

**DEEPHAVEN CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 8, 2015
MINUTES**

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

PRESENT: Mayor Paul Skrede, Councilmembers Darel Gustafson, Keith Kask, Steve Erickson, and Tony Jewett

STAFF: Police Chief Cory Johnson, Zoning Coordinator Dale Cooney, 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 August 17, 2015 Council Minutes
- B. Approve Verifieds
- C. Approve July 2015 Treasurer's Report

Seconded by Councilmember Erickson. Motion carried 5-0.

4. **MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

5. **UNFINISHED BUSINESS**

A. **Authorize Final Payment to Allied Blacktop for Seal Coating Project (\$25,239.44)**

Administrator Young stated that the Deephaven City Council authorized entering into a contract with Allied Blacktop in the amount of \$25,239.44 on March 16, 2015 to seal coat approximately 13,802 square yards of city streets. The project included seal coating the following five streets:

- Lake Avenue - Talton Place to Hamilton Avenue
- Monaltrie Avenue - Park Avenue to Lake Avenue
- Ridgewood Road - City Limits to Vine Hill Road
- Talton Place - Park Avenue to Lake Avenue
- Virginia Avenue - Minnetonka Blvd to Rutledge Road

He stated that Allied Blacktop Co. completed the 2015 Seal Coating Project on August 7, 2015 to the satisfaction of the public works department and has submitted a final invoice in the amount of \$25,239.44. He added that the 2015 Capital Improvement Fund Budget includes \$30,000 for seal coating this year.

Mayor Skrede noted that there were some areas on these streets where the pea rock could have been swept up a little more thoroughly.

Motion by Councilmember Gustafson to authorize Final Payment to Allied Blacktop in the amount of \$25,239.44 for the 2015 Seal Coating Project. Seconded by Councilmember Erickson. Motion carried 5-0.

B. Authorize Pay Request No. 1 to GMC Asphalt for the 2015 Street Improvement Project

Administrator Young stated that the project is substantially completed with the exception of restoration work and it is recommended that partial payment in the amount of \$179,736.99 be made to GMC Asphalt for the 2015 Street Improvement Project.

Motion by Councilmember Kask to authorize Pay Request No. 1 to GMC Asphalt in the amount of \$179,736.99 for the 2015 Street Improvement Project. Seconded by Councilmember Erickson. Motion carried 5-0.

C. Review Draft Ordinance on Impervious Surface Limitations

Zoning Coordinator Cooney summarized the staff report, stating that the Planning Commission reviewed the draft ordinance at their August 18th meeting. Cooney said that the ordinance was created based on feedback from the City Council's August 3rd discussion, the policy recommendations of the Planning Commission, and consultation with City Engineer, David Martini, and City Water Resources Engineer, Bob Bean.

Cooney stated that the ordinance was built around four primary policy recommendations of the Planning Commission:

- 1) Impervious surface regulations will be expanded to include the entire city.
- 2) Impervious surface regulations will incorporate a tiered system.
- 3) Variances from impervious surface limitations will require stormwater mitigation.
- 4) Stormwater mitigation systems will not be credited for reducing impervious surface coverage unless approved through the variance process.

Cooney said that Deephaven's primary objective is managing stormwater runoff rate and volume and not necessarily water quality. He said that the city engineers concluded that the best way to attempt to manage water runoff rates and volumes was based on lot size. He stated in addition to the existing Shoreland Management District, the draft ordinance proposes three additional tiers

to encompass the currently unregulated areas of the city: 35% impervious surface limitation for residential lots less than 10,000 square feet, 30% impervious surface limitation for residential lots 10,000 square feet or more, 85% impervious surface limitation for governmental and public institutions; public or semi-public recreational lots, neighborhood or community centers; public and private educational institutions; and religious institutions.

Cooney stated that, as proposed, variances from impervious surface limitations would require stormwater mitigation. Cooney summarized the five year inspection process, and the proposal for a partial credit of 75%.

Cooney said that stormwater mitigation systems will not be credited for reducing impervious surface coverage unless approved through the variance process. He said that proposals that attempt to meet hardcover limits via use of a stormwater mitigation system without a variance will not be accepted. Variances will only be granted on the basis of the “practical difficulty” standard.

Zoning Coordinator Cooney concluded his report.

Mayor Skrede expressed some concerns about the possibility of some residential areas claiming to be institutional uses to allow for 85% hardcover. He said that this should somehow be more closely tied to zoning.

Councilmember Erickson said that, originally, when the City Council had proposed that the Planning Commission look at this issue, the City Council was looking for some consistency around the stormwater mitigation systems that were being proposed along with the variance requests to exceed hardcover. He said, while he is not necessarily opposed to the ordinance, now we have an ordinance that proposes to regulate the entire city under hardcover limitations and wondered if this is really needed.

Mayor Skrede said that the Planning Commission examined the issue and the various implications and concluded that this type of regulation is what was called for.

Councilmember Kask said that he is not necessarily a supporter of this issue yet. He said the ordinance addresses the issue for areas that aren't a problem, but that might become a problem in the future. Kask asked what minimally does the city need to do to address the problem. Originally the City Council direction was for stormwater systems and maintenance only. He stated that, while the city could regulate a number of things if it wanted, the city needs to be very cautious before it imposes a new law. Kask said that this is an impediment that he is not eager to foist on a property owner.

Councilmember Gustafson said that he agrees with what has been said. He said that he takes some of the blame for this since he had observed in the past that many new properties create problems where there weren't problems before. Gustafson said that the city should primarily address the question of whether a construction project will change the water flow on a lot.

Councilmember Erickson said that he has no problem with addressing what happens on a lot.

Councilmember Kask said that a pre-construction survey and an as-built survey could show the water course and drainage on a lot. He said that he does not want to impose an impediment to development when the neighbor has not had to consider that same impediment. Kask said that there are a number of variables in managing stormwater and that we are setting ourselves up for frustration if we think we can retain the water on a site. Kask asked what minimally the city could do that doesn't impede development, but that manages the water on a property.

Mayor Skrede said that the city could be lax about these types of regulations, but then the city would be behind the eight-ball and have no recourse to handle the problems when they arise.

Councilmember Jewett said that he was generally in favor of policy recommendations three and four, but he said that he was not comfortable with policy recommendations one and two. Jewett said that he might be more comfortable with the other policy recommendations if there were data to support them.

Councilmember Erickson said that adjacent properties can cause problems without going over hardcover and that we already have a building footprint limitation.

Councilmember Kask said that impervious surfaces can be a large portion of a property beyond the building footprint.

Councilmember Gustafson said that some lots are more problematic than others. The ordinance puts the property owners through a process that makes them address water issues and enforces the good neighbor principle.

Councilmember Kask said that if the city gets involved, it is getting into a number of oversight issues. Kask said that he was fearful of setting up a situation where the city might be culpable.

Mayor Skrede said that at least the city could prevent issues whereas now the city cannot.

Councilmember Gustafson asked how the city can enforce, for example, people to have gutters. The city doesn't want to design houses.

Mayor Skrede said that the city stays out of the interior, but the city does want to control what happens to the water.

Councilmember Erickson said that the city would never see many of these properties.

Mayor Skrede said that the ordinance would force a meeting rather than only having the good and conscientious builders come in to meet with the city.

Councilmember Kask asked what the city can do that is simple to manage the problem. Can the city look at a before/after of the drainage pattern?

Mayor Skrede asked what the consequence would be for not addressing the issue.

Zoning Coordinator Cooney said that some cities require stormwater management plans to be submitted with building plans. He said that if the City Council opposes strict hardcover limits, a stormwater management plan for new construction and major expansions could give the city review and oversight of the process and an opportunity to address proposed conditions on the front end.

Councilmember Erickson said that he likes the idea of a stormwater management plan better since it puts the onus on the developer, but it allows the city to still have teeth to enforce the issue.

Mayor Skrede said that a stormwater management plan could apply for a variety of projects that do not impact hardcover, but could impact water runoff velocity such as second story additions. Skrede said that if the city can handle the runoff, it doesn't need anything else.

Councilmember Erickson said that he likes the stormwater management plan concept. The city could review it on the front end and confirm via the as-built.

Councilmember Kask said that the city could require conditions to the extent that the hardcover would require.

Mayor Skrede said that this would allow the city to address difficult properties anywhere in the city either because of topography or size.

Councilmember Erickson said that, in theory, someone could cover their entire lot with hardcover. He said that he believed that there is a high end limit that should not be exceeded and stated that he is not opposed to establishing a high end limit.

Councilmember Kask said that there is no building permit requirement for a driveway. He said that a plan can be compliant as proposed, but that once a Certificate of Occupancy is issued; the city has no control over the hardcover. Kask suggested that driveways be a part of the review process.

Councilmember Erickson said that the city cannot chase the what-ifs.

Mayor Skrede closed the discussion.

D. Adopt Resolution No. 45-15, Approving the 2015 Levy, Collectible in 2016

Administrator Young stated that the following 2016 preliminary tax levy has been proposed:

General Fund Levy	-	\$1,811,731
Capital Improvement Fund Levy	-	<u>\$ 300,000</u>
Total 2016 Preliminary Levy		\$2,111,731

He stated that the 2016 General Fund levy represents a 1.5% increase over the 2015 General Fund levy and the 2016 Capital Improvement Fund levy represents a 25% increase over the 2015 Capital Improvement Fund levy. The total 2016 tax levy represents a 4.45% increase over the

2015 tax levy. He stated that the significant levy increase in the 2016 Capital Improvement Fund levy is due to the need to increase funding for street improvement projects.

Motion by Councilmember Gustafson to adopt Resolution No. 45-15, A Resolution Approving the 2015 Levy in the amount of \$2,111,731, Collectible in 2016. Seconded by Councilmember Kask. Motion carried 5-0.

E. Authorize Hiring Troy Carlson, Police Officer

Police Chief Johnson stated that Troy Carlson has successfully completed a thorough background investigation, medical exam, and psychological testing. He stated that Troy will fit in well with our department and the community. Troy has seen a lot as a Deputy with Carver County, which included work as the town cop in Watertown, and he brings with him a wealth of experience and ability. He stated that Troy is appreciative of the City hiring him and is eager to start working with the Deephaven Police Department.

He stated that with Council approval, Troy will be starting the week of September 14, 2015 and would be available for official swearing in at the September 21, 2015 Council meeting.

Motion by Councilmember Kask to authorize hiring Troy Carlson for the position of Police Officer at a starting salary of \$30.06 per hour, which is Year 2 of the 2015 Police Officer Wage Schedule, effective September 16, 2015. Seconded by Councilmember Erickson. Motion carried 5-0.

F. Adopt Ordinance No. 04-56, Amending Watercraft Rates

Administrator Young stated that Ordinance No 04-56, Amending Watercraft Rates is presented this evening following the City Council's review of the proposed 2016 Marina Fund Budget on August 17th. He stated that the budget included a number of rate increases to support increased operational costs and declining buoy lease revenue. He stated that the following rate increases are proposed for the 2016 Boating Season:

<u>Spaces</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Docks	\$750.00	\$875.00
Shore Space	\$48.00/ft.	\$64.00/ft.
B1 Slides	\$262.50	\$300.00
B2 Slides	\$175.00	\$200.00
Street Ends	\$175.00	\$200.00

He stated that no rate increase is proposed for canoe racks or mooring buoys and that the new rates will generate an additional \$17,291 in revenue that will be used to offset \$8,100 in reduced buoy revenue and the increased costs of:

- Salaries & benefits (\$1,449)
- Police services (\$742)
- Aquatic weed management (\$10,500), and
- Capital project costs (\$5,500).

He noted that watercraft rates were last increased in 2006 and this ordinance is presented for adoption this evening because 2016 watercraft renewal fee notices will be sent out in mid-September.

Councilmember Gustafson stated that to provide full disclosure, he has been a leaseholder on a dock slip for seven years out of his ten year lease. He stated that the Marina Fund has been designed as a self-sustaining fund where ratepayers should pay the full cost. However, when you take a look at the expense side of the budget, every citizen is benefitted. He questioned allocations in the Marina Fund Budget for clerical time, police officer salaries, weed spraying, which benefits those using the beach, and portable toilets. He stated that approximately \$77,000 in expenses should be included in the General Fund and not the Marina Fund. He stated that we don't have a revenue problem, we have an allocation problem. He stated that it is his opinion that the Marina Fund subsidizes the General Fund and he intends to vote no on a rate increase.

Councilmember Kask stated that the renewal letter should include a notice that marina rates have not been increased since 2006. He stated that he is sympathetic with Councilmember Gustafson's comments and noted that he has enjoyed having a marina resource since 1996. He stated that the fee structure represents a good value although he acknowledges that every conceivable cost has been included under the Marina Fund. He stated that he doesn't want anyone to have the misperception that the Marina Fund is subsidized by the General Fund.

Councilmember Erickson stated that the new rate is still an awful good value.

Councilmember Jewett stated that the City hasn't raised marina rates in ten years, which results in an average increase of only 1.7% per year with the new rates proposed for 2016.

Councilmember Gustafson stated that governments aren't in the business of making a profit and felt that this was a false argument.

Motion by Councilmember Kask to adopt Ordinance No. 04-56, an Ordinance Amending Watercraft Permit Fees. Seconded by Councilmember Erickson. Councilmember Gustafson opposed. Motion carried 4-1.

G. Other

There was no other Unfinished Business this evening.

6. NEW BUSINESS

A. Approve 2016 LMCC Budget

Councilmember Jewett provided a general overview of the 2016 LMCC Budget. He noted that the 2016 Budget was reviewed at the last LMCC Board meeting. He stated that total 2016 LMCC revenues have been budgeted at \$358,031.36 and total 2016 expenditures at \$396,520.03. He stated that the first draft of the 2016 LMCC included a \$0.50 increase in PEG fees and the

proposed refund of approximately \$80,000 of excess funds to LMCC member cities. He stated that the members voted against this first budget draft until the refund and PEG fee increase were taken out. He stated that the budget presented this evening reflects this decision and was approved for presentation to the member cities. He stated that the next LMCC meeting will be in mid-October where further discussion will be held on whether to increase PEG fees and to return excess LMCC funds.

Councilmember Erickson provided some background history on the concern that several member cities have concerning increasing PEG fees and its potential impact on declining cable subscriptions. He stated that the central issue is how we continue to fund the LMCC when cable subscriptions continue to drop.

Motion by Councilmember Erickson to approve the 2016 LMCC Budget as presented. Seconded by Councilmember Jewett. Motion carried 5-0.

B. Other

There was no other New Business this evening.

7. DEPARTMENT REPORTS

A. Police Department

Chief Johnson provided a summary of the August Police Report, monthly assists and on the recent speed trailer recordings on Deephaven Avenue. He noted that school started today as well.

B. Excelsior Fire District

EFD Liaison Steve Erickson stated that the next meeting of the Excelsior Fire District Board will be held on September 23rd.

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:

- Part-time Summer Staff
- Parking permit summary
- Remaining 2016 Budget schedule
- Truth-in-Taxation Hearing requirements
- October Newsletter
- Visioning Workshop summary
- Northome Bridge Meet summary

8. ADJOURNMENT

Motion to adjourn by Councilmember Erickson, seconded by Councilmember Gustafson.
Motion carried 5-0. The meeting adjourned at 9:10 p.m.

Respectfully submitted,
Dana H. Young
City Administrator