

**DEEPHAVEN CITY COUNCIL MEETING SPECIAL WORKSESSION
TOWN HALL MEETING
MONDAY, APRIL 19, 2010
MINUTES**

CALL MEETING TO ORDER: Mayor Paul Skrede called the meeting to order at 6:00 p.m.

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

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

TOWN HALL MEETING

A. Topic: Communications Tower Locations on Public Property

Mayor Skrede briefly discussed the purposed of the meeting. He said the initial thought when drafting the ordinance and limiting tower placement to city owned properties was to relieve neighbor conflicts and competition for towers. He said there were no concerns about the ordinance until the city received a request to place a tower outside the City Hall campus. This brought up a lot of questions about the suitability of all city-owned properties for the placement of towers.

Mayor Skrede stated that the Planning Commission was asked to review this issue, along with questions about the notification radius and tower height. Although the Commission did not have a quorum, he noted that the Commission did recommend that the notification radius be increased to five hundred feet and that the tower height restrictions remain unchanged. He added that the Commission felt it was better to defer the question of suitability of some park lands to the Park Committee.

Mayor Skrede stated that the Park Committee, also without a quorum, discussed the concept of creating a tiered system of city properties, listing those that were suitable, those that were suitable but should be discouraged and those properties that were not suitable. He said he supports the tiered idea and that the Council could try and exclude some property on their own, such as street ends for example, without outside input.

Mayor Skrede stated that another issue that has been raised is the potential health impacts of towers, which has been a common theme in other cities. He said the Council packet includes information from the Federal Communications Commission (FCC) about the health impacts and outlines the city's lack of authority in addressing health issues when reviewing an application.

Mayor Skrede asked if any members of the public had any comments at this time. There were none.

Mayor Skrede said the Council should start by listing those properties that just aren't suitable for tower placement. Councilmember Wheaton wanted clarification on the required setback. Zoning Coordinator said towers are required to be set back from a residential dwelling a distance of one foot for each foot of height.

City Administrator Young reviewed the list of city owned properties. The Council agreed to remove all street ends from consideration because they are too small. He said the property at 4315 Cottonwood Lane is a sewer easement, the property at 19270 Dale Avenue is a walking easement and the property at 3450 Hamilton Avenue is Cleveland Park/Lake Louise, which consists primarily of wetlands. Other wetlands included the properties at 3500 Hamilton Avenue, 4049 Hillcrest Road, 4061 Hillcrest Road and 4083 Hillcrest Road. The Council agreed to remove all those properties listed as street ends, easements and wetlands from consideration for tower placement.

Administrator Young said the properties at 19390 and 19405 Lake Avenue is Deephaven Main Beach and the properties at 19700 and 19900 Minnetonka Boulevard is the boat launch and Carson's Bay Marina. The Council agreed these properties should be removed because placement of a tower in those locations would be inconsistent with the use of the properties and their proximity to the lake poses environmental issues for any potential carrier.

The property located at 18277 Minnetonka Boulevard is a drainage ditch and the property at 20215 Minnetonka Boulevard is the former bus stop site, both of which the Council agreed are too small to site a tower. The Council agreed to remove all sites designated at wetlands from consideration.

Mayor Skrede noted that a number of the smaller properties owned by the city are due to the fact they were deemed unbuildable. Councilmember Crockett noted they are also tucked well into residential areas.

The Council discussed the remaining properties. Councilmember Crockett wanted Pump Park (18338 Minnetonka Boulevard) to remain an option, but would like to remove Shuck Park (20150 Cottagewood Avenue) from consideration because a tower would be inconsistent with its use as a park.

Councilmember Adams said he would like to hear the thoughts of the Park Committee before removing some of the park land from consideration. Mayor Skrede said the Council doesn't have to wait for their recommendation if there is a site the Council agrees is unsuitable.

Councilmember Wheaton read the FCC language regarding cities unreasonably limiting placement of towers and felt it was vague. He said as long as the city has a rational basis for excluding a site it shouldn't be out of line with the regulations. Mayor Skrede agreed stating it would not be viewed as arbitrary if there is a rational basis for excluding the property.

Mayor Skrede asked if anyone in the audience had any comments on the potential health issues related to cell towers.

Erin Head, 3605 Westview Drive, said she had some concerns but wasn't as prepared as she would have liked to be since she just found out about the meeting earlier in the day.

Mayor Skrede said the city was provided some information from the FCC and read the regulations limiting the city from using health concerns as a basis for denying an application that is in compliance with the FCC regulations. He said a city or even a resident can ask the FCC to monitor a site to verify compliance with FCC standards but noted, unfortunately, that it is typically an after the fact enforcement, but eventually the site would be brought into compliance.

Ms. Head said she feels towers should be placed away from areas where children play.

Mayor Skrede summarized the proceedings to this point to some residents just joining the meeting, stating the Council is in the process of scaling down the available sites for tower placement.

The Council resumed their discussion on city owned properties. Councilmember Crockett said she was not familiar with the property located at 19400 Cottagewood Road. Councilmember Kask said that area is used as a drainage area for Deephaven Education Center. Kask discussed his feelings about allowing towers close to the lake, noting he has not noticed any when he's been on the lake and feels the city shouldn't allow them in the lake setback.

Amy Dresch stated that it has been her experience that lake properties are not viable for most carriers due to the additional approvals from other agencies such as the DNR. She said the same is true for locations in wetlands.

Mayor Skrede felt the property at 3576 Northome Road should be excluded due to topography considerations and all beaches should be removed from consideration due to the incompatible land use. The Council agreed.

Councilmember Wheaton stated that he believed environmental concerns can be address provided it isn't based on radio frequency.

The Council discussed the removal of all parks from consideration. Councilmember Crockett said it should be based on current usage. Councilmember Adams stated that sites like Shuck Park can be put on a secondary list, where a tower is permitted only if a primary spot is not usable. Mayor Skrede said primary sites could be those that are not parks and secondary sites are those parks that are not lakefront.

The Council discussed the City Hall property, noting it may have to be further delineated, since there are some areas that wouldn't be suitable due to their current use. The Council agreed to remove Haralson Park, 20260 Minnetonka Boulevard since it currently houses the paddle tennis courts and city maintenance shed and is adjacent to wetlands. 3815 Monaltrie and Children's Park were removed from viability due to their size.

Councilmember Crockett reiterated that she would like to see Shuck Park removed. Councilmember Wheaton agreed, noting he has an issue with the children's play area being in the fall zone of a tower. Councilmember Adams said he just didn't want to throw sites out, especially if they could potentially fill a dead zone for a carrier. Crockett said she would exclude it because it is truly used as a park. She feels there are more appropriate properties deemed parks for the placement of towers.

Mayor Skrede said he would remove 19175 Minnetonka Boulevard since there is very little flat land and accessing it would be a challenge. Councilmember Adams stated that the city should let an applicant decide if the site is viable. The Council agreed with Adams. Councilmember Wheaton commented that the Council can anticipate future technology and there may be a time when less area is needed.

Councilmember Crockett stated that the public site at 18300 Northome Boulevard is too small and there have been discussions in the past about doing something with that land. Mayor Skrede agreed noting the parking lot across the street is more accessible.

Mayor Skrede summarized the remaining properties which include Shuck Park, City Hall Park, Thorpe Park, Pump Park, the city owned parking lot at 18325 Northome Boulevard and the property at 19175 Minnetonka Boulevard. Councilmember Crockett said these properties should be forwarded to the Park Committee for their comments.

Amy Dresch stated that the city must be careful and review the deeds from park land to make sure there are no restrictions against uses other than as a public park. Councilmember Wheaton questioned whether all parks could be excluded due to incompatible use. Mayor Skrede said the Council has eliminated a number of the fifty two city owned properties. He said the city would have to plead its case on why the remaining properties are not desirable. Wheaton asked if there has been case law regarding the exclusion of all parks in a city. Ms. Dresch said she was not aware of any and their exclusion would be a city decision.

Damien Coin said he is the brother of a Deephaven resident and is speaking on her behalf. He said he is a biology environmental scientist, which is someone who looks at the effects of issues such as EMT. He said recently the European Union vote to recommend new safety standards for cell phones and wireless technology. He said their decision was based on the review of over two hundred studies. He said even though it's difficult to show a cause and effect in the studies, looking from a holistic approach, there is some impact seen. He said some longer term studies have shown some negative biological effect. He discussed radio waves and their impact on the human body.

Councilmember Wheaton asked if these studies have put any pressure on the FCC to prompt changes, and if the city should become more proactive in dealing with health issues. Mr. Coin said the FCC is basing their restrictions on the fact there is a certain amount of exposure required before a tissue heats up, though studies have shown that damage begins before the tissue actually heats up.

Councilmember Crockett asked if the studies looked at cell phone use or the effects from the tower itself. Mr. Coin said they have done studies on both and that particular concern should be shown to the potential impact on children. He explained that the cell manipulation that takes place impacts sleep which slows the release of toxins from the body causing health issues. Councilmember Crockett said she has heard there are similar issues with wind turbines.

Mayor Skrede said this issue will be going in front of the Park Committee and suggested Mr. Coin speak with them. He noted that the current regulations prohibit a city from considering health issues when reviewing an application.

Mayor Skrede read a letter submitted by Joel Stebbins, 3845 Honeysuckle Road, who is opposed to permitting towers on park land.

ADJOURNMENT

Motion to adjourn by Councilmember Wheaton, seconded by Councilmember Kask. Motion carried 5-0. The meeting adjourned at 7:27 p.m.

Respectfully submitted,

Gus Karpas
Zoning Coordinator