

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, MARCH 2, 2009
MINUTES**

1. **CALL MEETING TO ORDER:** Mayor Paul Skrede called the meeting to order at 7:00 p.m.

PRESENT: Mayor Paul Skrede, Council members Steve Adams, John Wheaton, Keith Kask and Kim Crockett

STAFF: Police Chief Cory Johnson, Zoning Coordinator Gus Karpas and City Administrator Dana Young

2. **PLEDGE OF ALLEGIANCE**

The Council recited the Pledge of Allegiance.

3. **APPROVE CONSENT AGENDA**

Motion by Councilmember Kask to approve the Consent Agenda, consisting of the following items:

- A. Approve Minutes of February 2 & 18, 2009
- B. Approve Verifieds
- C. Approve 2009 Park Committee Chair & Vice-Chair
- D. Authorize Final Pay Request to Minnetonka Portable Dredging
- E. Approve 2009 Street Sweeping Bid
- F. Adopt Ordinance No. 09-22, Amending June 15th Appeal Process

Seconded by Councilmember Adams. Motion carried 5-0.

4. **MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

5. **PLANNING & ZONING REQUESTS**

A. Public Hearing to receive public comment regarding the City of Deephaven's Storm Water Pollution Prevention Program. Comments will be included in the City's annual report to the Minnesota Pollution Control Agency.

Zoning Coordinator Karpas explained tonight's public hearing is a requirement of the city's NPDES Phase II permit submitted to the Minnesota Pollution Control Agency. He said it is intended to allow public comment on the existing permit and to document any concerns or proposed changes. Karpas discussed the implementation schedule for the city's best management practices stating the most notable accomplishment of 2008 was the adoption of the Construction Site Stormwater Management ordinance. He said the majority of 2009 will be spent establishing policies for inspection and maintenance along with securing training opportunities for staff on the detection of illicit discharges.

Mayor Skrede opened the public hearing. Hearing no public comment, the hearing was closed.

6. **UNFINISHED BUSINESS**

A. Approve Final Draft of 2020 Comprehensive Plan

Mayor Skrede explained that the Metropolitan Council conducted a preliminary review of the city's Comprehensive Plan and submitted a list of required changes necessary for plan approval. He said the Council has to make a motion on the amended plan, submitting for final review by the Metropolitan Council.

Councilmember Crockett said she had some concerns about the required changes to the plan and worked with staff to find alternative language to meet the requirements of the Metropolitan Council without committing the city to adopting policies which may run contradictory to the plan for the future of the city.

Councilmember Kask asked that Attachment G be changed to remove the notation pertaining to potential future redevelopment site off the recently developed Deephaven One property, along with the demarcation of the St. Therese property as a potential development site.

Mayor Skrede noted that one component of the plan was the Surface Water Management Plan and said City Engineer Dave Martini was present to discuss the changes made to that plan based on the comments from the Minnehaha Creek Watershed District.

Mr. Martini said the watershed district wanted the city to explain the specific policies it intended to put in place to reduce its contribution to the phosphorus load into Lake Minnetonka. He said the city is required to reduce its load by 19 pounds over a ten year period. He said this can be done through regulation of future redevelopment and city sponsored projects. He used an example of retarding runoff through landscaping on new projects. He warned the Council that stating such policies may require changes to the ordinances.

The Council discussed ways to reduce the phosphorus load, but were leery about establishing ordinance regulations that may be burdensome on the residents. Councilmember Wheaton stated his concern about adopting unnecessary ordinances. Councilmember Adams said he is not comfortable adopting a plan that commits the city to ordinance changes which have yet been discussed formally by the Council.

Mayor Skrede asked about how the phosphorus load is measured. Mr. Martini said the watershed district developed a formula based on some modeling. Skrede said if the city knew how the existing loads had been established, it would be easier to address. Mr. Martini said the 19 pound reduction represents fifteen percent of the city's existing load. He said if the city had enough municipal projects, there would not be a need to reduce the percentage on the resident's part.

Councilmember Wheaton discussed some minor language changes to the Surface Water Management Plan, which would soften the language, removing what could be perceived as a requirement by the city and turning it into language sounding more encouraging.

Councilmember Kask discussed the term "may" saying it represents a suggestion, not an obligation. He said the city needed to comply with the regulations anyways. Regardless of how the language is crafted, residents already have to comply with the requirements of the Pollution Control Agency and watershed district.

Mayor Skrede and Councilmember Adams noted additional provisions in which the language could be changed slightly giving the city more flexibility in carrying out the provisions in the document. Mr. Martini said the language could be massaged to ease apparent obligations on the city's part, while still complying with the requirements of the watershed district.

Motion by Councilmember Wheaton to approve the final draft of the Comprehensive Plan, including the Surface Water Management Plan, as amended for review by the Metropolitan Council. Seconded by Councilmember Kask. Motion carried 5-0.

B. Approve Sub-Grant Agreement with MESB

Administrator Young stated that on December 15, 2008, the Deephaven City Council approved the submittal of a grant application in the amount of \$9,350.31 for the purchase of the following radio equipment for our Public Works Department:

Description	Make & Model	Cost
(6) Motorola 800 MHz Portable Radio	XTS-1500 Model 1.5 H66UCD9W5_N+Q574	\$8,040.00
(6) Battery	Q393	\$ 334.56
(1) Multiple Unit AC Charger	NTN1177 6 Unit Rapid Charger	\$ 573.75
(6) 2-Year Extended Warranty	H885	\$ 402.00
Total Grant Request		\$9,350.31

He stated that the grant is conditioned upon entering into the attached sub-grant agreement and the recipient participating in a 20% of the purchase price.

Mayor Skrede stated that the Council discussed the grant application at the February 18th Council Worksession and had given preliminary approval of the grant. He stated that he also appreciated staff's recommendation to postpone the purchase of a Skidsteer trailer this year, which would free up \$5,000 to fund the estimated upfront cost to the City of \$2,218.16 for the radios and the annual maintenance fee of approximately \$1,152.00 per year for a radio maintenance agreement with Hennepin County.

Motion by Councilmember Adams to approve the sub-grant agreement with the Metropolitan Emergency Services Board for the purchase of six portable radios and related equipment. Seconded by Councilmember Kask. Motion carried 5-0.

C. Discuss South Shore Center

Tom Scanlon, Chairman of the Lake Minnetonka Communications Commission, and Sally Koeneck, Executive Director of the Lake Minnetonka Communications Commission, were present to discuss the LMCC's interest in pursuing the lease purchase of the Southshore Center.

Tom Scanlon stated that the LMCC has been reviewing a number of options on finding a long-term solution to their facility needs and that the LMCC was very interested to learn that the Southshore Center might be available. He stated that LMCC staff and representatives have reviewed the facility and thought it would be very suitable for their operations although there would be a need to raise the ceiling by several feet in order to accommodate their production studio. He stated that their architect has estimated the cost to raise the ceiling at approximately \$150,000.

He stated that he sent a couple of memos to each City Council outlining the terms that the LMCC would be willing to offer for the Center. He stated that he felt the LMCC would be a perfect fit for the Center since the LMCC was an organization founded by 16 area cities to administer the cable television franchise and to produce PEG programming.

He stated that he doesn't have the authority to submit a formal offer to the cities but the offer of \$3,000 per month for ten years was based on the available funding of the LMCC. He stated that the intention of his proposal is to establish a framework for further discussion.

Councilmember Crockett asked if the \$360,000 offer represented the fair market value for the Center. Tom Scanlon stated that he didn't know if this amount was the fair market value of the building but it was the amount that the LMCC could afford to pay.

Tom Scanlon stated that the timeline for making a decision on the Center is very short. He stated that by the end of the month, negotiations on their current building would be completed and the LMCC would have to notify their landlord of their intention to move. He stated that they would have to vacate their current building within 90 days following the notification to their landlord.

Mayor Skrede clarified that the proposal submitted by Tom Scanlon was not a formal offer but rather a concept for the cities to consider. He stated that the Council would have to consider two options - whether to continue the operations of the Southshore Center as a community center with the likelihood that the cities would have to subsidize its costs or to sell the building.

Mayor Skrede asked the Council if we would be interested in pursuing the sale of the building.

Councilmember Crockett stated that she would be interested but would need additional information before she could make a final decision.

Councilmember Adams stated that he is delighted to have an interested buyer that is a public or quasi-public organization like the LMCC. He stated that it appeals to him that the building would continue to be used by a public organization that provides a public benefit to the surrounding communities.

Councilmember Kask stated that our City has struggled with finding a solution to the Southshore Center year after year. He stated that he is glad that a buyer has emerged that would not be restricted by its use. He stated that he is frustrated by the 14 year struggle of the Southshore Center. The Center is a stand alone facility that is absolutely reliant on volunteers to operate the facility. He stated that with the dissolution of the Friends, the cities no longer have a lease agreement in place. It has been very difficult for the five cities to agree on how to fund the ongoing operations and capital costs of the Center. He stated that he sees this as a great opportunity and that cities should not be in the business of running buildings under a Joint Cooperative Agreement.

Councilmember Wheaton stated that while he favors a sale of the building, the property has an ascertainable market value that should be determined.

Mayor Skrede stated that the Southshore Center was not built for resale and that the cities will not get our original value back out of the building. He stated that there are too few potential buyers that could meet the zoning requirements of the site other than the LMCC. He stated that he personally didn't need the City to receive the full value back out of the building.

Councilmember Crockett stated that we need to do our own due diligence to determine the value of the building. She stated that she would also be curious to know whether we are bound by any current rental leases at the Center.

Mayor Skrede thanked Tom Scanlon and Sally Koeneck for their presentation and noted that it will be important to move this process forward as quickly as possible in order to respond to the LMCC in a timely manner.

Further discussion was held on whether the Council wanted to enforce the provisions of the lease agreement and require that the Friends provide the cities with a 30-day notice of termination as required in the lease. It was the general consensus of the Council that it probably wasn't worth the effort at this point.

7. DEPARTMENT REPORTS

A. Police Department

Police Chief Johnson presented the 2008 Annual Police Report for Council review and noted that Officer Matt Carns has received a conditional offer of employment from Scott County Sheriff's Department.

Further discussion was held on Administrative Fines and whether it would benefit the City to institute an Administrative Fine system.

B. Excelsior Fire District

EFD Board Liaison Kim Crockett stated that the EFD Board will meet on March 25th to begin initial discussions on the 2010 EFD Budget and on the expected mandatory contribution to the Fire Relief Association.

C. Public Works

Administrator Young provided an update on recent and upcoming public work activities.

D. Administration

Administrator Young provided a brief summary on the following items:

- April Newsletter
- Board of Review Training
- Deer Management Update
- MNDOT Meeting
- Annual Financial Audits

9. ADJOURNMENT

Motion to adjourn by Councilmember Kask, seconded by Councilmember Wheaton. Motion carried 5-0. The meeting adjourned at 9:20 p.m.

Respectfully submitted,
Dana Young, City Administrator