

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, FEBRUARY 5, 2018
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, Steve Erickson, Kent Carlson, 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 Gustafson to approve the Consent Agenda, consisting of the following items:

- A. Approve the January 2, 2018 Council Minutes
- B. Approve Verifieds
- C. Approve 2018 Consumption & Display Permit for Minnetonka Yacht Club
- D. Approve December 2017 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. **PLANNING & ZONING REQUESTS**

- A. **Review Changes at 19365 Lake Avenue**

Cooney presented the staff report. Cooney said that in May of 2017, the city approved setback and hardcover variances for the home addition at 19365 Lake Avenue. He said that house has been issued a building permit to begin construction, but at the time he noted a couple of items that were inconsistent with the original request that would need to be modified or brought back before the city council. Cooney said that property owner has opted to bring these issues back before the city council.

He said that the existing deck footprint was drawn incorrectly by the surveyor on the original survey which impacts the existing and proposed hardcover for the property by 135 square feet. Cooney said that the survey submitted with the variance request showed existing hardcover conditions at 33.68% when, in fact, existing conditions were 34.52%. He said that the applicants are now proposing a screened porch in this area, and the accurate footprint is necessary to allow for the porch.

Cooney said that, even excluding the surveyor error, the proposed deck footprint is larger than what was originally proposed, further impacting hardcover. He said that the expanded area of the deck is primarily at the northwest corner of the house. Cooney noted that the hardcover on the property is proposed to expand by 75 square feet to 34.99% but that the original variance request showed a decrease in hardcover from existing conditions of 49 square feet. He said that the mitigation proposal has been modified to accommodate the additional mitigation requirements.

Cooney noted that the chimney within the setback is larger than was proposed at the time of the variance request. He said that due to the extremely narrow side yard setback for the chimney (10 inches), he was uncomfortable with the massing change.

Cooney said that, as far as city process is concerned, the City Council could A) deny the request and require that the proposal be consistent with the approved variances; B) approve the request to include the changes on the submitted plans, the approval which would be memorialized in the meeting minutes; or C) deem the changes significant enough that they require the property owner to submit an additional variance request.

Cooney concluded his staff report.

Councilmember Carlson asked if the screened porch was part of the original variance request. Cooney said that it was not and that only a deck was shown in this area. He said that the screened porch was otherwise zoning code compliant except for the hardcover issue.

Mayor Skrede said that he appreciates the applicant bringing this before the city.

Councilmember Carlson said that the chimney looks better but that he would have liked for the Planning Commission to have reviewed it.

Kirk Mitchell, property owner, said that the change was simply aesthetic, but that he would not be looking at it and the neighbors will.

John Kosmas, architect for the project, said that the original gas fireplace might have stayed and that they made the change since they brought in a new gas unit.

Councilmember Erickson asked if the flue size was the same for both fireplaces. Kosmas said that it was the same size and the change is simply cosmetic.

Councilmember Gustafson said that he is not a fan of the increased hardcover. He said that the original approval had a decrease, and now the revisions show an increase which is moving in the wrong direction. He said that the house is a block from the lake and the runoff has immediate impact.

John Beckman, builder for the project, said that they could reduce the deck size to be slightly less than the updated existing conditions on the property. He said that the existing property had 5,559 square feet of hardcover, and that they would propose a deck with 5,550 square feet.

Councilmember Erickson asked how the water reaches the mitigation area. Kosmas said that the gutters capture the roof runoff and that the downspouts direct the water over land to the mitigation area.

Councilmember Jewett said that he has an issue with the overall increased hardcover and that he would prefer to have the deck reflect the original hardcover number of 5,375 square feet reviewed in May.

Kirk Mitchell said that the city has been generous and that if they need to make it work with the previous hardcover number, they would.

Councilmember Carlson said that he would support the 5,375 square foot number with the understanding that the applicant could rearrange hardcover on the property however needed to meet that limitation. Councilmember Erickson agreed. Jewett said that he was comfortable with that solution.

Councilmember Jewett asked if the neighbor knew about the chimney. Kosmas said that that neighbor has since moved. Mitchell said that they have been in contact with the new neighbor about the project.

Mayor Skrede said that he would like to make sure that the neighbor is kept in the loop on the issue and that it does not come back before the city via a complaint.

Motion by Councilmember Erickson that the chimney modification, as proposed, is consistent with the original variance request, and that the impervious area shall remain at 5,375 square feet per the original proposal, but those impervious areas may be reconfigured to accommodate the property owners' priorities. Motion was seconded by Councilmember Carlson. Motion carried 5-0.

B. Variance request of Rudy Dan Luther to exceed the maximum permitted impervious surface coverage and for a reduction in the lowest floor elevation in order to construct a new house at 3244 Robinsons Bay Road

Cooney presented his staff report. He said that the property owner has applied for variances to construct a new house on the R-2 property at 3244 Robinsons Bay Road. Cooney noted that at 47,027 square feet, the property exceeds the minimum lot size for the zoning district. He said that the existing non-conforming house, built in 1932, will be removed. Cooney said that the property is at low elevation relative to Lake Minnetonka, and therefore, a full basement cannot

be constructed for the house. He said that to compensate for the low elevation, the building pad for the new house will be approximately 3 feet higher than the existing house which will allow for a crawl space and a proposed mechanical pit.

Cooney said that Section 1350.04, Subd. 10 of the zoning ordinance requires placing the lowest floor of a house (including basements and crawlspaces) at a level three feet above the ordinary high water level (OHWL) of the lake. He said that the applicant proposes to have the mechanicals for the house in the basement level and is requesting relief from this requirement for a “mechanical pit” area that would sit 1.35 feet above the OWHL and is seeking a variance of 1.65 feet from the minimum required low floor elevation. Cooney noted that the existing home has a 2,700 square foot finished basement that sits at an elevation 2.2 feet below the OWHL of the lake.

Cooney said that the City of Minnetonka Building Inspections Department has stated that they would be comfortable approving the mechanical area at the proposed elevation, as long as the equipment itself is situated above the floodplain elevation of 931. He said that the builder for the applicant has stated that they are able to comply with this condition.

Cooney said that Section 1302.04(2) of the zoning ordinance limits the maximum impervious coverage of the property to 25%. He said that the applicant is proposing an impervious surface area of 27.0% and is seeking a variance to exceed the maximum impervious surface area by 2.9%. Currently, the property is at 29.5% impervious area.

Cooney noted that the existing property is already nonconforming in hardcover, and the proposal would reduce the nonconformity by 770 square feet. He said that the lack of a full basement creates a circumstance that would justify a larger above-ground house footprint, and the property is proposed to be at the maximum allowable structural coverage of 6,000 square feet. He said that the excess hardcover is primarily due to the expanded house foot print as the non-structural hardcover for the property is being reduced by 2,284 square feet. Cooney said that the applicant has stated that the excess hardcover is necessary to accommodate guest parking on the property that would be difficult to accommodate on the narrow Robinsons Bay Road.

Cooney said that the applicant is required to provide 105.7 cubic feet of mitigation volume. He said that the applicant is proposing to mitigate 145.2 cubic feet of stormwater mitigation via two raingardens. Cooney said that the city engineer has reviewed the mitigation plans and the stated that the proposed volume meets the requirements of the city code, but that there needs to be additional grading refinements before the engineer would sign off on the mitigation proposal.

Cooney said that the applicants have a preference for a paved parking area, but as an alternate solution have proposed a Grasspave system for those parking areas that require a variance. Cooney said that the city engineer has reviewed the Grasspave system and has stated that, with the appropriate base course, it should be considered a pervious surface and that it would require little to no maintenance.

Cooney said that Section 1312.04 of the zoning ordinance requires a variance for any land alteration greater than three feet at any point. He said that the applicant is proposing land

alteration of up to 4 feet, and is seeking a variance of 1 foot from the maximum permitted land alteration. Cooney noted that the principal justifications for land alteration restrictions are to limit properties from circumventing the house height limitations by building up the grade around a property, or altering overall drainage patterns in a significant or detrimental way. He noted that neither of these concerns are the case in this proposal.

Cooney said that the property contains a legal nonconforming garage with an accessory dwelling unit on the second floor. He said that the proposal would renovate the structure and slightly reduce the footprint. Cooney noted that state law permits the ongoing maintenance, repair, or replacement of legal nonconforming structures. He said that the garage was built in 1990, while restrictions on accessory structure height and human habitation went into effect in 2002.

Cooney said that he recommends approval with conditions of the variance requests of Rudy Dan Luther to exceed the maximum allowable impervious surface area by 2.0%, to exceed the maximum permitted grade alteration by 1 foot, and for a reduction of 1.65 feet from the minimum required low floor elevation for the property at 3244 Robinsons Bay Road, as proposed, with the following conditions:

- A. That all mechanical systems be installed at an elevation higher than the 931 foot floodplain elevation.
- B. Contours should be revised to direct an adequate drainage area to rain garden #1 and roof drains should be directed toward the proposed rain gardens to the maximum extent practical.
- C. The property owner enter into a stormwater maintenance agreement with the city and that the agreement be recorded against the property.

Cooney said that his recommendation was based on the following findings:

(a) Is the variance in harmony with the purpose and intent of the ordinance?

Yes. The low floor elevation would limit the exposure to only unfinished areas of the home, and the mechanical systems would be situated above the flood elevation. The requested excess impervious surface area reduces impervious conditions from existing while also providing required mitigation. The grading changes are not to circumventing the house height limitations and do not alter the overall drainage patterns in a significant or detrimental way.

(b) Is the variance consistent with the comprehensive plan?

The request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which encourages safe, healthy and quality housing that respects the natural environment of the community.

(c) Does the proposal put property to use in a reasonable manner?

Yes. A single family home, consistent with the building limitations is reasonable. The basement elevation and grading are reasonable responses to the low elevation of the property, while the impervious areas are improvements from existing conditions.

(d) Are there unique circumstances to the property not created by the landowner?

Yes. The property sits at a low elevation that impacts the ability to create a basement, and creates the need to alter the grade to properly situate the house. Lack of a basement requires more of the house to be situated above grade, expanding the house footprint and hardcover.

(e) Will the variance, if granted, alter the essential character of the locality?

No. The proposal would not alter the essential character of the locality. The proposal is of a similar size to other legal, conforming single-family houses within in the neighborhood, while the impervious areas are reductions from existing conditions.

Cooney said that the Planning Commission reviewed the application at their January 16 meeting and, on a 6-1 vote, recommended approval with conditions of the variance requests based on the recommendation, findings, and conditions of staff and with the additional condition that the property not exceed 25% impervious surface area.

Cooney concluded his staff report.

Mayor Skrede said that he did not like the low floor elevation being below the required elevation. He said that there have been incidents in Deephaven where basements have exploded from hydrostatic pressure and he does not want his name associated with that type of problem. He said that he would prefer to see additional grading to elevate the house to meet the ordinance requirements.

Gary Aulik of Aulik & Associates, builder for the property owner, said that they have tried very hard to reduce the massing on the site by keeping the home low and small. He said that they are improving conditions by eliminating nonconforming setbacks. He said that the existing building has a finished basement 3.5 feet lower than the proposed house.

Mayor Skrede asked why Aulik could not raise the house up 1.5 feet to meet the low floor requirement. Mayor Skrede said that going down is a bigger issue and that he did not think lifting the house up higher would be an issue.

Aulik said that they are already proposing to change the grade by up to 4 feet in some areas. He said that the house starts to get considerably higher than the neighboring houses. He said that they are already adding fill for the existing basement which is considerably larger than the proposed mechanical pit. Aulik said that it changes the dynamic of the lot and that he would have to locate the mechanicals to the upper floor of the house and increase the roof mass.

Mayor Skrede said that he is not sold on the idea. He said that this is a 47,000 square foot lot, not a 14,000 square foot lot, so the grade changes would be much less impactful. He said that the applicant is already asking for a grading variance, so why not push for a little more. He said that this lot is the poster child for a variance for a grade alteration. Mayor Skrede said that he was opposed to a pool that asked to go below the required low floor elevation of 932.4. He said that he does not want to be a party to this type of variance.

Rudy Dan Luther, property owner, said that he holds Gary Aulik in high esteem and that he has worked with him on other projects. He said that he wants to build a house that looks

conservative and timeless. Luther said that Aulik has convinced him that there would not be a problem with the mechanical area as designed and that Aulik does it right or not at all.

Mayor Skrede said that if the city held firm on the 932.4 elevation, the builder could make it work. Aulik said that it can be done, but that he would not lift the house up higher since he doesn't think it is the right thing to do on that property. He said that additional grade would increase the velocity of water coming off of the property to the lake. Aulik said that they might have to increase the roof mass on the lakeside to accommodate the mechanical system. He said that raising the grade would require bringing in more fill and the proposed lot is already 4.5 feet taller than the neighboring property. Aulik said that they will figure out a way to make the space work. He added that the soil in the area is sand and that the water infiltrates well into the ground. He said that he can produce a dry mechanical well.

Councilmember Carlson asked what the clear height was in the crawlspace. Charles Peterson of Aulik & Associates said that the clear height is proposed at 5 feet, 2 inches, and the clear height in the mechanical pit is proposed at 7 feet. Gary Aulik said that they want the contractors to be able to stand up in the mechanical pit and that there would not be any finished areas.

Mayor Skrede asked about the detached garage and said that it is a four car garage. Aulik said that the volume would be slightly reduced since the stairs will be brought to the interior and a small bump out will be removed. Aulik said that it is a cosmetic renovation. Mayor Skrede asked if the existing plumbing was being expanded. Aulik said that it was not.

Aulik said that doors will be put on either end. Luther said that it was for fishing boat storage, and that intention is to back the boat in on one side and drive around and park on the other side. Aulik said that Robinsons Bay Road is a challenge for parking and that the parking areas are better on the property than if they were situated on the side of the road. He said that the runoff can be captured from the parking areas. Aulik said that if the hardcover variance is off the table, he would propose a Grasspave system.

Mayor Skrede said that the additional hardcover will be there 24 hours a day, 7 days a week, while it will be used much less than that. He said that he has an issue with a new house on a 47,000 square foot lot that can't meet the 25% hardcover restriction. He said that he is skeptical that the Grasspave system can function in the cold climate areas.

Aulik said that this system is used by the public works department in Edina, and that it would be an improvement over a rutted grass area.

Councilmember Gustafson said that if the city were to approve the Grasspave system, it should be included as part of a maintenance agreement for the property. Councilmember Erickson agreed, and said that the city can evaluate the product and learn about its effectiveness.

Councilmember Carlson agreed with using the Grasspave system. He said that the site is being improved considerably, particularly by capturing stormwater off of the driveway. He said that the city does not have a comprehensive storm sewer system and that improvements like these are important to compensate for that fact.

Mayor Skrede asked what the Planning Commission's recommendation was. Councilmember Jewett said that they recommended approval but without exceeding allowable hardcover.

Aulik said that they might mitigate anyways, regardless of the council decision, since it is the right thing to do for the lake.

Councilmember Erickson said that he would like to see the Grasspave system and the raingardens. He said that both of these will help give the water a chance for filtration instead of running directly to the lake.

Councilmember Jewett said that he was uncomfortable with the proposed low floor elevation in the mechanical pit and would like to keep the low floor at or above the minimum 932.4.

Councilmember Erickson said that the low floor is really just to allow standing room for the technicians, and that he does not have a problem with the mechanical pit. He said that, unlike the house in Skrede's earlier example, this pit is a small, internal subsection of the larger below-grade area.

Aulik said that there would be hydrostatic pressure relief system as part of the design.

Councilmember Carlson said that his previous house had a basement below the 932.4 elevation and that he had two sump pumps and a battery backup to ensure that the basement would not flood. He said that the pumps worked around the clock in the spring. He said his new house has a 932.4 low floor elevation with 6 feet of clear space which is enough to permit reasonable access.

Councilmember Gustafson said that he does not feel strongly about the issue. He said that this is a different property and the conditions are different than the example Mayor Skrede used.

Councilmember Erickson said that he was okay with it, and that the city attorney memo noted that the city would not be liable for such a decision.

Councilmember Carlson said that there would not need to be significant change to the grade alteration on the proposed house to allow for 6 feet of clearance and meet the code. Mayor Skrede agreed and said that he would support additional grade alteration to accommodate the increased crawlspace height.

Police Chief Johnson said that he likes the Grasspave system. He said that the city gets a lot of calls about this private road. He said that the builder needs to reach out to the neighbors. Johnson said that he would need to review and approve the parking plan for the house, and construction parking could be a nightmare.

Aulik said that he plans for a long construction timeframe to limit issues and will provide considerable off-street parking.

Motion by Councilmember Carlson to approve the variance request of 27% impervious surface area for the property and which includes the Grasspave parking areas as shown on the survey drawings, and conditioned that the proposed mitigation areas and Grasspave system be subject to a maintenance agreement. Councilmember Carlson further moved to approve a variance to exceed the maximum grade alteration by up to 2 feet in order to accommodate a low floor elevation of 932.4, subject to review and approval of the city engineer and zoning coordinator. Motion was seconded by Councilmember Erickson. Motion carried 5-0.

Mayor Skrede asked if any of the Planning Commissioners in the audience would like to comment on the outcome of the variance request.

Cindy Webster, member of the Planning Commission, said that she did not know that the grasspave system would be a workable alternative. Mayor Skrede clarified that the council considered it equivalent to pavement in the variance request.

Councilmember Erickson said that this was an opportunity for the city to see a new product in action and to learn how effective it is, but not granting it as pervious until the city sees how it works. He said that he understood what the planning commission was trying to do, but that giving up the 2 percent impervious to see the system in use was worth it.

Webster asked if the Planning Commission should consider this as an alternate to hardcover.

Councilmember Carlson said that Grasspave should not be considered as a mitigative solution. He said that the city's 25% impervious limit, which is very strict, is a way to review proposals and for the city to positively impact runoff. He said that mitigation can capture salt and sand from the driveway and roadways.

Councilmember Erickson said that by allowing the variance, they can now force the mitigation.

Councilmember Jewett said that they are concerned about the long term viability of the mitigation systems, and that once the maintenance inspection is performed, the city will have a better idea about how effective the systems are.

Councilmember Erickson said that he reads what the Planning Commission discusses via the meeting minutes. He said that their role is important and the city counts on them to prescreen the applications.

C. **Review Ordinance No. 13-78, Amending Zoning Code Chapter 13 regarding Building Coverage, Land Alteration Permits, and Definitions of Finished Grade and Structure**

Cooney presented his staff report. He said that proposed changes are an attempt to update certain ordinance sections that may have become obsolete or contradictory to the current zoning code.

Cooney said that Section 1310.03 Subd 3 allows for R-3 properties to have a maximum structural footprint equal to that of R-2 properties if they meet or exceed the minimum lot size for the R-2

zoning district. He said that it also allows for R-2 properties to have a maximum structural footprint of R-1 properties if they meet or exceed the minimum lot size for the R-1 zoning district.

Cooney said that this exception currently requires city council approval and that he proposes to streamline the language and allow administrative approval.

Cooney stated that he was not sure a circumstance exists under which such an exception would be given to one qualified property, but not given to another qualified property. He said that, if there are circumstances that merit excluding certain qualified properties from this exception, it should be administered as a variance or a conditional use permit and the city should follow the appropriate public hearing notice requirements. Cooney noted that the exception was at least partially envisioned as a stormwater management ordinance which is administered elsewhere in the zoning code.

Regarding Section 1312.04 Land Alteration Permits, Cooney said that the code is proposed to be modified to reflect current practices. He said city does not have a formal grading permit and does not require volume/rate calculations for grading projects. Cooney noted that the survey with existing and proposed contours and drainage patterns is currently all that is requested for review purposes.

Regarding Section 1345.26 Finished Grade, Cooney said that this definition reflects the old requirements under city code.

Regarding Section 1345.71 “Structure”, Cooney said that the definition is modified to reflect current practice. He said that regardless of width, driveways, at grade stairs/landings, and sidewalks are not regulated as structures and are permitted to encroach within structural setbacks. He said that these exceptions were originally created as a way to regulate impervious areas and are now addressed elsewhere in the zoning code.

Mayor Skrede said that this was considered the first reading of the ordinance, and that it will be brought up for a second reading at the March 5 City Council meeting.

D. Review 2040 Comprehensive Plan Update – Sections IV & V

Cooney presented the staff report. Cooney said that Section IV, the Public Facilities section of the addresses plan elements related to utilities, transportation, and parks and open space. He said that Section V of the plan addresses plan implementation. He said that Administrator Young, who works closely with the Public Works Department and oversees the Capital Improvement Plan, has provided much of the updated information in Section IV of the Comprehensive Plan.

Mayor Skrede noted a few typographical corrections he would like incorporated.

Councilmember Jewett asked about removing the language related to dry water lines within the city. Mayor Skrede said that the city can still do that, but that he did not think it should be part of the comprehensive plan.

The City Council had no further changes to the document.

E. Designate an LGU for Wetland Permit Applications within the Riley Purgatory Bluff Creek Watershed District

Cooney said that this was a continuation of the conversation from last month. He said that, currently the City of Deephaven is the Local Government Unit in charge of administering the Wetland Conservation Act within the Riley Purgatory Bluff Creek watershed areas of the city. He noted that if there is an active watershed district, typically it is the watershed district that oversees these types of requests, and the Riley Purgatory Bluff Creek Watershed District has expressed a willingness to administer these requests. Cooney said that the city can choose to maintain LGU authority over the Riley Purgatory Bluff Creek watershed areas, or it could delegate authority to the Riley Purgatory Bluff Creek Watershed District to administer the WCA.

Cooney pointed out that the majority of Deephaven properties are within the Minnehaha Creek watershed and those applications are currently managed by the Minnehaha Creek Watershed District and that it makes sense to have Riley Purgatory Bluff Creek Watershed District do the same for the rest of the city.

Mayor Skrede said that he did not see a lot of things that the city would still not be able to do by designating LGU authority.

Councilmember Gustafson said that he is concerned about wetland credits that would be offset elsewhere, but that impact Deephaven.

Mayor Skrede asked about city input into the process if the watershed district were the LGU.

Cooney said that the city has two chances to voice their concerns, the first as part of the technical evaluation panel, and the second could be an appeal of the decision to the state.

Councilmember Erickson asked if the city would be required to issue a permit to build based on the watershed's decision. Cooney said that the city would have to abide by the wetland impacts, but that the city is not required to disregard its own zoning laws for the project. Cooney said that the wetland conservation act has statutory language that would need to be followed to arrive at any decision to impact a wetland.

Mayor Skrede said that, conversely, if the city were the LGU, the city's decision could be appealed to the state, and the city could be overruled.

Councilmember Carlson said that he did not think it was a good idea to have two different wetland review standards for two different parts of the city and the agency oversight should be consistent. Cooney said that the city has not had issues with the Minnehaha Creek Watershed District's decisions.

Councilmember Jewett asked about the process for reversing this decision? Cooney said that he would have to get back to the City Council with the answer that question.

Councilmember Gustafson said that the cost and work should not be a factor in the decision. He said that he would prefer the city have the first opportunity to say no to a project rather than having to appeal a decision.

Mayor Skrede said that he could go either way on the decision, but he did not think the city was giving up much.

Councilmember Jewett said that he favored the consistency of having the watershed districts handle these issues.

Councilmember Erickson said that he does not have a strong opinion, but that he is not concerned since watershed boards are run by people who want to protect watersheds. He said most of the wetland infill projects are for larger commercial sites which would not impact Deephaven.

Councilmember Carlson said that mitigation requirements are 2 to 1, so that the projects that use credits can get expensive and would not be undertaken lightly.

Mayor Skrede directed staff to prepare a resolution designating Riley Purgatory Bluff Creek Watershed District as the LGU for the Wetland Conservation Act to be reviewed at the March 5 meeting. Councilmember Erickson said that he would like staff to provide information on the process for reversing the decision before the city acts on it.

F. Review Ordinance No. 11-10 regarding Changeable Copy Signs

Cooney presented the staff report. Cooney said that the amendment of the sign ordinance is intended to make the ordinance consistent with how the city has been regulating Changeable Copy Signs by allowing these signs to change not more than twice in a 24-hour period.

Councilmember Jewett said that he struggled trying to understand the double-negative wording in the ordinance. Cooney said that he would amend the language to remove that confusion.

Mayor Skrede said that this was considered the first reading of the ordinance, and that it will be brought up for a second reading at the March 5 City Council meeting.

6. UNFINISHED BUSINESS

A. Adopt Ordinance No. 02-19, Deleting Section 240 on Boat Committee

Administrator Young stated that Ordinance No. 02-19 was first reviewed at the January 2nd Council meeting. He stated that the purpose of the ordinance is to delete Section 240 of the Deephaven City Code, which is the section of the code that establishes the Deephaven Boat

Committee. He stated that a copy of the proposed the ordinance was posted for ten days as required by law.

Councilmember Jewett asked if there had been any comments regarding the proposed ordinance.

Administrator Young stated that he hadn't received any comments.

Motion by Councilmember Carlson to adopt Ordinance No. 02-19, An Ordinance Deleting Section 240 Deleting Boat Committee. Seconded by Councilmember Gustafson. Motion carried 5-0.

B. Adopt Ordinance No. 04-61, Establishing ROW Permit Fees

Administrator Young stated that Ordinance No. 04-61 was first reviewed at the January 2nd Council meeting. He stated that following Council review, the ordinance was posted for ten days as required by law. He stated that the purpose of the ordinance is to establish the following fees pertaining to the recently adopted Right-of-Way Ordinance:

<u>Fee No.</u>	<u>Section No.</u>	<u>Purpose of Fee</u>	<u>New Fee</u>
42	720.07	Excavation Permit	\$195.00
43	720.07	Obstruction Permit	\$165.00
44	720.07	Small Wireless Facility Permit Fee	\$195.00
45	720.03	Delay Penalty	\$100.00 per day

Motion by Councilmember Erickson to adopt Ordinance No. 04-61, An Ordinance Establishing Right-of-Way Permit Fees. Seconded by Councilmember Jewett. Motion carried 5-0.

C. Other

There was no other Unfinished Business this evening.

7. NEW BUSINESS

A. Other

There was no other New Business this evening.

8. DEPARTMENT REPORTS

A. Police Department

Police Chief Johnson presented the January 2018 Police Report for Council review.

B. Excelsior Fire District

Fire Board Liaison Steve Erickson provided the following summary of the January 17, 2018 meeting of the Excelsior Fire District Board:

- He noted that he had been appointed Chairman of the EFD Board for 2018.
- He stated that he has been working with the Fire Chief on the realignment of the Capital Equipment Plan. He stated that he will present the revised Capital Equipment Plan to the Council when it is provided as part of the 2019 EFD Budget.
- He stated that Board reviewed the bi-annual performance review of the Fire Chief.
- He stated that the ISO audit has been completed, which lowered the rating throughout the entire Fire District to a 3.
- He noted that the Fire Relief Association is eligible to receive a 5% pension increase due to the approved funding formula.
- He discussed the legislature's discussion about the possibility of increasing the maximum fire relief pension increase up to \$15,000, which could have an adverse impact on a number of cities.
- He noted that he traveled to Appleton, Wisconsin with several firefighters to review the progress on the construction of the new aerial truck.

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:

- 2017 Year End Financial Summary
- 2017 Building Permit Summary
- Hennepin County Board update on organics
- 2017 Pay Equity Report has been submitted and approved by the State of Minnesota

9. ADJOURNMENT

Motion to adjourn by Councilmember Erickson, seconded by Councilmember Gustafson. Motion carried 5-0. The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Dana H. Young
City Administrator