

**DEEPHAVEN CITY COUNCIL MEETING  
MONDAY, JUNE 1, 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 and City Administrator Dana Young

**2. PLEDGE OF ALLEGIANCE**

The Council recited the Pledge of Allegiance.

**3. APPROVE CONSENT AGENDA**

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

- A. Approve Minutes of May 18, 2009
- B. Approve Verifieds

Seconded by Councilmember Wheaton. Motion carried 5-0.

**4. MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

**5. UNFINISHED BUSINESS**

**A. Hire Joshua Heasley, Police Officer**

Police Chief Johnson stated that the Interview Panel met on May 16<sup>th</sup> to interview 10 candidates for the position of Police Officer. Following the interviews, he stated that Joshua Heasley was selected as the top candidate. He added that Joshua Heasley had been working as a Community Services Officer with the City of Crystal for the past two years.

Motion by Councilmember Kask to hire Joshua Heasley effective June 2, 2009. Seconded by Councilmember Adams. Motion carried 5-0.

Mayor Skrede administered the Oath of Office to Joshua Heasley.

**B. Review 2010 City Budget Schedule**

Administrator Young presented the 2010 Budget Schedule for Council review.

**C. Approve Memorandum of Understanding with Watershed District**

Administrator Young stated that the City Engineering firm of Bolton & Menk completed the Deephaven Surface Water Management Plan following a final review by the City Council and submitted the plan to the Minnehaha Creek Watershed District (MCWD) for their review. He stated

that the MCWD Board of Managers conditionally approved the City's local water management plan on May 14, 2009 subject to the adoption of the attached Memorandum of Understanding.

He stated that the Memorandum of Understanding is essentially comprised of three separate components.

1. Recitals and Statement of Purpose – reiterates the more important parts of our local water management plan.
2. Responsibilities of the City – summarizes the annual reporting requirements that are required in both the Deephaven Surface Water Management Plan and MCWD's comprehensive plan.
3. Responsibilities of the MCWD – summarizes the general responsibilities of MCWD in terms of their commitment to apply and enforce its rules within the City and its ongoing commitment to meet with the City annually to review our annual report requirements.

Motion by Councilmember Crockett to approve the Memorandum of Understanding with the Minnetonka Creek Watershed District. Seconded by Councilmember Kask. Motion carried 5-0.

#### **D. Request for Hot Drill Training**

Councilmember Crockett stated that the Excelsior Fire District conducted search & rescue and ventilation training at 4285 Circle Drive in Deephaven on May 28<sup>th</sup>. She stated that at the conclusion of the training, a number of Circle Drive residents expressed their disappointment that the District wasn't planning to do any burning of the house.

Councilmember Crockett stated that due to this response, the District is once again requesting "hot drill burn" training at 4285 Circle Drive on June 11<sup>th</sup>. She added that the District has already contacted all the residents on Circle Drive but didn't know if this included everyone within 350 feet of the proposed burn training location.

Motion by Councilmember Crockett to approve the Excelsior Fire District's request to conduct a "hot drill burn" at 4285 Circle Drive on June 11<sup>th</sup> subject to providing additional notification to all residents within 350 feet of the burn training location. Seconded by Councilmember Wheaton. Motion carried 5-0.

#### **E. Southshore Lease and Cooperative Agreements**

Mayor Skrede stated that an all-city meeting has been scheduled for June 3<sup>rd</sup> to review the proposed Lease and Cooperative Agreements. He stated that he would like our Council to briefly review the agreements this evening so that he can bring forward our Council's recommendations at the meeting.

Discussion was held on the proposed Amendments to the Cooperative Agreement. Mayor Skrede voiced concern regarding Section 7 of the Agreement that stated that Capital Improvements would be "*paid for by the Cities*". He stated that it was his understanding that Shorewood would pay for any capital costs.

Councilmember Adams asked if we still even need the Cooperative Agreement?

Mayor Skrede stated that we need to keep Section 6 of the Agreement on the Termination procedures.

Councilmember Adams suggested that a provision on the rights of ownership could be included in the Lease Agreement. He stated that he would recommend that both agreements be completely rewritten.

Councilmember Kask stated his concern that our desire to rework the Cooperative Agreement would lead to dissention with the other cities.

Mayor Skrede suggested that the Council turn to their review of the Lease Agreement.

The Council recommended the following revisions to the Lease Agreement:

1. Delete the word “*senior*” in the first paragraph under Recitals and under Section 4 in order to make it clear that the use of the facility is for all citizens and not just senior citizens.
2. Section 3. Termination should be amended to read: “*The Tenant may terminate this Lease at any time for any reason upon 90 days written notice to the Landlord. Landlord may terminate this Lease upon 90 days written notice to Tenant a) in the event of default by Tenant as described in paragraph 13 or b) prior to the expiration of the initial term or any subsequent renewal term of this lease.*”
3. Section 7. Repairs, Maintenance, and Alterations should be amended by adding the following: “*Landlord shall have no obligation to maintain the Premises or fund the operations of the Premises during the term of this Lease*”.
4. Section 12. Destruction of Premises should be amended by using the following language in the original Lease Agreement: Destruction of Premises. “*Tenant shall give immediate notice to Landlord of any damage to or destruction of the Premises. If the Premises are either totally or partially destroyed by fire or other casualty, the Lease shall terminate unless otherwise agreed to in writing by Landlord.*”
5. Section 13. Indemnification should be amended as follows: “*Subject to the limits in Minnesota Statutes Chapter 466, the Tenant agrees to indemnify and save harmless the Landlord from any and all claims by and on behalf of any persons, firms or corporations, arising from the conduct or management of, from any work or thing whatsoever done by or on behalf of the indemnifying party in or about, or its activities upon or occupancy of, the Premises during the term of this Lease, and will further indemnify and save the other party harmless against and from any and all claims arising from any breach or default on the part of the indemnifying party in the performance of any covenant or agreement on the part of such indemnifying party to be performed pursuant to the terms of this Lease, or from any violation or failure to comply with any law, ordinance or regulation, or from any act or negligence of such party, or any of its agents, contractors, servants, employees, licensees, or invitees or arising from any accident, injury or damage whatsoever caused to any person, firm or corporation, occurring during the term of this Lease, in or about the Premises, or upon or under the sidewalks and the land adjacent thereto, and from and against all costs, reasonable and necessary counsel fees, expenses and liabilities incurred in or about any such claim or action or proceeding brought thereon; and in case any action or proceeding be brought against the one party by reason of any such claim, the indemnifying party upon notice from the indemnified party covenants to contest or defend such action or proceeding by counsel reasonably satisfactory to the indemnified party*”.
6. Section 23. Action by Landlord should be amended by requiring “*three out of the five Cities provide written approval of such action by their respective city councils.*”

7. Additional Section. Rent. *“Tenant agrees to pay to Landlord as rent for the Premises a yearly rental of One and 00/100 Dollars (\$1.00), which rental shall be payable in advance on the Commencement Date and each anniversary of the Commencement Date during the term of this Lease.”*

Mayor Skrede again invited any Councilmembers to attend the upcoming June 3<sup>rd</sup> meeting to review the proposed Lease and Cooperative Agreements.

## 6. NEW BUSINESS

### A. Adopt Resolution No. 18-09, Adopting Joint Agreement for Law Enforcement Personnel

Police Chief Johnson stated that Hennepin County Sheriff’s Office has revised the 2001 Mutual Aid Agreement by adding a section on the RAPID electronic database. He stated that the database is used by each City to list their available resources. These resources are updated annually and entered into the RAPID database. He stated that the database is then used for mutual aid in the event that another City has a need for some of our resources. He stated that the original Mutual Aid Agreement was adopted on May 7, 2001 by the Deephaven City Council.

Motion by Councilmember Crockett to adopt Resolution No. 18-09, A Resolution Adopting a Joint Agreement for Law Enforcement Personnel and Equipment. Seconded by Councilmember Adams. Motion carried 5-0.

### B. Approve 2010 LMCD Budget

Deephaven LMCD Liaison David Gross was present to review the 2010 LMCD Budget, which proposed a 0% increase for next year and a slight decrease in the City of Deephaven’s contribution for next year. He stated that the proposed 2010 LMCD Budget is almost identical to the 2009 Budget, with the addition of an employee salary freeze.

Councilmember Crockett stated that she appreciated the Board’s effort this year with the 2010 Budget and noted that it was certainly a more realistic budget than the 18% increase that was originally proposed last year with the 2009 LMCD Budget.

David Gross noted that the LMCD Board has more Council representation this year so that the Board is much more attuned to the needs of its member cities.

Motion by Councilmember Wheaton to approve the 2010 LMCD Budget as presented. Seconded by Councilmember Kask. Motion carried 5-0.

## 7. DEPARTMENT REPORTS

### A. Police Department

Police Chief Cory Johnson gave a brief summary of the new law that has been passed allowing cities to issue administrative citations. He stated that the administrative citations are limited only to certain offenses and the fines are limited to \$60 - \$20 of which has to be sent to the state. He stated that administrative citations also couldn’t be used for ordinance violations. He stated that due to these factors, he didn’t feel that administrative citations would be a useful tool for the City.

**B. Excelsior Fire District**

EFD Board Liaison Kim Crockett reported on the proposed 2010 EFD Budget, which was reviewed by the Fire Board on May 27<sup>th</sup>. She stated that the Board has approved a 2010 EFD Budget that includes a \$120,000 mandatory Fire Relief contribution with a 0% increase in the municipal contribution for 2010. She stated that a budget meeting has been scheduled for June 10<sup>th</sup> to present the 2010 EFD Budget to the cities.

**C. Public Works**

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

He also thanked the 8<sup>th</sup> grade class and the staff at Minnetonka Middle School East for providing a cleanup at Cleveland Park, Burton Park, the LRT Trail and Haralson Park. He stated that they did a terrific job in cleaning the parks.

**D. Administration**

Administrator Young provided a brief summary on the following items:

- State Audit Report
- 2010 City Budget Update
- LMCD Budget Meeting
- CenterPoint Energy Community Partnership Grant
- July Newsletter Update

Councilmember Wheaton presented a plaque that he had received from Bennett Family Park representatives at last Saturday's Open House thanking the City Council for their donation to the Miracle Field Project.

**8. ADJOURNMENT**

Motion to adjourn by Councilmember Wheaton, seconded by Councilmember Adams. Motion carried 5-0. The meeting adjourned at 9:10 p.m.

Respectfully submitted,  
Dana Young, City Administrator