

**DEEPHAVEN CITY COUNCIL MEETING  
MONDAY, APRIL 4, 2011  
MINUTES**

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

PRESENT: Mayor Paul Skrede, Councilmembers John Wheaton, Josh Hackney, Keith Kask and Darel Gustafson

STAFF: Police Chief Cory Johnson, City Assessor Dan Distel 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. March 21, 2011 Minutes
- B. Approve April Verifieds

Seconded by Councilmember Hackney. Motion carried 5-0.

4. **BOARD OF APPEAL & EQUALIZATION**

Mayor Skrede opened the Board of Appeals and Equalization at 6:02 p.m. and stated that the purpose of tonight's meeting is to review property valuations and hear from those property owners who would like to appeal their 2011 estimated market value as set by City Assessor Dan Distel. He welcomed LuAnn Hagan from the Hennepin County Assessor's Office, who was also in attendance and introduced City Assessor Dan Distel.

City Assessor Dan Distel stated that he has been the assessor in Deephaven, Woodland and Wayzata since 1988. He stated that his goal is to assign property values as close to their actual selling price as possible. He provided a brief review on how market values are established and noted that his intent is to set market values to within 95% of their actual sale price.

Mayor Skrede added that the 95% goal is a directive from the County, who want the assessment to be targeted at 95% of the actual sale price.

Mayor Skrede stated that tonight's Board of Review will be televised, as is the practice for all regular Council meetings. He stated that every resident appealing their market value this evening will have the opportunity to appeal directly to the Hennepin County Board of Appeal & Equalization on June 13<sup>th</sup> if they are unhappy with the Board's decision this evening. He stated that the format for this evening's Board of Review will be to hear from all residents first, then take specific action on the appeals later in the meeting. He stated that the Board will recess the Board of Review meeting after hearing from all

those residents currently in attendance and reconvene the meeting at the end of the Regular Council meeting to give all late arrivals the opportunity to present their appeal.

Terry Kerber, 20060 Minnetonka Blvd

Mr. Kerber stated that he applied for refinancing from Wells Fargo in January and Wells Fargo gave an appraisal of his property at \$616,000, which is well below the current listed market value of \$798,000. Mr. Kerber stated that there is a significant difference between Wells Fargo's appraisal of \$616,000 and the City Assessor's assessment of \$798,000. He stated that he had appealed Wells Fargo's appraisal using the City Assessor's figure of \$798,000 but the appeal had been denied. He stated that he felt that a fair valuation would be to split the difference of \$182,000 between the two valuations and lower his valuation by that amount.

City Assessor Distel corrected Mr. Kerber by noting that his 2011 market value is \$749,000 and not \$798,000, which was his 2010 market value. He stated that he supports his valuation on Mr. Kerber's property due to the fact that the appraisal undertaken by Wells Fargo does not take into account the eight recent sales that had taken place in Carson's Bay. He stated that even after substantially discounting the land value due to its location on Minnetonka Blvd rather than Cottagewood Road, he felt that the \$749,000 value placed on Mr. Kerber's property was in line with these recent sales.

Councilmember Hackney agreed that the value was very accurate in comparing the value of Mr. Kerber's property with the other recent sales on Carson's Bay. He stated that he would take issue with the appraisal done by Wells Fargo and not the valuation determined by the City Assessor.

Councilmember Kask stated that it is very difficult to make comparisons with other geographic areas. He stated that both the 2011 land and building values assigned to Mr. Kerber's property looked like good values.

Councilmember Wheaton agreed that the bank's appraisal was not accurate and that Mound and Minnetrista were not good comparisons with this property.

Councilmember Gustafson added that banks are very risk adverse these days and are going to be on the low side with their appraisals.

Motion by Councilmember Wheaton to approve the City Assessor's 2011 value of \$749,000 at 20060 Minnetonka Blvd. Seconded by Councilmember Gustafson. Motion carried 5-0.

Stephen Farnes, 5014 Vine Hill Road

Stephen Farnes stated that he bought this property for \$190,000 at an IRS auction sale and he doesn't consider this as a forced sale. He stated that the property last sold for \$108,200 in December 1987 and he felt that the market value of the property should be what he bought it for. He also noted that the property is right on Vine Hill Road, a very busy street.

City Assessor Distel stated that anytime a property is sold by the government it is not considered an "arms length" transaction by assessors or the MN Department of Revenue. He stated that other foreclosures or bank sales are also not considered as good sales. He stated that he agreed with Mr. Farnes regarding the proximity of his property to the road. He stated that the value of the property has already been lowered from \$273,000 in 2010 to \$221,000 in 2011. He stated that he tried to make whatever adjustments that he could on the property and tried to find other comparable sales to justify a

further reduction, but was unable to do so. He stated that he needs to maintain equalization of values throughout the city.

Mayor Skrede asked if Hennepin County would consider this a valid sale.

City Assessor Distel stated that this sale would be considered by the County as a valid sale for comparison purposes.

Stephen Farnes stated that there wasn't anything that would distinguish this as a forced sale.

Mayor Skrede stated that while there is nothing that indicates that this wasn't a proper sale, the government may determine a sale price based on the debt remaining on the property.

Councilmember Kask stated that there are two other neighboring homes on Vine Hill Road that are nearly identical in size and style and asked the City Assessor what were the 2011 market values on these two properties.

City Assessor Distel stated that the 2011 market value of these two comparable properties on Vine Hill Road is listed at \$221,000 and \$240,000.

Councilmember Kask stated that he didn't consider the IRS auction as an "arms length" transaction, the Board has to support the equalization of property, and although both these two other comparable properties haven't sold, almost all three of these homes are almost identical in value.

Councilmember Wheaton agreed that IRS would not be considered as a "reasonable" seller.

Motion by Councilmember Kask to approve the City Assessor's 2011 value of \$221,000 at 5014 Vine Hill Road. Seconded by Councilmember Wheaton. Motion carried 5-0.

#### Huagui Li, 19700 Lakeview Avenue

Huagui Li stated that he will be closing on a property at 19700 Lakeview Avenue on May 2<sup>nd</sup> at a price of \$1,733,000. He stated that this is substantially below the current assessed value of \$1,828,000. He stated that he felt the current value was too high based on his upcoming purchase of the property.

Mayor Skrede stated that his main question was one of timing. He stated that the City Assessor determines values based on a sale period from October 2009 – September 2010 and Mr. Li isn't even the homeowner of record of yet. He stated that it might be more appropriate for Mr. Li to appeal next year, since we are already seven months past the sale period. He added that the actual sale hasn't even taken place yet and the sale could very well fall through on or before the May 2<sup>nd</sup> closing date. He stated that the Board tends to deal with actual certified sales, not pending sales.

City Assessor Distel agreed that this doesn't happen very often but perhaps Mr. Li could go to the Hennepin County Board of Appeal & Equalization after the sale is final.

Councilmember Wheaton stated that he felt this pending sale was several months too late and should come back to the Board next year.

Mayor Skrede stated that the Board should be hearing this request from the current owner of record.

Mr. Li stated that he wanted to come to this meeting in order to qualify for an appeal before the Hennepin County Board of Appeal & Equalization.

Mayor Skrede suggested that Mr. Li might have more standing at that meeting since the closing would already have occurred. He stated that since they are not the owners of record at this meeting, our Board should probably take no action but could recommend that they appear before Hennepin County since they would be the official owners of record by that meeting.

Councilmember Wheaton agreed that he would have some difficulty in acting on their appeal without Mr. Li actually owning the home.

Hennepin County Representative LuAnn Hagen stated that Minnesota State Statutes 274 does not allow the Board of Review to even consider their request because the owner of record was not present. In addition, she stated that Hennepin County would not take any action on their appeal since the Deephaven Board of Review is not able to consider their request. She stated that Mr. Li's only course of action at this time would to pursue their appeal through the Minnesota tax courts.

Motion by Councilmember Kask to decline to review Mr. Li's appeal because the property owner of record was not present at the meeting. Seconded by Councilmember Wheaton. Motion carried 5-0.

Nancie Johnson, 18305 Minnetonka Blvd

Mayor Skrede presented a letter from Nancie Johnson appealing the 2011 valuation of her property at 18305 Minnetonka Blvd. He noted that due to the short notice that the City Assessor had to act on her appeal, no appropriate action can be taken on the appeal and recommended that Nancie Johnson submit her appeal to the Hennepin County Board of Appeal & Equalization.

Motion by Councilmember Kask to approve the City Assessor's 2011 value of \$755,000 at 18305 Minnetonka Blvd. Seconded by Councilmember Wheaton. Motion carried 5-0.

The Board recessed the meeting at 7:07 p.m. to see if any other residents showed up to meet with the Board of Appeals.

The Board reconvened the meeting at 7:50 p.m. Hearing no further requests, the Board of Appeals was adjourned on a motion by Councilmember Kask. Seconded by Councilmember Hackney. Motion carried 5-0.

**5. NEW BUSINESS**

**A. Approve 2011 Lifeguard Service Contract**

Administrator Young stated that, with the exception of 2005 when the City Council contracted with Minnesota Safety Services, the City has contracted with Minnetonka Community Education (MCE) for the provision of Lifeguard Services.

He stated that MCE has submitted a quote in the amount of \$35,555 for 2011 Lifeguard Services, which represents an increase of \$1,035 or 3% over the cost for 2010 Lifeguard Services. This fee provides Lifeguard Services for a 65-day period from Saturday, June 11<sup>th</sup> through Sunday, August 14<sup>th</sup> at the same weekly schedule as 2010:

Deephaven Main Beach	11:00 a.m. – 8:00 p.m. / 7 days per week
Sandy Beach	12:00 p.m. – 6:00 p.m. / 7 days per week
Robinson's Bay Beach	12:00 p.m. – 6:00 p.m. / 7 days per week

A five-year cost comparison is shown below:

Year	Price	% Increase	Days of Service
2007	\$31,612	4.0%	88
2008	\$32,876	4.0%	88
2009	\$34,520	5.0%	68
2010	\$34,520	0.0%	65
2011	\$35,555	3.0%	65

Administrator Young stated that MCE has offered to provide additional cost options if the Council would like to reduce the number of daily hours at any or all of the three beaches. He noted that the 2011 Budget for lifeguard services is \$36,625.

Discussion was held regarding current usage at all three beaches.

Mayor Skrede stated that the Council could request a specific cost breakdown for lifeguard services at each beach to consider whether to reduce lifeguard services at Sandy Beach and/or Robinson's Bay Beach.

Councilmember Kask stated that the City of Deephaven remains somewhat unusual in that we staff all three of our beaches with lifeguards.

Councilmember Hackney suggested that we could get competitive bids for lifeguard services. He noted that the City of Wayzata employees their own lifeguards.

Councilmember Gustafson noted that the lifeguard service contract has actually increased 25% from 2008 to 2009 when the reduction in the number of days of service in 2009 is taken into consideration.

Mayor Skrede stated that the Council has always looked to reduce costs by discussing whether to eliminate lifeguard service at a particular beach. He stated that, as an alternative, the Council could come up with a total dollar amount that they were willing to spend on lifeguard services and ask MCE to determine what type of service they could provide with that specific dollar amount.

Councilmember Wheaton stated that both Sandy Beach and Robinson's Bay Beach are popular beaches but neither attracts large crowds.

Councilmember Hackney stated that with his experience at Sandy Beach, most of the users are small kids. He stated that Deephaven is a lake community and he would like to examine the cost of lifeguard services in context with other things that we are spending money on. He noted that more residents would be adversely impacted by the loss of lifeguard services than those who were benefitted by the resurfacing of the tennis courts.

Councilmember Kask stated that he agreed with Councilmember Hackney's comment and added that it would also be tough to decide which beach to eliminate lifeguard services.

Mayor Skrede stated that he doesn't have any problem with having lifeguards at all three beaches but would like a 2% increase instead of a 3% increase in the lifeguard service proposal and would like to review hours of operation at each beach.

Councilmember Hackney stated that he felt Sandy Beach should only have lifeguards until 5:00 p.m. instead of the current proposal to have lifeguards until 6:00 p.m.

Mayor Skrede stated that there is a certain child care component to having lifeguards and wouldn't be opposed to reducing lifeguard hours at each beach to 5:00 p.m.

Councilmember Kask stated that Deephaven Main Beach is our primary beach asset and felt that lifeguards should be present until 7:00 p.m. at this beach.

Councilmember Hackney agreed and stated that Wayzata's main beach provide lifeguards until 6:00 p.m.

The Council requested that staff ask MCE to revise their lifeguard services proposal to include a reduction of one hour per day of lifeguard services at each beach and achieve an overall increase of 2% or less.

**B. Other**

Discussion was held regarding a public hearing that will be held at the April 18<sup>th</sup> Council meeting to discuss the sale of a \$1.5 million tax exempt revenue bond for Benilde-St. Margaret School.

**6. DEPARTMENT REPORTS**

**A. Police Department**

Chief Cory Johnson reported that they are working out the kinks in the speed trailer.

**B. Excelsior Fire District**

Councilmember Gustafson provided a brief update on the March 23<sup>rd</sup> Fire Board meeting:

- The 2010 Audit was presented and it was a clean audit with no exceptions.
- Discussion on unspent construction funds was held with Greenwood & Deephaven requesting the return of the funds to each city and Tonka Bay and Shorewood requesting the use of the funds towards some specific purpose. The Excelsior City Council hadn't discussed the issue as of yet.
- The 2010 Annual Report was presented.
- A 2012 budget work session will be held on April 6<sup>th</sup>, which included an overall 1.6% budget increase and a 6.16% increase in the cities contribution.

**C. Public Works**

Administrator Young provided an update on recent and upcoming public work activities.

Councilmember Gustafson noted that there has been frost damage to the walking path at Thorpe Park. Administrator Young stated that the Public Works Committee will review this issue at Wednesday's meeting.

**D. Administration**

Administrator Young provided a brief summary on the following items:

- April Mailings
- Property Management Plan
- City Hall Improvements
- Record Retention efforts
- State of the Cities Chamber meeting on March 17<sup>th</sup>

**7. ADJOURNMENT**

Motion to adjourn by Councilmember Hackney, seconded by Councilmember Wheaton. Motion carried 5-0. The meeting adjourned at 8:15 p.m.

Respectfully submitted,  
Dana H. Young  
City Administrator