

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, JUNE 20, 2016
MINUTES**

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

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

STAFF: City Administrator Dana Young

2. **PLEDGE OF ALLEGIANCE**

The Council recited the Pledge of Allegiance.

3. **APPROVE CONSENT AGENDA**

Mayor Skrede requested that Item 3D – Approve Use of City Buoys by Minnetonka Yacht Club from August 5-7, 2016 - be removed from the Consent Agenda and placed under New Business for further discussion.

Motion by Councilmember Kask to approve the Consent Agenda, consisting of the following items:

- A. June 6, 2016 City Council Minutes
- B. Adopt Resolution No. 32-16, Appointing Absentee Ballot Board
- C. Adopt Resolution No. 33-16, Appointing Election Judges
- D. Approve May 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. **PUBLIC HEARING**

- A. **Conduct a public hearing on the proposed project on behalf of Eagle Ridge Academy Affiliated Building Company and the issuance of revenue bonds under the MN Municipal Industrial Development Act through the adoption of Resolution No. 34-16.**

Jason Ulbrich, Executive Director of the Eagle Ridge Academy, and Nick Hagen, Senior Vice President with Piper Jaffray Co., were present to discuss the request.

Mayor Skrede called the public hearing to order at 7:10 p.m.

Jason Ulbrich stated that Eagle Ridge has been before the Deephaven City Council three times with requests for the issuance of revenue bonds. He stated that the first request was for the configuration of their school building, the second was for the purchase of their new Opus building last year, and the third is for continued improvements to their new school building including the construction of a second floor and athletic facilities. He noted that Eagle Ridge Academy continues to do very well with over 700 students on their waiting list.

Nick Hagen stated that the project will cost approximately \$6 million, with the total financing expected to be from \$6.5 to \$7 million. He stated that Eagle Ridge Academy is selling their former school to Main Street Schools and these proceeds are required to be used to redeem the existing financing. He stated that this proposed issue will not be bank qualified and they are proposing a Joint Powers Agreement between the cities of Deephaven and Greenwood in order to ensure that the City of Deephaven will not exceed its debt capacity of \$10 million owing to a previous commitment of conduit financing to another organization.

Mayor Skrede noted that the City could have issued the entire debt if we hadn't financed \$4.5 million in bank qualified debt to Minnetonka Youth Hockey Association earlier this year. He asked Nick Hagen what is the interest rate difference between bank qualified and non-bank qualified debt.

Nick Hagen stated about twenty-five basis points.

Hearing no further questions, Mayor Skrede concluded the public hearing at 7:17 p.m.

Motion by Councilmember Erickson to adopt Resolution No. 34-16, a Resolution Authorizing the Issuance and sale by the City of its Charter School Lease Revenue Bonds, Series 2016A and Series 2016B (Eagle Ridge Academy Project), Authorizing Execution of Documents relating to said Bonds, and Authorizing other action to be taken with respect to the Issuance, Sale, and Delivery of said Bonds. Seconded by Councilmember Gustafson. Motion carried 5-0.

6. A. Review Appeals from June 1st Deadline Requirements

Administrator Young stated that Section 900.07, Subd. 2 (b) of the Watercraft Space Ordinance requires all watercraft to be moored at their assigned space prior to June 1st. If the permit holder is not at their assigned space, the City may revoke the permit and issue a permit for that watercraft space to the next person on the waiting list. The permit holder has the option to appeal the revocation of their 2016 Boating Permit to the City Council within 10 days after the City's notice of revocation is mailed.

He stated that after considering the appeal, the Council will affirm or reverse staff's decision to revoke the permit. If the Council decides to reinstate the permit, the condition of reinstatement shall be a penalty payable to the City of Deephaven in an amount equal to 50% of the normal permit fee.

He stated the following list of permit holders were not at their assigned space prior to June 1st:

Name	Address	Mooring Space
Dirk Bak	19080 Eastwood Drive	Slide #26, St. Louis Bay
Tim Olson	3954 Heathcote Road	Slide #64, St. Louis Bay
Bryan & Tracy Gilbert	3554 Therese Street	Canoe Rack #19, St. Louis Bay
Brandon & Erin Head	3605 Westview Drive	Canoe Rack #20, St. Louis Bay

He stated that letters of appeal have been received from the Dirk Bak and Brandon Head.

Motion by Councilmember Kask to authorize the reinstatement of the 2016 Boating Permits to Dirk Bak (19080 Eastwood Drive) and Brandon & Erin Head (3605 Westview Drive) for submitting letters of appeal, subject to payment of an amount equal to 50% of their normal 2016 permit fee. Seconded by Councilmember Erickson. Motion carried 5-0.

B. Adopt Resolution No. 35-16, Approving the 2017-2020 Greenwood Contract

Administrator Young provided an overview of the 2017-2020 Greenwood Contract for Services pertaining to the following five service areas:

- Clerical services
- Zoning Coordinator services
- Public Work services
- Building Inspection services
- Equipment & Building rent

He stated that the Greenwood City Council approved the 2017-2020 Contract on June 1st.

Motion by Councilmember Gustafson to adopt Resolution No. 35-16, Approving the 2017-2020 Greenwood Contract. Seconded by Councilmember Erickson. Motion carried 5-0.

C. Approve Audio Visual Proposal

Administrator Young stated that several months ago, the City Council learned that \$15,576.00 was available to the cities of Deephaven (\$11,496.00), Greenwood (\$2,480.00) and Woodland (\$1,600.00) from the Lake Minnetonka Communications Commission for the purchase of AV Equipment. Since that time, representatives from all three cities met with LMCC Director Jim Lundberg to discuss what audio and presentation equipment would be most beneficial to enhance council meeting broadcasts. It was decided that improving the audio and presentation portion of the meetings would significantly improve the telecast of the council meetings.

He stated that with Jim Lundberg's assistance, the representatives reviewed bids from Alpha Video and Tierney Brothers on presentation equipment and a wired and wireless solution. The costs are shown below, which also include installation costs:

Presentation Equipment & Wired Bids

Item	Alpha Video	Tierney Brothers
Wired Audio	5,410.00	10,293.16
Presentation Equipment	8,180.00	6,606.75
Wall Mount Rack	540.00	418.07
Total	14,130.00	17,317.98

Presentation Equipment & Wireless Bids

Item	Alpha Video	Tierney Brothers
Wireless Audio	9,320.00	13,965.66
Presentation Equipment	8,180.00	6,606.75
Wall Mount Rack	540.00	418.07
Total	18,040.00	20,990.48

He stated that the representatives unanimously recommended the wireless bid in the amount of \$18,040.00 submitted by Alpha Video. In addition to the bid cost, it was estimated that there will be another \$1,500.00 in costs due to upgrades needed in electrical service and wireless capabilities. This results in a total estimated cost of \$19,500.00 for this audio and presentation upgrade. This cost will be offset by \$15,576.00 in AV Support Funding by the LMCC, which leaves approximately \$4,000.00 to be picked up from the City of Deephaven's Capital Improvement Fund. The 2016 Capital Improvement Fund has a budget of \$6,000 for a council presentation upgrade.

He stated that the City of Greenwood will act on this proposal on July 6th and the City of Woodland on July 11th.

Mayor Skrede addressed the \$4,000 shortfall with this proposal. He stated that the City of Deephaven originally had \$6,000 in the Capital Improvement Fund for an audio video upgrade, which isn't nearly enough to fund this project and he offered to pick up the difference in cost between the \$15,576 in AV Support Funding from the LMCC and the total estimated cost of this upgrade in the amount of \$19,500.

Councilmember Erickson noted that this upgrade will move us into a more modern technology. He provided a review of the specifics of the wireless system and the ease and convenience of storing this equipment into a cabinet that can be stored in the back room.

Motion by Councilmember Erickson to approve the purchase of a wireless audio system and presentation system in the amount of \$18,040 from Alpha Video plus an additional \$1,500 in estimated electrical and wireless improvements for a total project cost of \$19,540. Seconded by Councilmember Gustafson. Motion carried 5-0.

D. Approve Use of City Buoys by Minnetonka Yacht Club from August 5-7, 2016

Minnetonka Yacht Club member David Gross was present to state that the Yngling National Regatta will be held from August 5-7, 2016 and the Yacht Club would, in addition to the mooring buoys, like permission to park boat trailers on city property during the event.

Mayor Skrede noted that the City has allowed this in the past.

Councilmember Jewett recommended that the Yacht Club check with Chief Johnson for his determination of a potential location for the trailers on city property. He stated that there are not that many trailers associated with this event and Chief Johnson might prefer that they park the trailers up by the City Maintenance Shed.

Motion by Councilmember Kask to approve boat trailer parking on city property by the Minnetonka Yacht Club for the Yngling National Regatta from August 5-7, 2016 as designated by city staff. Seconded by Councilmember Erickson. Motion carried 5-0.

Motion by Councilmember Kask to approve the use of city mooring buoys by the Minnetonka Yacht Club for the Yngling National Regatta from August 5-7, 2016. Seconded by Councilmember Erickson. Motion carried 5-0.

E. Other

Councilmember Kask noted that residents have from August 2-16 to file for municipal office. He stated that he will not be running for office and would be supportive of anyone deciding to run for a municipal office.

Mayor Skrede noted that residents may enjoy a serving on the City Council but perhaps would not want to run against an incumbent.

Councilmember Erickson stated that his term expires at the end of this year and he intends to seek another term.

Mayor Skrede noted that he will be running for Mayor again. He stated that with Councilmember Kask's decision to not run for office, there will be at least one Council vacancy.

Councilmember Kask stated that he will have served 12 years on the City Council and 21 years on the Planning Commission. He stated that he has enjoyed his time but it is time to step down.

Mayor Skrede stated that he certainly appreciated all of Keith's efforts.

7. UNFINISHED BUSINESS

A. Discuss Potential Boathouse Sewer Connection at 20670 Linwood Road

Mayor Skrede stated that discussion on this request was tabled at the last meeting to enable the Council to review the tapes and council material from the February 2, 2015 meeting. He stated that the tape was reviewed by himself, Councilmember Gustafson and Administrator Young. He stated that a majority of the discussion was on the tuck-under garage and the only piece that was missing was on the sewer connection to the boathouse.

He stated that we are now back to the original discussion on permission needed from the City Council for a second sewer connection 20670 Linwood Road. He stated that the ordinance changed from requiring approval from the City Engineer on a second sewer connection to the City Council in January 2015 and the variance meeting with the applicants was held on February 2, 2015. He added that if approval is granted, we would still require the City Engineer to approve the connection.

Councilmember Erickson stated that if the applicants had come in the fall of 2014, they would only have needed the approval of the City Engineer.

Mayor Skrede stated that approval had been granted for a second connection in a garage for use as a garden shed but the Council did not allow them to put in a sewer drain. He stated that it is not uncommon for applicants to come to us and he wanted to view this as a new request for a second sewer connection.

Councilmember Gustafson noted that discussion was brought up in the tape about the sewer connection in the previous homeowner's garage and noted that the Planning Commission did not permit a habitable space during their discussions.

Mayor Skrede stated that he thought that this discussion was in reference to the previous homeowner's garage. He stated that the question before us is an applicant who would like a sewer connection for a sink and a bathroom in a boathouse.

Steven Streeter stated that they don't want a habitable space in the boathouse. The boathouse would be a seasonal use from June to September only.

Charles Stinson stated that he is the architect for this project and that it would be a grandma and grandpa house with the boathouse used primarily by the grandkids.

Councilmember Erickson noted that the boathouse will not be a particularly big building. Steven Streeter noted that the boathouse has already been framed.

Councilmember Kask asked what variances were requested for this project.

Mayor Skrede stated that the variance was to line up the boathouse with the house.

Charles Stinson added that there was also a variance needed for the setback.

Councilmember Kask stated that you get what you've always had in terms of the boathouse in that the dimensions and appearance doesn't change dramatically. He stated that the key to this discussion is whether the scope of the use is expanding and whether the installation of plumbing changes the scope of the use by encouraging occupancy. He stated that he believes the scope of use would clearly change and are we prepared to accept this.

Councilmember Erickson stated that he agrees that it changes the scope of use. He stated that the plumbing would allow the applicants to bring beach towels and drop off wet and dirty clothes at

the boathouse rather than the main house. He doubted that it would ever accommodate a living space because of all the glass. He stated that the former boathouse never stored a boat and neither will this new boathouse because it is set too far back from the lake. He stated that the only change is that it will allow the applicant to wash beach towels and to use a bathroom.

Councilmember Jewett stated that history is important in this case as the City does not support a separate residential use. He stated that it would be difficult for the City to turn down a similar request in the future.

Councilmember Erickson stated that he disagrees that this is a residential use. He stated that how the building is planned to be used is critical to the discussion. He stated that you can simply move a detached garage so that it touches a main structure and a residential use is permissible. We have rules on detached structures that change when it is attached.

Councilmember Gustafson stated that the ordinance allows for one sewer connection unless approved by the City Council. He questioned what circumstances would approval be granted for a second sewer connection. He stated that if he had a sewer connection in his shed, he could also have his kids wash and use the toilet in his shed just like in the boathouse.

Mayor Skrede asked for the distance between the boathouse and the main house. Charles Stinson stated that the two are about 60-80 feet apart.

Steven Streeter stated that we are only looking at one sewer connection from the house to the sewer main.

Councilmember Kask stated that it is important to put our arms around what type of occupancies would be allowed. He stated that the proposal includes two distinct structures supported by only one connection from the home. He stated that somebody could live there independently. He stated that he doesn't want to see any future use of the boathouse as guest quarters and this would open the door to some sort of residential use.

Steven Streeter stated that this ordinance changed in January 2015 but the application was submitted in December 2014. He stated that it was former Zoning Coordinator Gus Karpas's interpretation that this connection to the boathouse was permitted.

Mayor Skrede stated that he emailed Gus Karpas on this issue and was told that Gus clearly recalled that a bathroom would not be permitted in the garage and a second connection had to be approved by the City Engineer, which was later changed to the City Council. He stated that part of the reason the approval was changed to City Council is due to the fact that a second connection involved more than just a mechanical issue. He stated that his discussion with Gus gives credence to the fact that this application was considered under the former ordinance.

Councilmember Kask stated that he would not have been supportive of this request if it had come before us in February 2015.

Councilmember Gustafson stated that this issue is similar to the change in term limits for the docks. He stated that he has lived in Deephaven under a certain set of rules then one year later, he's operating under new rules. He stated that the ordinance on sewer connections said something else at the time the application was reviewed by the City Council on February 2 2015.

Councilmember Erickson stated that he believes this is a different circumstance. The builder designed with a certain expectation with the drawing and engineering already completed.

Councilmember Jewett argued that the rule was still in place and asked Steven Streeter to show him the location of the sewer line to the boathouse. Steven Streeter showed him where the sewer line was located and added that the sewer line required an injector pump.

Councilmember Kask stated that this would be an easier decision for him if there was something in the files from the City Engineer showing that he reviewed the second sewer connection.

Steven Streeter noted that they had missed this change in the ordinance by thirty days.

Mayor Skrede stated that the Council would likely have honored anything in writing from the City Engineer at the time the application was submitted demonstrating compliance with the former ordinance.

Councilmember's Jewett, Kask and Gustafson all concluded that they would not have supported this second connection at the time of the original application.

Councilmember Erickson stated that there is sufficient evidence to support that the applicant had a reasonable expectation to complete this project once the variance was approved.

Charles Stinson stated that the project should have been flagged during the plan review of their permit request. He stated that their application went through the variance process without being flagged and they certainly would have applied for this second connection.

Steven Streeter added that they received their permit for the second sewer connection last month and they had no idea that this was an issue until that time.

Councilmember Erickson stated that the applicant had every reasonable expectation for approval of their project. He stated that this issue with the second sewer connection was lost during the ordinance change and staff change.

Mayor Skrede stated that if this was a whole new request, it would have been denied. However, staff had already approved the plan all the way through the process.

Councilmember Gustafson stated that it is hard for him to imagine any confusion due to the illegal sewer connection in the garage under the prior homeowner.

Mayor Skrede stated that Gus Karpas clearly recalled not allowing a hookup in the garage, but seemed less sure about the connection to the boathouse. He stated that he would be willing to

give the applicant a pass if staff had been aware of the connection to the boathouse but had given their approval of it. He stated that he wants to support our city staff.

Councilmember Erickson added that all of our staff approved this permit application for an entire year only to say no to the sewer connection last month.

Councilmember Gustafson stated that he doesn't want to throw anyone under the bus over this request and felt that the Council doesn't need to cover for staff because staff will learn from this mistake.

Mayor Skrede stated that there will be no precedence in approving this request because the window is already closed.

Councilmember Gustafson stated that this is not a consistent or logical way to approve this request.

Motion by Councilmember Erickson to approve a second sewer connection to the boathouse at 20670 Linwood Road according to the plans provided this evening showing a utility sink, one-half bathroom, and washer/dryer. Seconded by Councilmember Kask. Motion opposed by Councilmember Gustafson and Jewett. Motion approved 3-2.

8. REPORTS FROM STANDING COMMITTEES

A. Park Committee

Administrator Young provided a brief review of the Park Committee meeting held on June 7, 2016 regarding the following items:

- Approved the installation of timers on warming house lights
- Reviewed Deephaven Beach Swimming Dock Plans
- Discussed the Park & Beach Project Priority List

B. Public Works Committee

Administrator Young provided a review of the Public Works Committee meeting held on June 7, 2016 on the following items:

- The condition of the property at 5000 Highcrest Drive
- Thorpe Park / Heathcote Crosswalk Concerns
- Updates on the Northome Bridge Project, Linden Road Storm Sewer Project, and Chownen's Corner Parking Lot Lighting Project
- Condition of the City tennis courts
- Reviewed the Storm Water Maintenance List

C. Boat Committee

Administrator Young provided a review of the Boat Committee meeting held on June 16, 2016 on the following items:

- Discussed the transition process with moving motor boats to buoys
- Reviewed the 2016 Marina Fund Budget

9. ADJOURNMENT

Motion to adjourn by Councilmember Erickson, seconded by Councilmember Gustafson.
Motion carried 5-0. The meeting adjourned at 9:00 p.m.

Respectfully submitted,
Dana H. Young, City Administrator