

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, JULY 8, 2010
MINUTES**

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, Kim Crockett, John Wheaton and Keith Kask

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

PLEDGE OF ALLEGIANCE

The Council recited the Pledge of Allegiance.

APPROVE CONSENT AGENDA

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

- A. Approve Minutes of June 21, 2010
- B. Approve July Verifieds
- C. Adopt Resolution No. 18-10, A Resolution Approving 2010 Election Judges

Seconded by Councilmember Crockett. Motion carried 4-0.

Councilmember Adams enters at 7:02 p.m.

4. MATTERS FROM THE FLOOR

There were no Matters from the Floor this evening.

5. PLANNING & ZONING REQUESTS

A. VARIANCE - Elmer and Laura Baldwin, 19885 Cottagewood Avenue, (R-3, 20,000) request to demolish the existing non-conforming detached garage and construct a new larger detached garage in its place which would encroach into the required front yard setback, exceed the maximum permitted accessory structure area in the R-3 Zoning District, exceed the maximum permitted accessory structure height and exceed the maximum permitted impervious surface area.

The requested variances are to encroach thirty-five feet into the required thirty-five foot front yard setback, to exceed the maximum permitted accessory structure height of fifteen feet by one foot, ten inches and to exceed the maximum permitted impervious surface area by 3.4%.

Zoning Coordinator Karpas presented his staff report. He said the request was to demolish the existing detached garage and construct a larger detached garage in essentially the same footprint. The proposed project would not increase the existing encroachment or impervious surface area, but would create a non-conformity in the permitted accessory structure height.

Karpas said the plan has been before the Planning Commission twice with it modified from the first meeting to the next. The applicant reduced the area of the structure, bringing it into compliance with the ordinance and reduced the amount of impervious surface on the site. The applicant also reduced the height by two feet and noted that only fifty percent of the garage exceeds the height requirement. He said he liked the changes and recommended approval for the request and outlined his findings.

Councilmember Kask added that there had been a question about whether the applicant's driveway encroached onto the adjacent property, but the survey indicates it doesn't. He said topography is an issue on the property and discussed the width of the proposed garage stating that it is modest and most of the structure area comes from the depth of the garage. He noted the applicant has said the depth and second story are necessary for storage.

Mayor Skrede noted the Planning Commission discussion about the proposed plumbing in the structure and asked staff if the drawings before the Council were the same as reviewed by the Planning Commission. Zoning Coordinator Karpas said the plans are the same, but the plans have been amended from the original submittal.

Councilmember Kask said along with the proposed plumbing, the Commission had some concerns about the roof height, noting the original drawings depicted a large attic area, while the revisions show a smaller second story.

Councilmember Wheaton asked if the power pole to the north could be moved. Zoning Coordinator Karpas said it could.

Mayor Skrede asked about the sump pump and how the applicant intended to drain it. Pete Jacobsen, owner of Lake Country Builders, said the sump basket would "daylight" into some drain tile around the garage. Skrede asked about the plumbing and felt any motion should include a clause that the structure could not be habitable. Mr. Jacobsen said the second story sink has been removed and only the sink in the garden room remained. He said this was done to address the concerns of the Planning Commission. He said the sink would be served by a two inch line, rather than a four inch line, which would be required if a toilet were installed.

Mayor Skrede asked about the property line, saying he thought it was along the shrub line. Mr. Jacobsen said the shrubs were put in by the neighbor a number of years ago and that there's no intention of encroaching onto their property with the new driveway. Skrede asked if guests could park in front of the garage and use the interior steps to get to the house. Mr. Jacobsen said the driveway is necessary as a drop off area for the Baldwin's in-laws and an area for unloading supplies from their vehicles.

Councilmember Crockett asked about the height of the existing structure. Mr. Jacobsen said he would guess it was approximately twenty feet in height. Crockett said the existing height is important and said she understood the issues related to attaching the garage to the home. Mr. Jacobsen said that option was explored but it did not work with the interior rooms of the house and it would have required the removal of a large oak tree.

Councilmember Kask agreed the height of the existing structure was an important component of the request. Mr. Jacobsen said the proposed structure would be higher than the existing one, noting the existing garage has low ceilings. He discussed the framing techniques used in the existing garage and contrasted them with the current code requirements. He said the plan had been modified to reduce the

height, noting the garage doors were reduced to seven feet, the ceiling height reduced to eight feet from ten feet and the pitched roof was modified to match the principal structure. He said the proposed structure height would be in compliance if the averaging provision used for principal structures were extended to accessory structures.

Mayor Skrede discussed the height of a previous accessory structure in the city and asked what the highest average height would be on the proposed structure. Zoning Coordinator Karpas said it would be sixteen feet, ten inches from grade at the road.

Councilmember Crockett said she was prepared to make a motion on the request. Mayor Skrede said he would like to see conditions placed on the initial motion so there aren't a number of friendly amendments.

Councilmember Crockett moved to accept the recommendations of staff and the Planning Commission to approve the variance requests to encroach thirty-five feet into the required thirty-five foot front yard setback, to exceed the maximum permitted accessory structure height of fifteen feet by one foot, ten inches and to exceed the maximum permitted impervious surface area by 3.4%, as presented at 19885 Cottagewood Avenue, based on the findings of staff. The motion is conditioned that the structure not be habitable, that no plumbing outside of the proposed first garden sink with a two inch pipe be placed in the structure and that the driveway be placed entirely on the subject property. Seconded by Councilmember Adams.

Councilmember Kask said he is not a fan of a sewer line from an accessory structure connecting directly to the main sewer line. He would like the line from the garage to run to the home and use the existing principal structure plumbing. Mr. Jacobsen said there was an opportunity to do that through the principal structure's crawl space, but it would be easier to connect it directly to the private sewer line in the yard.

Councilmember Wheaton asked why the sink would even have to connect to the sewer line and asked if it could be connected to the sump pump. Mayor Skrede agreed it could since the volume of water from the sink wouldn't overtax the sump pump. He would feel more comfortable with the request if the sink were connected to the sump pump.

Mr. Jacobsen asked if there was an ordinance that prohibited a second connection to a private sewer line. Zoning Coordinator Karpas said multiple connections were permitted with the written permission from the City Engineer, but the City Council has the authority to condition any variance approval.

Councilmember Crockett amended her motion to include a requirement that the sink be connected directly to the sump pump. Councilmember Adams seconded the motion. Motion carried 5-0.

6. UNFINISHED BUSINESS

A. Discuss the Sale of Wine & Non-Intoxicating Malt Liquor License

Staff summarized the licensing requirements of the state. Zoning Coordinator Karpas gave a history of the city's regulation of liquor licensing, noting the city has become more restrictive as the ordinance has evolved. The current ordinance is in line with an ordinance of a dry community, though he was unable to find any documentation that the city held an election, called a local option by the state, declaring such.

Councilmember Wheaton asked if Mr. Eduardo D'ignoti was seeking to serve beer greater than 3.2% alcohol. Mr. D'ignoti said their main desire is to serve wine greater than 14% alcohol which would be imported from Italy.

Councilmember Crockett noted that if a local option election was not held, the city could pass an ordinance and still have the authority to limit licenses on a case by case basis. City Administrator Young said the city has a lot of latitude in regulating licenses.

Councilmember Crockett proposed that city staff should undertake a reasonable search of the records to see if a local option election was ever held. She said she's supportive of the idea of allowing a restaurant in town serving wine. She thinks it's an interesting idea. She agreed the city must clearly define the parameters for regulation of licensing.

Councilmember Kask stated that he feels strongly about the issue and is not in favor of amending the ordinance. He said the city has a long history of not permitting the sale of on-site alcohol. He also has reservations about permitting a restaurant in the Chowen's Corner area due to the proximity of residential properties and the issues of parking and potentially offensive smells. He thinks the issue should be decided by the residents.

Councilmember Wheaton said the issues related to neighbor objections to a restaurant and parking is not the issue before the Council, rather it's whether to amend the ordinance to permit the sale of wine. He asked if the city could just hold a local option election in the absence of any specific information on whether one was held in the past. He said he's not opposed to the sale of wine provided restrictions are placed on the number and location of licenses.

City Administrator Young said the ballots have already been formatted so he's not sure there is still time to put the question on the ballot. Councilmember Wheaton said he's sensitive to the concerns of neighbors and feels it should be up to the citizens. He agrees there is a history to consider, but the Council's job is to inform the residents, not to shape the discussion.

Councilmember Adams said he's not opposed to amending the ordinance, but also understands there is a long history in the city regarding liquor licenses. He agrees with Councilmember Wheaton that the Council should take efforts for public input, along with researching what other area cities do in terms of number of licensing and fees.

Councilmember Crockett suggested the issue be discussed at a town hall meeting.

Mayor Skrede would prefer to see if the issue can be put on the ballot. He agrees there is a long history without the allowance of intoxicating liquor, leading him to believe the city had a local option election somewhere down the line. He's opposed to a town hall meeting at this time, until the facts are known.

Councilmember Wheaton said the language on the ballot should be narrowly defined. City Administrator Young said the League of MN Cities included sample language on a Liquor Election ballot in the material provided to the Council.

Councilmember Crockett asked if the issue could not be placed on the ballot this time around and the city hold it's own referendum. Councilmember Adams said that is risky because if the result is no, the city becomes a dry city, when it may not be one now.

The Council directed staff to research city records to determine if a local option election was ever held and if it were too late to include the question on the upcoming ballot.

B. Approve 2011 EFD Capital Equipment Plan / 2011 Operating Budget

Administrator Young provided a brief overview of the 2011 EFD Operating Budget and 2011 Capital Equipment Plan. He stated that the budget proposed a 2.02% increase in the member cities contribution from 2009 to 2011, resulting in a \$29,865 increase in 2011. He stated that \$11,865 of the increase was for Fire District operations and \$18,000 was to be used towards a mandatory contribution to the Firefighters Relief Association. He added that the total mandatory contribution to the Relief Association in 2011 was budgeted at \$80,000, with \$62,000 of that total coming from the surplus contribution that the District had budgeted in 2010.

Councilmember Kask stated that he was disappointed with the Fire Board's decision to dip further into Operating Fund reserves rather than increasing the annual municipal contribution. He stated that our City very much values an adequate fund reserve and was concerned that the Fire District Budget was becoming increasingly reliant on the use of fund reserves.

Councilmember Crockett stated that recommended size of the Operating Fund reserve for the District is far less than the reserve fund required for our City. She stated that the Fire District auditor has suggested an Operating Fund reserve of 20-30% and the District will fall comfortably within that range.

Councilmember Kask stated that in his mind, the use of fund reserves is not so much a financial issue as it is a philosophical issue.

Councilmember Crockett stated that the Fire Board agonized over the appropriate use of fund reserves and the final decision was made only after much careful deliberation. She stated that the long term issue that the Board needs to consider will be the District's responsibilities towards the Fire Relief Association because of its potential cost impact on city finances.

Mayor Skrede stated that he would like to see the percentage increase in the Operating Fund clearly delineated and noted that a 2.02% increase also includes the total District Budget, including the annual contributions to the Capital Equipment Fund and Fire Facilities Fund. He stated that the Operating Fund is actually proposed to increase 7.68% in 2011. He stated that he appreciates the Board's initiative in using the surplus funds that were budgeted this year towards the 2011 mandatory Fire Relief contribution. He added that he would also like the Board to focus future discussions on the Capital Equipment Fund and on the necessity of constantly replacing some of the smaller vehicles and developing a more economical approach to extending the life of some of the more expensive fire vehicles.

Councilmember Crockett stated that now that the District Operating Fund is relatively stable, the Fire Board will be looking more closely at the Capital Equipment Fund and to examine the proposed replacement of vehicles that is based on the number of service hours rather than on years of service.

Motion by Councilmember Kask to approve the 2011 EFD Operating Budget as presented. Seconded by Councilmember Wheaton. Motion carried 5-0.

Motion by Councilmember Kask to approve the 2011 Capital Equipment Plan as presented. Seconded by Councilmember Adams. Motion carried 5-0.

C. Other

There was no other Unfinished Business this evening.

7. NEW BUSINESS

A. Adopt Resolution No. 19-10, A Resolution Approving the 2011 – 2013 Greenwood Contract for Services

Administrator Young provided a review of the 2011 - 2013 agreement between the City of Deephaven and the City of Greenwood. He stated that under the terms of this agreement, Deephaven proposes to provide services to Greenwood in the following five areas:

- Clerical Services.
- Zoning Coordinator Services
- Building Inspection Services
- Public Works Services
- Equipment & Building Rent.

Administrator Young provided a review of the proposed services and their respective fees.

Councilmember Crockett stated that she is delighted that we are able to provide this service to Greenwood from a budgetary standpoint but noted that the fact that we are able to find 20 hours tells her that we might be overstaffed.

Mayor Skrede stated that her point is well made.

Administrator Young stated that this contract and the associated 20 hours per week that has been allocated to service this contract will not be the sole responsibility of a single staff member but will be split among a number of existing staff members. He stated that he believes that the primary reason we are able to provide these clerical services to Greenwood over and above staff's regular responsibilities is more reflective of our staff's efficiency rather than the fact that our staff has 20 hours of slack time that can be devoted to Greenwood.

Motion by Councilmember Kask to adopt Resolution No. 19-10, A Resolution Approving the 2011-2013 Contract for Services with the City of Greenwood. Seconded by Councilmember Crockett. Motion carried 5-0.

B. Other

There was no other New Business this evening.

8. DEPARTMENT REPORTS

A. Police Department

Chief Johnson noted that the June Police Incident Report has been distributed to the Council this evening, the Police Department activities continue to be exceptionally busy, and July 4th was relatively quiet.

B. Excelsior Fire District

EFD Liaison Kim Crockett stated that there was nothing new to report on the Excelsior Fire District apart from this evening's review and approval of the 2011 EFD Operating Budget and Capital Equipment Plan.

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:

- Woodland Annual Contract
- Election Preparations
- Excelsior Fire District City Budget Meeting
- Playground Equipment Bids / Tennis Court Repair Bids
- Goose Survey

9. ADJOURNMENT

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

Respectfully submitted,
Dana Young, City Administrator