules. It will be advertised in the newsletter if time permits, Channel 25, the website, and Facebook.

G. MACDOUGALL MOVED TO ADOPT ORDINANCE NO. 633 AN ORDINANCE AMENDING SECTION 9.04 OF THE MUNICIPAL CODE OF THE CITY OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN, RELATED TO FIREWORKS. J. KRICKHAHN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

6. Mayor's Report

7. New Business

- a. Discussion and action to rescind Resolution No. 2010-02, Supporting the State of Wisconsin's Goal of Replacing 25% of its Electric Power and Transportation Fuels from Renewable Sources by 2025, which was adopted at the April 19, 2010 Common Council meeting.

E. McAleer stated this Resolution was passed at the last Common Council meeting; however, the Legislature did not enact the legislation for this issue. He stated he felt foolish signing a resolution supporting legislation that was not acted on. E. Sadowski he opposed it at the time and is willing to rescind it. If it the legislature adopts, the Common Council can bring it back.

CITY OF DELAFIELD COMMON COUNCIL MINUTES

E. SADOWSKI MOVED TO RESCIND RESOLUTION NO. 2010-02, SUPPORTING THE STATE OF WISCONSIN'S GOAL OF REPLACING 25% OF ITS ELECTRIC POWER AND TRANSPORTATION FUELS FROM RENEWABLE SOURCES BY 2025, WHICH WAS ADOPTED AT THE APRIL 19, 2010 COMMON COUNCIL MEETING. G. MACDOUGALL SECONDED THE MOTION.

B. Leonard stated we do not know for sure that the legislation is related to these grant efforts, however we couldn't get a hold of anyone at the Office of Energy Independence. However, staff at the UW-Extension believes there is no relationship between the Act and the funding available for this grant program. We are waiting for confirmation about this. If the legislation and grant program are not related to each other, then it should be readopted. J. Krickhahn stated he agrees with B. Leonard and that this sends a serious message about energy if this resolution is rescinded. T. Aicher stated this is an arbitrary goal and that the City is already committed to holding projects and developments to their own merits for a return on the environmental investment. He doesn't want this to be a rubber stamp saying we want people to buy land for a windmill farm. J. Krickhahn and B. Leonard stated this resolution makes the City eligible for grants. M. DeYoe suggested the Common Council wait to let the Administrator investigate the matter.

E. SADOWSKI WITHDREW HIS MOTION TO RESCIND RESOLUTION NO. 2010-02, SUPPORTING THE STATE OF WISCONSIN'S GOAL OF REPLACING 25% OF ITS ELECTRIC POWER AND TRANSPORTATION FUELS FROM RENEWABLE SOURCES BY 2025, WHICH WAS ADOPTED AT THE APRIL 19, 2010 COMMON COUNCIL MEETING. G. MACDOUGALL. G. MACDOUGALL AGREED TO THE WITHDRAWAL OF THE MOTION.

- b. Discussion and action to adopt Resolution No. 2010-07, A Resolution to Establish a Schedule of Fees as Authorized by the City of Delafield Municipal Code.

G. Gresch stated the Resolution is to update the fee schedule. The following changes are proposed: \$100 Fireworks Permit Application based on action taken earlier in the meeting; now that we are recording meetings on DVD's, the charge is proposed to be \$10 per DVD; and the Sign Permit Fee is proposed to be \$175. This now includes the Planner's review time, so additional invoices will not be sent out.

M. DEYOE MOVED TO ADOPT RESOLUTION NO. 2010-07, A RESOLUTION TO ESTABLISH A SCHEDULE OF FEES AS AUTHORIZED BY THE CITY OF DELAFIELD MUNICIPAL CODE. E. SADOWSKI SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- c. Discussion and action to adopt Ordinance No. 636 An Ordinance Creating Section 9.101.123 of the Municipal Code of the City of Delafield Relating to a Smoking Ban in Compliance with 2009 Wisconsin Act 12 and Amending Section 9.35 of the Municipal Code Regarding Penalties for Violation.

G. Gresch stated this is a housekeeping matter to adopt State Statutes to reflect the newly adopted smoking ban. This ordinance is not any more or less restrictive than the statutes. It merely adds the law and penalties to the City's Municipal Code. T. Aicher questioned why the City needs to adopt this. G. Gresch stated the City adopts state statutes so that we can issue citations for laws the state passes.

J. KRICKHAHN MOVED TO ADOPT ORDINANCE NO. 636 AN ORDINANCE CREATING SECTION 9.101.123 OF THE MUNICIPAL CODE OF THE CITY OF DELAFIELD RELATING TO A SMOKING BAN IN COMPLIANCE WITH 2009 WISCONSIN ACT 12 AND AMENDING SECTION 9.35 OF THE MUNICIPAL CODE REGARDING PENALTIES FOR VIOLATION. M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED WITH ONE NAY BY T. AICHER.

CITY OF DELAFIELD COMMON COUNCIL MINUTES

- d. Discussion and action on consideration of major vs. minor changes to Conditional Uses.

E. McAleer stated it was made very clear at last week's Plan Commission meeting that decisions on minor changes to Conditional Uses are too subjective. He suggests that all Conditional Uses and amendments to Conditional Uses have public hearings before the Plan Commission. Common Council members agreed. T. Schuenke stated the Common Council needs to refer this matter to the Plan Commission so the Plan Commission can hold the public hearing to consider the ordinance change, then the Plan Commission makes the recommendation back to the Common Council.

M. DEYOE MOVED TO REFER THE MATTER OF AMENDING THE MUNICIPAL CODE TO REQUIRE ALL CONDITIONAL USES AND AMENDMENTS TO CONDITIONAL USES TO THE PLAN COMMISSION TO HOLD A PUBLIC HEARING AND MAKE A RECOMMENDATION BACK TO THE COMMON COUNCIL. E. SADOWSKI 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

- a. Discussion and action to refer the Hartland Sportsmen's Club Conditional Use to the Plan Commission pursuant to Section 17.44 (Conditional Use Permit Termination), of the City of Delafield Municipal Code.

T. Schuenke stated, given the testimony made at last week's Plan Commission meeting regarding the Hartland Sportsmen's Club, it is his opinion that the Common Council direct the Plan Commission to hold the public hearing to determine whether or not the Hartland Sportsmen's Club is in compliance with their Conditional Use. There was sufficient testimony to warrant the City doing that. A public hearing on possible termination can be held at the regular May Plan Commission meeting. It cannot be discussed at the extra meeting because that was published as discussion on hours only. E. McAleer asked if there is enough time to get this public hearing on the May Plan Commission agenda. G. Gresch stated yes.

E. SADOWSKI MOVED TO REFER THE MATTER OF POSSIBLY TERMINATING THE HARTLAND SPORTSMEN'S CLUB CONDITIONAL USE TO THE PLAN COMMISSION TO HOLD A PUBLIC HEARING AND MAKE A RECOMMENDATION BACK TO THE COMMON COUNCIL. B. LEONARD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

ii. Clerk-Treasurer

a. Ordinance Update

G. Gresch stated she there has been a lot of ordinance activity so she drafted a memo for the Common Council that shows why Ordinances look as though they are being adopted out of number sequence order. M. DeYoe asked if this can be included in the packet each month. G. Gresch stated yes, she can do that.

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

B. Leonard requested a report from the Administrator or Planner of the signs that have been approved that require approval beyond the City's Zoning Code. T. Schuenke stated those signs require Plan Commission approval. B. Leonard stated then she would like a report of those signs that the staff approves.

CITY OF DELAFIELD COMMON COUNCIL MINUTES

9. Financial Report
a. Approve voucher list

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

10. Correspondence
a. Focus Newsletter
b. Letter from Kettle Moraine School District recommending Char Hall to be appointed to the Library Board.
c. Letter from Waukesha County regarding 2010 Recycling Grant monies to be received by the City.
d. Letter from Waukesha County regarding available CDBG Grant monies.

11. Adjournment

E. SADOWSKI MOVED TO ADJOURN THE MAY 3, 2010 COMMON COUNCIL MEETING AT 8:04 P.M. G. MACDOUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

Minutes Prepared By:



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