

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, OCTOBER 19, 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 John Wheaton, Kim Crockett, Keith Kask and Steve Adams

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. October 5, 2009 Minutes
- B. Authorize 2009/2010 Deer Management Plan
- C. Approve Final Payment to Midwest Asphalt Corp. for 2009 Street Overlay (\$27,145.14)

Seconded by Councilmember Kask. Motion carried 5-0.

4. MATTERS FROM THE FLOOR

Ron and Ann May, 19800 Manor Road, were present to request that the City Council amend City Ordinance 515, Subd. 6 to allow the review of a dog designated as "Potential Dangerous Dog", similar to the required review of dogs designated as "Dangerous Dogs".

Administrator Young stated that the Public Works Committee reviewed this request from Ron and Ann May on September 2, 2009. At the Committee meeting, Police Chief Johnson explained that State law requires each "Potentially Dangerous Dog" to have a microchip installed and the May's were concerned about the installation of the microchip due to the age of their dog.

Administrator Young stated that, in the opinion of the Public Works Committee, it was felt that:

- The Committee would have to defer to the Police Department in this matter due to their greater familiarity in dealing with dogs in our community.
- A review of "Potentially Dangerous Dogs" would be a pointless undertaking simply because there would be very little evidence that an owner would be able to provide that would absolutely ensure that their dog might never exhibit "Potentially Dangerous Dog" tendencies.
- The Committee recommended that the May's obtain an opinion from a veterinarian as to whether the insertion of a chip would be painful or dangerous to an older dog.

Ann May stated that she didn't want to make this issue about her dog and that her primary concern was that this law was not particularly fair. She stated that she would like to have the same rights with a "Potentially Dangerous Dogs" as those owners have with a "Dangerous Dog".

Police Chief Johnson stated that there is a significant distinction between a "Potentially Dangerous Dog" and a "Dangerous Dog". A dog designated as a "Dangerous Dog" requires the owner to obtain a surety bond and has strict requirements that the owner must meet in order to keep the dog. He stated that a "Potentially Dangerous Dog" simply receives a letter as a warning. He added that the state law on "Dangerous Dogs" was changed a couple of years ago and the amendments now require a microchip to be placed in a "Potentially Dangerous Dog". He stated that the City has no option but to follow state law since the City can not be any less restrictive than the state law.

Ann May stated that at the time they received the letter warning them that their dog has been designated as a "Potentially Dangerous Dog", there was no requirement to install a microchip. She stated that their dog is 13 years old and they don't want to install a microchip in their dog. She asked what would happen if the law was changed to require all "Potentially Dangerous Dogs" to be put down?

Mayor Skrede stated that the City has the option to adopt an ordinance that is more restrictive than state law, but not less restrictive. He stated that there is nothing to prevent the state from requiring that all "Potentially Dangerous Dogs" have to be put down other than a vote of the state legislature.

Ann May asked if the change in the law requiring microchips would be retroactive?

Councilmember Crockett stated that she had the same thought whether the requirement for a microchip would be retroactive to those dogs that were designated as "Potentially Dangerous" prior to the change in the law.

Police Chief Johnson stated that there isn't anything in State Statute that states that pre-existing "Potentially Dangerous Dogs" are exempt from this law. He stated that Deephaven has a list of around 15 dogs that are on the "Potentially Dangerous Dog" list and they are required to remain on this list unless the dog dies, or the owner moves, or the dog eventually becomes designated as a "Dangerous Dog".

Councilmember Crockett stated that we don't have the authority to change the law, whether we happen to agree with it or not. She informed the Mayor that the Council can't provide them with a remedy on this issue. She stated that she has been a dog owner her whole life but she has also had instances where she has been frightened by dogs. She stated that they have the responsibility to keep their dog in their yard. She stated that the City has the responsibility to enforce leash laws and dog owners can always install invisible fences. She added that she also trusts the good judgment of the Police Department that they are going to enforce the provisions of the state law fairly.

Ann May stated that she thought it was odd that a "Potentially Dangerous Dog" is always on that list and can only be removed from that list if it moves to the "Dangerous Dog" list. She stated that consideration should also be given to who made the original complaint.

Councilmember Wheaton noted that the law does give the animal control officer the authority to review a dog's designation as a "Dangerous Dog".

Ron May stated that it is hard to discuss this matter without considering their dog. He stated that they don't believe their dog is a "Potentially Dangerous Dog" and questioned whether the original complaint was given honestly.

Councilmember Kask noted that the state legislature adopted this law in response to several dog attacks and may have adopted this law in haste. He encouraged the Mays to pursue this issue legislatively and stated that the legislature might be willing to take another look at some of the consequences of this law.

5. PUBLIC HEARING

A. Public Hearing on the assessment of delinquent sewer/storm sewer, water and garbage/recycling charges – Adopt Resolution No. 30-09

Mayor Skrede called the public hearing to order at 7:33 p.m. Hearing no comments, the public hearing was closed at 7:34 p.m.

Administrator Young presented the assessment roll on the delinquent sewer/storm sewer, water and garbage/recycling charges for Council review.

Motion by Councilmember Kask to adopt Resolution No. 30-09, A Resolution Adopting Delinquent Utility Assessments. Seconded by Councilmember Wheaton. Motion carried 5-0.

Councilmember Kask questioned the \$20 late fee that is charged on each delinquent past due bill and whether it was set at a high enough particularly when you take into account that most returned check fees can be as high as \$35.

Mayor Skrede asked staff to review the \$20 late fee.

6. UNFINISHED BUSINESS

A. Review 2010 Park Improvement Fund, 2010 Marina Fund & 2010 Recycling Fund

Administrator Young presented the 2010 Park Improvement Fund, 2010 Marina Fund & 2010 Recycling Fund for Council review.

Mayor Skrede discussed the possibility of setting up a 501(c) 3 to assist with potential fundraising efforts.

Mayor Skrede stated that he would also be interested in looking into the possibility of the City hiring our own lifeguards for the 2010 season. He noted that MCE's rates are getting high and hiring our own lifeguards might be a way to reduce costs.

7. NEW BUSINESS

A. Adopt Resolution No. 31-09, Authorizing Grant Resolution

Administrator Young stated that legislation authorizing the building of the new Twins stadium allows Hennepin County to grant up to \$2 million dollars each grant cycle to Hennepin County communities to assist with developing facilities for amateur sports or recreation.

He stated that the purpose of these grant funds will be to allow municipalities, park districts or school districts to create, expand or improve sport or recreational facilities to enhance opportunities for athletics and recreation. No grant awards can be used for ongoing expenses, such as programming services or operating and maintaining the facilities. The grant application deadline is November 2, 2009.

He stated that City staff is requesting authorization to submit a grant application to offset the costs of two projects that have been budgeted in 2010. The projects are:

1. The reconstruction of the three tennis courts at Village Hall Park at an estimated cost of \$75,000.
2. The Park Committee has requested the inclusion of a playground structure, which would replace the wooden playground structure at Thorpe Park, at an estimated cost of \$99,750.06.

He stated that the City Council has budgeted \$30,000 to replace the wooden playground structure at Thorpe Park in 2010.

Park Committee representatives Bryan Sykora and Darel Gustafson were present to answer any questions that the Council might have regarding the playground equipment.

Mayor Skrede stated that there might be a real opportunity to obtain some grant funding from the first round of grant submittals, although he is aware that Minnetonka Public Schools will also be submitting a \$400,000 grant application. He stated that the City would also have to be straightforward on the available funding for these projects.

Mayor Skrede stated that while the \$75,000 for the repair of the tennis courts appears to be a solid estimate, he felt that the estimate for the playground equipment might come in a little higher than the current estimate. He added that he would be willing to use the \$37,500 in potential savings for the tennis courts towards playground equipment. He stated that he felt that the cost of the playground equipment would actually be closer to \$150,000 rather than the current estimate of \$99,750.06.

Councilmember Adams asked what the annual costs would be to service and maintain the playground equipment.

Bryan Sykora stated that there is not much annual maintenance cost involved other than to periodically check on bolts. He stated that maintenance kits come with the playground equipment but generally the annual maintenance costs are so low that his company doesn't even put a number on it.

Mayor Skrede stated that he met with a group of residents on Hamilton Avenue on National Night Out and several families expressed interest in having a teeter totter at Thorpe Park, which he was told is not the best type of playground equipment in terms of safety. He stated that they also didn't seem to care for the proposed playground equipment plan presented by the Park Committee. He asked how much input the Park Committee gathers from residents around the park areas, particularly from those residents who might actually use the park.

Bryan Sykora stated that the city of Minnetonka organized neighborhood meetings around every park in their city to solicit input on proposed park improvements. He agreed that neighborhood input would be a good way to go.

Darel Gustafson stated that we really need to take a look at the whole park system and the Park Committee has not done a real good job of soliciting input from neighbors. He suggested sending out a survey in the next Newsletter to solicit advice and combine this with a fund raising vehicle. He stated that he would like the Council to authorize the proposed grant, authorize a survey and look into the possibility of establishing a tax deductible fund raising vehicle.

Mayor Skrede asked staff to check on the requirements in establishing a 501(c) 3. He stated that the Council could also hold a town hall meeting to discuss future park improvements.

Darel Gustafson suggested sending out a survey first then hold a town hall meeting to go over the survey results.

Motion by Councilmember Crockett to adopt Resolution No. 31-09 and Resolution No. 32-09, A Resolution Authorizing a Grant Application with \$150,000 allocated toward new playground equipment at Thorpe Park and with \$75,000 allocated toward the repair of the Village Hall tennis courts. Seconded by Councilmember Wheaton.

Mayor Skrede submitted a friendly amendment accepted by Crockett and Wheaton that stated in the event the City isn't able to obtain the grant, the City will fund the tennis court and any playground equipment at 2010 Budget levels. Motion carried 5-0.

B. Review 5-Year Budget Projections

Administrator Young presented 2010 – 2014 Revised Budget Projections for Council review.

C. Discuss Warming House Attendants

Administrator Young stated that the City has traditionally hired attendants from mid-December to the end of February to safeguard the warming houses and the public at both Thorpe Park and Village Hall Park. For the past three years, the City has attempted to lower costs by hiring one attendant to monitor both warming houses during the same shift. In essence, this has lowered the City's cost by 50%. The 2010 Budget for warming house attendants is \$3,300, which represents working 440 hours at \$7.50 per hour.

The last couple of years, the Park Committee, City Council and City Staff have questioned the effectiveness of using one attendant to monitor both warming houses. First, Staff has questioned the reliability of some of the attendants, who on occasion would mysteriously "disappear" on the drive between warming houses as they were not to be found at either warming house. And second, there is some concern that 50% of the time one of the two warming houses have no one around to prevent damage to the warming houses, or more importantly, to be able to contact the police if someone were injured.

For these reasons, City Staff is recommending that discussion be held on the utilization of warming house attendants. Options include:

1. Continue present program of hiring warming house attendants to split shifts between the Village Hall and Thorpe Park Warming Houses at an estimated cost of \$3,300.
2. Hire separate attendants at both the Thorpe Park Warming House and the Village Hall Warming House. This would effectively double the cost of hiring warming house attendants from \$3,300 to \$6,600 per year. This would also double the number of warming house attendants needed and recent history has shown that it may be difficult to find enough attendants.
3. Discontinue the use of warming house attendants.
4. Other least costly options would include reducing warming house hours. The proposed warming house hours for the 2010 season are as follows:
 - Monday – Friday 4:30 p.m. to 9:00 p.m.
 - Saturday 9:00 a.m. to 9:00 p.m.
 - Sunday Noon to 9:00 p.m.

Councilmember Wheaton stated that we have an inherently flawed system with our use of warming house attendants. He stated that under our current system, we can't trust that someone is going to be at their assigned warming house and it gives the public a false sense of security. He stated that it's his opinion that we either need to have an attendant at both warming houses or no one at all. He stated that it's not the City's duty to provide a warming house attendant since we have the police who patrol the area periodically.

Councilmember Crockett stated that she would vote to discontinue the use of warming house attendants but noted that we do need someone to open and close the facilities. She stated that we could simply build vandalism into the equation and install the rink lights on a timer.

Mayor Skrede asked Police Chief Johnson his voice his opinion on the matter.

Chief Johnson stated that he was torn between the two options. He stated that he is less concerned about safety due to the fact that everyone seems to carry a cell phone. He stated that he thought that vandalism would be less of a factor at Village Hall but that he was a little more concerned about the Thorpe Park warming house because it is more isolated. He added that his officers do check the facility from time to time.

Councilmember Wheaton asked about the merit of installing cameras.

Mayor Skrede stated that it would cost less to rebuild the warming houses than it would to use cameras. He added that the City's only responsibility should be to provide a lit surface and a place to change your skates.

Councilmember Wheaton stated that he would like to see the warming houses open earlier starting around noon. He stated that he would like to see the City solve the problem of opening and closing the facility, perhaps by using volunteers, and save some money.

Councilmember Kask stated that we are currently paying \$3,300 each year to have someone open and close the warming houses. He stated that the status quo is a solution and suggested that timers could be installed on the rink lights.

Chief Johnson stated that he doesn't necessarily have a problem with asking his officers to lock up the warming houses each evening, but he couldn't guarantee that his officers could do it every night at 9:00 p.m.

Motion by Councilmember Kask to retain our current warming house program and continue to examine opportunities to establish a better system in the future. The motion died for lack of a second.

The Council directed staff to look into the possibility of hiring someone to open and close the warming houses each day but to leave it to the discretion of staff to retain the current warming house program if they are unable to implement the new program.

8. REPORTS FROM STANDING COMMITTEES

A. Public Works Committee

Administrator Young presented a review of the Public Works Committee meeting held on October 7, 2009.

- Reviewed the results of the traffic monitor report on Circle Drive.
- Traffic congestion at the Elementary School.
- Progress on the School Zone.
- Reviewed complaints on Oktoberfest at the Cottagewood General Store.
- Discussed the Ballfield Improvement Grant.
- Reviewed the proposed 2010 Street Improvement Project and recommended proceeding with seal coating in 2010 rather than street overlay.

B. Park Committee

Administrator Young presented the following review of the Park Committee meeting held on October 7, 2009:

- Discussed Thorpe Park Playground Improvements.
- Discussed a variety of maintenance issues at the Northome pathway and Thorpe Park.

9. ADJOURNMENT

Motion to adjourn by Councilmember Crockett, seconded by Councilmember Kask. Motion carried 5-0. The meeting adjourned at 9:23 p.m.

Respectfully submitted,

Dana H. Young
City Administrator