

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 November 1, 2010 Common Council meeting:

Present

Ed McAleer, Mayor
Jeff Krickhahn, Ald.
Beth Leonard, Ald.
Erv Sadowski, Ald.
Michele DeYoe, Ald.
Gerald MacDougall, Ald.
Tim Aicher, Ald.
Tim Schuenke, Administrator

Absent

Lynn Morrison, Ald.

1. Approve minutes of October 18, 2010 Common Council meeting and October 27, 2010 Budget Workshop.

J. KRICKHAHN MOVED TO APPROVE THE OCTOBER 18, 2010 COMMON COUNCIL MEETING MINUTES AND OCTOBER 27, 2010 BUDGET WORKSHOP MEETING MINUTES AS PRESENTED. M. DEYOE SECONDED THE MOTION. G. MACDOUGALL SUGGESTED AN AMENDMENT BE MADE TO STATE THE CORRECT LOCATION OF THE SIDEWALK BEING CONSIDERED AS PART OF THE REPORT FROM THE PUBLIC WORKS COMMITTEE IN ITEM 4E OF THE OCTOBER 18, 2010 COMMON COUNCIL MEETING MINUTES PRESENTED. WITHOUT OBJECTION FROM THE SECONDER OF THE MOTION, J. KRICKHAHN MOVED TO APPROVE THE OCTOBER 18, 2010 COMMON COUNCIL MEETING MINUTES AND OCTOBER 27, 2010 BUDGET WORKSHOP MEETING MINUTES AS AMENDED ON PAGE 3, ITEM 4E, SENTENCE 10, OF THE OCTOBER 18, 2010 COMMON COUNCIL MEETING MINUTES CHANGE. "THE TRIANGLE ON MILWAUKEE STREET TO THE SOUTH END OF NAGAWICKA LAKE" TO "THE TRIANGLE THAT EXISTS BETWEEN ONEIDA STREET, MAIN STREET AND MILWAUKEE STREET AT THE SOUTH END OF NAGAWICKA LAKE WHICH WOULD IMPROVE PEDESTRIAN SAFETY." THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

2. Citizen's Comments For Items Not On The Agenda

There was no one present wishing to speak at this time.

Citizen's Comments for Items on the Agenda

Gene Kovacs, 463 N. Lapham Peak Road, explained he had been present at a past Council meeting on this issue. He appreciated the efforts the City had gone to in drafting a new ordinance regarding recreational fires. At the past Council meeting he had requested reconsideration of the current ordinance on these topics due to neighborhood nuisance issues related to fire use and hazards presented to his and other adjoining properties. He had three considerations for the Council as the ordinance was discussed this evening. First, the Council should consider modifications to the draft ordinance in the section related to the location of the recreational fires. The proposed 20 foot distance from any property line, building, etc., should be increased to 50 feet and should also include language stating "structure, wood or lumber pile, wooden fence, trees or brushes" as in Section 9.14.(2)(c)(1). Recreational fires were similar to non-contained open fires in size, preparation and effect to adjoining properties. In addition, he thought this section should be consistent with other areas of the ordinance in application. Secondly, the time of burning should be modified from the proposed ordinance to allow burning only during the hours from 5:00 p.m. to 6:00 p.m. until midnight as recreational fires were primarily built during the evening hours. He was present as a result of this activity currently happening to him and he would like to have less nuisance fires as a result. He thought the draft ordinance if left unchanged

CITY OF DELAFIELD COMMON COUNCIL MINUTES

would allow people to subject neighbors in an urban area to burn unreasonably including allowing people to burn up to 18 hours a day seven days a week.. This type of activity and duration more closely resembled a commercial fire area, such as a campground. Increased risks were also noted with additional duration of burn time. The third area modifications were required included the aspect of manufactured containers. Removal of the words "ground level" should be considered as there were several commercially manufactured containers that were designed and used by City residents currently with a variety of non-combustible materials that could be utilized for safety. He thought the use of the "ground level" verbiage to be too restrictive in this case. Overall he liked the ordinance presented and appreciated all the efforts put into this matter. He thanked the Council for its time.

Gerry Holton, 485 Lillian Court, stated he was present to speak to Item 5b on the agenda. He read the proposed revisions to the draft ordinance on this matter. He noted that some residents lived on larger acreage and were attempting to eradicate issues associated with diseased trees and woods maintenance on their property. There were times where in attempting to eradicate various diseased trees a longer duration of burn time was necessary. In addition, he thought the ordinance as proposed would force people to burn a lot more and more frequently if attempting to burn a larger tree. He thought all involved were adults and that no one would want an "out of control" fire. Good common sense was needed in this matter. He suggested consideration be given to adding verbiage related to zoning districts or lot size to allow larger burn piles or longer burn times as necessary in property maintenance situations.

M. DEYOE MOVED TO CLOSE CITIZEN'S COMMENTS AT 7:17 P.M. G. MACDOUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. Consent Agenda

4. Committee Reports

- a. Licenses - Approval of the Following Licenses
 - 1. Bartender license – 2 Year Licenses to expire June 30, 2012.
 - a. Jodi A. Anderson; Delafield Brewhaus

It was noted that all bartenders passed their background check.

E. SADOWSKI MOVED TO APPROVE THE TWO-YEAR BARTENDER LICENSE(S). T. AICHER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

b. Plan Commission – (Minutes of October 27, 2010)

M. DeYoe reported on matters considered and actions taken at the October 27, 2010 Plan Commission meeting noting discussions were held on an ordinance related to fowl being allowed within the City limits and an ordinance related to political signage that had been referred to the City Attorney for clarification.

c. Lake Welfare Committee

There was nothing to report at this time.

d. Park and Recreation Commission – (Minutes of October 25, 2010)

T. Aicher reported the Commission had discussed finalization of the City budget for the Year 2011 and related impacts at its most recent meeting.

e. Public Works Committee

CITY OF DELAFIELD COMMON COUNCIL MINUTES

There was nothing to report at this time.

f. Del-Hart Commission – (Minutes of October 19, 2010)

B. Leonard stated discussions were held by the Commission regarding finalization of the 2011 Commission budget as well as consideration of purchase of additional property for the Public Works Department. Mayor McAleer stated a closed session Council meeting would be in order to discuss the matter. The Council agreed.

g. Police Commission – (Minutes of October 21, 2010)

E. Sadowski stated the Police Commission met October 28, 2010 and Chief Taubel distributed the policy and procedures completed as necessary every two years. There was nothing new in the policies or procedures.

h. Library Board

There was nothing to report at this time.

i. Board of Zoning – (Minutes of October 28, 2010)

G. MacDougall reported on matters considered and actions taken at the October 28, 2010 Board of Zoning Appeals meeting. The Board approved a combination of lots for Summerset Marine with the item to be returned to the Plan Commission for further discussion and consideration.

j. Promotional and Tourism Committee

There was nothing to report at this time.

k. Lake Country Fire Commission

There was nothing to report at this time.

l. Lake Country Fire Board – (Minutes of October 15, 2010)

G. MacDougall stated there was nothing new to report at this time as there had not been a meeting since the last Common Council meeting. The next Lake Country Fire Board meeting is November 17, 2010 at 7:00 P.M. at the Nashotah Fire Station.

m. Dredging Plan B Committee – (Minutes of October 20, 2010)

T. Aicher explained the contents of the Dredging Plan B meeting of October 20, 2010 involved discussion regarding actions to be taken by the Committee regarding formulas and recommendations on costs involved for getting a new proposal for the Bark River basin. The Committee continued to focus on potential dredging efforts and how the City should maintain the work that residents have done thus far. One way to do this was to focus on the river basin as that would ensure that the riparians that were dredging would have their long term investment protected in the future. The Committee would not be meeting at its regularly scheduled upcoming meeting as there was a lack of information on matters to be discussed. B. Leonard stated it was unfortunate that there was a lack of cooperation among residents regarding dredging portions of Zastrow's Bay. Discussion ensued regarding the effectiveness of dredging portions in small residential groups. Mayor McAleer stated the Committee needed to investigate this matter and findings should be supported as a Committee through a recommendation. T. Aicher stated City Staff and the Chairperson of the Lake Welfare Committee would be attending the upcoming Dredging Plan B meeting later this month. G. MacDougall questioned how much longer the

CITY OF DELAFIELD COMMON COUNCIL MINUTES

Committee anticipated it would take before a recommendation was provided on this matter. T. Aicher stated the Committee continued to be focused on its research in providing a clear recommendation based on a vision and a plan for dredging. B. Leonard stated she was concerned that the Committee seemed in disagreement in how the dredging would be paid for and what the finished product might look like in this matter. E. Sadowski stated the City had opted out in two referendums and had extended the dredging permit for two years time so private dredging could take place. Discussion ensued regarding whether the private dredging was taking place because people needed it or because they could afford to do so. Mayor McAleer stated the Common Council needed to be patient and wait for a solid recommendation to come forth from the Dredging Plan B Committee.

5. Unfinished Business
a. LOMR Update.

There was nothing to report at this time.

b. Discussion and action to adopt Ordinance 641, An Ordinance to Repeal and Recreate Section 9.14 of the City of Delafield Municipal Code related to Open Burning.

Mayor McAleer questioned Fire Chief Jack Edwards about his opinion of the proposed changes to the Municipal Code regarding open burning. J. Edwards stated it was difficult to have one ordinance cover various sizes of fires and lots. He did not think any provision directed toward larger areas or lots would be problematic to enforce. Most issues occurred on smaller lots and confined spaces. He offered to meet with the City Administrator to discuss placement of verbiage related to lot size in the proposed ordinance for consideration as he would like to see the ordinance defined a bit better in certain sections. He had not found any similar ordinances in other municipalities regarding this issue as he thought Delafield was unique.

Suggestions from the Council in consideration of this issue included allowing additional burning to take place during certain times or seasons of the year to deal with diseased trees and clean-up issues, inspection of potential fire sites and larger fires, and use of fireproof materials to allow fires to be contained on decks and away from ground level. J. Edwards stated he was concerned about the potential sparks and accidental fires that stemmed from having fires in areas other than those at ground level and that was the rationale for having the verbiage related to ground level fires only.

Concern was expressed for having the time limit for burning as proposed by G. Kovacs as being too restrictive. Attempts were made in the ordinance to suggest an adequate timeframe for burning while mitigating the concern about nuisance fires shared in previous discussions. E. Sadowski stated many residents lived in an area where the lots were 50 feet wide and for this reason, he thought the 20 foot minimum distance would suffice. M. DeYoe questioned whether there had been problem fires thus far this year. J. Edwards stated several times in the past residents had burned during windy conditions but nothing major had occurred this year.

Discussion ensued regarding possible options for verbiage relating the size of the recreational fires and acreage.

E. SADOWSKI MOVED TO ADOPT ORDINANCE 641, AN ORDINANCE TO REPEAL AND RECREATE SECTION 9.14 OF THE CITY OF DELAFIELD MUNICIPAL CODE RELATED TO OPEN BURNING, WITH A CHANGE TO SECTION 9.14 (2)(A) TO STATE "THE SIZE OF THE PILE OF MATERIAL TO BE BURNED SHALL NOT EXCEED 4' BY 4' BY 3' HIGH OR AS PERMITTED BY THE FIRE CHIEF ON TWO ACRES OR LARGER LOT SIZE." M. DEYOE SECONDED THE MOTION. J. KRICKHAHN QUESTIONED VARIOUS ASPECTS OF THE PROPOSED ORDINANCE RELATED TO THE DIAMETER OF FIRE RINGS AS HE WAS CONCERNED IT WOULD MAKE SOME RESIDENTS NON-COMPLIANT. J. EDWARDS STATED IF RESIDENTS WENT TO THE TROUBLE OF BUILDING A BRICKED FIRE PIT THEY WOULD MOST LIKELY USE COMMON SENSE. THE

CITY OF DELAFIELD COMMON COUNCIL MINUTES

FIRE DEPARTMENT WOULD CONTINUE TO RESPOND WITH COMPLAINT DRIVEN ENFORCEMENT. **THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- c. Discussion and action on the recommendation from the Lake Country Fire & Rescue Department to change addresses on E. Devonshire Road.

J. Edwards explained the history of this issue, noting the discrepancies and confusion for deliveries and safety for the fire department response to the houses located on East Devonshire Road. He further explained issues associated with attempting to locate the appropriate address if mutual aid were required in the event of an emergency on this site. He had spoken with the Police Chief who had similar concerns. While there had not been a problem to date, he thought all involved were very fortunate and this issue should be remedied by changing the addresses.

E. Sadowski agreed, noting this matter had been discussed in the past. While some people would be very unhappy and inconvenienced in the short term, changing the addresses on this road would be for the good and safety of the City.

E. SADOWSKI MOVED TO CHANGE THE ADDRESSES ON EAST DEVONSHIRE ROAD AS PRESENTED IN A MEMORANDUM FROM CITY STAFF TO THE COMMON COUNCIL, DATED AUGUST 16, 2010. B. LEONARD SECONDED THE MOTION. B. LEONARD QUESTIONED WHETHER THE RESIDENTS WERE INFORMED OF THIS MEETING AND RELATED AGENDA ITEM. MAYOR MCALEER STATED THEY WERE PRESENT AT PREVIOUS COUNCIL MEETINGS WHERE THIS MATTER WAS DISCUSSED AND THE COUNCIL HAD REQUESTED THE FIRE CHIEF WORK WITH THEM TO SEE IF THE ISSUE COULD BE RESOLVED. J. EDWARDS STATED HE DID NOT HAVE ANY ADDITIONAL CONTACT WITH THOSE RESIDENTS SINCE THAT MEETING. B. LEONARD STATED SHE WAS NOT COMFORTABLE WITH THIS MATTER AS SHE HAD WANTED THE RESIDENTS TO BE SURE THEY HAD AMPLE OPPORTUNITY TO RESOLVE THIS ISSUE IN OTHER WAYS. DISCUSSION ENSUED. T. AICHER QUESTIONED IF ANYONE WAS AWARE OF ANY REASONS WHY, IF THIS MATTER WERE TO BE APPROVED, THAT THE ADDRESSES WOULD BE REQUIRED TO CHANGE AGAIN IN THE NEAR FUTURE. NO ONE WAS AWARE OF ANY REASONS. G. MACDOUGALL STATED THE HOUSE WAS THERE FIRST AND HE QUESTIONED WHETHER THERE WAS ANY WAY TO HANDLE THIS MATTER WITH A CHANGE IN SIGNAGE. J. EDWARDS STATED HE WAS NOT AWARE OF ANY AT THIS TIME AND TO CHANGE THE ADDRESSES AS PROPOSED WOULD ALLOW THE ADDRESSES TO FLOW SEQUENTIALLY. G. MACDOUGALL STATED HE DEFERRED TO THE POLICE AND FIRE CHIEF IN THIS MATTER BUT WANTED THE OPTIONS REVIEWED FOR COUNCIL MEMBERS. **THERE WAS NO FURTHER DISCUSSION. FOUR WERE IN FAVOR. T. AICHER AND B. LEONARD VOTED NAY.**

- d. 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.

T. Schuenke stated the proposed ordinance had been amended as requested previously by Council members.

E. SADOWSKI MOVED 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. J. KRICKHAHN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- e. Discussion and action to refer to the Plan Commission to examine the City of Delafield Chapter 17 Zoning Code for compliance with the City's Smart Growth Plan, relating to Planned Unit Developments.

CITY OF DELAFIELD COMMON COUNCIL MINUTES

B. Leonard stated she would like to have this matter placed on a Common Council meeting agenda in January, 2011 as she would like additional time to research the matter. Mayor McAleer agreed, noting she should request when this item should be returned to the agenda for consideration and discussion.

6. Mayor's Report

There was nothing to report on at this time.

7. New Business

a. Discussion and action on Council Chambers usage by the public.

T. Schuenke explained City Staff had been approached by various community groups wanting to utilize the Council Chambers for public meetings. In the past, homeowner associations were allowed to use it, but all other groups had been prohibited from use historically. He requested the Council establish guidelines for future use by City Staff.

Discussion ensued. G. MacDougall stated the City Hall was built for the purposes of conducting City business and no other uses. The Council agreed, noting any other uses should be approved by the City Administrator. B. Leonard stated she thought if any revenue potential required consideration in the future, a more formal discussion should be had at that time. J. Krickhahn noted that the Plan B Committee had included plans for a common room and the Council Chambers was that common space.

b. Discussion and action to adopt Ordinance No. 644, An Ordinance Creating Section 9.30 of the Municipal Code of the City of Delafield, Waukesha County, Wisconsin to Provide Regulations Relating to Residency Restrictions for Sex Offenders and Directing Action for Injunctive Relief for Violation Thereof.

T. Schuenke displayed a map of the City for the Council, noting that it was slightly different than the map shared in the epacket on this item. The map depicted distance boundaries of 1,000 feet, 1,500 feet, and 2,000 feet from the lake. Council was being asked to consider the appropriate boundary from Nagawicka Lake in residency restrictions for sex offenders. While sex offenders could not be prohibited from living in the community completely, actions could be taken to restrict the areas in which they were allowed to reside. It was noted that the more restrictive an area supplied, the more limited areas in which offenders would be allowed to reside. In considering this matter, the Council was also being asked to determine if the lake would be similar to a swimming area where children would congregate. In addition, T. Schuenke noted that the current ordinance did allow inclusion of areas outside the City's jurisdiction yet adjoining the City, such as the Nagawaukee Park, and Nashotah Park.

Discussion ensued regarding whether the lake should be considered to be different than a swimming pool in this matter. Mayor McAleer stated it was important to be consistent in the ordinance. Several instances of children utilizing the lake for various activities associated with school and community programming were noted. The Nashotah House was also noted as being an area of activity that would fall within the boundaries highlighted. M. DeYoe stated communities researched had all adopted their own ordinances such as the one proposed with no consistent distance noted as each community was different.

Discussion further ensued regarding whether 1000 feet, 1500 feet, or 2000 feet from the lake would provide adequate boundaries. Mayor McAleer questioned whether placing the boundary limit at 2000 feet would place an onus on a few isolated neighborhoods in the City as potential residency areas. Difficulties were noted in trying to make a determination between the use of a facility or a park regarding certain boundary limitations. The issue could be examined from the standpoint of what was it that the ordinance was trying to protect. B. Leonard likened it to a service area. Additional discussion

CITY OF DELAFIELD COMMON COUNCIL MINUTES

ensued. J. Krickhahn stated the purpose of the ordinance was to draw a boundary far enough from a facility so that a sex offender would not be attracted to its locale and contact could thus be eliminated. Discussion ensued regarding the enforcement of sex offenders in prohibited activities. Mayor McAleer stated this matter should be reviewed by the City Attorney. He then outlined the process for approval including a public hearing on this matter.

M. DEYOE MOVED TO REVISE THE PROPOSED MAP DEPICTING RESIDENCY RESTRICTIONS FOR SEX OFFENDERS TO INCLUDE A BOUNDARY OF 2000 FEET FROM NAGAWICKA LAKE, NASHOTAH HOUSE, UPPER NASHOTAH LAKE, AND PARKLAND VILLAGE, AND TO REFER THIS MATTER TO THE CITY ATTORNEY FOR REVIEW AND THEN RETURN THIS MATTER TO THE COMMON COUNCIL FOR ADDITIONAL CONSIDERATION WITH A PUBLIC HEARING TO FOLLOW. E. SADOWSKI SECONDED THE MOTION. E. SADOWSKI REQUESTED AN AMENDMENT BE MADE TO ALSO INCLUDE THE EASTERN SHORE OF UPPER NASHOTAH LAKE BE INCLUDED ON THE MAP WITH A BOUNDARY AREA OF 2000 FEET. M. DEYOE AMENDED THE MOTION TO STATE "M. DEYOE MOVED TO REVISE THE PROPOSED MAP DEPICTING RESIDENCY RESTRICTIONS FOR SEX OFFENDERS TO INCLUDE A BOUNDARY OF 2000 FEET FROM NAGAWICKA LAKE, NASHOTAH HOUSE, UPPER NASHOTAH LAKE, THE EASTERN SHORE OF UPPER NASHOTAH LAKE, AND PARKLAND VILLAGE, AND TO REFER THIS MATTER TO THE CITY ATTORNEY FOR REVIEW AND THEN RETURN THIS MATTER TO THE COMMON COUNCIL FOR ADDITIONAL CONSIDERATION WITH A PUBLIC HEARING TO FOLLOW. E. SADOWSKI AGREED TO THE AMENDMENT. T. AICHER STATED HE WANTED TO VERIFY THE USE OF THE ENTIRE PERIMETER OF THE LAKE WITH THE CITY ATTORNEY. E. SADOWSKI STATED HE BELIEVED USE OF THE LAKE BY MINORS COULD BE SUBSTANTIATED FOR THIS MATTER. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

Mayor McAleer stated this matter would be placed on the next Common Council agenda.

8. Report of City Officials
a. Administrator

T. Schuenke reminded all that brush pickup is over for this year; however, there would be brush drop-off service available on November 13, 2010.

b. Clerk-Treasurer
i. Ordinance & Resolution Update

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

Council members requested a closed session meeting of the Council for discussion associated with the Del-Hart Commission purchase of property as referenced earlier in the meeting. E. Sadowski requested this meeting take place prior to a Common Council meeting, if possible.

B. Leonard also noted that she forgot to mention in her report on Del-Hart Commission activities that there is a public hearing slated for the agenda at the November 16, 2010 Del-Hart Commission meeting regarding the Domestic User Equivalent Charge.

9. Financial Report
a. Approve voucher list

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

CITY OF DELAFIELD COMMON COUNCIL MINUTES

10. Correspondence
 - a. Focus Newsletter
 - b. Del-Hart Sewer Use and User Charge Public Hearing Notice
11. Adjournment

E. SADOWSKI MOVED TO ADJOURN THE NOVEMBER 1, 2010 COMMON COUNCIL MEETING AT 8:38 P.M. G. MACDOUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

Minutes Prepared By:

Accurate Business Communications, Inc.