

**DEEPHAVEN CITY COUNCIL MEETING  
MONDAY, SEPTEMBER 7, 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, Keith Kask and Darel Gustafson

ABSENT: Councilmember John Wheaton

STAFF: Zoning Coordinator Gus Karpas 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 August 15 & August 22, 2011
- B. Approve Verifieds
- C. Approve 2012 Budget of the Lake Minnetonka Communications Commission

Seconded by Councilmember Hackney. Motion carried 4-0.

4. **MATTERS FROM THE FLOOR**

Matt Keepman and Jeff Patterson were present to provide a brief summary of their Eagle Scout projects at Northome Trail and Shuck Park.

The Council expressed their appreciation to Matt Keepman and Jeff Patterson for their excellent work with the repair of the trail along Northome Trail and with the renovation of Shuck Park.

5. **PLANNING & ZONING REQUESTS**

A. **Ordinance Amendment** -- Public Hearing on Ordinance 13-57, amending Section 1315 of the Zoning Ordinance as it pertains to the criteria for approving variances.

Zoning Coordinator Karpas explained that the State Statutes have been amended removing the undue hardships standards in reviewing a variance application and replaced them with practical difficulty standards. The proposed language change would bring the city code into compliance with the state requirements. Karpas said some additional changes to the section were made to provide greater clarity for applicants about the variance process. Karpas said the amendment was reviewed by the Planning Commission, who held a public hearing on the proposed change, and they recommended unanimously that the Council approve the amendment.

Councilmember Gustafson asked about the removal of the provision stating that variances cannot be conveyed to a new property owner if the structure for which it was issued has not been constructed. Zoning Coordinator Karpas said there was a question on whether that provision was legal. He said the new property owner would still be held to the approval granted by the Council based on the site plan submitted for its review. In addition, the time period for the expiration of a variance does not change, the policy is that it expires one year after it is issued by the Council regardless of how many times the property changes hands in that one year period. Councilmember Kask said that if an initial applicant made a representation to the Council of how the property would be developed; any new owner would be held to the same representation unless they come back to the Council to amend it.

Councilmember Hackney noted that Section 1315.03, Practical Difficulties Standard and 1315.05, Findings were very similar and questioned whether one of them could be removed or the provisions merged. Councilmember Kask said Section 1315.03 outlines the expectations of the standards while 1315.05 outlines the criteria that should be included in any motion. Kask stated that due to the reduction in the threshold for approval, it would be good governance to make sure all five items contained in the section were included in any motion. Hackney noted that a reference in Section 1315.07(3) to Section 1315.03 would need to be amended if both sections are kept in the ordinance.

The Council agreed to add the term "defined" in the title of Section 1315.03 to create greater clarity from the provisions in 1315.05.

Zoning Coordinator Karpas asked if the Council would like to adjust the notification radius for variance requests. Mayor Skrede didn't believe it needed to be changed and said he would rather leave it up to staff's discretion on whether to increase notification based on the impact of a given request.

Motion by Councilmember Kask to adopt Ordinance 13-57, amending Section 1315 of the Deephaven Code as it pertains to the criteria used for approving variances as amended by the Council and to waive the second reading of the ordinance. Seconded by Councilmember Hackney. Motion carried 4-0.

## **6. UNFINISHED BUSINESS**

### **A. Adopt Resolution No. 23-11, Approving the 2011 Levy, Collectible in 2012**

Administrator Young stated that the proposed 2012 levy for the City of Deephaven is \$1,922,124, which represents a 0% increase over the 2011 levy. He stated that the proposed levy remains unchanged from the levy amount reviewed by the City Council at their earlier budget meetings.

He stated that the 2012 annual General Fund balance is projected to decline \$14,123 but the overall cash reserve percentage should still remain over 100% despite the annual budget deficit. He stated that as a result of the continuing decline in the City's tax capacity, the tax capacity rate will increase from 17.223% in 2011 to 17.776% in 2012.

Councilmember Hackney noted that the estimated 2011 year end balances for Building Permit Fees and Interest Income have been substantially reduced and asked if these revenues are estimated too high in 2012.

Administrator Young stated that the estimated 2011 year end balance for Building Permit revenues is principally based on the fact that Building Permit revenues have been dropped significantly over the last two months, which is typically the peak period for permit revenue. He stated that Building Permit

revenues have been remarkably resilient over the past three years, despite the downturn in the housing market, and he was reluctant to overreact to what might potentially be a short term decline in permit revenue. He stated that while it is very appropriate to be concerned over the potential decline in Building Permit revenues in 2011, he felt that it might be premature to lower estimated permit revenue in 2012 simply based on two months of declining revenues.

Administrator Young added that there is always the potential for concern when the decision is made to keep the property tax levy at the same level as the prior year that results in an annual budget deficit of \$14,000. He stated that if there is a continued downturn with Building Permit revenues, expenditures are so tight that there really wouldn't be much of an opportunity to offset lower than expected revenues. However, he noted that the City is in a very fortunate position to have reserves in excess of 100%, which would enable the City to have sufficient reserves to offset any unexpected revenue reductions.

Motion by Councilmember Hackney to adopt Resolution No. 23-11, Approving the 2011 Levy in the amount of \$1,922,124, Collectible in 2012. Seconded by Councilmember Kask. Motion carried 4-0.

**B. Other**

Councilmember Hackney stated that he was reminded after reading the preliminary draft of the October Newsletter about the Council's discussion last winter about the possible use of volunteers to clear the ice rinks over the weekend.

Discussion was held on whether to allow volunteers to use city equipment to clear the rinks.

Councilmember Kask stated that he would not be supportive of allowing volunteers the use of city equipment. He stated that efforts should be limited to the use of residential equipment and only on the clearing of the ice rinks and not the walking paths.

Mayor Skrede recommended placing a notice in the October Newsletter requesting volunteers who would be willing to help clear ice rinks over the weekend and have the volunteers contact Councilmember Hackney.

**7. NEW BUSINESS**

**A. Discuss City of Shorewood's Request regarding AIS Management**

Mayor Skrede stated that the Shorewood City Council has adopted a resolution supporting the Minnetonka Creek Watershed District as the lead agency to manage Aquatic Invasive Species and has asked our Council to consider the adoption of a similar resolution. He asked Councilmember Kask for his comments on the request.

Councilmember Kask stated that we have had discussions with the MN Department of Natural Resources (MNDNR) over aquatic weed treatments and have been told that they are the agency responsible for water quality. He stated that the Lake Minnetonka Conservation District has legislative authority for surface lake management and has used its resources to harvest milfoil and inspect boats for invasive species. He stated that the Minnehaha Creek Watershed District (MCWD) has the line item taxing authority to fund whatever level of services they deem appropriate and the proposed

resolution requests that the MCWD to take a more decisive role in the management of Aquatic Invasive Species.

Mayor Skrede stated that the City took an active role against the MNDNR several years ago with the attempt to continue the grandfathered status of Carson's Bay and St. Louis Bay in terms of aquatic weed treatments. He stated that this effort turned out to be a costly lesson for the City when the Administrative Law Judge sided with MNDNR on this issue. He stated that MNDNR is in charge of the lake and it is possible that the MCWD may work together with MNDNR and be permitted to take over the management of Aquatic Invasive Species.

Councilmember Gustafson stated that with MCWD's very broad taxing authority, adoption of the proposed resolution would essentially give the MCWD the authority to tax more to manage Aquatic Invasive Species.

Councilmember Hackney stated that while the legislature oversees the budget of MNDNR, the MCWD has no elected officials to monitor their own taxing authority. He stated that he didn't particularly like this arrangement.

Councilmember Kask stated that the MCWD would have the ability to raise significant funds to manage Aquatic Invasive Species but noted that they have a significant number of lakes within their jurisdiction and not just Lake Minnetonka. He stated that the MNDNR manage all the lakes within the State and for that reason, receive pressure from numerous groups either in support or opposition to managing Aquatic Invasive Species or to favor preferential treatment in one lake over another. He stated that the MCWD would be much more focused on area lakes. He stated that he would encourage the MCWD to explore opportunities to manage Aquatic Invasive Species with MNDNR but didn't want to favor one agency over another at this time.

Mayor Skrede stated that he certainly shares Shorewood's frustration on this issue.

Councilmember Hackney stated that he wouldn't want to vote on this issue this evening because he felt that he didn't have enough insight on the agencies involved.

## **B. Other**

Mayor Skrede stated that he has been approached by several neighbors who have expressed an interest in driving a golf cart to transport items to Deephaven Beach. He stated that they have asked the Council to look into this issue, including requiring golf carts to be street legal, permitted on certain streets only, to have insurance and a slow vehicle sign. He stated that our current ordinance only permits snowmobiles and ATV's under certain circumstances.

Councilmember Hackney stated that the Assembly grounds in Woodland have a lot of land to park their golf carts, which is not the case at the beach.

Mayor Skrede suggested that the golf carts could park on the grass area near the tennis court.

Councilmember Kask asked if the use of golf carts in Woodland is permitted throughout Woodland or just in the Assembly grounds.

Mayor Skrede stated that he believed the use of carts in Woodland is permitted according to MN State Statutes but would ask Woodland Mayor Doak tomorrow.

Councilmember Kask stated that motor vehicles operating on public streets are required to carry liability insurance. He stated that snowmobiles and ATV's have separate licenses issued by the State, with some limitation on their use that requires operators to take the shortest route possible. He stated that he would be concerned with how permitting a golf cart would fit into our present ordinance. He stated that he might support their use if they were only going to the beach but didn't know whether he could support their use on Vine Hill Road or Minnetonka Blvd.

Mayor Skrede stated that golf carts are not permitted on roads with speed limits in excess of 35 mph by State Statute.

Councilmember Kask stated that he didn't know if he would be comfortable with that kind of use in the City.

Councilmember Gustafson stated that he also has been approached by several neighbors, many the same neighbors that approached the Mayor, and noted that the opinion on the use of golf carts was pretty evenly split. He stated that those objecting to their use didn't want them taking up parking spaces at the beach. He stated that he was also concerned that there were neighborhoods in Deephaven that couldn't get to the beach because they would have to drive on roads with posted speed limits in excess of 35 mph. He added that he thought it would be difficult to draft an ordinance that would be manageable.

Councilmember Hackney stated that he would not like golf carts parked all over the lawn space at our parks and beaches and that he would rather they use a parking space. He asked if golf carts would be permitted at Thorpe Park.

Mayor Skrede stated that he looked at this proposal simply as transportation to and from the beach. He added that it might very well be difficult to write the ordinance and difficult to enforce. He asked the Council if they would want to consider such an ordinance.

Councilmember Hackney stated that he would pass on such an ordinance.

Councilmember Kask stated that he would also pass on a proposed ordinance but would like to talk to Police Chief Johnson about it first. He added that this has been a common subject in other communities.

Mayor Skrede stated that it appears that this concept has not been met with resounding interest but offered to meet with Police Chief Johnson to discuss his thoughts and concerns on the matter.

## **8. DEPARTMENT REPORTS**

### **A. Police Department**

In the absence of Police Chief Johnson, Mayor Skrede provided a summary on the progress of the new traffic plan at Deephaven Elementary School and stated that the Police Department is looking into establishing a Face book page to enhance communications with residents.

**B. Excelsior Fire District**

Excelsior Fire District Liaison Darel Gustafson stated that there was nothing new to report regarding the Excelsior Fire District and noted that Fire Chief Gerber had been asked to assist with emergency management efforts on the East Coast following Hurricane Irene.

**C. Public Works**

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

Mayor Skrede provided a brief summary of a meeting held earlier today at the Public Works Committee with Joe Litman, an engineer who will be working with the City Engineer on the design work for the reconstruction of the Vine Hill Bridge.

**D. Administration**

Administrator Young provided a brief summary on the following items:

- October Newsletter
- Upcoming 2012 Budget Review
- Truth in Taxation Requirements
- 2011 Project Updates

**9. ADJOURNMENT**

Motion to adjourn by Councilmember Kask, seconded by Councilmember Gustafson. Motion carried 4-0. The meeting adjourned at 9:00 p.m.

Respectfully submitted,  
Dana H. Young, City Administrator