

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, DECEMBER 19, 2011
MINUTES**

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

PRESENT: Mayor Paul Skrede, Councilmembers Josh Hackney, John Wheaton (enters at 7:31 p.m.), Darel Gustafson and Keith Kask

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

2. **PLEDGE OF ALLEGIANCE**

The Council recited the Pledge of Allegiance.

3. **APPROVE DECEMBER 5, 2011 COUNCIL MINUTES**

Motion by Councilmember Kask to approve the December 5, 2011 Special Council Work Session minutes and the December 5, 2011 Regular Council minutes. Seconded by Councilmember Hackney. Motion carried 4-0.

4. **MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

5. **UNFINISHED BUSINESS**

- A. **Approve Ord. No. 13-58, Amending Section 13 of the Zoning Code**

Zoning Coordinator Karpas summarized the changes made to the proposed ordinance based on the comments made at the previous Council meeting. He said the main issues included hours of operation and what an acceptable setback would be from liquor oriented uses and residential structures. He noted he had made some maps showing a one hundred foot setback from commercial structures and one hundred feet from commercially zoned properties.

Mayor Skrede discussed the setback issue and suggested basing the required setback on the adoption of the ordinance. Councilmember Gustafson said that would create an issue in that someone will always be in violation of the ordinance and that there could be undue restrictions placed on property owners, since a modification of a residential property could place it closer to an already established liquor use, while at the same time eliminating a building from a future liquor use, even though one may exist at the time. Skrede said the ordinance can reference that the property must be in compliance at the time of the application. Gustafson feels this would create a web of confusion. Councilmember Hackney agreed. Councilmember Kask said the ordinance could reference the aerial photos, but that just creates a messy ordinance since things are constantly changing. He said the setback is established to protect residential property owners and he's not sure how to realistically address it in the ordinance. Zoning Coordinator Karpas suggested basing the setback on the commercial structure's setback from residentially zoned property lines.

The Council felt that method would be acceptable and discussed what the appropriate setback should be. Zoning Coordinator Karpas referenced the maps provided to the Council, noting a setback of eighty-five feet from the property line would eliminate a number of structures that were included using the one hundred foot structure to structure setback. Councilmember Kask felt the setback should be eighty-five feet, noting that adding that to the minimum required rear yard setback of fifteen feet for the residential properties would create a total setback of one hundred feet, which he feels is pretty liberal. Mayor Skrede commented that what goes on inside the building would have little effect on the neighboring residential properties. Kask disagreed since there would still be issues such as cooking smells. Skrede said it's difficult to define smells when considering setbacks. He suggested having greater setback restrictions for outdoor patios. Kask agreed there would be greater restrictions needed for patios but he also has concerns about activity in parking lots such as lighting and traffic. Skrede said the city cannot arbitrarily hamstring the commercial properties. He said the intent of the ordinance is to provide as much protection as possible. Kask said there's a struggle in creating this ordinance due to residential areas being located so close to all the commercial properties in the city. He said he never intended on drafting an ordinance that would afford all commercial structures the ability to house liquor related businesses.

The Council discussed the different commercial areas located within the city and what impact different setbacks would have.

Councilmember Kask questioned what type of regulations would be reasonable for outside dining. Mayor Skrede said he didn't believe that type of use would be conducive in the city's commercial areas because they front on Minnetonka Boulevard and have parking lots in the rear. Zoning Coordinator Karpas said the ordinance could restrict outside consumption of liquor as a way to discourage outdoor dining. The Council agreed to limit consumption to inside the structure.

The Council agreed that the setback should be seventy-five feet, measured from the actual business and not the entire structure that houses it.

Mayor Skrede noted that additional fees must be added to the fee schedule in Chapter 4 of the City Code.

Zoning Coordinator Karpas said he would have an amended ordinance for the Council's review at the January 3rd meeting.

B. Approve Ord. No. 04-50, Liquor Control Ordinance

The Council discussed a number of minor amendments to the proposed liquor control ordinance, including a reduction on the number of permitted on-site liquor licenses from five to three, directing staff to establish a fee for one day licenses, setting the investigation fee to the statutory maximum, adding language regarding neighbor notification, modifying the allowed business hours to match those in the Zoning Ordinance and adding language limiting the consumption of liquor to within a structure.

The Council will continue the discussion on the proposed ordinance at their January 3rd meeting.

Councilmember Wheaton asked if the city has ever considered the adoption of a Social Host ordinance. Mayor Skrede said he has discussed this issue in the past with the Police Chief. Chief Johnson felt it was not warranted since there were enough regulations throughout the ordinance to address the issue.

C. Revise Alternate Dates Selected for 2012 Council Meetings

Administrator Young stated that the Deephaven City Council rescheduled three Regular Council meetings at their last meeting that conflict with New Year's Day, Labor Day, and pre-election day preparations. He stated that following the Council meeting, Mayor Deb Kind of Greenwood asked if the City of Greenwood could change the date of their monthly meetings from the first Tuesday of the month to the first Wednesday in order to avoid several scheduling conflicts that occur on the first Tuesday of the month.

He stated that there are currently two scheduling conflicts that would need to be resolved to enable Greenwood to switch to the first Wednesday of the month. The first is with the Deephaven Park Committee, which currently meets on the first Wednesday of the month. He stated that the Park Committee agreed to switch their meetings to the first Tuesday of the month at the December 7th Park Committee meeting.

He stated that the only other conflict with the first Wednesday of the month would be the three alternate Council meeting dates that had been selected and approved by the Deephaven City Council at their last meeting. He stated that the scheduling conflict can be resolved by moving the Regular Council meetings to the following dates:

<u>Date</u>	<u>Event</u>	<u>Alternate Date</u>
Monday, January 2nd	New Year's Day	Tuesday, January 3rd
Monday, September 3rd	Labor Day	Tuesday, September 4th
Monday, November 5 th	Pre-Election Day	Thursday, November 8 th

Councilmember Kask stated that the switch to the first Tuesday would actually work better for him.

Councilmember Gustafson stated that he didn't have a problem with the rescheduled dates.

Councilmembers Hackney and Wheaton agreed that they also didn't have a problem with the rescheduled dates.

Mayor Skrede stated that he was disappointed that this came to our attention in this manner. He stated this issue should have been brought to the Council's attention back in October. He stated that he thought it presumptive of Greenwood to approve their new meeting date without obtaining the Council's approval. He stated that this is not the way we are going to do business and objected to the way this was brought to the Council.

Motion by Councilmember Wheaton to approve the alternate dates for three regularly scheduled Council meetings. Seconded by Councilmember Kask. Mayor Skrede opposed. Motion carried 4-1.

D. Other

Administrator Young stated that the cost of the 2011 Caterpillar loader from Ziegler has increased by \$1,656.56 from \$141,657.47 to \$143,314.03 due to the fact that Ziegler neglected to include the cost of installing the rear vision camera in their original price. Administrator Young stated that staff is requesting approval of the revised cost in the amount of \$143,314.03 for the 2011 Caterpillar loader.

Motion by Councilmember Kask to approve the revised price of a 2011 Caterpillar loader from Ziegler in an amount not to exceed \$145,000.00. Seconded by Councilmember Wheaton. Motion carried 5-0.

6. NEW BUSINESS

A. Present Ordinance No. 04-49, Regulating the Conduct of Peddlers

Administrator Young stated that he had been approached several months ago by Police Chief Johnson with the request to revise the current ordinance regulating the conduct of peddlers, solicitors, and transient merchants within the city. He stated that the proposed ordinance provides a more comprehensive approach to regulating peddlers, solicitors, and transient merchants by listing those individuals that would be exempt from obtaining a license, those individuals that are not eligible for a license, expanding the information required in the license application, and broadening the standards of conduct.

Chief Johnson stated that this is the second time we have looked at amending the ordinance regulating the conduct of peddlers and the proposed ordinance would give his department more authority in dealing with peddlers and solicitors. He stated that he thought the proposed ordinance was pretty solid in regards to the standards of conduct and the application process.

Mayor Skrede asked if the identification card was included with the Council material.

Chief Johnson stated that it has not been included. He stated that his department provides a laminated card that is given to the licensed applicants.

Mayor Skrede stated that a copy of the laminated identification card should be posted on the website for the residents to review.

Councilmember Hackney stated that he thought the identification card should include a picture ID. Mayor Skrede agreed.

Councilmember Wheaton suggested that the term "Exclusion List" in the proposed ordinance should be called the "Do Not Solicit List" for the sake of clarity.

Councilmember Hackney asked if those individuals soliciting money, donations or financial assistance for a political, religious or non-profit tax-exempt organization are required to be licensed.

Chief Johnson stated that under this proposed ordinance, these individuals would not be licensed.

Councilmember Gustafson stated that it is not uncommon for solicitors to arrive in a neighborhood in a van containing a large number of kids who start soliciting the neighborhood. He asked if each of these kids would be licensed.

Chief Johnson stated that each individual would be licensed under this ordinance.

The Council recommended specific language changes to the ordinance, including the proposed hours of soliciting. Further discussion was held on whether state law permitted charging a fee to cover the costs of a photo ID.

Mayor Skrede requested that staff make the requested changes to the proposed ordinance, review whether it would be permissible to charge a fee for the costs of the photo ID, and return the ordinance for Council review at the January meeting.

B. Approve 2012 Police Contract Reopener on 2012 Group Health Contributions

Administrator Young stated that the Deephaven City Council approved the 2011-2013 Police Union Agreement on January 3, 2011. He stated that with group health costs uncertain at that time for 2012 and 2013, the Agreement included a stipulation requiring the contract to be reopened for negotiation on the Employer's contribution towards health insurance in 2012 and 2013.

Administrator Young stated now that the costs of group health insurance and the City's proposed contribution are known, the following language has been approved subject to Council approval:

17.1 Effective calendar year 2012 the EMPLOYER will contribute fifty-four percent (54.0%) of the family group health premium rate per month per employee toward health, life, long-term disability insurance and the cost of the single coverage of the group dental insurance plan selected.

17.2 The contract shall be reopened for negotiation on the EMPLOYER'S contribution towards health insurance in 2013.

Administrator Young stated that the 2012 Employer contribution towards the monthly family group health premium is \$865.62 and the 2012 Employer contribution towards the monthly single dental premium is \$37.94.

Motion by Councilmember Kask to approve the 2012 Police Contract Reopener on 2012 Group Health & Dental Contribution as presented. Seconded by Councilmember Gustafson. Motion carried 5-0.

7. REPORTS FROM STANDING COMMITTEES

A. Public Works Committee

Administrator Young presented a review of the Public Works Committee meeting held on December 7, 2011 on the following items:

- Final discussion was held on the request to remove a street light at the intersection of Western Road & Harper Road. He stated that the Public Works Committee has recommended relocating the street light, which would be similar to the lighting on Gray's Bay Bridge, to Donkey Park with the cost paid by the applicant, David Tucker.

Howard Bennis asked if the City had approved a new design for a street pole.

Mayor Skrede stated that the design for the street light at Western Road & Harper Road would mirror the street lights on Gray's Bay Bridge.

Howard Bennis stated that if a new street light were requested on Minnetonka Blvd, for example, would the Council select a standardized pole so that the street lights would be uniform throughout the city.

Councilmember Wheaton stated that he wouldn't be surprised if a number of residents requested the more aesthetic street lights.

Howard Bennis asked who would be responsible for maintaining these new street lights. He stated that Xcel Energy typically only want to maintain standardized street lights.

Mayor Skrede stated that the Public Works Committee could explore various street lighting options for Council consideration.

Administrator Young continued his summary of the Public Works Committee meeting held on December 7, 2011:

- The Committee recommended storing snow along the west side of the Chowen's Corner parking lot as an alternative to trucking the snow to Robinson's Bay Beach. If the pile of snow became too large, the crew would then have to truck it to Robinson's Bay Beach.
- Reviewed several options on the Vine Hill & Hwy 7 Intersection Improvement plan and discussed the possibility of delaying the replacement of the signal lights in 2012 until further discussion could be held with the cities of Minnetonka and Shorewood about the possibility of entering into a Cooperative Agreement to undertake intersection improvements.

Mayor Skrede provided a summary of the meeting held with Police Chief Johnson, MNDOT representatives, and the Minnetonka City Engineer on intersection improvements, the benefits of entering into a Cooperative Agreement with the cities of Shorewood and Minnetonka in order to receive potential state funding, and on the proposed delay on the replacement of the signal lights next year to explore the possibility of entering into a joint intersection improvement project.

B. Park Committee

Administrator Young presented a review of the Park Committee meeting held on December 7, 2011 on the following items:

- Recommended the reappointment of John Flynn to a second one-year term and the reappointment of Rebecca Sundquist and Patrick Regan to a three-year term effective until February 2015.
- Discussed the potential repair or removal of the boardwalk at Deephaven Beach due to the poor condition of the boardwalk.
- Developed a policy on the rental and purchase of platform tennis paddles and balls.
- Discussed the potential replacement and reconfiguration of the Burton Park fishing pier.
- Approved a switch in Committee meeting dates from the first Wednesday of the month to the first Tuesday of the month.
- Reappointed John Flynn as 2012 Chairman and Scott Ferguson as 2012 Vice-Chairman.
- Tabled any further planning on the proposed City Hall Memorial Park until funding has been assigned to the project.

Councilmember Kask noted that he and his son helped to construct the dock at Burton Park as an Eagle Scout project and noted that the dock isn't really a fishing pier since the water depth at the end of the dock is only about six inches. He stated that it was built to enable residents to get a better view of the Back Bay and the school uses it from time to time to assist with science projects. He stated that it is a nature dock and not a fishing pier.

Mayor Skrede noted that the Park Committee should be informed that any changes to this dock would require LMCD approval.

8. ADJOURNMENT

Motion to adjourn by Councilmember Kask, seconded by Councilmember Wheaton. Motion carried 5-0. The meeting adjourned at 8:55 p.m.

Respectfully submitted,

Dana H. Young
City Administrator