

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, JUNE 15, 2009
MINUTES**

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

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

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

- A. June 1, 2009 Minutes
- B. Approve Pay Estimate No. 1 to Northwest Asphalt, Inc. (\$42,275.59) for the 2009 Main Beach Erosion Project
- C. Appoint Tom Drummond to Boat Committee effective February 2010

Seconded by Councilmember Adams. Motion carried 5-0.

4. MATTERS FROM THE FLOOR

There were no Matters from the Floor this evening.

5. UNFINISHED BUSINESS

A. Adopt Resolution No. 19-09, Approving 2009 Street Overlay Project

City Engineer David Martini was present to review the following bids for the 2009 Street Overlay Project:

<u>Bidder</u>	<u>Street Improvement Bid</u>	<u>Alternate Storm Sewer Bid</u>	<u>Total Bid Amount</u>
Midwest Asphalt Corporation	\$ 93,742.50	\$61,006.75	\$154,749.25
Northwest Asphalt, Inc.	\$ 98,427.55	\$56,557.13	\$154,984.68
GMH Asphalt Corporation	\$ 96,000.75	\$59,797.99	\$155,798.74
Barber Construction	\$117,868.50	\$71,953.50	\$189,822.00
Bituminous Roadways	\$162,839.00	\$74,877.15	\$237,716.15

City Engineer David Martini stated that the 2009 Street Improvement Project included the bituminous overlay of Virginia Avenue and Talton Avenue, as well as an alternate bid for the installation of a storm sewer line from the pond on Monaltrie Avenue down Virginia Avenue and across Minnetonka

Blvd. He stated that the low bid was submitted by Midwest Asphalt Corporation in the amount of \$93,742.50 for the street resurfacing and \$61,006.75 for the storm sewer line.

Mayor Skrede stated that the street improvement came in at \$93,742.50, which was less than the \$95,000.00 that had been budgeted for this project. He stated that the Public Works Committee had recommended that the storm sewer line be included to resolve the ongoing need for the Public Works crew to pump down the pond on Monaltrie Avenue. He stated that the pond is often pumped down Virginia Avenue in the spring, which can lead to icy areas on the street and can add to the eventual wear of the City Street.

Mayor Skrede stated that the bid for the storm sewer line would be funded from the Storm Water Fund. He stated that the best time to install the pipe would be during the reconstruction of Virginia Avenue. He stated that the primary ramification of approving this project is that it would delay the Rutledge Avenue storm sewer project by one year. He added that although the bid came in higher than expected, the timing for undertaking the project seems right.

David Martini stated that when they first started to evaluate this project, the original intent was to simply install a pipe from the pond to the end of Virginia Avenue. He stated that the project was expanded to include some additional storm sewer lines to help drain some of the low areas along Virginia Avenue, which resulted in a higher bid price.

Councilmember Adams asked what would be the fiscal impact on the Storm Water Fund from undertaking this project?

Administrator Young stated that the Storm Water Fund had a cash balance of approximately \$138,000 at the beginning of the year and financing this project, plus two other budgeted smaller storm water projects, would reduce the cash balance of the fund to around \$98,000 by the end of the year.

David Martini explained that the pipe in the pond would be set at such an elevation to where there would still be some natural ponding but the pipe would serve to handle any excess water in the pond.

Councilmember Kask stated that he is pleased with the fact that we are finally at the point where we are actually making storm water improvements.

Motion by Councilmember Kask to adopt Resolution No. 19-09, Approving the 2009 Street Overlay Project and the bid submitted by Midwest Asphalt Corporation in the amount of \$154,749.25. Seconded by Councilmember Adams. Motion carried 5-0.

B. Adopt Resolution No. 20-09, Approving Cottagewood Drainage Improvements Project

City Engineer David Martini was present to review the following bids for the 2009 Cottagewood Drainage Improvement Project:

<u>Bidder</u>	<u>Total Bid Amount</u>
GMH Asphalt	\$13,459.00
Northwest Asphalt	\$16,289.00
Widmer Construction	\$19,261.85
Midwest Asphalt	\$25,892.00

David Martini stated that this is another drainage project that was contemplated last year, which proposes to upgrade the existing catch basins on Cottagewood Road in order to correct the backup of storm water on the street and in neighboring yards. He stated that the project would install improved catch basins and add one additional catch basin.

Discussion was held on the proposed cost and need for the project.

Administrator Young stated that this project was included within the 2009 Storm Water Fund budget because it was one of the few instances where the City actually had a storm water infrastructure in place but it simply wasn't operating correctly. He stated that the intent of the project was to repair and upgrade an existing storm water structure.

Motion by Councilmember Kask to adopt Resolution No. 20-09, Approving the 2009 Cottagewood Drainage Improvements Project and the bid submitted by GMH Asphalt in the amount of \$13,459.00. Seconded by Councilmember Wheaton. Motion carried 5-0.

C. Approve Agreement for the Lease and Operation of the Southshore Center

Mayor Skrede provided a brief review of the joint city meeting held on June 3rd to review the proposed Southshore Lease Agreement. He stated that other than the cities of Deephaven and Greenwood, there weren't a lot of specific comments regarding the Lease Agreement itself. He stated that each City have a very different agenda on this matter but noted that everyone seemed to be very pleased with Shorewood taking over the management of the Center.

Councilmember Adams stated that some of our recommendations were adopted but not all of them.

Mayor Skrede stated that discussion on the lease was diverted to discussions on capital improvement costs. He noted that capital improvement costs don't seem to be an issue with Shorewood.

Mayor Skrede stated that the Shorewood City Council reviewed the document on June 8th and most of their conversation centered on the indemnification clause. He noted that some changes in the lease were made after the initial review by the Shorewood Council. He stated that the Shorewood Council supported the three-year term of the lease, the specific rights of the landlord and the changes in the indemnification clause that provides protection for the landlord.

Councilmember Adams stated that the indemnification clause is the biggest issue in his mind and was pleased to see the revisions that had been made. He stated that he believes that two main points still need to be resolved in the lease. The first is the termination clause, which doesn't give the landlord an effective right to terminate the lease and that the only real default would be in the event that Shorewood doesn't continue to operate it as a community center. He stated that the second point is that he would like to have three out of five cities be able to modify the agreement rather than four out of five.

Mayor Skrede stated that the Shorewood Council retained the clause requiring four out of five cities in order to make it similar to the standards within the Cooperative Agreement.

Councilmember Adams stated that if the document were still available for further revisions, he would like to see these two points added to the Lease Agreement. He stated that if it were not, he would still be okay with the document as presented this evening.

Mayor Skrede stated that the only difference between the original lease agreement with the Friends and this proposed lease with Shorewood is that Shorewood is now responsible for managing the facility and paying for all costs. He stated that Shorewood is the best tenant that we could have.

Councilmember Crockett stated that she is reluctant to give up control of the facility by not strengthening the termination clause and by not having the ability to have three out of five cities modify the agreement. She stated that she would be more willing to give up on the termination clause if they could include the 3/5th-vote provision.

Mayor Skrede stated that two of the five cities have historically paid 73% of the cost for the Center and the remaining three cities pay 27% towards the Center. He stated that Shorewood is concerned that three out of five cities could dictate certain actions and would prefer that future decisions include four out of five cities.

Councilmember Adams stated that he would be fine with dropping these two points since the proposed Lease Agreement does provide protection for the landlord.

Motion by Councilmember Adams to approve the Agreement for the Lease and Operation of the Southshore Community Center as presented. Seconded by Councilmember Crockett. Motion carried 5-0.

6. NEW BUSINESS

A. Review Appeals from June 1st Deadline Requirements

Administrator Young stated that Section 900.07, Subd. 2 (b) of the Watercraft Space Ordinance requires all watercraft to be moored at their assigned space prior to June 1st. If the permit holder is not at their assigned space, the City may revoke the permit for that particular space. The permit holder has the option to appeal the revocation of their 2009 Boating Permit to the City Council within 10 days after the City's notice of revocation is mailed.

He stated that after considering the appeal, the Council could affirm or reverse staff's decision to revoke the permit. If the Council decides to reinstate the permit, the condition of reinstatement shall be a penalty payable to the City of Deephaven in an amount equal to 50% of the normal permit fee.

Administrator Young stated that the following list of permit holders were not at their assigned space prior to June 1st and each have sent a letter appealing City Staff's decision to revoke their 2009 Boating Permit:

<u>Name</u>	<u>Address</u>	<u>Space</u>
Randall Ward	20285 Linden Road	Slide #135, Carson's Bay
Rand Levy	18280 Hummingbird Road	Slide #140, Carson's Bay

Randall Ward, 20285 Linden Road, was present to appeal the revocation of his 2009 Boating Permit. He stated that this is his first year on a slide and that he has been very busy with work and didn't read the material sent out by the City regarding the June 1 Deadline. He stated that he intends to purchase a Boston Whaler that complies with the dimensional requirements at a slide and requested the reinstatement of his boating permit.

Councilmember Crockett stated that she would be inclined to reinstate Mr. Ward's permit since he made a timely appeal and the Council could impose a 50% penalty. She stated that the Council is very serious about violations of the City's boating policies but doesn't want to be punitive.

Discussion was held on how quickly Mr. Ward could place a boat on his slide. Mr. Ward stated that he could have a boat on his slide by the weekend.

Motion by Councilmember Kask to reinstate Randall Ward's 2009 Boating Permit subject to payment of a penalty in the amount of 50% of his 2009 Boating Permit Fee, that Mr. Ward doesn't receive any future late notices and that the boat meets the dimensional requirements of the slide space. Seconded by Councilmember Wheaton. Motion carried 5-0.

Randall Levy, 18280 Hummingbird Road, was present to appeal the revocation of his 2009 Boating Permit. He stated that there was a miscommunication between his wife and staff member Deborah Hicks. He stated that they had received an extension on their sailboat due to the need for repairs and had thought this extension also included their slide space.

Motion by Councilmember Wheaton to reinstate Randall Levy's 2009 Boating Permit subject to payment of a penalty in the amount of 50% of his 2009 Boating Permit Fee, that Mr. Levy doesn't receive any future late notices and that the boat meets the dimensional requirements of the slide space. Seconded by Councilmember Crockett. Motion carried 5-0.

7. DEPARTMENT REPORTS

A. Public Works Committee

Administrator Young presented the following review of the Public Works Committee meeting held on June 3, 2009:

- Reviewed the results of the traffic monitor report on Highland Avenue.
- Discussed options on the repair of the Chowen's Corner Lighting system.
- Updated the progress on the Highcrest Drive Storm Sewer Project.
- Reviewed 2010 Capital Projects & Purchases.

B. Park Committee

Administrator Young presented the following review of the Park Committee meeting held on June 3, 2009:

- Discussed Thorpe Park Playground Improvements.
- Discussed Deephaven Days.
- Reviewed a request to permit dogs to swim at Nocomo Beach and recommended that it not be designated as a beach location for dogs because it is too small.
- Discussed the possibility of converting Burton Park to an off-leash dog park.

Councilmember Adams noted that there needs to be some pathway repair at Haralson Park.

Administrator Young stated that the Public Works crew will take a look at possible solutions.

C. Boat Committee

Administrator Young presented the following review of the Boat Committee meeting held on June 10, 2009:

- Interviewed Tom Drummond for membership on the Boat Committee.
- Discussed piling caps and dock lighting.
- Reviewed 2009 Space Turnover.
- Discussed the condition of the Carson's Bay ramp.

8. ADJOURNMENT

Motion to adjourn by Councilmember Kask, seconded by Councilmember Adams. Motion carried 5-0. The meeting adjourned at 8:22 p.m.

Respectfully submitted,

Dana H. Young
City Administrator