

**DEEPHAVEN CITY COUNCIL MEETING  
MONDAY, JUNE 21, 2010  
MINUTES**

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

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

STAFF: 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. June 7, 2010 Minutes
- B. Adopt Resolution No. 17-10, Appointing Ballot Board

Seconded by Councilmember Adams. Motion carried 5-0.

**4. MATTERS FROM THE FLOOR**

Mayor Skrede stated that Tim Litfin and Mike Condon were present this evening to represent the Minnetonka School District regarding a lighting issue that had been discussed by the City Council at their last meeting. He stated that the Council had voiced their concern regarding the fact that the parking lot lights to accommodate the new addition to the Minnetonka Education Center were on past the 10:00 p.m. deadline as is required in their variance application before the Council

Tim Litfin, Executive Director of Minnetonka Community Education, and Mike Condon, Supervisor of Buildings and Grounds, were present to address the Council regarding the parking lot lighting issue. Tim Litfin stated that the lighting had been corrected last Friday and further readjusted this morning.

Mike Condon stated that he first became aware of this issue last January and explained that it took longer than expected to resolve the lighting issue. He stated that he first looked into the possibility of finding retrofit kits for the new lights in order to save the District and taxpayers some money but found that retrofit kits didn't exist. He stated that the new lights then had to be reviewed by a lighting engineer to ensure that the new lighting did not extend beyond the property lines as required by the City Code. He stated that the new lights took six weeks to deliver and apologized for the communication gap with City Staff.

Mayor Skrede stated that the City has always worked well with the School District and noted that the City's concern regarding the light was over the fact that the lights should not have been on past 10:00 p.m.

Mike Condon confirmed that the lighting in the south lot and along the walkway is now scheduled to turn off at 10:00 p.m.

Councilmember Kask stated that he realizes that the School District needs to provide some sort of security lighting on the north side of the building and acknowledged that the new lighting on the south side was a very good start.

**5. UNFINISHED BUSINESS**

**A. Adopt Ordinance No. 13-54, Amending Wireless Communications Tower Ordinance**

Administrator Young stated that the latest request by Clearwire Communications has prompted many discussions on needed revisions to the city's wireless communications ordinance, more specifically the need to identify which publicly owned properties are acceptable for tower placement and whether it would be appropriate to increase the notification radius for applications for tower placement.

He stated that Section 1311:04(1) currently permits the placement of wireless telecommunications facilities (WTFs) on "parcels owned and controlled by the City of Deephaven." The amended language would limit the placement of towers to four sites within the city; the public parking lot at Chowen's Corner, Pump Park, "Site 12" and Village Hall. Each site has been delineated in the proposed ordinance with their specific property tax identification number.

He stated that the Village Hall site is comprised of four separate parcels, each with a separate property tax identification number. The four parcels are as follows:

24-117-23 33 0043	Village Hall Tennis Courts
24-117-23 33 0044	Village Hall Parking Lot
24-117-23 34 0004	Village Hall / Ballfield / Ice Rink
24-117-23 34 0028	Fire Station / Cell Tower / Portion of Sand/Salt Shed

He stated that Section 1311.05(1)(a) specifies the process to be followed in applying for a special use permit. The current special use process requires a notification radius of 350 feet. The amended language requires a notification radius of 500 feet for all applications of a WTF.

Administrator Young added that the Planning Commission recommended that the City Council adopt Ordinance 13-54, clarifying the suitable city controlled properties for the placement of cell towers and expanding the public hearing notification radius to five hundred feet. He added that the Commission further recommended that language be added requiring the applicant to provide mailing labels.

Councilmember Wheaton stated that the Village Hall parcel containing the Village Hall tennis courts should be excluded from the ordinance since the siting of a communications tower is not compatible with the existing use of this parcel.

Councilmember Kask stated that all four parcels that make up the Village Hall Campus are contiguous parcels and all four parcels are identified as our City Campus. He stated that the inclusion of all four parcels is trying to convey that our entire campus is available for a cell tower at the Council's sole discretion. He stated that we wouldn't be pigeonholed into allowing a tower where we don't want one because the proposed ordinance grants us the authority to determine the exact location of the tower at the sole discretion of the City Council.

Further discussion was held on each of the four parcels comprising the Village Hall Campus and the appropriateness of each parcel as a potential communications tower site.

Councilmember Wheaton reiterated that he didn't feel the parcel containing the tennis courts would be an appropriate site for a tower and that it shouldn't be open to future discussion.

Mayor Skrede stated that it is difficult for him to exclude this parcel at this point because we might find that the parcel containing the tennis courts is radically different if it were actually surveyed.

Motion by Councilmember Kask to adopt Ordinance No. 13-54 as amended by the replacement of the word tower with WTFs and to delete the property identification numbers identifying Village Hall. Seconded by Councilmember Adams. Mayor Skrede, Councilmember Kask and Adams voted in favor of the motion. Councilmember Wheaton and Crockett opposed. Motion carried 3-2.

#### **B. Authorize Request for Quotes on the Repair of the Village Hall Tennis Courts**

Administrator Young stated that the Deephaven Public Works Committee has been reviewing a variety of options on the proposed repair of the three tennis courts at Village Hall Park since December 2009. The Committee first met with Alan Catchpool, an engineer with CEI, who provided the Committee with cost estimates and the following options on the repair of the courts:

1. **Crack Seal and Color Coat.** This process involves the sealing of cracks at around 1.50 per L.F. and the repainting of the court. The cost is approximately \$4,000 per court and lasts about 3-5 years. Cost estimate: \$13,000 to \$15,000
2. **Crack Seal and Color Coat (Armor Crack Repair System).** This process that utilizes a knitted fabric that expands as the crack widens. The court is technically still cracked, but the filled cracks are hidden beneath the repair and completely covered with color-coating material. The cost is approximately \$11,500 per court and lasts about 6-8 years. Cost estimate: \$30,000 to \$35,000
3. **Reclaim and Repave.** This process is used when the pavement section has numerous cracks or the cracks are too wide to adequately seal, the pavement section should undergo major rehabilitation. This process reclaims the pavement and is used when the base is in adequate condition. Cost estimate: \$65,000 to \$75,000
4. **Complete reconstruction.** This process is complete reconstruction of the court, which includes new pavement and new base. The cost is approximately \$25,000 - \$30,000 and lasts approximately 20-25 years. Cost estimate: \$80,000 to \$90,000

It was Alan Catchpool's recommendation that the "best option for the Village Hall Tennis Courts is to reclaim and pave the courts".

The Committee also looked into the tennis court improvements undertaken in the city of Shorewood. The Shorewood City Council awarded a contract to DermCo in 2010 to overlay three tennis courts at Badger Park in the amount of \$10,754. According to Shorewood Park Coordinator Kristi Anderson, several Shorewood public tennis courts were overlaid last year and performed well throughout the summer. The downside to overlaying tennis courts is that the superficial cracks would gradually

reappear over the winter and the next year or two requiring the courts to be overlaid every three years. In addition, as with city streets, each overlay adds to the overall height of the court.

Finally, on the recommendation of Councilmember Wheaton, the Committee looked into a relatively new process to extend the life of crack sealing called the Armor Crack Repair System. Used in combination with prepping the court, skin patching and color coating, the Armor Crack Repair System has prevented the reappearance of cracks for eight or so years. Initial cost estimates for the Crack Sealing and Color Coat (Armor Crack Repair System) is approximately \$35,000 or \$11,500 per court. The current budget for repairing the Village Hall tennis courts is \$35,000.

Mayor Skrede stated that he had inspected the repair of the Wayzata Country Club tennis courts, which had been repaired using the Armor Crack Repair System, and the contractors seemed confident that the larger cracks would not reappear after installing the Armor Crack Sealing. He added that the Armor Crack Sealing System seems to be the most realistic option.

Councilmember Wheaton stated that he has been involved with the repair of the courts at Wayzata Country Club and there seems to be less repair work needed after installing the Armor Crack Sealing System. He advised that the City obtain a guarantee on the work from the Armor Crack installer that the existing cracks will not reappear. He stated that he favors repairing the courts using the Armor Crack Repair System.

Councilmember Kask stated that he would be more inclined to go with Option #1 Crack Seal and Color Coat due to its lower cost but did note that the Village Hall tennis courts were the signature courts within the City.

Motion by Councilmember Wheaton to authorize staff to obtain quotes for the Crack Sealing and Color Coat (Armor Crack Repair System). Seconded by Councilmember Adams. Motion carried 5-0.

### **C. Other**

There was no other Unfinished Business this evening.

## **6. NEW BUSINESS**

### **A. Review Appeals from June 1<sup>st</sup> Deadline**

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 1<sup>st</sup>. 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 2010 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 1<sup>st</sup> and each have sent a letter appealing City Staff's decision to revoke their 2010 Boating Permit:

<u>Name</u>	<u>Address</u>	<u>Space</u>
Robert Sykora	4835 Highcrest Drive	Dock #117, Carson's Bay
Robert Clyborne	19145 Rutledge Road	Canoe #2, St. Louis Bay
Mike Larson	20480 Western Road	Slide #2, Western Road
Marilyn Cool	18995 Maple Lane	Dock #6, St. Louis Bay
John Taylor	19905 Lakeview Avenue	Slide #2, Bay Street
Dale Moe	20465 Linwood Road	Dock #113, Carson's Bay
Tom Brandt	20395 Lakeview Avenue	Slide #3, Water Street
Mark Grieger	3870 Monaltrie Avenue	Buoy #14 / Slide #8, St. Louis Bay

Councilmember Kask stated that he was the Council liaison to the Boat Committee when the Committee recommended changing the date that boats had to be on their mooring space from June 15<sup>th</sup> to June 1<sup>st</sup>. He stated that the reason for the change was due to the fact that it was very difficult to turn around and find a resident willing to lease a space after waiting for the June 15<sup>th</sup> deadline and the subsequent appeals. He stated that the change in the date wasn't intended to trip anyone up but to make the turnaround time much shorter to re-lease a mooring space. He added that the 50% penalty was introduced because it was deemed to draconian to revoke the permit for those residents who simply forgot to place their boat on their mooring spot in a timely manner. He stated that it is also understood that this appeal is a one time opportunity and should not be repeated.

Marilyn Cool stated that she would like to comment on the size of the penalty. She stated that she was shocked when she was informed that the condition of reinstatement was a 50% penalty. She stated that she believes the penalty is much too high and would request that it be lowered.

Dale Moe stated that he did email staff member Deborah Hicks prior to June 1<sup>st</sup> on the date that boats were required to be at their mooring space and thought that he had until June 1<sup>st</sup> to place his boat on his dock slip. He stated that when you have a date listed in the ordinance, that date is usually included within the deadline. He stated that the weekend before June 1<sup>st</sup> was Memorial weekend and the launch was exceptionally busy and he just assumed he had until June 1<sup>st</sup> to get his boat onto the dock.

Marilyn Cool stated that she also has a difficult time remembering the correspondence received from the City. She stated that she is not as well-organized as most other people who are more business-like and simply didn't remember the deadline date.

Mayor Skrede stated that the renewal information that comes to each permit holder comes as a complete packet. He stated that he can ask Deborah Hicks to provide a summary of the communications that are sent to the applicants.

Councilmember Crockett asked Marilyn Cool how long she has had a dock slip.

Marilyn Cool stated that she has had a dock slip for about six years and relies on her son to put the boat in each year and to take her boat out.

Councilmember Crockett stated that she can certainly understand that things are busy and encouraged her to inform her son that she has got a pass this year but he needs to understand that there are

deadlines in which the boat must be at its mooring space. She stated that the Council is subject to criticism by a number of residents who think that the Council is treating people too leniently.

Councilmember Wheaton added that the criticism is particularly heavy for such a high demand item as a dock slip.

Mayor Skrede stated that the Council has taken over this appeal process from the Boat Committee because we didn't want to pit neighbor against neighbor and the Council should be ultimately responsible for a decision to revoke a boating permit.

Motion by Councilmember Kask to authorize the reinstatement of the 2010 Boating Permits to those individuals who have submitted a letter of appeal subject to payment of an amount equal to 50% of their normal 2010 permit fee and to revoke the 2010 permit of Roger Jacobs (18745 Rutledge Road) who did not appeal the decision to revoke his 2010 boating permit. Seconded by Councilmember Wheaton. Motion carried 5-0.

**B. Discuss Contribution to Southshore Center**

Administrator Young stated that the 2010 General Fund Budget includes funding in the amount of \$3,000 as a potential contribution of support to the Southlake Community Center that had been included as a line item within the 2010 General Government Department Budget. The contribution was originally included in the 2010 Budget as a potential capital contribution from the City of Deephaven to the Community Center.

He stated that he has also received a letter from Shorewood City Administrator Brian Heck requesting assistance from the partner owners of the facility to offset the estimated cost of a digital type sign, which has been identified as a key component to the continued success of the facility. The cost of the sign has been estimated at \$20,000 - \$30,000.

Mayor Skrede stated that when the City of Shorewood assumed managerial responsibility of the Southshore Center, they were hoping that the Center would eventually break even. He noted that the proposed digital sign has not yet been approved for purchase by the Shorewood City Council but felt that the intent of Shorewood City Administrator Brian Heck was to enlist funding support towards a particular project like the digital sign so that the member cities would be more agreeable to sending a contribution.

Councilmember Kask stated that there are a number of us who are relieved that Shorewood has taken over the Southshore Center and would support a contribution from our City towards the new sign. He stated that he would not like to be seen as an impediment to helping the Center succeed.

Motion by Councilmember Kask to approve a \$3,000.00 contribution to the City of Shorewood for a new digital sign for the Southshore Center. Seconded by Councilmember Adams. Motion carried 5-0.

**C. Discuss 2011 Refuse, Compost and Recycling Contract**

Administrator Young stated that the City of Deephaven originally entered into a contract with Waste Management (WM) for residential refuse, compost and recycling pickup on January 1, 1999. Since that time, the City and WM have entered into a series of contract extensions on February 2001, January

2005, and January 2008. The last contract extension was a three-year contract that is now set to expire on December 31, 2010.

He stated that following the expiration of the original contract in 1999, which was awarded following an open bid process, the City negotiated the terms of the contract extensions with WM in 2001, 2005 and in 2008. During the negotiations of these contract extensions, the Council typically designated one or more Council members to negotiate the initial terms of the extension with WM on behalf of the City. WM representatives would then meet with the full City Council to finalize the negotiated contract.

Councilmember Kask stated that any type of bid for refuse collection should require the hauler to continue to use light weight vehicles. He noted that this has been one of the main reasons the City has always decided to go with Waste Management.

Mayor Skrede stated that the smaller vehicles are simply not an option for a number of other haulers so perhaps the need to go out for bids isn't a huge factor. He noted that some cities have multiple haulers.

Mayor Skrede offered to serve as the Council representative to negotiate a potential contract with a hauler.

Councilmember Kask stated that the contract should also include valet service for refuse collection due to the length of many driveways in Deephaven. He stated that valet service would not have to be offered for recycling or compost service.

Councilmember Adams suggested beginning contract renegotiations early enough with Waste Management such that the Council could later decide to bid the contract if the negotiations with Waste Management weren't favorable.

Councilmember Wheaton noted that we have a very good relationship with Waste Management and would favor this approach.

Administrator Young stated that he has heard from a number of residents who have expressed a strong interest in having an organic waste pickup program offered in Deephaven.

Councilmember Kask questioned whether the environmental costs of having another large vehicle drive through Deephaven would outweigh the potential benefits of organic waste pickup.

**D. Adopt Ordinance No. 05-36, Amending Section 510.03 of the City Code**

Administrator Young stated that Police Chief Johnson wanted to inform the City Council that our current ordinance regarding animal noises, such as barking dogs, is insufficient and has recommended amending the current ordinance to read:

“No person owning, operating, having charge of, or occupying, any building or premises shall keep or allow to be kept any animal which shall, by any noise, unreasonably disturb the peace and quiet of any person in the vicinity. The phrase “unreasonably disturb the peace and quiet” shall include, but is not limited to, the creation of any noise by any animal which can be heard by any person, including the Animal Control Officer or law enforcement officer, from a location outside of the building or premises where the animal is being kept and which animal

noise occurs repeatedly over at least a five minute period of time with one minute or less lapse of time between each animal noise during the five minute period.”

Motion by Councilmember Crockett to adopt Ordinance No. 05-36, Amending Section 510.03 of the Deephaven City Code and to waive the second reading. Seconded by Councilmember Kask. Motion carried 5-0.

**E. Other**

There was no other New Business this evening.

**7. REPORTS FROM STANDING COMMITTEES**

**A. Public Works Committee**

Administrator Young presented a review of the Public Works Committee meeting held on June 2, 2010 on the following items:

- Reviewed traffic monitor results on Highland Avenue and recommended the installation of advisory or caution signs indicating a sharp corner and poor visibility on Highland Avenue near Parkway.
- Reviewed traffic monitor results on Vine Street and no action was taken.
- Reviewed stormwater runoff issues and concerns with Melanie Keepman (3915 Walden Road).
- Recommended that the City Council authorize bids to resurface and Armor Crack Seal Village Hall Park Tennis Courts.
- Reviewed a complaint from James Hauck (4831 Vine Hill Road) regarding the condition of City streets during the winter months.

**B. Boat Committee**

Administrator Young presented a review of the Boat Committee meeting held on June 9, 2010 on the following items:

- Approved the rescheduling of the Boat Committee from July 14<sup>th</sup> to July 7<sup>th</sup> to accommodate a special Park Committee meeting to review playground equipment quotes.
- Measured the width of boats on slide spaces in St. Louis Bay and Carson's Bay.

**8. ADJOURNMENT**

Motion to adjourn by Councilmember Wheaton, seconded by Councilmember Kask. Motion carried 5-0. The meeting adjourned at 9:00 p.m.

Respectfully submitted,

Dana H. Young  
City Administrator