



# CITY OF DELAFIELD MEETING MINUTES COMMON COUNCIL

Mayor: Kent Attwell  
Council President: Alderperson Wayne Dehn  
Alders: Tim Aicher, Jim Behrend, Matt Grimmer, Danielle Henry, Phil Kasun, Jackie Valde

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March 21, 2022

7:00 p.m.

City Hall, Council Chambers  
500 Genesee St.

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**Regular Meeting**  
**DRAFT**  
[YouTube Link](#)

**1. Call to Order**

Meeting was called to order at 7:00 PM.

**2. Pledge of Allegiance**

The pledge of allegiance was recited.

**3. Roll Call**

**Alders Present:** Danielle Henry, Ald. D1  
Jim Behrend, Ald. D2  
Jackie Valde, Ald. D3  
Wayne Dehn, Ald. D4, Council President  
Matt Grimmer, Ald. D5  
Phil Kasun, Ald. D6  
Tim Aicher, Ald. D7

**Also present:** Kent Attwell, Mayor  
Tom Hafner, City Administrator/Director of Public Works  
Molly Schneider, City Clerk  
Jim Hammes, City Attorney

**4. Approval of minutes of the [February 21, 2022](#) meeting**

*Motion by Aicher seconded by Behrend, to approve the minutes of the February 21, 2022 Common Council meeting as presented.*

*All in favor. Motion Carried.*

**5. City of Delafield Citizen Comments**

*Mary Daniel, 309 Wisconsin Ave. – Wished to thank Mary Green for sending information that was requested. Is speaking regarding Item 12.C. appreciated the updated Finance report. There were long term items closed out. These were over budget. Where did the funds come from to pay for the overage? There are funds sitting out there and the project is still open and there are overages that seem to be unaccounted for. Alternatively, where do the funds that are not spent end up?*

Hearing no one else who wished to speak, citizen's comments were closed.

**6. Special Orders of Business:**

**A.** Accept Resignation/Retirement of Jim Hammes as City Attorney.

*Motion by Behrend seconded by Aicher, to accept Resignation/Retirement of Jim Hammes as City Attorney.*

*All in favor. Motion carried.*

**B.** Resolution 2022-04, A Resolution of the Common Council of the City of Delafield, WI Extending the City's Appreciation for City Attorney Jim Hammes' 14 years of dedicated public service to the City of Delafield.

*Motion by Behrend seconded by Aicehr, to approve Resolution 2022-04, A Resolution of the Common Council of the City of Delafield, WI Extending the City's Appreciation for City Attorney Jim Hammes' 14 years of dedicated public service to the City of Delafield.*

*All in favor. Motion Carried.*

- C.** Presentation of a token of appreciation from the City to Jim Hammes for his 14 years of dedicated public service to the City as City Attorney.

Attwell thanked Attorney Hammes for the years of dedicated service.

Hammes noted that he was fortunate to have worked with competent and dedicated officials during his time as the City of Delafield municipal Attorney.

Hafner thanked Hammes for his time as the City attorney and also offered appreciation and well wishes on behalf of Ed McAleer, former Mayor, who was not able to attend. Hafner then presented Attorney Jim Hammes with a token of appreciation.

- D.** Council confirmation of Mayoral appointment of Kathryn Sawyer-Gutenkunst, Axley Brynelson, LLP, as City Attorney.

Attorney Sawyer-Gutenkunst summarized her career in law and litigation. Has 30 plus years of experience in municipal law and worked with Jim Hammes in the past. Noted that her approach is to seek out solutions, not look for problems and to implement policies adopted by the Common Council.

*Motion by Behrend seconded by Grimmer, to approve the appointment of Kathryn Sawyer-Gutenkunst, Axley Brynelson, LLP, as City Attorney.*

*Discussion: Kasun is concerned about the upcoming intergovernmental agreements and would prefer a full-time municipal attorney and firm. That expertise is important.*

*Dehn recused himself from discussion and vote.*

*Valde agreed with Kasun and would prefer an attorney with exclusively municipal experience. Is concerned about the vetting process.*

*Kasun asked about the interview process.*

*Hafner summarized the process. There was a Request for Proposal process that was substantial and professional. Three firms sent proposals and all were interviewed. Attorney Sawyer-Gutenkunst stood out and has extensive experience in municipal law.*

*Kasun noted that another candidate appeared to have more experience and represents many other municipalities.*

*Grimmer noted that there is concern about hiring a municipal attorney group that represents other municipalities that the City has agreements with. This would create a conflict of interest and would not necessarily be advantageous.*

*Aicher noted that there are conflicts with the surrounding municipalities represented by the Municipal Law and Litigation group. This would require the City to hire outside counsel. Is confident that Attorney Sawyer-Gutenkunst has adequate experience.*

*Discussion occurred about the process and the information that was shared with the Common Council during the process.*

*Motion carried with Dehn abstaining and Valde and Kasun voting nay.*

Attwell questioned the concerns raised by Kasun.

Kasun further clarified his reasons for preferring the alternative firm.

- E.** Swearing in and signing of official oath of office as City Attorney - Kathryn Sawyer Gutenkunst.

Clerk Schneider swore in Attorney Kathryn Sawyer-Gutenkunst.

## **7. Consent Agenda**

Items listed under the Consent Agenda are considered in one motion unless a Common Council member requests that an item be removed from the Consent Agenda.

- A.** Proclamation for the City of Delafield observance of Arbor Day.

- B.** Adopt Resolution 2022-05, a Resolution Disallowing the Claim Submitted by Peter Peckarsky Received November 24, 2021.

*Motion by Dehn seconded by Behrend, to approve Consent Agenda item 7.A. as presented.*

*All in favor. Motion carried.*

Kasun wanted clarification on item 7.B.

Schneider explained that the insurance appointed attorney had recommend a formal dissolution, which was explained in the letter and memo provided.

Kasun asked about the process for Central Count.

Schneider summarized the process for central count. The City of Delafield no longer uses central count and the insurance attorney still recommended disallowance. Rescinding the central count ordinance was already in the works prior to receiving the notice of claim.

*Motion by Behrend seconded Kasun by to approve resolution 2022-05, a Resolution Disallowing the Claim Submitted by Peter Peckarsky Received November 24, 2021.*

*All in favor. Motion carried.*

## **8. Boards, Committees, and Commission Reports**

Reports by Council Members on discussion and action taken at previous meetings, future agenda items, and upcoming scheduled meetings. No discussion or action on these reports, unless specifically listed on this notice.

### **A. Licenses**

### **B. Plan Commission**

#### **1) Commission Report by Ald. Aicher**

Aicher reported that there were some businesses approved and the net phase of Hawthorne is coming through. There is also discussion about rezoning the properties across the street from Cushing Elementary. The Plan Commission is going through the Economic Development Focus Group recommendations.

#### **2) Discussion and possible action regarding the following items:**

- a)** DELC0781989004 & DELC0781989005, unknown address on Nagawicka Road East. Owner: Joes Legacy Farm, LLC. Applicant: Jon Spheeris. Applicant is requesting approval of a Planned Unit Development – Conditional Use General Development Plan for a conservation type single-family subdivision.  
*Note: Plan Commission recommended approval February 23, 2022.*

*Motion by Aicher seconded by Behrend, to approve a Planned Unit Development – Conditional Use General Development Plan for a conservation type single-family subdivision located at DELC0781989004 & DELC0781989005, unknown address on Nagawicka Road East.*

*Motion carried with Dehn voting Nay.*

- b)** DELC0781989004 & DELC0781989005, unknown address on Nagawicka Road East. Owner: Joes Legacy Farm, LLC. Applicant: Jon Spheeris. Applicant is requesting approval of a Preliminary Plat for a conservation type single-family subdivision.

*Note: Plan Commission recommended approval February 23, 2022.*

*Motion by Aicher seconded by Behrend, to approve a Preliminary Plat for a conservation type single-family subdivision located at DELC0781989004 & DELC0781989005, unknown address on Nagawicka Road East.*

*Motion carried with Dehn voting Nay.*

### **C. Lake Welfare Committee**

#### **1) Committee Report by Ald. Kasun**

Goose Egg oiling is starting. The Nagawicka Sailing Club was considering mooring buoys on the lake for the purpose of tying up. The Lake Welfare Committee is against the mooring buoys.

Behrend suggested these might be regulated by the DNR. Discussion occurred regarding the mooring buoys on Nagawicka Lake.

### **D. Park and Recreation Commission/Tree Board**

#### **1) Committee Report by Ald. Grimmer**

Park and Rec Commission is considering the Economic Development Focus Group recommendations and the possible considerations the Park and Rec Commission may have to address. The Bark River shore maintenance

volunteer group will be working on the river banks and is always looking for volunteers. Reach out to Mary Daniel to assist.

#### **E. Public Works Committee**

**1) Committee Report by Ald. Behrend**

The Public Works Committee recommended approval of the Wolf Paving Street Improvement Plan contract.

**2) Discussion and possible action to award the 2022 Street Improvement Program construction project to Wolf Paving Co., Inc. in the amount of \$610,404.00 as unanimously recommended by the Public Works Committee at their meeting on March 2, 2022.**

*Motion by Behrend seconded by Aicher, to award the 2022 Street Improvement Program construction project to Wolf Paving Co., Inc. in the amount of \$610,404.00 as unanimously recommended by the Public Works Committee at their meeting on March 2, 2022.*

*Discussion: Behrend noted this project was about \$20,000 over budget. Hafner clarified it was \$4,404 over budget. The bid quantities and engineering may come in over budget, but it is recommended to approve with the expected budgetary increase. Concerns about increases in construction costs were noted and the Common Council may have to address additional increases.*

*Kasun asked if the proposed amount was what was budgeted for the entire year. Hafner explained it was \$900,000 and summarized the included projects.*

*All in favor. Motion carried.*

#### **F. Del-Hart Commission**

**1) Commission Report by Ald. Aicher**

There had been an employee that left a year ago and was not replaced. It was determined that being short an employee is not sustainable. One person is leaving and has been replaced and another is returning. The staffing is within the budget. The plant upgrade is moving along.

#### **G. Police Commission**

**1) Commission Report by Ald. Kasun**

The annual report and will be coming out in about a month. A hiring process will begin to replace an employee that will be retiring.

#### **H. Library Board**

**1) Board Report by Ald. Valde**

Valde encouraged people to go to the library website. On March 29<sup>th</sup>, Culver's is donating 10% of sales to Friends of Delafield Public Library.

#### **I. Zoning Board of Appeals**

**1) Board Report by Ald. Kasun**

No meeting.

#### **J. Promotion and Tourism Commission**

**1) Commission Report by Ald. Behrend**

Behrend was not able to attend the meeting.

#### **K. Lake Country Fire and Rescue Commission**

#### **L. Lake Country Fire and Rescue Board**

**1) Board Report by Ald. Grimmer**

Revenues are coming in as expected. They are looking at staffing issues.

#### **M. Other Committees, Commissions, and Boards**

**1) Deer Management Committee**

**a) Committee report by Ald. Henry**

The Deer Management Committee met and went over the final numbers. The numbers were between 11 and 13 deer harvested. There were only two stands active, and they are looking into relocating the stands. They were also going to review the bow hunting ordinances.

**9. Unfinished Business**

**10. Mayor's Report**

Report by the Mayor to the public regarding recent events attended, awards and commendations, and upcoming events. No discussion or action shall take place by members of the Council unless otherwise listed below.

Attwell expressed thanks to Jim Behrend for all of his service to the City over the years.

**11. New Business**

**A. Discussion and possible action regarding changing the fee structure for the Fish Hatchery public weekend rentals, due to the termination of the City of Delafield contract with Kleanline.**

Schneider summarized the services that Kleanline had been providing to the City regarding the Fish Hatchery. The current processes and fee structures are not sustainable with a standard cleaning company. There are not exact comparable facilities, but those that were found were more expensive. The Clerk's Office is recommending a daily fee and weekend fee to replace the previous hourly fee structure. An increase in security deposits is also being proposed. The new processes being implemented for rentals were summarized.

Valde supported the increase in security deposit. It is fair.

Grimmer asked about the staff time. Schneider noted that the hope is that the changes will decrease the amount time spent by staff. Grimmer asked about the tiered structure going away and the effect on the revenue. Schneider noted that they may see a shift to the weekend rentals, but if there are issues the fees can be revisited.

Aicher noted that the Clerk's Office should keep notes regarding feedback.

Discussion occurred regarding the possible groups that might not rent there and the possible ramifications of the increase in fees.

*Motion by Dehn seconded by Behrend, to approve Resolution 2022-06, A resolution to amend the 2021 schedule of fees (Fish Hatchery Fee Schedule) changing the fee structure for the Fish Hatchery public weekend rentals as listed on page 107 of the March 21, 2022 Common Council packet, due to the termination of the City of Delafield contract with Kleanline.*

*All in favor. Motion carried.*

**B. Discussion and possible action regarding Municipal Code Section 2-198.(a), involving the City Council Conduct of deliberations and the presiding officer speaking.**

Hafner summarized the concern and the interpretation of Attorney Hammes.

Aicher noted the rule makes sense but has not historically been followed. The presiding officer can put input when the item is presented on the agenda. The presiding officer should not engage in debate. The ability for a presiding officer to partake in the debate is there in vacating the chair.

Grimmer noted that more opinions are beneficial and perhaps could perhaps deter input.

Henry noted that the Mayor has offered helpful input but would prefer the open discussion without the formality.

Gimmer noted that the discussion and debate changes, but chair can go through the formality to vacate to add information.

Valde noted that this is not a big deal. The vacating of the Chair should be done so that is known that the point being presented is an opinion on debate.

Behrend explained how the County Board would handle the vacating at chair. The county is more formal and with the smaller groups it is more informal. Behrend also pointed out that motions are supposed to be made before debate.

Kasun noted that the issue with removing it is that when you need it, it won't be there. It's not difficult to step down, but perhaps is not effectual.

Henry asked to have this further discussed at the next meeting to allow for any new Common Council membership

Hafner noted the rule is in the municipal code and is specific to Common Council.

Dehn noted that if the rules aren't followed, the Common Council opens itself to litigation. Either the rule should be followed or should be removed from the code.

Aicher agreed, if it is in the code it should be followed.

Dehn disagreed with Hammes' interpretation. The presiding officer should remain impartial.

Hafner noted the interpretation is in the verbiage of the code. Dehn asked for interpretation from the new attorney.

The consensus was to follow it if it is in the code and to keep it in the code for now.

- C.** Discussion and possible action to authorize the City Administrator to approve a new cleaning service contract based on the evaluation of proposals to be received by March 22.

Hafner explained that there is urgency to signing a contract and the costs are likely to exceed the budgeted amount. There will likely have to be a budget amendment in the future, but given the urgency, Hafner would like approval to enter into a contract in the best interest of the City.

*Motion by Behrend seconded by Valde, to authorize the City Administrator to approve a new cleaning service contract based on the evaluation of proposals to be received by March 22.*

*All in favor. Motion carried.*

- D.** Discussion and possible action, as requested by Alderperson Kasun, regarding city procedures for notification of public hearings.

Kasun noted that there are often community members that have voiced opinion regarding lack of notification. Land Use amendments are notified according to state statutes and Zoning amendments are notified per municipal code. Kasun summarized the current codes and statutes. He proposed possible changes to the process for discussion. Changes to the mailing time, types of notification and a developer's meeting for affected property owners were suggested.

Hafner noted that the City code reiterates state statutes in many of these cases. Increasing the mailing times would delay public hearings and would affect project efficiency. The difference in recipients of notifications between Land Use changes are already changed as an internal policy to match the rezone notifications.

Behrend suggesting incorporating into the code.

Discussion occurred about the effects of changing code to go against state statutes.

Discussion occurred regarding the effects of changing the lead time for mailings and potential issues with the suggestion.

Behrend suggested that the Land Use and Zoning changes are the same and should be treated the same way.

Grimmer noted that lack of community engagement is frustrating. The representative in the district has responsibilities to get information out.

Aicher noted that additional lead time should be considered, but not at the detriment of the applicant. An informal mailing was suggested.

Discussion occurred about the process for applicants and how to possibly implement some changes and at what point to send the additional notification.

Henry noted that the additional notifications are going to increase costs. An electronic notice may be more effective.

Valde liked the idea of the Alderperson getting the information out to the residents. This is a simpler approach.

Kasun asked about the Notify Me section of the website. Schneider summarized the different notification areas on the website, but there are not a lot of subscribers. She would look into a News Flash section for the website specific to Public Hearing. The consensus was that would be a place to send people for updates. The number of subscribers currently to Notify Me was discussed.

The consensus was to have the Clerk work on setting up a public hearing section in the Notify Me area of the website and Behrend suggested codifying any changes to the process that are not in the code currently.

- E.** Approval of Vouchers Payable report for reporting dates of 2/21/2022 – 3/18/2022 in the amount of \$293,086.70 for accounts payable and \$158,338.36 for payroll

*Motion by Dehn seconded by Behrend, to approve Vouchers Payable report for reporting dates of 2/21/2022 – 3/18/2022 in the amount of \$293,086.70 for accounts payable and \$158,338.36 for payroll.*

*All in favor. Motion carried.*

## 12. Report of City Officials

### A. City Administrator

1) Public Works Bucket Truck Sale Update

The bucket truck was sold for \$46,500 which was over the \$25,000 in the budget.

Dehn asked about the auction service used and who pays the fees.

2) Tourism Contribution Update

Hafner reported that Promotion & Tourism Commission approved a contribution to the City of about \$90,000 which was making up for a contribution they were not able to make in the past.

3) Preliminary Audit Update

The City appears to have had a good year and should end up in the black.

4) Possibility of including a Sewer Utility Payment in Lieu of Taxes to the General Fund in Future Budgets

This would redirect some of the utility finds into the General Fund to help with budget constraints. The auditor is looking in to this.

5) Update regarding Capital Projects Summary

The Capital Projects Summary is generally only updates once per year. Hafner addressed some of the concerns voiced regarding the Capital Projects and the effect on the budget.

Behrend stated that the County has some projects that were open for 15 years, but its is good to get them closed out. A formal resolution for monies that have been redirected would be good clarification for when the capital projects are balanced against one another.

### B. City Clerk

1) April 5, 2022 Spring Election update

In person absentee is beginning tomorrow through the following week Friday until 5:00 PM. Heritage voting had been completed. Poll worker training is next week.

### C. City Treasurer

#### D. Council requests for future agenda items

*Note: No discussion on requested items*

1) Henry requested item 11.B. from the current agenda be included on the next agenda for discussion and action.

## 13. Correspondence

## 14. Adjournment

Having no further business, the March 21, 2022 Common Council meeting was adjourned at 9:06 PM.

Respectfully Submitted,

Molly Schneider  
City Clerk