

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, MAY 2, 2011
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 Josh Hackney, John Wheaton, Keith Kask and Darel Gustafson

STAFF: Police Chief Cory Johnson 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 April 18, 2011
- B. Approve Verifieds

Seconded by Councilmember Wheaton. Motion carried 5-0.

4. **MATTERS FROM THE FLOOR**

David Garber, 18880 Ridgewood Road, was present to discuss a section of the Home Occupation Ordinance that is restricting his ability to obtain a federal firearm's license. He stated that he would like to start an internet business involving the assembling of firearms for sale to law enforcement agencies from his home but the City's Home Occupation Ordinance prohibits firearm and ammunition sales. He stated that he would like to request either a change in the language of the Home Occupation Ordinance or that he be permitted to obtain a Conditional Use Permit. He stated that he has applied for the federal firearm's license but needs zoning approval from the City to order to obtain the license.

Mayor Skrede stated that the section of the Home Occupation Ordinance in question is 1306.07, Subd. 8, which prohibits the sale, lease, trade or other transfer of firearms or ammunitions as a permitted home occupation.

Further discussion was held on the nature of the business proposed by Mr. Garber.

Mayor Skrede asked if the Council would be agreeable to having the Planning Commission review the ramifications of changing this ordinance.

Councilmember Kask asked if the sale of firearms was a permitted use in a commercial district. He stated that he wouldn't consider allowing the sale of firearms as a home occupation if it wasn't a permitted use in a commercial district.

Mayor Skrede directed the Planning Commission to review the Home Occupation Ordinance and the Zoning Code as it pertains to the sale of firearms and research why the sale of firearms and ammunition isn't included as a permitted or prohibited business under the commercial district and why the sale of firearms and ammunition is specifically prohibited as a home occupation.

5. UNFINISHED BUSINESS

A. Approve 2011 Lifeguard Service Contract

Administrator Young stated on April 4, 2011, the Deephaven City Council reviewed a proposal from MCE that offered to provide 2011 Lifeguard Services at a cost of \$35,555. He stated that the Council decided to counteroffer with a proposal that reduced lifeguard services by one hour per day at Deephaven Beach, Rocky Beach and Sandy Beach with the intent to lower the increase in 2011 contract fees to a minimum increase of no more than 2%.

Administrator Young stated that MCE has submitted a revised quote in the amount of \$32,565 for 2011 Lifeguard Services, which is a decrease of \$1,955 or 5.7% over the cost of 2010 Lifeguard Services. He stated that this fee provides Lifeguard Services for a 65-day period from Saturday, June 11th through Sunday, August 14th at the same weekly schedule as 2010 but with a reduction of one hour per day at each beach:

Deephaven Main Beach	11:00 a.m. – 7:00 p.m. / 7 days per week
Sandy Beach	12:00 p.m. – 5:00 p.m. / 7 days per week
Robinson's Bay Beach	12:00 p.m. – 5:00 p.m. / 7 days per week

Motion by Councilmember Kask to approve the 2011 Lifeguard Service Contract proposal with Minnetonka Community Education in the amount of \$32,565.00. Seconded by Councilmember Hackney. Motion carried 5-0.

B. Discuss Thorpe Park Walking Path Repairs

Administrator Young stated that there is a 20-foot section of the walking path in Thorpe Park, located near the basketball court along Westview Drive that had been damaged by the City plow during snow removal operations resulting in the substantial cracking of the bituminous surface along the eastern edge of the walking path.

He stated that the damage to the path was actually caused during the last significant snow clearing event of the year, after the vast majority of the snow had melted from Thorpe Park, including the snow banks alongside the trail. He stated Public Works Supervisor Jerry Hudlow was clearing the snow with the one ton dump truck following the 5-inch snowfall and he was unable to stay on certain portions of the walking path due to the limited number of stakes remaining around the path and the fact that much of the path was indistinguishable from the rest of the park due to the melting of the surrounding snow banks. As a result, he missed numerous segments of the path causing ruts and plow damage to the grounds immediately surrounding the path and damaging a 20-foot segment of the bituminous path itself.

Administrator Young stated that the Public Works crew will repair both the damage to the grounds and the walking path in May. He added that, under similar circumstances in the future, the crew will use

the snow blower to clear the park walking path rather than the one ton truck and install more stakes around the trail prior to the snow plowing season.

C. Other

There was no other Unfinished Business this evening.

6. NEW BUSINESS

A. Adopt Ordinance No. 05-37. An Ord. Amending Section 535 Public Nuisances

Administrator Young stated that Mayor Skrede and City Staff received a complaint several weeks ago regarding the parking of several boats at 4127 Hillcrest Road. Following an inspection of the property, it was noted that there were four boats on trailers and one empty trailer parked on this property and not one of the boats or trailers were owned by the property owner. He stated that a review of Section 535 of the City Code pertaining to Public Nuisances determined that there is currently no language in the Deephaven City Code that would prohibit a residential property owner from storing boats, vehicles, and other items that is not his or her own personal property. He stated at issue is whether residential property owners should be allowed to provide for the storage of items on his or her property of items that they don't own.

Administrator Young stated that City staff is recommending the adoption of the Ordinance No. 05-37, which states that:

“Vehicles, watercraft, recreational vehicles, trailers, all-terrain vehicles, snowmobiles, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.”

Councilmember Kask stated that the language might need to be modified to address individuals who rent a property. He suggested adding “...residential property must be owned by a person who *owns or* resides on that property”.

Councilmember Wheaton suggested placing a timeframe, such as 30 days, on the length of time that items can be permitted to be stored on the property.

Mayor Skrede noted that the intent of the ordinance is not to add restrictions to those property owners that own the stored material but rather to prohibit property owners from storing property that is not theirs.

Councilmember Hackney stated that he strongly favors property rights and questioned the impact of this ordinance on the storage of boats on the lake or on the storage of such items such as snowmobiles or boats owned by relatives of the property owner.

Councilmember Kask suggested that the ordinance could be modified to prohibit the storage of items not owned by the property owner to 60 days or establishing a specific length requirement, such as items in excess of 13 feet.

Councilmember Wheaton stated that he is also a strong property rights advocate but felt that this ordinance, as modified, would protect the property rights of neighbors.

The Council requested that Ordinance No. 05-37, an Ordinance Amending Section 535 of the Deephaven City Code entitled Public Nuisances, be amended as directed by the Council and submitted for adoption at the May 16, 2011 Council meeting.

B. Other

Councilmember Gustafson stated that he has been approached by a neighbor who is a commercial landscaper with a request that the City Council consider requiring the licensing of commercial lawn care companies. He stated that his neighbor is licensed by the State of Minnesota to provide chemical lawn treatments and he has over \$1 million dollars in commercial liability insurance and doesn't understand why the City is not requiring lawn care companies to be licensed as is the case with other contractors.

Police Chief Johnson stated that it would be difficult to enforce the licensing of commercial lawn care companies.

Further discussion was held on the difficulties in differentiating between lawn care companies applying chemical treatment versus the neighborhood kids contracted to mow lawns.

Further discussion was held on the proposed letter from the City to the Minnetonka School Board in response to the letter sent by Paul Bourgeois, Director of Finance and Operations with Minnetonka Public Schools.

7. DEPARTMENT REPORTS

A. Police Department

Police Chief Cory Johnson stated that the April Incident Report has been sent out and that he has received a lot of positive comments regarding the speed trailer. He added that there has been some difficulty in outfitting the new squad car due to Dodge unexpectedly changing some of the interior specifications on their vehicle.

B. Excelsior Fire District

EFD Liaison Darel Gustafson provided a brief summary of the April 20th Fire Board Budget Work Session. He stated that the Fire Board has asked each member city to comment on the proposed \$93,140 increase in the municipal contribution, which is proposed to increase in 2012 to support a 1.28% increase in the 2012 Fire Budget and an \$80,000 increase in the mandatory Fire Relief contribution. He stated that options to consider include:

1. Look into the possibility of making further cuts in the proposed Operating Fund Budget.
2. Use the \$40,000 in Unspent Construction Funds to offset \$40,000 of the mandatory Fire Relief Contribution.
3. Use \$40,000 in Operating Fund Reserves, which would lower the fund reserve to an estimated 26.37% at the end of 2012.

He stated that he supported using \$40,000 in Unspent Construction Funds and \$40,000 in Operating Fund Reserves as the preferred method to addressing the \$80,000 mandatory contribution and to drive down the overall costs of the District.

The Council agreed with Councilmember Gustafson's position.

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:

- Summer Hours for City Hall
- Part-Time Summer Help
- City Cleanup Day
- Arbor Day
- CenterPoint Energy Project on Northern Road, Jefferson Street and a portion of Cottagewood Road
- Adoption of the Variance Bill by the state legislature

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