

**Delafield-Hartland**  
**Water Pollution Control Commission**  
416 Butler Drive, Delafield WI 53018-1871  
Phone: 262-646-4364/Fax: 262-646-5187

Commission Meeting Minutes for October 19, 2010  
Delafield-Hartland WPCC Treatment Plant Board Room

Time 7:00 p.m.

Call Meeting to Order

M. DeYoe called the meeting to order at 7:00 p.m.

Roll Call

Delafield

Tim Aicher  
Michele DeYoe  
Beth Leonard  
Gerald MacDougall

Village of Hartland

Dave Lamerand (alternate)  
Richard Landwehr  
Michael Meyers  
Rick Stevens  
Karen Compton (excused)

Also Present

Rose Frick  
Scott Luczak

Guests

Tim Fenner, Del-Hart's Attorney

Approve Minutes of September 21, 2010 Commission Meeting

**R. STEVENS MOTIONED TO APPROVE THE MINUTES FROM THE SEPTEMBER 21, 2010 MEETING AS PRESENTED. R. LANDWEHR SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. SEVEN WERE IN FAVOR. D. LAMERAND ABSTAINED. MOTION CARRIED.**

PUBLIC HEARING ON ADOPTION OF 2011 FINAL BUDGET

Public Comments, if any, from Public Hearing

The Public Hearing was declared open at 7:01 p.m.

R. Frick read the public hearing announcement and commented on the budget changes related to the restructuring of the DUEs which changed from 100,000 gallons per DUE to 75,000 gallons per DUE effective January 1, 2011 for nonresidential users. The Commissioners had copies of the proposed 2011 budget; R. Frick reviewed the operational and capital budgets. T. Aicher inquired about the fuel consumption for 2010. S. Luczak explained that the actual fuel use decreased because the truck is no longer being used for trips and the spring and summer months were wet. R. Landwehr stated that he would like the connection charges to remain at the same (2011) rate until 2017. R. Frick clarified that if the 2011 budget was adopted as proposed, the connection charges would remain at the same 2011 rate and could remain unchanged until 2017 (as each annual budget is adopted).

There were no citizens present at the meeting.

**B. LEONARD MOVED TO CLOSE THE PUBLIC HEARING. M. MEYER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

Adoption of 2011 Final Budget

**D. LAMERAND MOVED TO APPROVE THE ADOPTION OF THE 2011 FINAL BUDGET AS PRESENTED. G. MACDOUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

**GENERAL MANAGER'S REPORT**

St. John's NW Military Academy's Appeal of Additional Domestic User Equivalents from 2008

St. John's NW Military Academy's attorney filed an appeal with the Public Service Commission (PSC) in accordance with Del-Hart's ordinance. Attorney Fenner informed the Commission that a response has been filed on Del-Hart's behalf with the PSC. In the near future, the PSC should call Del-Hart in for a hearing and a formal meeting, although the PSC does not have to take the matter and may refuse to open a docket for the appeal. Attorney Fenner stated that he asked the Commission staff to look into having R&R Insurance, Del-Hart's insurance carrier, cover the litigation expenses. R. Frick has forwarded all of the necessary information to the insurance company and is waiting for a reply at this time.

Purchase of Del-Hart Land by the City of Delafield

S. Luczak distributed an aerial photograph showing the location of the 6.2 acres of Del-Hart land that the City of Delafield would like to purchase. If another expansion takes place, this land would not be needed.

M. DeYoe asked how the Commissioners felt about the City of Delafield purchasing this land. G. MacDougall reviewed the fact that the previous appraisals obtained on the land varied greatly. At that time, he had discussions with the appraiser and was told that the appraiser was "following instructions". In his business he would have ordered three appraisals to ensure that all of the appraisers were working with the same information. General discussion took place regarding the appraisals obtained in the past for this land. Debate ensued as to the actual pricing of the land to the City. D. Lamerand discussed the value of the land in the eyes of the seller versus the eyes of the buyer. He stated that the land is worth what a motivated buyer is willing to pay a motivated seller. Although it appears that Del-Hart will not need the land, Del-hart is not a motivated seller. However, since the City is a motivated buyer they need to offer a price that will persuade Del-Hart to sell. R. Landwehr felt that the City has wanted this land for the past 30 years. Discussion also took place as to the difficulty of acting as a Del-Hart Commissioner when some members were also City Council members. R. Stevens felt the Commissioners needed to be united as Del-Hart and not Delafield vs. Hartland. If Del-Hart is going to sell the land, a price needs to be established with parameters developed in order to establish a justifiable price. After much discussion, the consensus of the Commissioners was that Del-Hart was interested in the potential sale of the land to the City, but a selling price needs to be determined. Factors of pricing the land were two-fold in that the value of the land to an entity wishing to purchase it may be different than the value of the land in the eye of the owner. Del-Hart's objective is to get the best price possible for the land while the City needs to determine if it would purchase the land at a given price. There is little land available in the City and G. MacDougall explained that the City needs this land for its Department of Public Works cold storage. He also felt that the City has been a good neighbor to Del-Hart.

The Commissioners determined that they did not object to selling the land and this item should be sent back to the City of Delafield Common Council so they could come up with substantial evidence as to what the land is worth and make an offer. The Commission did not request an additional appraisal but was willing to operate in good faith for negotiations. This will be sent back to the City of Delafield's Common Council and will be placed on the next Del-Hart agenda for November.

#### JTS Direct LLC's Appeal of Additional Domestic User Equivalentents from 2010

Due to scheduling conflicts, JTS Direct, LLC was not present at this meeting but would be present at the November meeting. S. Luczak reviewed the situation and stated that JTS Direct was billed this year for an additional 4.00 DUEs because of increased usage this past year. Also, a warning letter had been sent out for an additional 5.25 DUEs for the next year in 2011. Although JTS Direct paid the 2010 bill, there was no response received from the 2009 warning letter. According to JTS Direct, the increase in usage occurred while moving a company from Indiana to this location and was due to the faulty operation of some of the equipment during installation. Corrections have been made to their system and excessive usage is not expected to continue. JTS Direct will be at the next months' meeting to state their case and present data to the Commission. R. Frick added that JTS Direct would have changed their previously scheduled plans to attend the Del-Hart meeting if necessary.

Attorney Fenner was asked for some clarification on the subject. He stated that the ordinance is set up so that you pay for what you use. There are situations where something happens where there is an aberration in terms of water consumption. The user has the right to appeal and Del-Hart needs to determine if the situation is permanent or an aberration. The purpose of the appeal is to hear the real facts. Del-Hart is here to address people who have concerns. It was his desire for Del-Hart to become more active with the users.

Discussion took place on JTS Direct, LLC's current water usage. Attorney Fenner explained that the monthly sewer charge is for actual use, however, JTS Direct is appealing the additional connection fees. It was requested that JTS Direct explain at the next meeting why they did not respond to the first 2009 warning letter. This will be put on next month's agenda.

#### FINANCE DIRECTOR'S REPORT

##### Resolution 101910 – 2011 Schedule of Fees

R. Frick reviewed the 2011 fee changes with the Commissioners.

**R. LANDWEHR MOTIONED TO APPROVE RESOLUTION 101910 – 2011 SCHEDULE OF FEES AS PRESENTED. D. LAMERAND SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

##### Restructure of Domestic User Equivalentents Update

R. Frick asked Attorney Fenner to explain what happens next in the process. Attorney Fenner stated that Del-Hart must amend its Sewer Use and User Charge Ordinance. A draft of the amended ordinance has been prepared and will be presented to the Del-Hart Commission for adoption. This amendment will be put on the November agenda for a public hearing, discussion, and action by the Commission. A draft of the amendment to the ordinance will be

sent to the Commissioners for their review ahead of time. Attorney Fenner will send a letter and a copy of the amendment to all of the municipalities served by Del-Hart.

**D. LAMERAND MOTIONED TO SET THE PUBLIC HEARING ON THE PROPOSED AMENDMENT TO THE SEWER USE AND USER CHARGE ORDINANCE. R. STEVENS SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

#### Financial Statements

R. Frick reviewed the financials and stated everything is on track. Discussion took place on the Fair Value Adjustment. The Connection Charges are over and above last year's figure because of the approximately 60 apartments that had connected in the City of Delafield. The budget variance report showed that Del-Hart is doing well in consideration with the budget; this too was related to the Connection Charges. Investment accounts are performing well and were discussed.

**D. LAMERAND MOVED TO ACCEPT THE FINANCIAL STATEMENTS AS PRESENTED. R. LANDWEHR SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

#### Approve Expenses & Disbursements

**R. STEVENS MOTIONED TO APPROVE THE EXPENSES AND DISBURSEMENTS. B. LEONARD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

#### Next Commission Meeting's Agenda Items

- Purchase of Del-Hart Land by the City of Delafield
- JTS Direct, LLC's Appeal of Additional Domestic User Equivalents from 2010
- Public Hearing, Discussion and Action on the Amendment to the Sewer Use and User Charge Ordinance

#### Adjourn Meeting

**R. STEVENS MOTIONED TO ADJOURN FROM THE MEETING. D. LAMERAND SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT 8:05 P.M.**

Respectfully submitted:

Minutes prepared by:

Rosemary Frick, CPA  
Finance Director

Accurate Business Communications, Inc.