

## CITY OF DELAFIELD COMMON COUNCIL MINUTES

Mayor McAleer stated there was a meeting last Thursday. They have drafted the agreement and financial formula. Ed Henschel, a consultant, talked to them and offered his services. He was the consultant who worked on the North Shore Fire Department merger; this is his expertise. The Committee passed a motion to hire him to verify the work that Committee has done, not to exceed \$2,000. This \$2,000 will be split evenly between the three communities. The next meeting will be held on March 26, 2009 at 7 p.m. at the Village of Nashotah Village Hall. He encouraged everyone to come and hear the report on what they have done and the opinion of E. Henschel. T. Schuenke stated that he has known E. Henschel for 26 years and felt that he would do a good job. Mayor McAleer stated that when this comes to a vote, it would be up to the Councils of the City of Delafield, Nashotah and Chenequa. There will be a public hearing. He would like this to be a joint public hearing with the three municipalities sitting up at the table taking comments. However, Chenequa wants to have separate hearings. The vote would be separate within each community. Mayor McAleer suggested that perhaps a joint public hearing could be held at the Delafield Hotel to take comments. He would like the consultant there to answer questions, but no action to be taken.

5. Old Business
  - a. LOMR Update.

T. Hafner, Department of Public Works Director, stated he met with the engineers working on the submittal. By the end of this week they will have the reports submitted to the DNR and FEMA. They have looked at the details of the model and found errors in the DNR model with storage issues. These have been added to the model and have been successful in reducing the flows of the Bark River by approximately 60% of what the DNR originally modeled. It was anticipated that the floodplain elevation will submitted at 891.1 versus the 892.5 on the FEMA record. Once the report goes to FEMA and the DNR, it was anticipated that it would take 30 to 90 days for the review of modeling. Once the modeling has been okayed, they will do the mapping. Yaggy Colby anticipates turning the mapping around in less than a week. Once the mapping is submitted to FEMA, another 30 to 90 days is anticipated. The worst case scenario to finalize, was thought to be six months from now with a best case scenario of two to three months.

B. Leonard asked if owners in the floodplain wanted to come before the Board of Review, how it would be dealt with. G. Gresch stated this should be done at open book first and if they do not get resolution, to go to the Board of Review. The timeline was reviewed. Mayor McAleer stated that if they were in the erroneous floodplain as of January 1, 2009, they should come to open book. The Attorney stated that the assessors have a formula for those in the floodplain. T. Hafner asked if the City would work with the assessor to make him aware of the erroneous floodplain. These people would be in the floodplain just for a year and he would have to reconsider it again the next year. The Attorney stated if someone came in and made an objection now as of 1-1-09 the condition is what it was. If some of the properties come out of the floodplain, the City should notify the assessor and an adjustment could be made back. L. Morrison thought that a lot of people think that if they are erroneous in the floodplain, they are looking for some satisfaction of the fees for flood insurance even if it is just for one year.

- b. Discussion of Lake Nagawicka Dredging Project and financing for the same.

L. Morrison stated that since the last Council meeting the neighborhood groups met, Naga-Shotah Shores met, and a public hearing was held two weeks ago. The Lake Welfare Committee (LWC) along with the focus groups started out the neighborhood meetings to target the group that would be most affected by the dredging. Letters were sent out with costs to the properties that would be dredged. The costs used were those suggested by the focus group. They were by linear front foot (LFF) and the price per LFF in the five different groups varied according to the amount of silt to be removed or the dredged volume in each of the five different areas. This was the method that was recommended by the focus group. Seventy-five percent

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of the cost would have been borne by those being dredged. This methodology made a very broad spectrum from the low to the high. At public hearing there were 48 people that signed up to speak. Many brought up legitimate ideas. A special LWC meeting was held last week and a sub-group met with Jim Romanowski. They reviewed the 48 comments and asked themselves how these suggestions could be addressed in different ways and shift the costs to better meet the suggestions that the people had at the public hearing.

Jim Romanowski, Engineer, and LWC Chair Kent Attwell gave a presentation. K. Attwell stated the LWC feels this project is needed and are confident that this community will come together and find a way to distribute these costs in a fair and equitable manner for residents on and off the lake. A brief history of the costing model and where it came from took place. The Staff personally called contractors the day after the bid openings on February 10, 2009 to determine the reasons qualified bids were not received on this project. Approximately 20 bid packets were paid for by contractors and several companies attended the pre-bid meeting held in the Council Chamber on January 20 in person (some from out of state). Contractors were not willing to tie up bonding and resource capabilities for a project they could win but not actually start to construct on until 120 days later and that was dependant on a city wide referendum. They felt the risk was too high. Other concerns were expressed, but were not as universal and included the timing of project (would prefer longer time to prepare bid documents (6 months), the 40 parts per million requirement by the DNR for return water, potential delays due to nearly 300 homeowners along the shoreline, and confusion by a couple of contractors that the project was allowed to take up to two years to complete.

A review of the history of the dredging project took place.

- 2003 LWC conducts survey via Communicator and annual meeting to determine areas where citizens feel they need dredging.
- 2004 SEWRPC recommends that cost formula be devised similar to Little Muskego cost model. Properties be dredge pay based on their benefit and other city residents were asked to pay somewhere between 10 and 30%.
- 2005 LWC lead by Phil Schuman really got this project moving forward with a \$250,000 grant from the DNR. \$35,000 was for sediment testing in the lake and the balance was used to hire consultants to design and document plans to control run off from the 83/94 corridor and undeveloped lands in the City of Delafield. (Dix Pond and Hays retention pond plan designed to be used with future developers)
- 2005 Letters from Kohl, Feingold and Sensenbrenner sent to Army Corp of Engineers requesting project to be done. Army Corp reject do to lake of funds.
- 2006 Corp rejects 2<sup>nd</sup> request from City of Delafield, Committee and Staff investigate other funding options such as DNR, County and other groups. None of these options provide likely grant money except for restoration portion of project.
- Nov 2006 LWC sponsors and invites residents who live off the lake, on the lake not to be dredged, on the lake to be dredged and village of Nashotah village board members. Focus group meeting held at City hall. We exceed room capacity. Participants form a consensus that common areas should be paid by all city household and lake properties to be dredged pay 100% of their costs based on linear front footage.
- June 2007 LWC presents cost model outline at Annual meeting

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- Aug 2007 LWC delivers specific cost share recommendations to City Council with opt out language that agrees with focus group recommendations
- Sept 2007 Special Assessment resolution passed by City Council
- June 2008 LWC presents cost model, shares estimated numbers and suggestion of two part question comes from audience.
- Jan/Feb 2009 LWC holds 8 meetings in private homes, churches and Schools for residents who have received an assessment, to explain project and review cost data. Also visits Village of Nashotah Board with same info.
- Feb 2009 Contractors and Foth recommend engineering estimates be used for referendum language moving forward and re-bid project after successful passage.

K. Attwell thanked everyone for coming to the public hearing. They want to accommodate the ideas that they got from the public hearing to try to make the project better. Seventy-five percent of the costs are asked to be paid for by those on the lake, with the remaining being paid for by the rest.

J. Romanowski presented other models. There are many ways to allocate costs including: consideration of five subareas by front foot of shoreline length, by dredged volume, 50-50 split on the Bark River, a 50% reduction for facing properties on shared narrow channels, allocation of the West Channels to adjoining properties, use of a minimum or maximum length or cost per benefit, treating the northwest entrance channels differently. Below are the calculations from the Lake Welfare Committee and Engineer Romanowski:

**Lake properties grouped by Assessor's shoreline length**

Cost by Assessor's front foot ranged from \$1,566 to \$79,231

from 0 to 49 feet =	57
equal to 50' length =	64
from 51 to 99 =	85
from 100 to 200 =	43
from 210 to 417 =	7
condos and NE channels =	41
total =	297

<b>Note: No. of Lake properties =</b>	441
Proposed dredged (Delafield incl. Condos) =	264
Total property owners incl. common ownership =	297
Non-dredged properties =	177
Vill. Nashotah dredged properties =	20

**Project Costs:**

Shoreline dredging =	\$2,560,000
Bark River sediment trap =	\$884,000
Engr., permitting, legal, admin. costs =	\$523,000
Total estimated project costs =	\$3,967,000

Total dredged volume (CY) =	109,000	100.00%
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Shoreline volume (CY) =	81,000	74.31%
Bark R. Sediment Trap volume (CY) =	28,000	25.69%
Total Dredged Shoreline length per Assessor's records	16,430	

**Distribution of all City properties per Assessor's records**

Property class	No. or Properties	Value	% of Total Value
Residential	2500	\$984,792,108	75.80%
Commercial	235	\$311,899,800	24.01%
Agriculture	26	\$259,000	0.02%
Undeveloped	5	\$1,300	0.00%
Productive Forest	1	\$46,100	0.00%
Others, Ag homes & bldgs.	8	\$1,726,200	0.13%
Forest Cropland	1	\$463,000	0.04%
Tax-exempt	10	\$0	0.00%
Total parcels =	2786	\$1,299,187,508	100.00%

**Alternate 1 - Allocate cost to all properties in City**

Total Project Cost =	\$3,968,000
Total No. of properties =	2,786
Ave. Cost per property =	\$1,424

Total tax base value = \$1,299,187,508

Property class	Value	% of total	Cost allocation
Residential	\$984,792,108	75.80%	\$3,007,768
Commercial	\$311,899,800	24.01%	\$952,610
Agriculture	\$259,000	0.02%	\$791
Undeveloped	\$1,300	0.00%	\$4
Productive Forest	\$46,100	0.00%	\$141
Others, Ag homes & bldgs.	\$1,726,200	0.13%	\$5,272
Forest Cropland	\$463,000	0.04%	\$1,414
Tax-exempt	\$0	0.00%	\$0
Total parcels =	\$1,299,187,508	100.00%	\$3,968,000

**Alternate 2 - Divide total project cost by no. of Lake Properties**

Total Project Cost =	\$3,968,000
No. of Lake properties =	441
Cost per property =	\$8,998

**Alternate 3 - Allocation by property class**

Total Project Cost = \$3,968,000

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Property type	No. or properties	Cost Share(%)	Cost portion	\$ per property
Dredged Lake properties =	264	70%	\$2,777,600	\$10,521
Non-dredged Lake properties =	177	20%	\$793,600	\$4,484
Non-Lake properties =	2326	10%	\$396,800	\$171

**Alternate 4 - Apply Total Project Costs**

Total Project Cost =	\$3,968,000
including:	
Bark River Sediment Trap =	\$1,018,000
Shoreline Dredging =	\$2,950,000

Property type	No. or properties	Cost Share(%)	Cost portion	\$ per property
All City Properties =	2767	sed trap	\$1,018,000	\$368
Dredged Lake properties =	264	90%	\$2,655,000	\$10,057
Non-dredged Lake properties =	177	10%	\$295,000	\$1,667

**Alternate 5 - Apply Construction costs only, delete Engr, Admin., Legal, Permitting costs**

Dredging Costs only =	\$3,443,000
including:	
Bark River Sediment Trap =	\$884,000
Shoreline Dredging =	\$2,559,000

Property type	No. or properties	Cost Share(%)	Cost portion	\$ per property
All City Properties =	2767	sed trap	\$884,000	\$319
Dredged Lake properties =	264	90%	\$2,303,100	\$8,724
Non-dredged Lake properties =	177	10%	\$255,900	\$1,446

**Alternate 6 - Provide credit for long lengths**

Note: The City Assessor does apply different assessment rates for different areas of shoreline around the Lake and does assess the first 100 feet of primary shoreline at a primary rate, and additional shoreline length and channel length at a reduced rate.

J. Romanowski explained the Alternate options as outlined above.

The Council discussed various ways as to how to move forward on this project. The DNR permit requires forward movement. Mayor McAleer would like the LWC to review this and come back with a recommendation. B. Leonard inquired about the viability of a lake district; Attorney Hammes felt that it was not feasible and would only be create another taxing entity.

Contributing factors that create the need for dredging and whether the City could harvest aquatic plants if dredging took place need to be addressed. B. Leonard asked if a two year extension of the DNR Permit was possible and if federal money was available for the project. T. Schuenke stated that he has attended meetings on the subject of the Economic Stimulus Plan

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and he now checks a State website daily to see if funds are available. He and T. Hafner have each submitted the dredging project on this website to determine if funding is available. After attending a City Managers meeting where many spoke on the stimulus bill, he was not encouraged about getting stimulus money for the dredging project. The dredging project is not one of the projects that are clearly mentioned in the bill. He has not been able to find a dredging project on a recreational lake as being an economic stimulus that could be applied for. He will, however, keep looking. The DNR seems to be on the environmental side of things and is not interested in (funding) a dredging project. The Army Corp of Engineers is a possibility and he will focus on this entity to see if funds are available. He did not think that stimulus money would be made available for the dredging project.

In regards to possibly getting an extension on the DNR permit, it was stated in the opinion of the LWC and the consultant that as long as the City is showing due diligence and is making progress, the City will not be penalized. T. Schuenke didn't think the DNR would be unreasonable in extending the permit if they see progress.

E. Sadowski thought the LWC worked very hard and has done a great job but perhaps it would be good to take a step back because of the recession. Many people have lost their jobs and this is basically a tax increase. The state of the economy makes it a difficult time for this project. He suggested the LWC narrow the alternatives down to two or three and then return to the Council. It was his opinion that because of the economy the project should be slowed down.

Mayor McAleer thought if a special election was held sometime during the year, that it could be used as a target date for the LWC to work toward.

B. Leonard felt that the number one issue was the huge cost of the project, more than anyone anticipated. If this kind of money is going to be spent, it should be done in conjunction with an aggressive program to control runoff into the lake. She questioned the methodology proposed for the technological process of the dredging. K. Attwell felt that this is the absolute best deal that the City will ever get with the DNR.

G. MacDougall discussed the one unqualified bid that was received and asked why the City could expect a better response next time. K. Attwell stated that Staff and the consultant surveyed those that took out bids to find out why they chose not to submit bids. The number one reason was the contractors were not willing to tie up their bonding and resource capabilities for a project that may not actually be done for 120 days and then wait for referendum to be passed. There were no issues with the plans or specs. There were other reasons specific to some contractors, but mainly the project bids were not submitted because the project was not approved by the City. In the future, K. Attwell stated that estimates would have to be used for the referendum, although this was not the LWC's preference. It was clarified that the cost estimates were based on the project being done at one time.

In response to a question from E. Sadowski, K. Attwell stated that the LWC wanted to increase the cost estimate of \$3.968M by 25% for the referendum in order to play it safe and hope that it would come in lower. The passing of the referendum did not require the Common Council to move forward with the project, it would just authorize the City Council. Without the passage of the referendum, the City Council cannot authorize the borrowing of the money. K. Attwell stated that the LWC wanted to put forth anything that the community feels is fair and can reasonably pass the referendum.

Attorney Hammes stated that many comments were made in regards to the Nashotah properties and asked if those properties were included in the costs. J. Romanowski stated that they have not separated out the costs that could potentially be allocated to the Shores. There are 20 properties and they are presently included in the costs. Attorney Hammes stated that the City's costs will be changed based on how much funding comes from Nashotah. K. Attwell stated that they are asking for non-lake people to pay 24% towards the project. No one thought

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that non-lake property owners would be willing to pay more than that amount and perhaps 24% would be difficult to gain favor for.

B. Leonard felt that a communication campaign needed to take place regarding what brought this about and where the silt came from. This silt is generated by properties beyond our lake and the City needs to clearly document what has happened and problem areas need to be identified. She felt that it was not a cost effective project if something was not done in conjunction to avoid more silt buildup. K. Attwell stated that it would be difficult to have another sediment trap and there was a strong chance that the DNR would not allow it. There is no other place within the jurisdiction of the City of Delafield that a sediment trap could be other than the Mill Pond.

The LWC will work on this more and will also need to work on how to sell the project to the owners with a different cost. Mayor McAleer stated that this scenario was similar to the sewer project in that there were people with large frontages on the roads versus little frontages and people with large homes and many bathrooms versus those that did not. At that time, the City of Delafield determined that they needed to charge everyone the same; everyone that had access to sewer got charged the same hook-up fee and the same user fee. He felt that the dredging project is similar. General discussion took place regarding charging those who did not live on the lake. This is why there are referendums. E. Sadowski suggested that the LWC come up with reasons as to why this is good for the community (by specific neighborhood areas) and then determine the costs.

Mayor McAleer thanked K. Attwell and J. Romanowski for their work.

K. Attwell stated that the LWC needs input from those on the lake that are proposed to be restored to figure out a cost model that will work for those individuals.

6. Mayor's Report

- a. Discussion and action to accept resignation of Jan Gerstner from the Police & Fire Commission.

**L. MORRISON MOVED TO ACCEPT THE RESIGNATION OF JAN GERSTNER FROM THE POLICE & FIRE COMMISSION. M. DE YOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- b. Discussion and action to appoint Ray Putchinski to the Police & Fire Commission.

**R. MISKELLEY MOVED TO APPOINT RAY PUTCHINSKI TO THE POLICE & FIRE COMMISSION. M. DE YOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. FIVE WERE IN FAVOR. E. SADOWSKI OPPOSED. MOTION CARRIED.**

7. New Business

- a. Discussion of Draft Wind Generator Ordinance.

This item will be referred to the Plan Commission and DPW.

- b. Discussion of draft Sexual Predator Ordinance.

This was put on the agenda at the request of E. Sadowski. After talking to T. Schuenke and after reading the attorney's memo, it doesn't look like much can be done. Attorney Hammes stated that restrictions could be made limiting the amount of feet from a school or park, but you could not zone out those type of residents. This should be done at a state level. J. Krickhahn contacted E. Sadowski and asked if a link on the City's website to the Waukesha County website on where the sexual predators are.

- c. Report on Renewable Energy meeting hosted by City of Waukesha Mayor.