

**CITY OF DELAVAN
COMMON COUNCIL
February 9, 2010**

Call to Order: Mayor Nieuwenhuis called the regular meeting of the Common Council to order at 6:30 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, Building/Zoning Administrator Walling, Utility Director Stebnitz, Chief O'Neill, and City Clerk Kitzman.

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

Approval of Minutes: Alderman Kilkenny offered several amendments to the January 12th meeting. Alderman Kilkenny moved to approve the minutes of January 12, 2010, as amended, and January 13, 2010. The motion was seconded by Alderman Finley and carried unanimously.

Communications: Alderman Kilkenny read the communication from the City of Delavan requiring Lake Lawn to connect to the water system.

Public Comments: Shirley Petersen, Spring Lane, shared her opinion about the inappropriate comments made at the January 12th Council meeting. Joe Bell, 54 Arbor Ridge Drive, spoke on open meetings, meetings by e-mail and increased taxes. Jack Vahe asked that green technology be introduced to the City of Delavan. Lauren Pohn, 314 Fifth Street, encouraged signing the Mayor's initiative for green technology, and spoke about the last Council meeting. Merlyn Dahl, 403 E Wisconsin, asked that public comments be answered at the meeting. Mary O'Connor, 518 North Terrace Street, and Dave Kilkenny, both speaking as citizens explained their comments from the meeting of January 12th.

Reports of Standing Committees - Finance and Treasurer's Report: Alderman Siedelmann reported on the meeting of February 9th. Based upon the review and recommendation of the Finance Committee, Alderman Siedelmann moved to approve the Treasurer's Report for January 31, 2010. The motion was seconded by Alderman Finley and carried unanimously.

General Operations – Alderman Johnson reported on the meeting of February 2nd. Minutes are available at the City Clerk's office. Feral cats are a concern for many citizens and an action plan has been coordinated at no cost to the citizens.

Public Works – Alderman Kilkenny reported on the meeting of January 26th. They reviewed bids for the 2010 Street Project and have cut back on some of the projects to stay within budget.

Town of Delavan Lake Committee – Alderman Finley noted the meeting will be February 10th at the Delavan Town Hall.

Library Board of Trustees – Alderman Finley noted the meeting will be later this week.

Fire Station Task Force – Mayor Nieuwenhuis reviewed their 4-hour long meeting where they interviewed architects and have specifically asked for green technology for the new fire station. The Task Force is recommending negotiating with Bray Architects for the contract.

Tri-Community Meeting – No meeting was held.

Lake Comus Protection and Rehabilitation District: Alderman Kilkenny – no meeting
Communications Commission: Alderman DeWitt noted the next meeting is March 3rd.

Public Hearing on a request to extinguish the Planned Infill Development of the property formerly known as the Fields of Delavan, XFIC 00002A from a condominium PID to 12 individual fee simple lots now known as Linden Fields. Applicant: BRE Ventures Delavan, LLC. Mayor Nieuwenhuis opened the public hearing. Warren Hansen, Farris, Hansen & Associates, explained the project originally allowed for 14 duplex condominium units on the site. The petitioners are requesting 12 fee simple lots with a net reduction of 2 units. All of the lots would have frontage off existing public streets. The parcel is 5 acres and each lot will be just under half an acre per lot.

Joe Bell, 54 Arbor Ridge, noted the plan depicts a large open space and asked if there is public access to this. Mr. Hansen indicated that it is part of the lots and is restricted green space that cannot be built upon but is not open to the public.

Dan Jacobsen, representing First Real Estate Partners and Herb Golding, objected to the zoning change as there are sufficient empty lots on the west side of town, and it would hurt the sale of lots that First Real Estate Partners owns that are more expensive.

When asked, Building/Zoning Administrator Walling indicated this property is zoned RM-8 and could have either single family or duplex houses on each lot. When asked about storm water issues, Director of Public Works Wendorf indicated the stormwater basin is located adjacent to this property. The City has an easement to maintain the stormwater basin.

Allen Buzzell, 353 Tyrrell, asked if the developer had enough money to develop the property. Mr. Wendorf reported all of the public utilities and improvements are already in place for this project. Merlyn Dahl asked what they are doing to conserve energy.

Cheryl Conklin, representing The Fields of Delavan Homeowners Association, asked about restrictions for the new homes and driveways. Mr. Hansen indicated there will be covenants and restrictions for the subdivision submitted with the Final Plat, but the homes will not be required to all look the same. Alderman Kilkenny noted the prior developers have paid for street, water and sewer infrastructure improvements.

Mr. Hansen noted there is an existing driveway from The Fields of Delavan Condominium that is over onto the developer's property. Arlene Dahl, 1609 Birchwood Street, asked about their driveway and a lengthy discussion was held on how to dedicate

an easement, move the driveway or submit a revised condominium declaration to alleviate this issue.

Mayor Nieuwenhuis closed the public hearing. Alderman Kilkenny moved, seconded by Alderman Finley and unanimously carried to take the following agenda item out of order.

Preliminary Plat for Linden Fields for a 12-lot redivision of Lot 1 in the Fields of Delavan Subdivision on Whispering Pines Drive. Applicant: Dan McCoy of BRE Ventures Delavan LLC: Alderman Johnson moved to approve the request for a Preliminary Plat for a 12 lot land division on Whispering Pines Drive identified as Linden Fields, last revised January 22, 2010, for the applicant Dan McCoy of BRE Ventures Delavan LLC. The motion was seconded by Alderman Finley. After some discussion, the motion carried unanimously upon call of the roll.

RC-285 Ordinance to extinguish the currently approved Planned Infill Development per Ordinance RC-64 on Lot 1 in The Fields of Delavan Subdivision. Applicant: Dan McCoy of BRE Ventures Delavan LLC: Alderman Johnson moved to approve the Zoning Map amendment for Linden Fields to eliminate the existing Planned Infill Development per Ordinance RC-64, dated April 13, 1999, on Lot 1 in The Fields of Delavan Subdivision. The motion was seconded by Alderman Finley. The motion carried unanimously upon call of the roll.

Public Hearing on a request for a Conditional Use Permit for construction of a 1,620 square foot two-story, ADA accessible entry which is an indoor institutional land use in the Institutional Zoning District located at 213 South Second Street. Applicant: Delavan United Methodist. Mayor Nieuwenhuis opened the public hearing. Steve Knutson from McGill construction reviewed the project. This will provide handicap accessible bathrooms and an elevator to the sanctuary. They will also have a canopy for the new entrance and change their driveway location onto Second Street.

Allen Buzzell, Tyrrell Court, spoke in favor of the church. Director of Public Works Wendorf noted that the Fire Chief, Police Chief and other staff members are in favor of the reduced setback for the driveway from the Washington Street intersection as they feel it will be safer. There being no further parties wishing to speak, the public hearing was closed. Alderman Johnson moved to address the following two agenda items out of order. The motion was seconded by Alderman Siedelmann and carried unanimously.

R-492 Resolution for a Regular Conditional Use Permit for a 1,620 square foot 2-story addition to the north side of an existing church located at 213 S. Second Street, which is an Indoor Institutional land use in the Institutional (I) Zoning District. Applicant: Delavan United Methodist Church: Alderman Johnson moved to approve the regular conditional use permit for an addition to the north side of the Delavan United Methodist Church at 213 S. Second Street, pursuant to the plans prepared by Magill Construction Company, Inc. dated December 17, 2009, identified as Job #807510 and the Site Plans prepared by Farris, Hansen & Associates, Inc., identified as Project No. 8020,

dated 10/20/2009 with approval of the entrance from South Second Street as described. The motion was seconded by Alderman Dewitt and carried unanimously.

Revocable Occupancy Permit to allow for an existing sign to remain located in the public right-of-way in front of 213 S. Second Street. Applicant: Delavan United Methodist Church. Alderman Johnson moved to approve the Revocable Occupancy Permit to allow for the existing sign to remain located in the public right-of-way at 213 S Second Street until it must be replaced. The motion was seconded by Alderman Finley. Mr. Wendorf noted the sign is currently located in the right of way and there are several additional properties with the same issue. The standard Department of Transportation process is to record a revocable occupancy permit against the property. The motion carried unanimously.

Public Hearing on a request for a regular Conditional Use Permit for fabrication and assembly of tankers for fire trucks which is a light industrial land use in the Manufacturing General Zoning District located at 1827 Hobbs Drive. Applicant: US Tanker: Mayor Nieuwenhuis opened the public hearing. Mark Meaders representing US Tanker, indicated they would like to take over a portion of the former Stock Lumber property. US Tanker has been in business for about 25 years and make fire truck apparatus tankers and pumpers. The business is light manufacturing, has one shift of 25 employees and is currently located in Burlington.

Jack Vahe, Laurel Heights Drive asked if they have hazardous material. Mr. Meaders indicated they do not. Merlyn Dahl asked about the 10,000 gallon underground water tank. Mr. Meaders indicated it is used to test the pumps on the tanker trucks they manufacture. The water is cycled back through the storage tank. Alderman O'Connor read the letter from Dave Weber at Mode Industries in favor of the project. There being no further parties wishing to speak, the public hearing was closed.

Consider a two-lot Certified Survey Map at 1827 Hobbs Drive (former Stock Lumber retail store). Applicant: Mark A. Meaders representing US Tankers: Alderman Johnson moved to approve the two-lot land division at 1827 Hobbs Drive pursuant to the preliminary drawings prepared by Vierbicher, dated 12-23-09, identified as Project No. 75097134.00. The motion was seconded by Alderman Finley and carried unanimously upon call of the roll.

R-493 Resolution for a Regular Conditional Use Permit to allow assembly and fabrication of tankers located at 1827 Hobbs Drive (former Stock Lumber retail store), which is a Light Industrial land use in the Manufacturing General (MG) Zoning District. Applicant: Mark A. Meaders representing US Tankers: Alderman Johnson moved, seconded by Alderman O'Connor to approve the regular conditional use permit to allow assembly and fabrication of tankers at 1827 Hobbs Drive. The motion carried unanimously.

Mayor Nieuwenhuis declared a 5 minute recess.

R-494 Resolution Establishing a Numerical Standard Goal for City of Delavan Roadway Pavements: Alderman Kilkenny moved to approve the resolution establishing a ratings goal of 6.75 in 2011 and 7.0 in 2013. The motion was seconded by Alderman Finley. Alderman Kilkenny spoke on the street repair program and how the passer ratings work. Alderman Johnson confirmed this is a goal and not a binding resolution. Aldermen Johnson, DeWitt and Siedelmann expressed concern about spending money for roads at the detriment to other needs. The motion carried unanimously upon call of the roll.

2010 Purchase of Orion Meters and Radio Transmitters from Badger Meter at a total cost of \$80,833.15. Alderman Siedelmann moved to approve the 2010 purchase of Orion Meters and Radio Transmitters from Badger Meter at a total cost of \$80,833.15. The motion was seconded by Alderman DeWitt. Alderman Kilkenny noted this is an on-going program to modernize the water meters. The motion and carried unanimously.

Preliminary Special Assessment Resolution for sidewalk on the west side of South Second Street from Washington Street to Wisconsin Street: Alderman Finley moved to deny the preliminary Special Assessment Resolution for sidewalk on the west side of the 200 block of South Second Street. The motion was seconded by Alderman Kilkenny. The motion carried with Alderman DeWitt dissenting.

Preliminary Special Assessment Resolution for sidewalk on the west side of Second Street from Geneva Street to Phoenix Street. Alderman Siedelmann moved to deny the Preliminary Special Assessment Resolution to install sidewalk on the west side of South Second Street from Geneva Street to Phoenix Street. The motion was seconded by Alderman Finley and carried unanimously upon call of the roll.

Preliminary Special Assessment Resolution for sidewalk on the south side of East Geneva Street from Fifth Street to Sixth Street. Alderman Siedelmann moved to deny the preliminary special assessment resolution for sidewalk on the south side of East Geneva Street from Fifth to Sixth Street. Alderman Finley asked if this is connecting sidewalk to existing sidewalks. Mr. Wendorf explained there are some sidewalks in parts of this area. The motion was seconded by Alderman Johnson and carried unanimously.

R-495 Preliminary Special Assessment Resolution for sidewalk on both sides of Elmhurst Avenue from Barnes Street to the north end. Alderman Siedelmann moved to approve the preliminary special assessment resolution for sidewalk on both sides of Elmhurst Avenue from Barnes Street to the north end. The motion was seconded by Alderman Finley. Alderman Siedelmann noted this is an area with a lot of children. The motion carried unanimously upon call of the roll.

Preliminary Special Assessment Resolution for concrete curb and gutter on both sides of Creek Road from Beloit Street to a point 150 feet to the west. Mr. Wendorf explained the city engineer is asking to install curb and gutter for traffic control and to reduce the traffic hazard. Alderman Kilkenny did not want to install curb at this time, but the City might want to do so in the future. Alderman Kilkenny moved to deny the preliminary special assessment resolution for concrete curb and gutter on both sides of Creek Road. The motion was seconded by Alderman Finley.

When asked, Mr. Wendorf said there would be a \$14,000 cost to the city and \$4,000 to Walworth County. The County agrees that the curbing will help with visibility in the southwest quadrant of the intersection. This would be curb at the radius area of the intersection only, then a simple pavement overlay to where the Creek Road construction ended in 2008.

Alderman Kilkenny called the question. The motion was seconded by Alderman Siedelmann and carried unanimously. The motion to deny the preliminary special assessment resolution carried unanimously upon call of the roll.

Preliminary Special Assessment Resolution for watermain installation on Delview Lane from Second Street to Swan Creek Avenue. Alderman Siedelmann moved to approve the preliminary special assessment resolution for watermain installation on Delview Lane from Second Street to Swan Creek Avenue. The motion was seconded by Alderman Kilkenny and carried unanimously upon call of the roll. (Later during the meeting the item was reconsidered and denied.)

Consider purchase of Street Department 5-Yard Dump Truck with plows and sander from Lakeside International of Milwaukee, WI, for an amount not to exceed \$126,500: Director of Public Works Wendorf explained the option of purchasing an on-the-lot chassis for a \$7,500 savings versus ordering a 2010 chassis, however, it would be orange in color. The City budget included \$170,000 for this purchase. Alderman Kilkenny moved to approve the purchase of a 5-Yard Dump Truck with plows and sander from Lakeside International of Milwaukee, WI, Northland Equipment of Janesville, and Wausau-Everest of New Berlin, in an amount not to exceed \$126,500. The motion was seconded by Alderman Johnson and carried unanimously upon call of the roll.

Consider award of 2010 Street Rehabilitation Contract to Frank Brothers, Inc. of Janesville, WI in an amount of \$528,041.90: Director of Public Works Wendorf noted the City's 2010 budget amount for this agenda item and the next was \$995,000. The recommendation of the Public Works Committee was to delete several of the bid streets to stay within budget, including Elmhurst Avenue repaving, East Geneva Street repaving, and Marino Avenue repaving for a total of \$312,427.40. Alderman Johnson moved to use the savings from the purchase of the dump truck and some fund balance, to add Elmhurst Avenue back into the contract and to award the 2010 Street Rehabilitation Contract to Frank Brothers, Inc. of Janesville, WI in an amount of \$363,924.15. The motion was seconded by Alderman Kilkenny. The motion carried unanimously upon call of the roll.

Consider award of 2010 Watermain and Street Improvements Contract to GMS Contractors of Edgerton, WI in an amount of \$685,533.00. Alderman Johnson moved to award the 2010 Watermain and Street Improvement Contract to GMS Contractors of Edgerton, WI in an amount of \$634,856.00 which deletes the Delview Lane watermain. The motion was seconded by Alderman O'Connor. The motion carried unanimously upon call of the roll. City Administrator Salitros suggested that the Delview Watermain Special Assessment be reconsidered in light of not constructing the project.

Preliminary Special Assessment Resolution for watermain installation on Delview Lane from Second Street to Swan Creek Avenue. Alderman Siedelmann moved, seconded by Alderman Kilkenny and unanimously carried, to reconsider the Delview Lane preliminary special assessment resolution. Alderman Johnson moved to deny the preliminary special assessment resolution for Delview Lane. The motion was seconded by Alderman O'Connor and carried unanimously.

Consider a request to amend the existing Development Agreement with Garden Meadows Condominiums. Applicant: Advanced Property Development, LLC. Alderman Johnson moved to have staff work with the developers to request an amendment to the development agreement that includes a date certain for their extension and an increased letter of credit amount. The matter should be returned to Council for consideration. The motion was seconded by Alderman Siedelmann. The motion carried unanimously upon call of the roll.

Consider request to amend the existing Development Agreement with Glen Oaks Subdivision. Applicant: Triland Developers, LLC. Alderman Johnson moved to have staff work with the developers on an amendment to the development agreement that includes a date certain for their extension and an increased letter of credit amount. The motion was seconded by Alderman O'Connor and carried unanimously upon call of the roll.

RC-286 Ordinance to regulate U-Turns by motor vehicles, based upon recent State Law changes. Alderman Siedelmann moved to adopt the proposed ordinance regarding U-Turns. The motion was seconded by Alderman DeWitt. Alderman Kilkenny asked if there have been accidents with this regard. Chief O'Neill noted the state law was recently changed and U-turns are now legal at all signalized intersections unless otherwise posted. Staff is recommending that only the intersection of North Shore and Highway 50 be restricted due to the conflict of the signalized right-turn lanes. The motion carried unanimously.

Approval of Bills: Based upon the review and recommendation of the Finance Committee, Alderman Siedelmann moved to approve Warrant 10-01 and Supplemental List of Bills in Excess of \$5,000 for January, 2010. The motion was seconded by Alderman Johnson and carried unanimously upon call of the roll.

Consider authorizing Fire Station Task Force and staff to negotiate scope of services, compensation and agreement with selected design firm for fire station project: City Administrator Salitros noted the fire station task force has recommended negotiating the scope of services for the fire station project, compensation for the services, and a corresponding agreement with the Bray Architect firm.

Alderman Siedelmann moved to authorize the fire station task force to negotiate with the Bray firm. The motion was seconded by Alderman Johnson. Alderman Kilkenny asked to have the fire station task force report to the Council and interview the architects. Alderman DeWitt highlighted the process where 15 statements of qualifications from

interested design firms were received. The Committee members each reviewed the statement of qualifications with guidelines. Four firms were interviewed and were highly qualified. DeWitt felt the Council should trust the work of the task force. Alderman O'Connor noted the interviews were open to the public and Council members could have attended. The motion carried unanimously upon call of the roll.

Adjourn: There being no further business to come before the Common Council, the meeting adjourned at 9:26 p.m. upon a motion by Alderman DeWitt, seconded by Alderman O'Connor, and unanimously carried.

Susan Kitzman
City Clerk