

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, JUNE 7, 2010
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 and Keith Kask

ABSENT: Council member 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 May 17, 2010
- B. Approve June Verifieds
- C. Approve 2010 Planning Commission Chair & Vice-Chair
- D. Appoint Pete Onstad to Planning Commission

Seconded by Councilmember Adams. Motion carried 4-0.

4. MATTERS FROM THE FLOOR

There were no Matters from the Floor this evening.

5. PLANNING & ZONING REQUESTS

A. SPECIAL EVENTS PERMIT – Stonewood LLC, 4285 Circle Drive, (R-2, 40,000) request to include the property in the Luxury Home Tour which would be held on the weekends of June 11-13, June 18-20 and June 25-27. Section 1355 of the Zoning Ordinance permits limited participation in Showcase Events with the issuance of a Showcase Events Permit.

Zoning Coordinator Karpas presented the request, informing the Council that the Planning Commission recommended unanimously that the Council approve the request based on the finding of staff.

Mayor Skrede asked if the issues that were raised during construction have been addressed. Karpas said the damage to the center circle has been addressed, but there needs to be further discussion on the damage to the road.

Sven Gustafson, President of Stonewood was available to take questions. Councilmember Wheaton asked if there was going to be any parking, including staff parking, permitted on the site. Mr. Gustafson said there would be one or two staff cars before the event every morning helping to set up the site. He said they would then be required to park their vehicles as the elementary school and shuttle back to the site. Mr. Gustafson addressed the concerns raised by the Mayor, stating the center circle and selected shoulders have been repaired.

Mayor Skrede asked if the neighbors on the cul-de-sac were asked would they say you have been a good neighbor during construction. Mr. Gustafson said he believed so and noted there have been some parking issues due to the tightness of the area. He said they routinely discussed issues with neighbors as they were raised.

Mayor Skrede discussed concerns with emergency response in the area, stating there needs to be access on the road during the event. Mr. Gustafson said they would monitor the parking throughout the event and hire additional staff if necessary to control traffic. He said they intend on posting signage in obvious locations directing traffic to the elementary school.

Mayor Skrede asked if any conditions were placed on the Planning Commission recommendation. Zoning Coordinator Karpas said no, but the Council could require that the applicant post signs along the road. Mr. Gustafson asked if that could be done by the police so it appears more enforceable. The Council directed the applicant to work out road posting with the police department.

Councilmember Kask discussed the history of the ordinance, noting it was put in place to give the city some control over participation in these types of events. He stated that he feels the applicant has complied with the intent of the ordinance, though he would like the applicant to be diligent in monitoring the parking situation.

Motion by Councilmember Kask to approve the Special Even Permit as presented for 4285 Circle Drive. Seconded by Councilmember Wheaton. Motion carried 4-0.

6. UNFINISHED BUSINESS

A. Review 2010 Budget Schedule

Administrator Young presented the proposed 2011 Budget schedule for Council review.

B. Approve 2011 LMCD Budget

Administrator Young stated that he attended the June 3rd LMCD 2011 Budget meeting and he was the only City representative in attendance. He stated that the 2011 LMCD Budget proposed no change to the 2011 levy to the 14 member cities and it was proposed to remain at \$330,649. He stated that the LMCD Board was proposing to maintain the existing levy through two fund transfers from the General Reserve Fund and the Aquatic Invasive Species Reserve Fund, reducing the budget for the EWM Harvesting Program and increasing fine revenue to be more representative of actual fine revenue received in 2009 and expected in 2010.

Motion by Councilmember Kask to approve the 2011 LMCD Budget as presented. Seconded by Councilmember Adams. Motion carried 4-0.

Councilmember Kask noted that he is very supportive of LMCD efforts to contain costs.

C. Other

Councilmember Kask asked if there had been any progress towards having the parking lot lights at the DEC shut off at 10:00 p.m.

Administrator Young stated that he had met with School District representative Mike Condon on a separate matter last Friday and Mr. Condon stated that they are anticipating the new lighting fixtures to arrive shortly after school lets out later this week.

Mayor Skrede stated that this issue began in January when the DEC proposed in their variance application that their parking lot lights would be turned off at 10:00 p.m. He stated that they are currently not in compliance with the conditions of their variance. He stated that he would like to get a definitive answer from DEC on a solid date that the lighting will be fixed by the June 21st Council meeting or he would like Mike Condon to appear before the City Council that same evening.

7. NEW BUSINESS

A. Approve Temporary On-Sale Non-Intox. Malt Liquor License for St. Therese

Administrator Young stated that the Church of St. Therese in Deephaven is requesting a Temporary On Sale Non-Intoxicating Malt Liquor License for their Oktoberfest Fundraiser to be held on September 25, 2010.

Parish Administrator Ed Smith and Oktoberfest Chairman John Seacrest were present to represent St. Therese and to describe the activities associated with Oktoberfest.

Police Chief Johnson stated that the Police had received more complaints regarding Oktoberfest last year than they had received in the past few years. He stated that they received approximately six complaints regarding the noise and three of those calls came from the same resident. He stated that the Police also reported that there also had been an incident involving an intoxicated woman who had attempted to walk home from the event last year but ended up spending the night outside.

Police Chief Johnson stated that he and Administrator Young had met with Ed Smith and John Seacrest to discuss these issues and to identify those areas that are more greatly impacted by the noise and to recommend providing broader notification to area residents, particularly those in the Pines.

Ed Smith stated that they didn't receive any complaints last year from any Highland Avenue residents, as he had in the past, and noted that he was only aware of one resident who showed up at the event to complain about the noise because of his sick child. He stated that 3,000-4,000 people show up at this event each year and have a great time. He stated that they try to limit the number of complaints and public intoxication. He stated that St. Therese has listed a contact number on the flyer this year to more proactively address any complaints that occur that evening. He added that they always take complaints very seriously.

Councilmember Adams stated that he attended the event last year and thought it was well-organized.

Councilmember Wheaton stated that this event is not going to please everyone and encouraged the Church to continue to explore ways to limit the direction of the noise. He stated that he didn't have a big problem with conducting the event.

John Seacrest stated that he would ensure that the band ends at their scheduled time of 11:00 p.m.

Police Chief Johnson noted that he would also have an officer and one reserve officer present at the event.

Motion by Councilmember Wheaton to approve a Temporary On-Sale Non-Intoxicating Malt Liquor License for St. Therese for September 25, 2010, subject to the submittal of liquor liability insurance. Seconded by Councilmember Adams. Motion carried 4-0.

B. Discuss Request for Beer and Wine License

Zoning Coordinator Karpas stated that Eduard D'ignoti and Mario Alessi were present this evening to request Council consideration of amending the City's liquor control ordinance to permit the sale of a Combination On-Sale 3.2 Malt Liquor and On-Sale Wine License as permitted under Minnesota State Statutes 340A.404 in order to sell beer and wine at an Italian restaurant they were considering to open at the former LMCD offices on Minnetonka Blvd.

Tom Kemmettmueller spoke as the owner of the building. He said he was approached by the applicants to open an authentic Italian restaurant in the site formerly occupied by the Lake Minnetonka Conservation District.

Eduardo D'ignoti said he and Mario Alessi would like to open a family oriented restaurant in the community. Mayor Skrede asked how many patrons it would seat. Mr. D'ignoti said about forty. Mr. Kemmettmueller added the restaurant would open at 4 p.m. daily.

Mayor Skrede asked if the intent would be to expand the hours if business was good. Mr. D'ignoti said no. Skrede explained the discussion tonight was exploratory in nature and that the Council could take no official action on the request.

Mr. Kemmettmueller stated that he and the applicants are only looking for direction, noting that beverage sales impact the viability of a restaurant. Mayor Skrede stated that allowing alcohol sales is only a hypothetical question at this point. He expressed concerns about allowing licensing and having entities such as the Cottagewood Store approaching the city to sell alcohol on their property.

Councilmember Kask said the zoning ordinance contains a schedule of uses and noted the Cottagewood Store operates under a Special Use Permit in a residential district, whereas the subject property is located in a commercial district. He agreed that if the city were to permit a license to the applicants, it would have to be available to other commercial properties. He said most of the commercial properties are not large enough to support the proposed use and also back up directly on residential property. He said past reviews of restaurant type requests have often focused on issues such as cooking odors and parking.

Kask said when it's come to liquor licenses, the city has notably avoided issuing them and this it is a big decision for the city to change that given its history. He expressed reservations about changing the current policy.

Councilmember Wheaton asked if the city has been approached recently for a change to the policy. Mayor Skrede said he inquired about it a number of years ago when the Cottagewood Store was for sale. Wheaton feels this is a unique situation, since no one has really explored a family type restaurant in the city.

Mr. D'ignoti said they are just asking for an opportunity and feels a good Italian meal needs wine as an accent.

Councilmember Adams said he wouldn't feel bound to extend any liquor license to the Cottagewood Store since it's located in a residential area. He said he doesn't want to just ignore the concept because it hasn't been done in the past. He said a licensing process can set the terms and provide for revocation if necessary.

Mayor Skrede reiterated that it is just a general conversation at this point and asked if others were interested in continuing it.

Councilmember Adams said the Council has nothing to vote on at this time and he would entertain further review of the issue. He stated that he feels that due to the potential magnitude of the issue, the Council may want to hold a public hearing.

Mayor Skrede said he wants the ability to discuss the potential ramifications of such a change to the ordinance.

Councilmember Wheaton said the applicant has presented an idea to the Council and he would not like to dismiss it out of hand. He said the Council may find the community supports the idea. Councilmember Adams agreed and said the concept is interesting.

Mayor Skrede noted that the Council may be at a stalemate due the absence of Councilmember Crockett and asked if the Council is interested in a more in depth conversation on the issue at a later date.

Councilmember Kask said he was not particularly eager to change history, noting that he was not impugning the request of the applicants. He stated that he is concerned about the political ramifications that may arise from issuing a liquor license, including a limitation on the number of licenses allowed in the city. He discussed some of the issues experienced by the City of Excelsior. He stated that the Council must be clear on how much it wants to pursue this change and what forum should be provided for public comment. He agreed that it would not be appropriate for the Council to take a vote on the issue at this time, but he is opposed to it as it stands now. He stated that staff should provide the Council a copy of a model ordinance to allow it to assess what would be appropriate for the city.

Mayor Skrede discussed his reservations based on the lessons learned from the Telecommunications Ordinance, an instance in which the city thought it had a strong ordinance only to find out later there were some unintended consequences. He said if the city is going to discuss an ordinance he would like to look at more restrictive type language which doesn't appear as though it's favoring one business owner over another.

Councilmember Wheaton stated that he didn't think it would be reasonable for a government to restrict a business without researching ordinance language prior to making a determination.

Mayor Skrede stated that he would like to make sure the discussion include the peripheral issues such as licensing requirements from the state and necessary policing.

The Council directed staff to research the issue and provide a model ordinance for Council review at their July meeting.

C. Discuss 2010 Canadian Goose Control Program

Administrator Young stated that the City of Deephaven has contracted with Canada Goose Management Inc. from 1992 – 2002, and in 2006 to provide for the removal of geese on publicly owned property within the City. Also, beginning in 2004, the City Council has contracted with Canada Goose Management Inc. to conduct an annual survey of the goose population at Carson's Bay, St. Louis Bay, Thorpe Park and Robinson's Bay in order to monitor the goose population in Deephaven.

The survey results are as follows:

| Year | # of Geese |
|------|------------|
| 2004 | 17 |
| 2005 | 47 |
| 2006 | 52 |
| 2007 | 42 |
| 2008 | 48 |
| 2009 | 16 |

He stated that there is currently \$2,800 in the 2010 Wildlife Management Budget to conduct an annual survey and to contract for goose control services and wanted to know if the Council would be interested in authorizing Canada Goose Management Inc. to conduct a survey of the goose population at Carson's Bay, St. Louis Bay, Thorpe Park and Robinson's Bay and whether to contract for goose removal in Thorpe Park.

Councilmember Kask noted that the survey results don't necessarily mirror the number of actual geese in Deephaven. He stated that Thorpe park is the City's signature park and there have been a number of complaints regarding the excessive number of geese at the park. He stated that he would be supportive of utilizing the available funding to support goose control efforts.

Mayor Skrede stated that he would also be supportive of having Canada Goose Management concentrate their removal efforts at Thorpe Park.

Councilmember Wheaton noted that geese will grow attached to a particular area unless you do something about it. He asked the Police Chief if there had been many complaints regarding wild turkeys.

Police Chief Johnson stated that he has not received as many complaints on wild turkeys as he did about five years ago.

The Council authorized an annual survey of the goose population on public sites and the removal of geese at Thorpe Park.

C. Other

Councilmember Kask stated that two residents have expressed their dismay over the lack of trailer parking around the Carson's Bay launch, the reduced trailer parking at Haralson Park and the recent efforts of the School District to eliminate trailer parking at the Elementary School. He stated that this has drastically reduced the availability of trailer parking for the Carson's Bay launch. He stated that he was troubled to see the school post their parking area as "no boat trailers allowed".

Mayor Skrede stated that we could ask the School District to reconsider permitting trailer parking at the Elementary School parking lot.

Police Chief Johnson stated that this issue was actually brought up three years ago by the School District and have posted no parking signs in their parking lot since that time. He stated that the School District decided to prohibit trailer parking due to the damage that had been caused to their lawn and sprinklers in past years from trailers parking on the grass.

Councilmember Kask stated that it was difficult to see an available parking area in such close proximity to the launch off-limits to trailer parking.

Mayor Skrede requested that the Police Chief find out the appropriate contact person at the School District and pass that name along to Councilmember Kask so that he can discuss his concerns on this issue at greater length.

8. DEPARTMENT REPORTS

A. Police Department

Chief Johnson noted that his Department has been very busy lately and expects it to continue that way through the summer.

B. Excelsior Fire District

Administrator Young stated that the EFD will be holding a 2011 Budget Work Session for all member cities on June 16th at 6:00 p.m. at the Shorewood Fire Station.

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:

- State Audit Report
- 2011 Budget
- June 3rd LMCD Budget meeting

- Notice of Upcoming Meeting
- July Newsletter Articles
- 2009 Population & Household Estimates

9. ADJOURNMENT

Motion to adjourn by Councilmember Kask, seconded by Councilmember Wheaton. Motion carried 4-0. The meeting adjourned at 8:47 p.m.

Respectfully submitted,
Dana Young, City Administrator