

**CITY OF DELAVAN  
COMMON COUNCIL  
October 13, 2009**

**Call to Order:** Mayor Nieuwenhuis called the regular meeting of the Common Council to order at 6:35 p.m. in the Municipal Building Council Chambers.

**Roll Call:** The following members were present: Mayor Nieuwenhuis, Aldermen Siedelmann, DeWitt, O'Connor, Johnson, Kilkenny and Finley. Also Present: City Administrator Salitros, City Attorney Koch, Director of Public Works Wendorf, Utility Director Stebnitz, Building/Zoning Administrator Walling, and City Clerk Kitzman.

**Pledge of Allegiance and Invocation:** Mayor Nieuwenhuis led the pledge and invocation.

**Approval of Minutes:** Alderman DeWitt moved to approve the minutes of September 8, 2009 and September 28, 2009. The motion was seconded by Alderman Siedelmann and carried unanimously.

**Public Comments:** Ryan Schroeder, 510 S. Seventh Street, spoke in favor of funding the Delavan Historical Society and the agreement with City Administrator Salitros. Merlyn Dahl, 403 E. Wisconsin Street, spoke about regulating water usage, Smart Growth Planning, Lake Lawn, the TIF District and encouraged hiring a full time City Attorney. Allen Buzzell, 353 Tyrrell Court, suggested forgetting about Lake Lawn for a while and working on projects such as Delbrook, the downtown hotel, dilapidated buildings in the City and a sidewalk ordinance. Lauren Pohn, 314 N. Fifth Street, spoke on Lake Lawn and tax rates. Dan Kilkenny, N3616 Elm Ridge Road, spoke on Lake Lawn and the TIF District.

**Reports of Standing Committees - Finance and Treasurer's Report:** Alderman Siedelmann reported on the meeting of October 12<sup>th</sup>. Based upon the review and recommendation of the Finance Committee, Alderman Siedelmann moved to receive the Treasurer's Report for September 30, 2009. The motion was seconded by Alderman Johnson and carried unanimously.

**General Operations:** Alderman Johnson reported on the meeting of October 6<sup>th</sup>. Minutes are on file and available to the public.

**Public Works:** Alderman Kilkenny noted the Committee is looking at the industrial park in the TIF district and reviewing what it would cost to finish the industrial park, as it needs fill in some areas. They are also planning for the emerald ash borer, and discussing American Transmission Company easements.

**Town of Delavan Lake Committee:** Alderman Finley indicated he was unable to attend the last meeting.

**Library Board of Trustees:** Alderman Finley noted the Board discussed library security, computer classes that are very popular, a coffee machine has been installed, home bound library service is being inaugurated, and color copies are offered at reasonable prices.

Fire Station Task Force: Mayor Nieuwenhuis indicated the next meeting is October 26<sup>th</sup> at the Municipal Building at 7:00 p.m.

Tri-Community Meeting: Alderman Finley noted there have been no meetings for the summer.

Lake Comus Protection and Rehabilitation District: Alderman Kilkenny noted no meeting in the past month.

Communications Commission: Alderman DeWitt indicated the next meeting is in November.

**Public Hearing on a request to amend the Wellhead Zoning Overlay District to include an additional drinking water supply location for a newly constructed well generally located east of Elmhurst Avenue, north of Wisconsin and Calumet Railroad Tracks and west of Enterprise Drive. Applicant: Delavan Water and Sewer Commission.** Mayor Nieuwenhuis opened the public hearing. Larry Thomas, City Engineer with the firm of Baxter & Woodman, indicated there currently is a wellhead protection ordinance for the other City wells. This additional area is designed to protect the water supply for Well #7. The intent of the ordinance is to protect the City's public water supply wells from contamination by managing the land use practices and activities within the capture zone. The City will also provide education to the business owners to explain what they need to do with chemicals and how to mitigate the risks. Steve Zehner, also with Baxter & Woodman, further explained the process the City will utilize in sending out questionnaires to the businesses and determining which companies will need to be inspected. City Attorney Koch added this ordinance is mandated by the Department of Natural Resources to protect the water and to keep chemicals from flowing into the water supply.

Jeff Hansen, representing Delavan Citgo at 505 Sugar Creek Road, asked questions about the possibility of replacing their underground fuel tanks and whether this would restrict their ability to expand. City Attorney Koch indicated each use would need to be addressed on a case-by-case basis. The Citgo property would be a legal non-conforming use under this ordinance. There being no further parties wishing to be heard, the public hearing was closed.

**Public Hearing on a request to assign permanent zoning to the recently annexed portion of 975 West Walworth Avenue to Institutional (I) with a Shoreland Overlay Zoning. Applicant: Walworth County Metropolitan Sewerage District.** Mayor Nieuwenhuis opened the public hearing. Alderman Siedelmann moved to continue the public hearing to November 10, 2009 at 6:30 p.m. based upon lack of action by the Plan Commission. The motion was seconded by Alderman Finley and carried unanimously.

**Public Hearing on a request to amend the Floodplain Overlay Zoning District to maintain compliance with the National Flood Insurance Program. Applicant: City of Delavan.** Mayor Nieuwenhuis opened the public hearing. Alderman Siedelmann moved to continue the public hearing to November 10, 2009 at 6:30 p.m. based upon lack of response from the Wisconsin DNR. The motion was seconded by Alderman Finley and carried unanimously.

**Public Hearing on Preliminary Resolution Declaring Intent to Exercise Special Assessment Powers for installation of initial concrete sidewalk on the east side of Walnut Street from the south line of Walworth Avenue to the north line of Schauf Street.** Alderman Kilkenny moved to cancel the public hearing. The motion was seconded by Alderman Johnson and carried unanimously.

**RC-279 Ordinance to amend the Wellhead Zoning Overlay District to include an additional drinking water supply location for a newly constructed well generally located east of Elmhurst Avenue, north of Wisconsin and Calumet Railroad Tracks and west of Enterprise Drive. Applicant: Delavan Water and Sewer Commission.** Alderman Kilkenny moved to adopt the ordinance to amend the Wellhead Zoning Overlay District to include Well #7 as defined within Exhibit B. The motion was seconded by Alderman Finley and carried unanimously.

**R-485 Resolution to define the maintenance responsibilities of Public Utilities excavating within City Streets.** Alderman Kilkenny moved to adopt the resolution to define the maintenance responsibilities of Public Utilities excavating within City Streets. The motion was seconded by Alderman Finley. Alderman Kilkenny explained this will bring all public utilities in compliance with requirements of private parties. The motion carried unanimously.

**Consider Request for Amendment to the Development Agreement with First Real Estate Partners Wisconsin LLC:** Alderman Siedelmann asked to table this item to the November 10<sup>th</sup> meeting, upon request of the applicant. The motion was seconded by Alderman Finley and carried unanimously.

**Consider award of Sanitary Sewer Rehabilitation Project to Terra Construction of Brownsville, WI in the amount of \$70,075.** Alderman Kilkenny moved to award the Sanitary Sewer Rehabilitation Project to Terra Construction of Brownsville, WI in the amount of \$70,075. The motion was seconded by Alderman Finley and carried unanimously upon call of the roll.

**RC-280 Ordinance to amend Section 6-2-7 of the Municipal Code Snow and Ice Removal from Sidewalks.** Alderman Finley moved to approve the ordinance for snow and ice removal from sidewalks. The motion was seconded by Alderman Johnson. Director of Public Works Wendorf explained the changes for hazardous sidewalks that allow emergency clean up within 2 hours. The other change is in the notification procedure where a notice would need to be delivered 24 hours after each snowfall and allows until noon the following day to have the sidewalk cleaned. The motion carried unanimously upon call of the roll.

**Approval of Bills:** Based upon the review and recommendation of the Finance Committee, Alderman Siedelmann moved to approve Warrant 09-09 and the Supplemental List of Bills in Excess of \$5,000 for September, 2009. The motion was seconded by Alderman Johnson and carried unanimously upon call of the roll.

**Amendment to Employment Agreement for City Administrator.** Alderman Kilkenny moved to not approve the amendment to the employment agreement for the city administrator. The motion was seconded by Alderman Finley. A lengthy discussion was held on the review process and past actions of the Council. After much discussion, Alderman O'Connor called the question, seconded by Alderman Johnson. The motion to call the question was defeated on a tie vote with Aldermen DeWitt, Kilkenny and Finley dissenting. Alderman Siedelmann moved to table to a closed session meeting, seconded by Alderman DeWitt. Alderman Kilkenny moved to amend the motion to meet no later than November 10<sup>th</sup> with Special Counsel Vetter in attendance along with the City Attorney. The motion was seconded by Alderman Finley and carried with Aldermen O'Connor and Johnson dissenting. The motion to table carried unanimously. Mayor Nieuwenhuis will contact Attorney Vetter to schedule a meeting date.

**Discussion, review and possible recommendation regarding "Draft" of Tax Incremental District No. 4 detailed schedule of capital and administrative expenditures prepared by Baker Tilly (VK).** Alderman Kilkenny spoke on the TIF accounting report prepared by the city's auditors. Alderman DeWitt asked for the revenue streams to be added to the report.

**Walworth County Intergovernmental Cooperation Council Agreement:** Alderman Finley moved to approve the Walworth County Intergovernmental Cooperation Council Agreement. The motion was seconded by Alderman Kilkenny and carried unanimously.

**Suggested Future Agenda Items:** Alderman Finley asked for a discussion and possible action on moving the second PEG channel to city hall for possible use as a government TV channel.

**Adjourn:** There being no further business to come before the Common Council, the meeting adjourned at 8:10 p.m. upon a motion by Alderman DeWitt, seconded by Alderman O'Connor and unanimously carried.

Susan Kitzman  
City Clerk