



**CITY OF DELAFIELD
MEETING MINUTES
COMMON COUNCIL**

Mayor: Kent Attwell

Council President: Alderperson Tim Aicher

Alderpersons: Matt Grimmer, Danielle Henry, Paul Price, Mark Schaefer, Dirk Wilken, Jackie Valde

July 17, 2023

7:00 PM

City Hall, Council Chambers
500 Genesee St.

Regular Meeting

DRAFT

[YouTube Link](#)

1. Call to Order

The meeting was called to order at 7:00 PM.

2. Pledge of Allegiance

The Pledge of Allegiance was recited.

3. Roll Call

Alderpersons Present: Danielle Henry, Ald. D1
Mark Schaefer, Ald. D2
Jackie Valde, Ald. D3
Dirk Wilken, Ald. D4
Matt Grimmer, Ald. D5
Paul Price, Ald. D6
Tim Aicher, Ald. D7

Also Present: Kent Attwell, Mayor
Tom Hafner, City Administrator/Director of Public Works
Kathy Sawyer-Gutenkunst, City Attorney
Molly Schneider, City Clerk

4. Approval of the following meeting minutes:

A. [June 19, 2023](#) Regular Meeting.

Motion by Aicher, seconded by Schaefer, to approve the minutes of the June 19, 2023 Regular Meeting, as presented.

All in favor. Motion carried.

5. City of Delafield Citizen Comments

Mary Daniel, 309 Wisconsin Ave. – Spoke regarding item 2.E., the Riverwalk Easement. The Easement is on pages 212 to 219 in ePacket. A previous easement that was adopted for a similar area is much more detailed than the current easement being presented. The shoreline must be protected.

Wayne Dehn, 8206 Spinnaker Bay Dr., Windsor, CO – Wanted to thank the citizens of Delafield for allowing him the opportunity to serve the City and to say goodbye. Would like to see more people involved in City politics.

Edward Kranick, N34W29637 Northshore Dr., Pewaukee, WI – Spoke regarding the proposed IMA. The Town of Delafield is not able to accept version 1, as the Town went to referendum based off of the existing funding formula. He suggested the City support version 2 of the amended IMA. Would like to see a short-term solution passed and would like to see all entities work together for a long-term solution.

6. Matters for possible Closed Session

The Council will reconvene in open session after completion of the closed session to consider the balance of the agenda.

A. Motion to convene in closed session pursuant to the following provisions:

- 1) Motion to convene into Closed Session pursuant to the provisions of Wis. Stats. §19.85(1)(g) conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, more specifically, the Contested Case Hearing re: WDNR's Grant of a Pier Permit under Wis. Stat. § 30.12 to Place a Pier on Nagawicka Lake in the City of Delafield.
- 2) Motion to convene in closed session pursuant to the provisions of Wis. Stat. 19.85(1)(c), considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility, more specifically, consideration of approving an application for Prior Police Service Credit, as allowed for in Section 21.04 of the City of Delafield police union contract.

Motion by Ald. Aicher, seconded by Ald. Price, to convene into closed session at 7:13 PM, pursuant to the provisions in items 6.A.1) and 6.A.2).

Roll Call Vote (AYE/NAY):

	AYE	NAY
Henry	<u>X</u>	_____
Schaefer	<u>X</u>	_____
Valde	<u>X</u>	_____
Wilken	<u>X</u>	_____
Grimmer	<u>X</u>	_____
Price	<u>X</u>	_____
Aicher	<u>X</u>	_____

Motion carried.

B. Motion to re-convene into Open Session.

Motion by Ald. Aicher, seconded by Ald. Grimmer, to reconvene into open session at 7:57 PM.

Roll Call Vote (AYE/NAY):

	AYE	NAY
Henry	<u>X</u>	_____
Schaefer	<u>X</u>	_____
Valde	<u>X</u>	_____
Wilken	<u>X</u>	_____
Grimmer	<u>X</u>	_____
Price	<u>X</u>	_____
Aicher	<u>X</u>	_____

Motion carried.

C. Discussion and possible action regarding items discussed in closed session.

Motion by Schaefer, seconded by Aicher, to cooperate with the DNR and support them in the Contested Case Hearing re: WDNR's Grant of a Pier Permit under Wis. Stat. § 30.12 to Place a Pier on Nagawicka Lake in the City of Delafield, with legal costs not to exceed \$5000.

All in favor. Motion carried.

Motion by Valde, seconded by Wilken, to approve the recommendation of the City of Delafield Chief of Police Nyren to grant the application for Prior Police Service Credit, as allowed for in Section 21.04 of the City of Delafield Police Union Contract.

All in favor. Motion carried.

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. Approval of the 2023-2024 Property Tax Assessment and Billing Contract with Waukesha County for data processing services, access to the Property Tax Application Tax Software System, and tax bill preparation.

Motion by Aicher, seconded by Henry, to approve the Consent Agenda, as presented.

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

Several items on the agenda are concerning the St. John's development. These have been discussed and approved in the recent Plan Commission meetings.

2) Discussion and possible action regarding the following items:

*** ALL ITEMS NEED TO BE APPROVED PENDING STAFF REVIEW.

- a) DELC0792990 & DELC0793997, Oakwood Drive. Owner: Hendricks Commercial Properties LLC. Applicant: George Erwin III. Applicant seeks approval of a Certified Survey Map to divide a lot into two lots (formerly known as the St. John's Golf Course).**

Note: The Plan Commission recommended approval on April 26, 2023.

Motion by Aicher, seconded by Schaefer, to approve the Certified Survey Map to divide a lot into two lots (formerly known as the St. John's Golf Course) for the property located at DELC0792990 & DELC0793997, Oakwood Drive.

Discussion: Hafner noted that the approvals need to be cleaned up and should be passed contingent to City staff review.

Aicher amended motion to approve as presented contingent upon final City staff approval. Schaefer seconded the amendment.

All in favor. Motion carried.

- b) DELC0792990 & DELC0793997, Oakwood Drive. Owner: Hendricks Commercial Properties LLC. Applicant: George Erwin III. Applicant seeks approval of a Planned Development Conditional Use – Specific Implementation Plan for a single-family conservation design subdivision known as St. John's Estates.**

Note: The Plan Commission recommended approval on June 28, 2023.

Motion by Aicher, seconded by Grimmer, to approve the Planned Development Conditional Use – Specific Implementation Plan for a single-family conservation design subdivision known as St. John's Estates, for the property located at DELC0792990 & DELC0793997, Oakwood Drive, subject to the recommendations in the City Planner's letter and Contingent upon final City Staff approval.

All in favor. Motion carried.

- c) DELC0792990 & DELC0793997, Oakwood Drive. Owner: Hendricks Commercial Properties LLC. Applicant: George Erwin III. Applicant seeks approval of a Storm Water Maintenance Agreement, which is inclusive of drainage easements, for St. John's Estates.**

Motion by Aicher, seconded by Schaefer, to approve the Storm Water Maintenance Agreement, which is inclusive of drainage easements, for St. John's Estates, located at DELC0792990 & DELC0793997, Oakwood Drive, contingent upon meeting contingencies of engineering notes and subject to City Staff review and final approval.

All in favor. Motion carried.

- d) DELC0792990 & DELC0793997, Oakwood Drive. Owner: Hendricks Commercial Properties LLC. Applicant: George Erwin III. Applicant seeks approval of a Public Access Easement for St. John's Estates.**

Motion by Aicher, seconded by Grimmer, to approve a Public Access Easement for St. John's Estates, for the property located at DELC0792990 & DELC0793997, Oakwood Drive, subject to City Staff review and approval.

Discussion: Grimmer asked for clarification as to the fact that there was no designation for a public path on the west side of the development. Aicher confirmed that this is specifically noted as being omitted. Grimmer asked whether the extension to Hillcrest is included. Aicher confirmed this was included. Grimmer asked about tree removal as part of the extension. Attwell verified the developer will be removing as few trees as possible. Valde asked about the replacement of trees. The tree mitigation process was clarified.

All in favor. Motion carried.

- e) DELC0792990 & DELC0793997, Oakwood Drive. Owner: Hendricks Commercial Properties LLC. Applicant: George Erwin III. Applicant seeks approval of a Riverwalk Easement for St. John's Estates.

George Erwin III, was present to speak regarding the proposal.

Motion by Aicher, seconded by Grimmer, to approve the Riverwalk Easement for St. John's Estates, for the property located at DELC0792990 & DELC0793997, Oakwood Drive.

Discussion: Aicher noted that changing the name makes it seem as if the City is taking a formal step to formalizing the path. The City does not intend to put down any improvements at this time and the intention at this time is for the trail to remain in its current state. Hafner added that the item #4 in the document and that higher maintenance responsibilities are suggested in the documents, and the level of effort contemplated for maintenance should be amended in the easement language. This is intended to be an "as is" hiking trail.

Aicher amended motion to include a contingency of final staff approval for the Riverwalk Easement. Grimmer seconded the amendment.

Schaefer suggested this easement is approval of the easement and not approving any sort of construction related to the easement. Aicher clarified is to grant the City access to this specific area of land where none has been formally granted in the past.

Erwin further clarified the purpose of the easement.

All in favor. Motion carried.

- f) DELC0792990 & DELC0793997, Oakwood Drive. Owner: Hendricks Commercial Properties LLC. Applicant: George Erwin III. Applicant seeks approval of a Developer's Agreement for St. John's Estates.

Motion by Aicher, seconded by Grimmer, to approve a Developer's Agreement for St. John's Estates, for the property located at DELC0792990 & DELC0793997, Oakwood Drive, subject to City Staff review and final approval.

All in favor. Motion carried.

- g) Ordinance No. 817: An ordinance removing or amending sections of Article I of the City of Delafield Zoning Code, including Section 52-15(b) Restriction on filling and/or cutting of land and change of topography, Section 52-16 Setback and yard requirements, Section 52-18(b) Building area regulation; floor area, Section 52-19(b) Lot area requirements, Section 52-24(i) Private swimming pools, and Section 52-26 Miscellaneous other general provisions.

Note: The Plan Commission recommended approval on June 28, 2023.

Aicher summarized the proposed changes.

Motion by Aicher, seconded by Schaefer, to approve Ordinance No. 817: An ordinance removing or amending sections of Article I of the City of Delafield Zoning Code, including Section 52-15(b) Restriction on filling and/or cutting of land and change of topography, Section 52-16 Setback and yard requirements, Section 52-18(b) Building area regulation; floor area, Section 52-19(b) Lot

area requirements, Section 52-24(i) Private swimming pools, and Section 52-26 Miscellaneous other general provisions.

All in favor. Motion carried.

C. Lake Welfare Committee

1) Committee Report by Ald. Price

Price reported there were 125 geese collected at the roundup and the bid for dredging was approved.

2) Discussion and possible action to award a contract for the Lake Nagawicka Dredging at the Bark River, to include the base bid for mechanical dredging and adjusted alternate bid per Change Order No. 1, to Michels Construction Inc. in the amount of \$392,385.93, as recommended by the City Engineer and as unanimously recommended by the Lake Welfare Committee at their meeting on July 12, 2023.

Motion by Price, seconded by Grimmer, to award the contract for the Lake Nagawicka Dredging at the Bark River, to include the base bid for mechanical dredging and adjusted alternate bid per Change Order No. 1, to Michels Construction Inc. in the amount of \$392,385.93, as recommended by the City Engineer and as unanimously recommended by the Lake Welfare Committee at their meeting on July 12, 2023.

Discussion: Grimmer asked about the budgeted amount. Discussion occurred about the amount that was approved in the budget and the amount budgeted and the possibility of pulling out additional cubic yards. It was clarified that there are other costs that are included in the budget and there likely won't be extra funds.

All in favor. Motion carried.

D. Park and Recreation Commission/Tree Board

1) Committee Report by Ald. Schaefer

Schaefer reported that the Park and Rec Commission is working on revising the current 5-year plan.

E. Public Works Committee

1) Committee Report by Ald. Grimmer

Hafner reported Public Works Committee primarily reviewed the St. John's Estates subdivision.

F. Del-Hart Commission

1) Commission Report by Ald. Aicher

Aicher reported there is a meeting the following evening. They are looking for a replacement for the General manager, Scott Luscak. The Plant upgrade is going well. They are in good fiscal and physical shape.

G. Police Commission

1) Commission Report by Ald. Valde

Valde reported that the Chief goals were discussed.

H. Library Board

1) Board Report by Ald. Henry

Henry reported that book sales are every Saturday. There is a fundraiser at Panera coming up. The August meeting has been rescheduled to August 22, 2023.

I. Zoning Board of Appeals

1) Board Report by Ald. Valde

No meeting, no report.

J. Promotion and Tourism Commission

1) Commission Report by Ald. Schaefer

Schaefer reported that the Promotion & Tourism Commission is Working on the budget.

K. Lake Country Fire and Rescue Commission

L. Lake Country Fire and Rescue Board

1) Board Report by Ald. Grimmer

Grimmer reported that the next meeting is July 19th at Station 2. Six out of the seven new hires have been hired. Five of the six are entry-level, which should allow for savings in the budget.

M. Deer Management Committee

1) Committee Report by Ald. Wilken

Wilken reported the Deer Management Committee is working on relocating deer stands in the Del-Hart property Saturday and there is another workday coming up. They are planning for an open house as well.

N. Other Committees, Commissions, and Boards

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.

11. New Business

A. Discussion and possible action regarding the approval and funding of a proposed memorial honoring former Mayor Ed McAleer, as requested by Alderperson Aicher.

Aicher explained that McAleer was mayor for 14 years but spent several decades serving the City in other capacities. McAleer was a huge proponent for the fire department and ensuring the City had a worldclass fire department and Fireman's park is a fitting location for this memorial.

Aicher suggested that the City be approved help administratively to accept the donations for the memorial, but the memorial be funded via donations.

Motion by Aicher, seconded by Price, to allow City staff to facilitate the receiving of funds and writing of checks as necessary for the memorial, and to allow the DPW to install the proposed memorial honoring former Mayor Ed McAleer, as presented.

Discussion: Schafer commented that the Park and Rec Commission did vote unanimously to approve the placement and location of the memorial. Valde requested a notice be added to the City Facebook page or website.

All in favor. Motion carried.

B. Discussion and possible action to approve a proposal to contract with the Southeastern Wisconsin Regional Planning Commission to perform an update to the City's Aquatic Plant Management Plan for Nagawicka Lake, as required for the City to be eligible for a new permit for mechanical harvesting.

Hafner summarized the provided memo and the process for updating the aquatic management plan. There is a grant available, but the application has to be completed prior to the budget process. This would account for 2/3 of the cost. This would still be for the 2024 budget.

Motion by Aicher, seconded by Price, to approve the proposal to contract with the Southeastern Wisconsin Regional Planning Commission to perform an update to the City's Aquatic Plant Management Plan for Nagawicka Lake, as required for the City to be eligible for a new permit for mechanical harvesting.

Discussion: Price asked about the turnaround time for the report. Hafner clarified this is a simple update to the plan, not a whole new plan and should be completed quickly.

All in favor. Motion carried.

C. Discussion and possible action regarding a proposed First Amendment to the Lake Country Fire & Rescue Intermunicipal Agreement.

Hafner summarized the proposed amendments in the memo provided.

Attwell asked for clarification as to whether any municipality could pay more if they choose to. Hafner explained that without an amendment, LCFR would be limited to proposing a budget that would be limited to the CPI + 2%. There are no limitations in the IMA that restrict municipalities from contributing more. Attwell suggested that there is nothing preventing the other municipalities from contributing more. Hafner clarified that LCFR cannot propose the budget that the taxpayers voted for without the amendment.

Henry noted that the intention is that LCFR would be fully funded if the other municipalities stepped up and paid their fair share towards that.

Grimmer clarified that when the IMA 7 was entered into, there was a purpose to gaining capital funding, slightly lower operating costs, and a significantly lower response time to certain areas of the City. The scenario has changed significantly since the agreement was entered into.

Hafner explained that if all seven municipalities implemented a fire fee, the fire fee would be \$370 or so to fully fund the proposed budget.

Grimmer does not support version one, and the Town of Delafield stated earlier they would not be able to support that. Version 2 is a step towards getting resolution and version 2 allows for other municipalities to contribute more.

Schaefer pointed out that the City of Delafield is still meeting the funding amount in the agreement in the current IMA.

Grimmer explained that there needs to be negotiations and the City of Delafield has already demonstrated support for the LCFR. The City lost the surplus from the original IMA 3 and the fund balance was used to fund the 2023 budget, a large portion of which was the City of Delafield contribution.

Valde suggested that there is an agreement, and a third-party negotiator would be helpful.

Aicher pointed out that the proposed amendment is actually breaking the original agreement and the budget exploded and blew the existing formula away and made this unattainable. Aicher suggested adding verbiage that allows for the elimination of the fixed formula and allow for municipalities to contribute more. Version 2 commits the City to CPI +2% on the \$450. Discussion occurred regarding the viability of the options presented, the possible increases that would occur with the proposed amendments and ways to encourage fairness and equity within the agreement. Aicher suggested adding a 5-year sunset clause on the fixed formula to version 2.

Motion by Grimmer, seconded by Wilken, to advance version 2 of the amendment to the IMA.

Discussion: Schaefer asked about the incentive for other communities to negotiate. Grimmer noted incentive is that brownouts and service issues affect many of the other municipalities. There is still leverage. The City of Delafield does not have to increase next year. Henry noted that this is not in the City's best interest, but there needs to be language that encourages equity. Attwell explained that there is nothing limiting the City of Delafield to contributing what the constituents supported with the approved fee.

Motion failed with Aicher, Wilken, Schaefer, and Henry voting nay.

Schaefer asked for Hafner to create a version 4 based on the discussion.

D. Approval of Vouchers Payable report for reporting dates of 6/20/2023 – 7/17/2023 in the amount of \$362,531.85 for accounts payable and \$301,998.58 for payroll.

Motion by Aicher, seconded by Henry, to approve the Vouchers Payable report for reporting dates of 6/20/2023 – 7/17/2023 in the amount of \$362,531.85 for accounts payable and \$301,998.58 for payroll.

All in favor. Motion carried.

12. Report of City Officials

A. City Administrator

B. City Clerk

C. City Treasurer

1) May 2023 Treasurer's Report

D. Council requests for future agenda items

Note: No discussion on requested items

13. Correspondence

14. Adjournment

Having no further business, the July 17, 2023 Common Council meeting was adjourned at 9:37 PM.

Respectfully Submitted,

Molly Schneider,
City Clerk