

CITY OF DELAFIELD LAKE WELFARE COMMITTEE MEETING MINUTES

Call Meeting to Order

K. Attwell called the meeting to order at 6:00 p.m.

Pledge of Allegiance

The Pledge of Allegiance was recited.

ROLL CALL

Present

Kent Attwell
Jerry Bills
Jerry Dunnick
Gayle Gaborsky
Dave Greenway
Lynn Morrison
Don Tills

Absent

Jerry Burg
Gary Pratt
Dan Sisulak
Lou Scopp

1. Correct and approve minutes of August 11, 2010

L. MORRISON MOVED TO APPROVE THE LAKE WELFARE COMMITTEE MEETING MINUTES OF AUGUST 11, 2010 AS AMENDED ON PAGE 6, ITEM 4G, PARAGRAPH 2, SENTENCE 4, CHANGE "D. GREENWAY" TO "G. PRATT". D. GREENWAY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

2. Citizen's comments pertaining to items on the agenda

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

3. Old Business

- a. New navigational buoys are installed at Kettle entrance and warning buoys are installed near hazards

K. Attwell explained he had reviewed the location of the buoys at the Kettle entrance. Buoy locations were reviewed and hazardous areas noted. The buoy locations would be noted by Global Positioning System (GPS) location by the Department of Natural Resources (DNR) for accurate placement next year as well.

- b. Update of City letter to DNR asking for 2 year extension of Chapter 30 permit dated July 7th 2010

K. Attwell stated that the two year extension had been granted by the DNR for the Chapter 30 permit.

K. Attwell moved to Item 4b at this time without objection from the Committee.

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- c. Discuss Watershed signs at Bleeker and Nagawaukee Park, Need Park and Rec Approval and Waukesha County approval before Public Works can make signs and install

K. Attwell stated watershed signage could be placed at Bleeker Street boat launch once the Park and Rec. Commission had agreed to the placement. City Staff will assist in working with the County to get the signs placed in Nagawaukee Park. The City's Public Works Department could make and install the signage in the next three months.

- d. Update on LWC recommendation to set specific "No Wake" water level set at 10 inches over target water elevation.

City Staff had agreed with the recommendation from the Committee that the specific "No Wake" level should be set at ten inches over the target water elevation. City Staff will draft ordinance language for placement on the next Common Council agenda for discussion and consideration. In addition, "real time" data for the water levels would be listed on the City website in the next few weeks.

- e. Update on Nashotah run off corrective actions to slow water down and work with Merton Farm to reduce run off

K. Attwell explained the letter to Village of Nashotah officials regarding corrective actions for storm water runoff would be sent in the next two weeks.

- f. Review of Goose Round-Up info and action plan to recommend to council and publish in Communicator

The Committee reviewed the information written by G. Gaborsky about Goose Round-Up operations to be placed in The Communicator. On behalf of the Committee, K. Attwell thanked G. Gaborsky for a job well done.

- g. Update on Anderson Group dredging permit request and continue discussion on Bleeker Street ordinance

K. Attwell noted the Anderson Group dredging permit request had been discussed as part of Item 4b. He also distributed historical City of Delafield Common Council minutes that stated the gift of deed for the Bleeker Street parking area was for City residents only. Village of Nashotah residents were also allowed to use the launch.

Discussion ensued regarding parking requests by non-City residents. D. Tills stated he thought the language was adequate as written. There were other ways to gain access to the lake for area residents. D. Greenway agreed.

J. BILLS MOVED TO RECOMMEND THAT THE CURRENT ORDINANCE LANGUAGE REMAIN THE SAME IN THAT ONLY CITY AND VILLAGE OF

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NASHOTAH RESIDENTS SHOULD BE ABLE TO PURCHASE A PARKING PERMIT FOR USE AT THE BLEEKER STREET BOAT LAUNCH. D. TILLS SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. FIVE WERE IN FAVOR. L. MORRISON VOTED NAY.

- h. Update on Lake level change from DNR

L. Morrison explained she had received communication from DNR Staff regarding a willingness to work with the City on a change to the annual adjustment to the lake level. A public notice for the lake level change would be initiated.

4. New Business

- a. Presentation by Pam Anderson on her project and LWC to consider recommendation to planning commission. Planning Commission will then consider approval of temporary plan of business operation

L. Morrison congratulated P. Anderson on her project work.

P. Anderson provided a project description that had been approved by the Wisconsin Department of Natural Resources (DNR) for dredging in her neighborhood. She noted two people opted out of the project due to cost and that the estimates were what the City had proposed. She also noted it would cost approximately \$27 per cubic yard for the project, without licensing and fees. Preparation of dewatering sites, including clearing and leveling sites, required substantial fees. The dewatering sites had to be flat, so the homeowner's incurred significant costs (estimated at \$4000-\$5000) to clear and fill the properties adequately to allow this to happen. Legal fees were anticipated to be approximately \$1000 for the project. She noted critical portions of the Chapter 30 permit were utilized in the project and would have cost a great deal for a private landowner to have done on her own. The contracts with the dredger had been completed at this point in the process and money placed in a trust for the project. Similarities and differences were noted between the City's project and this private project. Differences were noted with regard to the dredging scope, volume of sediment and dewatering/disposal site actions. There was a five foot "no touch" zone along the shore and the dredging could not go out into the lake further than 150 feet from shore. While the DNR had approved a distance of 150 feet for the permit, her project would only go out a distance of 140 feet.

K. Attwell noted it was interesting that this private dredging project was allowed more cubic footage for the dredging spoils than the City was allowed in this project. P. Anderson stated she ended up with approximately 10,000 cubic yards for all five properties. Once two property owners dropped out, more poling was done to measure the depth of the water out to 140 feet for the dredged properties and a geometry model used to calculate the cubic yardage. To calculate this amount, she had started five feet from shore and followed the natural slope of lake bed to a distance of 140 feet from shore. Once at that point, a gentle slope was initiated to return to the water surface. This gentle slope was purposeful to

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lessen the siltation returning quickly to the dredged area. She estimated there would be approximately 4200 cubic yards of spoils to be dewatered from three properties.

L. Morrison stated it was interesting that the dewatering process was utilized and the private dewatering sites approved. P. Anderson stated she had conducted a great deal of research on this process and found that arsenic impacted the cost. Dredging spoils could be buried in the geo-tube or be trucked to a special site that handled arsenic removal; however, this action would increase the cost. With the geo-tube method of disposal and little arsenic in the spoils, the water would come out clean and be returned to the lake. Without the arsenic, the fill could be dried and then used. P. Anderson noted that to have the bags in one area, an anticipated cost would be \$24 -\$30 per foot. Dredging cost estimates varied because the dredgers did not quote the same way. She had found three reputable dredgers in her opinion and she shared the names with the Committee.

A slideshow presentation of the project was provided to the Committee at this time. Various questions from the Committee were presented relating to the anticipated timeframe before the next dredging, sloughing of the sedimentation from non-dredged areas, plant restoration, containment walls, and disposal of the dewatered spoils. P. Anderson stated she thought the dredging would need to be redone in ten to fifteen years. In addition, the project would take approximately four weeks to complete operating six days a week. The expense of the project would be borne completely by each property owner. While the expenses were great for the project, she thought her property values would continue to drop without dredging. Access problems were just the beginning of losing her lakeshore and navigability so she was hopeful that the dredging would help for the future.

L. MORRISON MOVED TO RECOMMEND THE DREDGING PROJECT AND TEMPORARY BUSINESS PLAN OF OPERATION ASSOCIATED WITH THE ANDERSON DREDGING PROJECT FOR APPROVAL BY THE PLAN COMMISSION AS PRESENTED. D. GREENWAY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

Without objection from the Committee, K. Attwell returned to Item 4b.

In response to a question, P. Anderson stated there were people that had offered their property for use of dewatering for the basin portion of the dredging project proposed by the City in the past. In addition, she thought it made sense to do the basin portion of the project as it affected the entire lake and City as a whole.

- b. Presentation by Plan B on financial cost calculations for our review and feedback
 - A. Zietlow and M. Hausman were present from the Dredging Plan B Committee to provide an update on Committee activities and also to provide information regarding potential financial cost models. A. Zietlow explained the City Code had a chapter regarding a district for storm water that could be utilized in funding the

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dredging for Nagawicka Lake. Raffi Shirikian of the Dredging Plan B Committee had created a funding model based on the same structure found in the City Code. Several options for funding were considered by the Committee including formation of a lake management district, creation of a formula utilizing impervious surfaces calculations and the model created by R. Shirikian. The Committee continued to discuss ways to fund immediate dredging needs. The formulas discussed would include a mechanism to allocate monies for long term maintenance of the lake. Discussions of the possibility of phasing the dredging project were also ongoing. Dredging of the basin area was considered to be a potential first phase. City Staff had been asked to calculate whether the Kettle project, if done alone, could be done differently. Arsenic in the dredging spoils had impacted the overall dewatering cost of the project. It was questioned whether the project costs would change if the areas with little arsenic were done as a separate project. Additional calculations were needed from City Staff on various elements of the funding models for future discussion by the Committee.

J. Dunnick questioned the responsibility of the City owned property, such as park land, with regard to the funding models presented. The riparian owners and the City as a whole had a degree of responsibility to pay for the project. A. Zietlow stated part of the discussion being had by the Dredging Plan B Committee included consideration of benefit and related degree of financial responsibility. Discussion ensued regarding allowing people that were not interested in being dredged to be removed from the funding models. A. Zietlow stated an alternate had been developed with various property owners removed from the funding formula.

D. Tills questioned whether any portion of the project would be ready to be put to a referendum in November of this year. A. Zietlow stated it would be unlikely at this point. D. Tills expressed concern about this as he thought it would be too late to do any bidding to allow the project to take place next year. It was thought that if too much time elapsed, despite the extension of the Chapter 30 permit, the project would not be able to progress and would become more expensive if completed in smaller projects instead of doing the dredging all at once. A. Zietlow stated once a definitive model was determined for the costs of the dredging project, it would be presented to the Council.

Without objection from the Committee, K. Attwell moved to Item 4a at this time.

K. Attwell returned to this item after consideration and discussion of Item 4a.

R. Shirikian was now present and explained several funding models had been developed in this matter related to the City's Chapter 26 stormwater code. Numerous formulas were presented originally related to the entire dredging project. R. Shirikian briefly described each of the formulas to the Committee. Short term and long term proposals were explained. Long term, it was suggested that the City should set aside 2% of taxes for long term lake maintenance as all lake and non-lake residents benefited. He thought this action would result in \$100,000 per year yielding the necessary one million dollars anticipated as cost for future dredging.

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K. Attwell stated all Committee members should read Chapter 26 of the City Code prior to the next meeting in order to more fully understand the funding information being presented over the next few months. Discussion further ensued regarding the funding ideas presented and what the priority portion of the dredging project might be at this time. In addition, the potential for moving forward was discussed. Data supported the need for dredging of the sediment trap and moving forward with that portion of the project. Information to be presented to the Common Council and area residents was also discussed.

K. Attwell recessed the meeting at 8:40 and reconvened the meeting at 8:45 p.m.

Without objection from the Committee, K. Attwell moved to Item 3c on the agenda.

5. ADJOURN

J. DUNNICK MOVED TO ADJOURN THE SEPTEMBER 8, 2010, LAKE WELFARE COMMITTEE MEETING AT 9:08 P.M. J. BILLS SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.

Minutes prepared by:

Accurate Business Communications, Inc.

David Gingrasskent,this idea is great;all should be invovled.these animals are source of de...

Oct 6 (6 days ago)

David GingrassLoading...Oct 6 (6 days ago)

Reply |David Gingrass to me
show details Oct 6 (6 days ago)

kent,this idea is great;all should be invovled.these animals are source of desease and polution;reduction and elimination is needed.we have to defend our property every year w/ fences,sprays and diligence.thank you dave gingrass.3013 sylvester

Robert Mazurek to me
show details Sep 30 (12 days ago)

Dear Mr. Attwell, I have had an on-going battle with Canadian geese since I have moved to Delafield in 2005. I have tried fencing, tape, ropes, geese removal lawn sprays and fake swans.....nothing has worked...I would support a goose round-up program.

Bob Mazurek
1307 Milwaukee Street
414-559-4339

danstower@wi.rr.com to me
show details Sep 24

As far as the geese...
KILL THEM ALL.... KILL THEM NOW!!!!
I'm all for a roundup.
Daniel Jarecki

barbara pfeil to me
show details Sep 21

Think something is definitely needed. If the round up method used would love to have it used in Zastrow Bay. Thanks Pfeils

Mike Roehl to me
show details Sep 16

Kent,

Hope you are doing well. We are all in favor of the goose round up. There is a huge over population on our lake and something needs to be done.

Are you part of the group trying to do the private dredging?

Mike Roehl

Roehl Corporation
Phone: 262-569-3000
Fax: 262-569-3019
e-mail: mroehl@roehl.org

Dennis Kramer to me
show details Sep 16

Hi Kent,

I live at 3335 Lake Drive - about 8 houses north of where the Bark River flows into the lake.

I am definitely in favor of the goose round up.

Hazle, Vicki to me, ahazle
show details Sep 16

Ken,

Both Al and I think it is a terrific idea. Please round up as many geese as is possible. Take a few turkeys with them.

Why doesn't the City partially fund it with a small tax (\$10-\$15) on the property owners who have not naturalized their shoreline? They seriously contribute to the problem. Maybe the small tax would help them see why they need to do so.

Here is a concrete example There is only one neighbor in our immediate area who has not done so and their yard is the one that geese gather and rest on year round. In the spring it is much worse. Being at the mouth of the river, a hole in the ice is created where the river "eats" into the ice of the lake. This spot will be literally "cheek to cheek" with the birds. They have the dry land of the non-naturalized yard that supports their use of the hole. I can only imagine the concentrated pollution that is added to the silt coming in from the river. We would be happy to provide photos of the geese enjoying the yard.

At any rate, go for it!!

Vicki Hazle
3243 Sylvester Drive.

Sylvia RimmGoose roundup sounds good to us. How much of that cost is each person
assesse...
Sep 16

Sylvia RimmLoading...Sep 16

Reply |Sylvia Rimm to me
show details Sep 16

Goose roundup sounds good to us. How much of that cost is each person assessed? The
Rimms, 3917 Sylvester

Mike Hausman to me
show details Sep 16

Kent:
I just read Gayle's article in the Communicator. Nicely done.

I absolutely support the goose round-up and whatever can be done to make that happen.
Mike

James Eaves to me
show details Sep 21

Kent,
Thanks for informing the public about the goose population.
I spend alot of time in the fall, goose and duck hunting on Nagawicka.
I watch the geese come from the south, north, east and west and all
go to the east shore and land at one specific house.
Personally, it is none of my business how that person at that house,
treats the geese or feeds the geese.
I know the geese are a nuisance at times, but it makes absolutely
no sense to me to spend \$5000.00 or even \$5.00 to control this problem.
The goose nuisance issue is avoidable by simply putting a fence up and/or stop feeding
them.
To pay someone to march around in the swamp to collect eggs or bleach them does not
seem
cost effective.

The DNR has opened early goose season to reduce the goose population.
In conclusion, the city has passed an ordinance that prohibits the feeding of wild game.
To repeat, I have watched hundreds of geese landing in one particular yard - this same
property owner tried to get hunting banned on the lake. Maybe if we enforced the no
feeding
ordinance on the lake, or study what part of lake has the most goose complaints, we
might find a correlation.
It would be nice to see extra money be put into weed cutting or dredging.
Again, Kent, always happy to help - let me know what I can do.

Jamie Eaves
414 758-9341

September 23, 2010

Mr. Rich Lartz, Village President
Village of Nashotah
P.O. Box 123
Nashotah, WI 53058-0123

Dear Rich,

As you are aware, there have been numerous City of Delafield residents who have expressed concern about the water quality of some storm water runoff that originates in the Village of Nashotah, runs into the City of Delafield and ultimately discharges into the Northwest Channels of Lake Nagawicka. The storm water discharge in question originates from the farm fields on the west side of CTH "C". After crossing CTH "C" some of the storm water runs along Mission Avenue and into the City. Much of the storm water is also directed into Lake Country Estates before entering the City.

The runoff that originates from the farm fields tends to be milky brown in color and appears to contain excessive levels of sediment. We appreciate the efforts that have been taken to install some hay bales along the farm property but it does not appear that these measures have been very successful in reducing the amount of sediment in the runoff from this property. Visual inspection of the storm water runoff would seem to indicate that the erosion and soil loss occurring at the farm field is excessive. The City would appreciate any efforts the Village could undertake to work with the property owner to install more effective best management practices to reduce the sediment load in the storm water runoff.

In addition to the soil erosion occurring at the farm property, the City is also concerned about the functionality of one of the storm water ponds located in Lake Country Estates. Much of the storm water from the farm field does flow through the southeast basin in Lake Country Estates. The City's Director of Public Works reviewed the available documents related to the ponds in Lake Country Estates and also performed multiple visual inspections of the ponds as they currently exist. The first inspection was performed on Friday morning July 23, 2010, which was the day after we received over 4" of rain in about 13 or 14 hours. The second inspection was performed on September 2, 2010.

After inspecting the ponds our Public Works Director concluded that the northeast basin was functioning in general conformance with how it was intended to function. However he found that the southeast pond was not functioning at all as it was intended. A summary of the deficiencies found during the inspection is as follows:

Northeast Infiltration Pond

- At the north end of the swale leading to the northeast infiltration basin the height of the western side slope appears to have been graded to a height somewhat less than shown on the plan.
- Throughout much of the swale and basin the grass is being maintained as a lawn and mowed to a height of approximately 3". According to past DNR correspondence the basin grasses should be left at least 6" in height for successful filtration and protection.
- There is a significant amount of large trees and woody vegetation growing in the bottom of the basin and swale. This should be removed.
- The western side slope of the basin has been landscaped with trees, shrubs and wood mulch. The mulch is not an appropriate ground cover on the side slopes of a storm water pond and at a minimum it should be monitored and removed if it washes into the bottom of the basin.
- In the swale and basin there are numerous examples of brush piles, yard waste piles, burn pits, stacked fire wood, loose fire wood, etc. These should all be removed and the basin should not be used for these purposes in the future.
- The riprap has filled in with debris, sediment, weeds and woody vegetation and should be removed and replaced.

Despite these issues this basin appears to be functioning largely as intended. Storm water running into the basin has been contained and completely infiltrated with no recent overflows.

Southeast Detention Basin

- This basin was intended to be dry during dry weather but provide detention to store rain events up to the 100-year storm event. The detention was intended to slow down peak flows and allow settling to occur to filter out sediments up to 5 microns in size. The water depth in this basin was intended to reach a depth of 4.2 feet during a 100-year storm event. Currently no detention is occurring. Storm water currently flows in and out of this basin nearly unobstructed and the basin does not maintain any significant water depth, even during extremely heavy rain events. The area is not functioning as a basin but rather it is functioning simply as a drainage swale conveying storm water quickly through the back yards, into the outfall pipe and into the lake.
- On the Erosion Control Repair Plan prepared to come into compliance with DNR permitting requirements, there was to be a dike constructed across the southeast detention basin. This dike was intended to be used as a permanent sediment trap embankment to create a forebay that would provide additional water quality treatment to surface water prior to entering Lake Nagawicka. This dike does not currently exist.
- The west side slopes of the basin have been severely compromised. What is supposed to be a six to seven foot high berm immediately surrounding the basin appears to have been regraded to accommodate walkout basements and larger backyards for the houses adjacent to the basin. The berms as they currently exist are not sufficient in height to properly maintain the design water depths during wet weather events.
- The ground level discharge structure for the basin does not appear sufficient to maintain the design water depths for the basin. The discharge structure consists of rebar spaced to only provide very coarse screening of the storm water. It would seem that some type of

standpipe discharge structure with various size openings at different elevations would be required to maintain the design water depths in the basin.

- In parts of the basin the grass is being maintained as a lawn and mowed to a height of approximately 3". According to past DNR correspondence the basin grasses should be left at least 6" in height for successful filtration and protection.
- There are many trees, shrubs, woody vegetation and other large plants growing throughout the entire basin. Portions of the basin are completely overgrown with extremely thick vegetation. There is a large dead/fallen tree in the basin. There are mulched areas in what is supposed to be the bottom of the basin. The vegetation needs to be properly maintained and the trees, woody vegetation, shrubs, plants and mulch should be removed to properly reestablish the bottom of the basin.
- There are swing sets and trampolines in the basin that constitute structures and need to be removed.
- On the Erosion Control Repair Plan prepared to come into compliance with DNR permitting requirements, there was to be a 12' wide graveled maintenance drive coming off of Mission Avenue. This drive was intended to provide the access necessary to maintain the basins as required. It does not appear that this drive currently exists.

The City's Lake Welfare Committee would like the construction of the corrective measures to be in place as soon as possible. Until some corrective work is performed it appears that the heavily sediment laden storm water that is dark milky brown in color will continue to flow into the northwest channels of Lake Nagawicka. We are all very aware of how sensitive the issue of sediment filling in these channels has become and how difficult and expensive it is to remove the sediment by dredging once it's in the lake. We are relying on your cooperation to address this problem to stop the sediment before it reaches the lake.

It is understandable that it will take some time to construct the corrective measures to the basins. In the interim, until the ponds are properly reconstructed, the City is requesting that you utilize every effort with temporary Best Management Practices (BMPs) upstream of and throughout the southeast basin to minimize sediment that is discharged in the lake. Hay bales, silt fences, check dams, sedimentation areas, filter fabric in the discharge structure and other BMPs could be utilized throughout the basin and the ditches that convey storm water from CTH "C" to the southeast basin and the lake. You may also want to consider regular wet weather sampling and testing be performed during this interim period so that the effectiveness of the temporary BMPs and amount of sediment reaching the lake is documented.

The permit for these basins indicates that the Lake Country Estates Home Owners Association will be solely responsible for maintaining the basins. It also says the Village of Nashotah's Department of Public Works will help in the monitoring of the basins. By permit both basins are required to have been inspected every April, August and November since 1997. These inspection reports are required to be kept on file by the Lake Country Estates Home Owners Association and to be made available for review by any interested party. I would appreciate it if you would obtain copies of these inspection reports from the Association and provide them to either myself, City Administrator Tim Schuenke or Public Works Director Tom Hafner.

I wish to thank you in advance for your prompt cooperation in addressing the deficiencies with these storm water basins. The appropriate City staff members and I would be more than willing to meet with you and your staff to further discuss any of the issues identified in this letter.

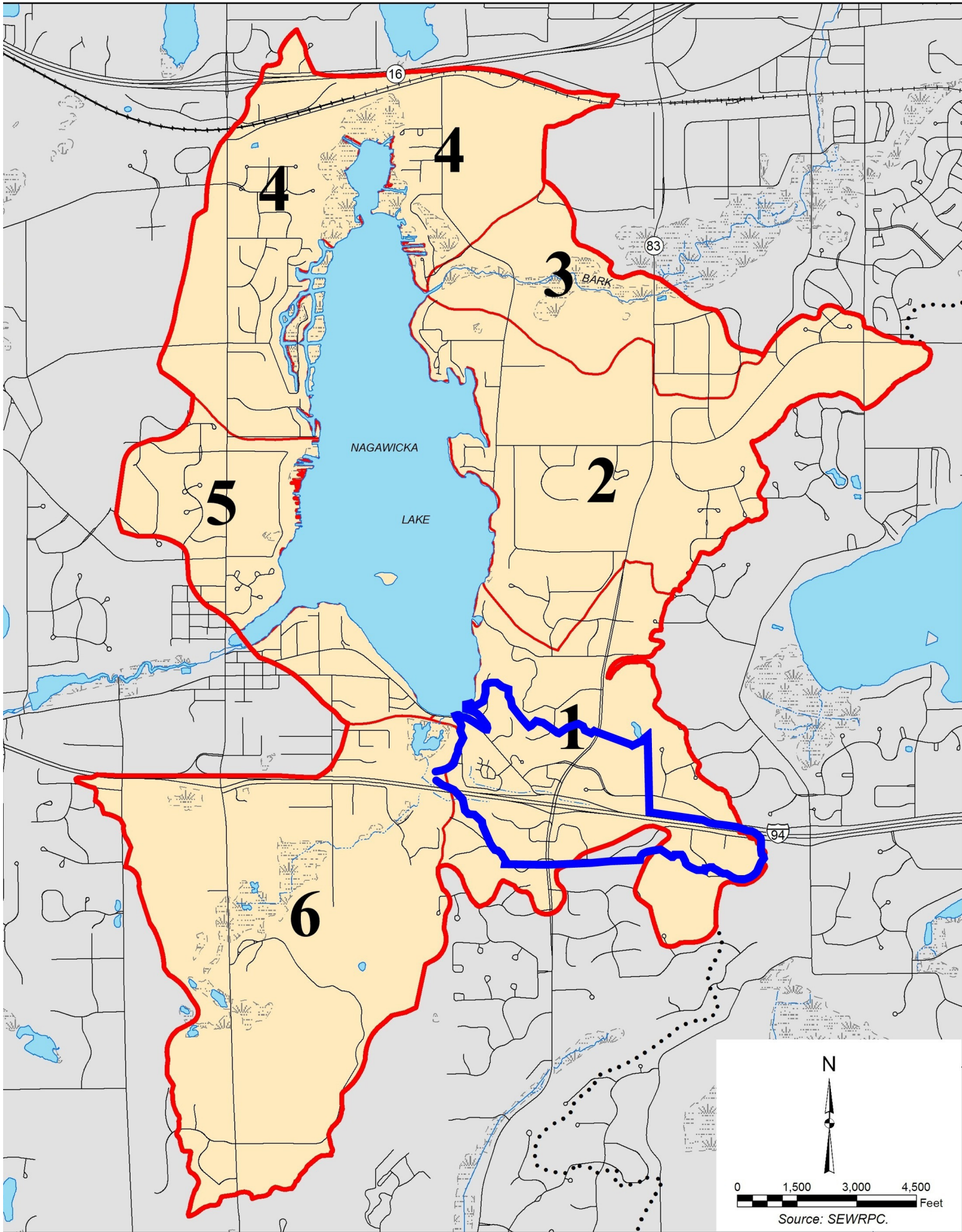
Sincerely,

CITY OF DELAFIELD

A handwritten signature in black ink, appearing to read "Ed McAleer". The signature is written in a cursive style with a large, stylized initial "E".

Ed McAleer
Mayor

cc: Maureen McBroom, WDNR
Mike Steiner, Village Engineer



— Sub-Basins — Stormwater Utility District

Chapter 26 STORMWATER UTILITY DISTRICT #1 (Cr. #531)

[26.01 Findings and Necessity.](#)

[26.02 Established.](#)

[26.03 Authority.](#)

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[26.10 Methods of Review.](#)

[26.11 Special Assessment Authority.](#)

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[26.13 Budget; Excess Revenues.](#)

[26.14 Scope of Responsibility.](#)

[26.15 Liberal Interpretation.](#)

[26.16 Severability.](#)

26.01 Findings and Necessity.

The Common Council of the City of Delafield finds that the management of stormwater and other surface water discharges within the Nagawicka Lake drainage basin and within and beyond the City of Delafield is a matter that affects the health, safety and welfare of the City, its citizens and businesses, and others in the surrounding area. Failure to effectively manage stormwater affects surface water runoff, creates erosion of lands, damages businesses and residences, and creates sedimentation and other environmental damage to Nagawicka Lake and in the City of Delafield. The failure to effectively manage stormwater affects the sanitary sewer utility operations of the City by, among other things, increasing the infiltration and inflow into the sanitary sewer. Further, the failure to effectively manage stormwater may cause pollution to the groundwater system. Those elements of the stormwater system, which provide for the collection and disposal of stormwater and regulation of groundwater are of benefit and provide services to all property within the City of Delafield, including property not presently served by the stormwater elements of the system. The goal of operating and maintaining the City's stormwater management system and financing necessary repairs, replacements, improvement, and extensions thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom. In order to protect the health, safety and welfare of the public, the water quality of local area resources (including Nagawicka Lake), and in order to be responsive to the State of Wisconsin's Department of Natural Resources goals to manage stormwater runoff water quality and meet pollutant reductions, the City of Delafield is exercising its authority to establish Stormwater Utility District #1 for the I-94/STH 83 watershed and set rates for stormwater management services. The City is acting under the authority of Chapters 62 and 66 of the Wisconsin Statutes, including, but not necessarily limited to the following statutes: Sections 62.04, 62.11, 62.16, 62.175, 62.18, 66.0621, 66.0627, 66.0809, 66.0811, and 66.0821.

26.02 Establishment.

There is hereby created and established a City of Delafield Stormwater Utility District #1. The operation of the Stormwater Utility District #1 shall be under the supervision of the Common Council of the City of Delafield.

26.03 Authority.

The City elects to exercise all the lawful powers necessary and appropriate to the construction, condemnation and purchase, acquisition, addition to, maintenance, conduct and operation, management, regulation and control of, the storm and surface water system. The City may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such real estate and facilities as are deemed by the City to be proper and reasonably necessary for a system of stormwater and surface water management. These facilities may include, without limitation by enumeration, surface and underground drainage facilities, storm sewers, watercourses, retaining walls, detention and retention basins, and such other facilities as will support a stormwater management system.

26.04 Applicability.

This ordinance applies to all parcels within the I-94/STH 83 watershed in the City of Delafield and extraterritorial limits as allowed through explicit agreement to receive such charges and is more accurately described on Exhibit "A" attached and incorporated hereto, the Stormwater Utility District #1. The Director shall maintain a map showing current limits of the Stormwater Utility District #1.

26.05 Definitions.

For the purpose of this Ordinance, the following definitions shall apply: words used in the singular shall include the plural; words used in the present tense shall include the future tense; the word "shall" is mandatory and not discretionary; the word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

Appropriate Charge. The term "appropriate charge" means any or all of the rate classifications including Base Charge (BC), Equivalent Charge (EC) or Special Charge (SC) as established by the Common Council.

Base charge. The term "base charge" shall mean a charge to all undeveloped and developed properties in the Stormwater Utility District #1.

Customers. The term "customers" shall include all persons, properties, and entities serviced by and/or benefiting the utility's acquisition, management, maintenance, extension, and improvement of the public stormwater management systems and facilities and regulation of public and private stormwater systems, facilities and activities related thereto, and person and properties and entities which will ultimately be served or benefited as a result of the stormwater management program.

Commercial--Business. The term "Commercial-Business" as it relates to land use is defined as

Commercial--Shopping. The term "Commercial-Shopping" as it relates to land use is defined as *Developed Property*. The term "developed property" means real property that

has been altered from its natural state by the addition of any improvements that may include a building, structure, impervious surface, and change of grade or landscaping.
Developed--Condominium. The term "developed-condominium" means condominium form of ownership of a building or group of buildings in which the dwelling units, offices or floor areas are owned individually and the structure common areas and facilities are owned by all the owners on an undivided basis.

Developed--Non-condominium. The term "developed-non-condominium" means all forms of developed property ownership, except developed-condominium as that term is defined herein, to include but not be limited to all classes of residential, commercial and industrial properties.

Director. The term "Director" means the Director of Public Works for the City of Delafield or his/her designee.

Equivalent Charge. The term "equivalent charge" shall mean a charge to developed properties in the Stormwater Utility District #1 based on the amount of impervious area. The "equivalent charge" is comprised of Program Management, Engineering and Planning, Inspection and Enforcement, and Operation and Maintenance expenses identified in the City of Delafield Department of Public Works Stormwater Utility District #1 Operating Budget.

Equivalent Runoff Unit (ERU). The term "Equivalent Runoff Unit" or "ERU" means 1,000 square feet of horizontal impervious area within the Utility District.

Impervious Area or Impervious Surface. The terms "impervious area" or "impervious surface" means a horizontal surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. They include, but are not limited to, semi-impervious surfaces such as compacted gravel, stone or clay, and all areas covered by structures, roof extensions, patios, porches, driveways, loading docks, parking lots, sidewalks, and streets. Only impervious areas within the Utility District are included in fee calculations.

Multiple-family Residential. The term "Multiple-family residential" shall mean developed land whereon four or more attached residential dwelling units are located and shall include but not limited to apartment houses, town homes, attached single family homes, boarding homes, group homes, hotels and motels, retirement centers and other structures in which four or more family groups commonly and normally reside or could reside.

Owner. The term "owner" shall mean the legal owner(s) of record as shown on the tax rolls of the City of Delafield except where there is a recorded land sale contract, the purchaser thereunder shall be deemed to be the owner.

Pollutant Factor (PF). The term "pollutant factor" or "PF" means a statistically generated modifier to the basic customer rate structure developed using the Source Loading and Management Model (SLAMM) and is based on generalized land uses.

Rural Residential. The term "rural residential" shall mean those areas intended to provide for, or are currently utilized for the provision of high quality, low density single-family development on minimum three (3) acres, or less, lots.

Special Charge. The term "special charge" shall mean a charge to developed properties in the Stormwater Utility District #1 based on the amount of impervious area. The special charge is comprised of Capital Improvement Expenses and is only applied to developed properties whose stormwater runoff drains to and is treated by Capital Improvement

Project(s) as identified and maintained in the City of Delafield Department of Public Works Stormwater Utility District #1 Operating Budget.

Stormwater Utility District #1. The term "Stormwater Utility District #1" means all parcels within the I-94/STH 83 watershed in the City of Delafield and extraterritorial limits as allowed through explicit agreement to receive such charges and is more accurately described on Exhibit "A" attached hereto, the Stormwater Utility District #1. The Director shall maintain a map showing current limits and boundaries of the Stormwater Utility District #1.

Undeveloped or Undeveloped Property. The term "undeveloped" or "undeveloped property" means any parcel that has not been altered from its natural state by the addition of any improvements such as a building, structure, or impervious surface.

26.06 Rates and Customer Classes.

(1) By this ordinance, the Common Council is hereby establishing the rate classifications upon each lot and parcel within the Stormwater Utility District #1 for services and facilities provided for stormwater management. The actual charges to be imposed pursuant to these rate classifications, and any future changes in those rates, shall be made by resolution or ordinance. All rates established pursuant to this ordinance will be fair and reasonable. The current rates, following approval by the Common Council, will be on file in the offices of the City Clerk.

(2) There shall be at least three rate classifications for the Stormwater Utility District #1. These rate classifications are:

(a) *Base Charge (BC).* The BC may be imposed on all property in the Stormwater Utility District #1. The Base Charge will be designed to reflect the fact that all property within the Stormwater Utility District #1 benefits from the stormwater management activities of the District and that all property contributes in some way to the stormwater discharge or pollution of stormwater that must be managed by the District. The BC may be designed to collect the administrative costs and operation and maintenance costs of the stormwater utility operations. The BC may be based on the size of a parcel of property, impervious area, or other method.

(b) *Equivalent Charge (EC).* The EC may be imposed on all property within the Stormwater Utility District #1 that has any developed impervious area. The EC will be designed on the basis of 1,000 square feet of impervious area (an ERU).

(c) *Special Charge (SC).* The SC may be imposed on property within the Stormwater Utility District #1 that is in an area specially benefited by a particular stormwater management facility. This charge will be developed to reflect the benefits to or cost associated with a particular area that may not be appropriate to allocate to property throughout the District. The SC will be calculated on an EC basis.

(3) Pollutant Factors (PF) are hereby developed and set as modifiers to the ERU value of a property and are based on the land use of the property. Pollutant Factors are as follows:

Undeveloped 0.07

Rural Residential 0.23

Multi-family Residential 0.42

Commercial--Business 0.71

Commercial--Shopping 1.00

(4) The Common Council may make such other rates and customer classifications to provide reasonable and fair distribution of the costs of the Stormwater Utility District #1. In so doing, the Common Council may provide credits against certain charges set forth above for facilities installed and maintained by the property owner for the purposes of lessening the stormwater rate, volume and pollutant loads from that given property.

(5) The charges established hereunder will be billed to the Stormwater Utility District #1 customers along with the sanitary sewer and water bill. The property owner shall be responsible for payment of the Stormwater Utility charge. For properties not being served by sanitary sewer or water, a separate bill for Stormwater Utility services only shall be sent. Failure to pay the charges when due will be subject the same penalties as established and documented by the City of Delafield including late payment charges and charges for checks returned for insufficient funds. Unpaid charges may be assessed as a lien against the property pursuant to sec. 66.0821, Wis. Stats.

26.07 Customer Classification.

(1) For purposes of imposing the stormwater charges, all lots and parcels within the Stormwater Utility District #1 are classified into the following three (3) customer classes:

- (a) Developed - Non-condominium
- (b) Developed - Condominium
- (c) Undeveloped

(2) The Director shall prepare a list assigning the Customer Classification and land use designation with corresponding Pollutant Factor for each lot and parcel within the Stormwater Utility District #1.

(3) The charges imposed for Developed - Non-condominium properties shall be as follows:

Developed--Non-condominium charge = BC Charge + EC Charge x PF x impervious area ÷ 1,000 square feet + SC Charge x PF x impervious area ÷ 1,000 square feet.

(a) The charges imposed for Developed--Condominium properties as defined herein shall be determined as follows:

1. For condominium properties with a single water meter, the fee shall be as follows:

Condominium Charge = BC Charge + EC Charge x PF x impervious area ÷ 1,000 square feet + SC Charge x PF x impervious area ÷ 1,000 square feet.

2. For condominium properties with multiple water meters, the fee shall be as follows:

Condominium Charge = BC Charge + EC Charge x PF x impervious area ÷ 1,000 square feet ÷ the number of units + SC Charge x PF x impervious area ÷ 1,000 square feet ÷ the number of units.

(4) The charges imposed for undeveloped properties as defined herein shall be zero until changed by action of the Common Council.

(5) The Director shall be responsible for determining the impervious area based on the best available information, including, but not limited to, data supplied by the City Assessor, aerial photography, the property owner, tenant or developer. The Director may require additional information as necessary to make the determination. The number of ERUs shall be updated by the Director based on any additions or subtractions to the impervious area as approved through the building permit or other processes.

26.08 Stormwater Fees.

The Common Council shall, by resolution or ordinance, set or adjust the Base Charge (BC), Equivalent Charge (EC), and the Special Charge (SC) to reflect the cost of the stormwater management program for Stormwater Utility District #1. Stormwater fees will be kept on file with the City Clerk.

26.09 Credits.

(1) The Common Council shall adopt a system of stormwater utility credits by separate resolution.

(2) Credits may be considered for customers who own and properly maintain stormwater management facilities such as a retention or detention basin except as provided in Sections 4 and 5 below. In considering such a request, the Director shall consider whether and to what extent the City's cost of providing service or making service available to a property has been lessened by the stormwater management facility. If the City's cost of providing service or making service available to a property has not been lessened by the stormwater management facility, the request for credit shall be denied. If the City's cost of providing service or making service available to a property has been lessened by the stormwater management facility, the customer may be eligible for a credit.

(3) Properties or portions of properties with impervious surface areas that are internally drained or drain directly into Nagawicka Lake or other designated waters without entering the City's stormwater system may be eligible for a credit.

(4) No credit shall be considered for structural or nonstructural best management practices that are required in order to comply with any local, state, or federal regulation including but not necessarily limited to the City of Delafield Stormwater Management Ordinance, and state regulations such as NR 216, Chapter 30 and NR 103.

(5) No credits shall be considered for any "natural" features such as but not limited to wetlands, lakes and floodplains or water impoundment of any kind in existence prior to passage of this Ordinance.

26.10 Method of Review.

(1) *Adjustments to the Measured Impervious and Parcel Areas.* Property owners may submit to the Director site and building surveys or other documentation which more accurately describes the impervious area or total area of a parcel. Property owners may appeal the measurements of the Director to the City Administrator.

(2) *Appeals to the Director.* Whenever the customer advises the Director that all or part of any billing, including determination of impervious area, as rendered is in dispute, the Director shall investigate the dispute promptly and completely, advise the customer of the results of the investigation, attempt to resolve the dispute, and provide the opportunity for the customer to enter into a Deferred Payment Agreement when applicable in order to settle the dispute. The Director may request the customer to provide survey, measurements, or other supporting material as may be necessary for completion of the review of the request in a timely manner.

(3) *Appeals to the City Administrator.* Any person who objects to any action or decision of the Director or their designee shall first appeal to the City Administrator for reconsideration.

- (a) A written notice of appeal shall be filed with the City Administrator within thirty (30) days of the date of the action or decision appealed from.
- (b) The notice of appeal shall state the action or decision of the Director or their designee being appealed.
- (c) Within thirty (30) days of the receipt of the written notice of appeal, the City Administrator shall affirm, modify, or reverse the action or decision. Notice of the final decision of the City Administrator shall be sent to the appellant.
- (4) *Appeals to the Common Council.* Any person who objects to any final decision of the City Administrator after appeal to the City Administrator may appeal to the Common Council.
 - (a) A written notice of appeal shall be filed with the City Clerk within fourteen (14) days of the date when notice of the final decision of the City Administrator is mailed.
 - (b) The notice of appeal shall state the action of the City Administrator appealed from, shall specify the reasons stated by the City Administrator for taking such action, and shall specify why the appellant believes said action was inappropriate.
 - (c) The City Clerk shall file the notice of appeal with the Common Council and shall schedule the appeal for consideration by the Common Council at a meeting open to the public, within forty-five (45) days of the filing of the notice of appeal. The clerk shall send notice of the time scheduled for the consideration of the appeal to the appellant and the City Administrator.
 - (d) Within thirty (30) days of the appeal hearing, the Common Council, by majority vote, shall affirm, modify, or reverse the action of the City Administrator or shall refer the matter back to the City Administrator for further consideration. Notice of the decision of the Common Council shall be sent to the appellant and the City Administrator.
- (5) *Refunds and Adjustments.* If a decision or determination of the Director is reversed or modified the City Administrator may grant a refund to the aggrieved party, prorated and retroactive to the date on which an application for fee adjustment was filed with the City Administrator.

26.11 Special Assessment Authority.

In addition to any other method of financing projects or cost of operation of the Utility District, the City, for projects within the Utility District may fund said projects pursuant to Section 66.0703, Wis. Stats. as a special assessment. The special assessments must reasonably reflect the benefits conferred on a property.

26.12 Special Charge Authority.

In addition to any other method for collection of the charges established pursuant to this ordinance for Stormwater Utility costs, the Common Council finds that these charges may be levied on property by special assessment pursuant to Section 66.0627, Wis. Stats. The mailing of the bill for such charges to the owner will serve hence to the owner that failure to pay the charges when due may result in them being assessed pursuant to the authority of Section 66.0627, Wis. Stats. In addition, the City may provide notice each October of any unpaid charges to the Stormwater Utility, which charges, if not paid by November 15, may be placed upon the tax roll under Section 66.0627, Wis. Stats. including any applicable penalties.

26.13 Budget: Excess Revenues.

The City shall separately account for the Stormwater Utility District #1 finances. The Stormwater Utility shall prepare an annual budget, which is to include all operation and maintenance costs, costs of borrowing, capital costs and other costs related to the operation of the Stormwater Utility. The budget is subject to approval by the Common Council. The costs shall be spread over the rate classifications and as determined by the Common Council. Any excess of revenues over expenditures in a year will be deposited into a Stormwater Utility District #1 maintenance fund, which will be used to defer the costs of capital improvements or to retire debt.

26.14 Scope of Responsibility.

It is the intent of this Ordinance to protect the health, safety and welfare of all properties and persons in general, but not to create any special duty or relationship with an individual person or to any specified property within or without the boundaries of the City of Delafield. The City of Delafield expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the City, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any permit plan approval, inspection or similar act is required by the City as a condition precedent to any activity by or upon any property not owned by the City, pursuant to this or any other regulatory ordinance, regulation or rule of the City under Federal or State law, the issuance of such permit, plan approval or inspection shall not be deemed to constitute a warranty, express or implied, nor shall it afford a basis for any action, including any action based on failure to permit or negligent issuance of a permit, seeking the imposition of money damages against the City, its officers, employees or agents.

26.15 Liberal Interpretation.

This ordinance shall be interpreted liberally to secure the ends sought hereby.

26.16 Severability.

If any provision of this Ordinance is found to be unlawful or unenforceable by a court of competent jurisdiction, this determination shall not affect, impair or invalidate the remaining provisions of this ordinance, but shall be confined to its operation to the section, paragraph, sub-paragraph, clause or phrase of this ordinance in which such a determination has been made.