

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, DECEMBER 5, 2016
MINUTES**

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

PRESENT: Mayor Paul Skrede, Councilmember's Darel Gustafson, Steve Erickson, and Tony Jewett

ABSENT: Councilmember Keith Kask

STAFF: 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 November 21, 2016 Council minutes
- B. Approve December Verifieds
- C. Adopt Resolution No. 63-16, Authorizing 2017 Group Health Plans
- D. Adopt Resolution No. 64-16, Approving 2016 Transfers
- E. Adopt 2017 Investment Policy
- F. Adopt 2017 Internal Control Policy
- G. Approve Tort Liability Limits
- H. Authorize Plans & Specifications on 2017 Improvement Projects
- I. Appoint Cindy Webster to Deephaven Planning Commission
- J. Approve October 2016 Treasurer's Report

Seconded by Councilmember Jewett. Motion carried 4-0.

4. **MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

5. PUBLIC HEARING

A. Truth in Taxation

City Administrator Young presented the proposed 2017 General Fund Budget revenues and expenditures. He said that the city is proposing a 0.53% levy increase in 2017 to support General Fund activities and the Capital Improvement Fund. A PowerPoint presentation detailed 2017 General Fund revenues, expenses, a review of each General Fund Department budget, the Capital Improvement Fund, the impact of the proposed sales tax exemption, the proposed tax levy of \$2,121,916 and the property tax impact of the 2017 Budget.

As there was no one from the public in attendance, Mayor Skrede closed the public hearing at 7:30 p.m.

B. Adopt Resolution No. 65-16, Adopting the Final 2017 Tax Levy

Motion by Councilmember Gustafson to adopt Resolution No.65-16, A Resolution Adopting the Final 2016 Levy, Collectible in 2017 in the amount of \$2,121,916. Seconded by Councilmember Erickson. Motion carried 4-0.

C. Adopt Resolution No. 66-16, Adopting the 2017 Budget

Motion by Councilmember Gustafson to adopt Resolution No. 66-16, A Resolution Adopting the 2017 Budget in the amount of \$4,617,012. Seconded by Councilmember Erickson. Motion carried 4-0.

6. PLANNING & ZONING REQUESTS

A. Approve Final Plat of Svoboda Subdivision located at 19655 Cottagewood Road. The Final Plat would subdivide the existing lot into two buildable properties.

Zoning Coordinator Cooney summarized the staff report. Cooney said that Joan Svoboda has applied for Final Plat for the Svoboda Addition subdivision at 19655 Cottagewood Road. He said that the property would plat the existing R-2 lot into two buildable properties. Cooney said that a legal, non-conforming house and garage are currently located on the property. He said that the applicant has indicated that they may keep the house and garage in place until building plans have been approved. He said that the proposed lot lines do not impact the encroachments of the non-conforming structures.

Cooney said that the City Council reviewed the Preliminary Plat at their October 3rd meeting. He said that since that meeting, the City Council vacated a portion of Dyer Lane in order to resolve the right-of-way discrepancy that arose at preliminary plat. Cooney said that the City Council conditioned Preliminary Plat approval on revising the proposed grading to comply with the 3 foot grade alteration limitations of Section 1312.04 of the zoning code and that the updated survey complies with the grading limitations.

Cooney said that the applicant has submitted payment for the required park dedication fees totaling \$19,000. He said that as a condition of the final plat, the applicant is required to show evidence of title. Cooney said that the applicant has submitted a copy of the Certificate of Title and the city attorney has confirmed that this is an acceptable form of evidence of title.

Cooney said that he recommends approval of the Final Plat for Svoboda Addition subdivision, with the following conditions:

- a) That the drainage and grading plans be approved by the City Engineer prior to the issuance of a building permit for each lot on an individual basis.
- b) The applicants comply with the requirements of the Minnehaha Creek Watershed District.

He said that in the opinion of staff, the proposed plat does not impact the integrity and general development of the community, does not impact the health, safety and general welfare of the neighborhood, will not negatively impact the traffic on adjacent streets, would not have an adverse impact on property values and will maintain the general character of the neighborhood.

Cooney said that the Planning Commission did not review the Final Plat since Final Plats go directly to the City Council for action. Cooney concluded his staff report.

Mayor Skrede asked why the wetland item was a condition. Cooney said that both lots contain wetlands, and that the proposed locations of the houses are only hypothetical's. Cooney said that something of this nature also would likely be caught at the building permit phase.

Councilmember Jewett asked if the property could be divided into three lots. Cooney said that there is technically enough land, but that it was unlikely that it could be because of the wetland areas. City Administrator Young said that the wetlands would create the need for some kind of flag lot.

Mayor Skrede noted that the vacation of Dyer Lane increased the lot size, but not quite enough for a third lot. Councilmember Erickson stated that the city typically does not grant subdivision requests that require variances.

Motion by Councilmember Gustafson to approve the Final Plat request, as presented, based on the recommendation, findings, and conditions of staff. Seconded by Councilmember Jewett. Motion carried 4-0.

B. Conditional Use Permit request of Deephaven Woods Senior Living to replace existing non-conforming illuminated sign at 18025 Minnetonka Boulevard - Section 1115.04(2) states that no sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a Conditional Use Permit.

Zoning Coordinator Cooney summarized the staff report. Cooney said that Deephaven Woods Senior Living is working in conjunction with The Church of St. Therese to replace the existing monument sign on Minnetonka Boulevard in order to make Deephaven Woods's information more prominent. He said that the sign foundation and supports are remaining in place, and the

overall size of the sign is not changing. He said that portion of the sign is proposed to be replaced with an LED sign. Cooney noted that the current sign is capable of being fully internally lit, however portions of the sign are unlit because of maintenance issues.

Cooney said that the sign requires a Conditional Use Permit. He said that the overall area of the sign, including the “stained glass” area but excluding base and supports is 67.36 square feet in size. He said that since the sign is two-sided, the city would calculate the overall sign area as 134.72 square feet. Cooney noted that Section 1115.09 (a) states that “the size of a sign may not exceed 15 percent of the wall area of the front façade of the structure in which it is located and in no case exceed 100 square feet for all other types of signs.” He said that as it currently exists, the sign exceeds city regulations and should be considered a legal non-conforming sign and is permitted to be maintained, repaired or replaced, but not expanded.

Cooney said that the proposal would illuminate the cabinet sign internally with an LED light at the letters only, while the digital LED board could be fully illuminated. He said that the applicant has an alternate proposal that replaces the LED board with an illuminated cabinet sign that allows for manually changing the lettering which is similar to what exists today.

Cooney said that Section 1115.03(12) defines Changeable Copy Sign as “a sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face of the surface of the sign. Changeable copy signs do not include signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.” He noted that changeable Copy Signs are considered prohibited signs under the sign ordinance. He said that the applicant has stated that the sign will be representing three businesses—St. Therese Church, St. Therese School and Deephaven Woods—and would need up to three messages to be rotated through the sign. He said that the applicant has stated that their preference would be to allow the copy on the LED board of the sign to change every minute.

Cooney stated that Section 1305.03(1) limits the hours a business can sell goods and services to consumers to between the hours of 6 AM and 9:30 PM and that exterior lighted signs are permitted to operate only during these business hours.

He said that the majority of the proposal could be considered maintenance of a legal non-conforming sign, but that the proposal for the LED board for the sign changes the nature and character of this portion of the sign. He said that in 2015, the city approved an LED sign for Speedee/Midas on State Highway 7. Cooney noted that the sign is allowed to change copy twice every 24 hours, and is only allowed to remain illuminated during business hours.

Cooney said that since the proposed sign is in an area that is more residential in nature than State Highway 7, he cannot defend allowing the LED portion of the sign to change more frequently than the Speedee/Midas sign.

Cooney said that he recommends approval of the conditional use request to replace the existing 134.72 square foot illuminated monument sign with a new sign of the same size. He said that there is a need to advertise the businesses and upon review of the application, it was determined that (a) the proposal will have no impact on the overall development of the community; (b) there

will be no impact on the character and development of the neighborhood; (c) there will be no impact on the health, safety and welfare of the occupants of surrounding lands; (d) there will be no impact on traffic or parking conditions due to this signage; and (e) there will be no negative impact on property values on the subject property or those in the surrounding area.

Cooney said that the recommendation is made with the following conditions:

- (a) that there be no net increase in overall signage for the property;
- (b) that the hours of illumination for all signs be as outlined in Section 1305.03 of the ordinance;
- (c) that the LED changeable copy area not change more than twice in a twenty-four hour period; and
- (d) that, because of the residential nature of the community near the signage, the LED sign board maintains a black background.

Cooney said that the Planning Commission held a public hearing at their November 15th meeting and recommended approval of the request based on the findings and conditions of staff. He said that the Planning Commission, in the interest of public safety for the residents of Deephaven Woods, further recommended that, except for the message board, the remainder of the sign should remain lit. Cooney said that the commissioners felt that the entrance to Deephaven Woods was difficult to see at night which may cause delays for emergency vehicles.

Cooney concluded his staff report.

Councilmember Jewett asked what commercial district the sign would be in. Councilmember Erickson said that Deephaven Woods is in a PUD residential zoning district.

Councilmember Jewett asked why Midas/Speedee was allowed to change twice every 24 hours. Cooney said they requested it and the city granted it.

Mayor Skrede said that there was a resident at the meeting who opposed the sign. Cooney said that Charles Christ was the resident, and his written comments were part of the packet as well.

Councilmember Erickson asked about how many lines of text the LED board could support. Shannon Donahue, Executive Director at Deephaven Woods, said that there is some latitude with that, but there would be at least two lines.

Councilmember Erickson said that he agreed with staff about the changing text messages and that there could be 1 line of text for each entity.

Mayor Skrede said that the text needs to be visible at 35 miles per hour. He said that some entities won't have messages every day, but that he expects that the church will put priorities on the mass times. He said that he felt confident that emergency vehicles could find the facility, but that visitors and other services might have more difficulty. He suggested that there be a street sign at the entrance to the private drive, with the street named whatever St. Therese felt would be most appropriate.

Karen Larson, who works with Ebenezer Corporation which operates Deephaven Woods, thanked the Mayor for the sign suggestion. She also said that, while not originally part of the proposal, she feels that keeping the non LED portion of the sign lit beyond business hours seems like an important aspect of the proposal.

Cooney asked if the letters or the background of the sign would be illuminated. Mayor Skrede said that he had a preference for having the sign backlit.

Councilmember Erickson said that he liked the look of it, but was concerned about the brightness. Cooney said that he asked for input from the city engineer, and that they pointed to other ordinances that have a .4 foot candle restriction. Cooney said that even .4 foot candles can seem bright, and that light is tricky because intensity and brightness are often not the same.

Councilmember Erickson said that LED lights can cause glare, like Holiday gas station lights.

Larson said that, for the LED message board, she would like a black background with white text to keep the sign legible for the residents. Councilmember Erickson said that yellow or off-white on black is actually the most legible.

Mayor Skrede said that different colors can have different impacts. He said that he was conceptually fine with the sign.

Councilmember Gustafson said that he is okay with the sign as presented, but he felt that there was a gentleman's agreement between the city and the applicant that the sign would not be too bright.

Mayor Skrede said that it should be tastefully done.

Councilmember Erickson said that it is important that the LED sign not be limited in its color range. He said that there must be a way to adjust the color palette to make appropriate color choices and that cheaper signs do not have this capability.

Motion by Councilmember Erickson to approve the request, as presented, based on the recommendation and findings of the Planning Commission with the following conditions:

- (a) that there be no net increase in overall signage for the property;
- (b) that the hours of illumination for the LED board portion of the sign be as outlined in Section 1305.03 of the ordinance, but that the remainder of the sign may remain perpetually illuminated.
- (c) that the LED changeable copy area not change more than twice in a twenty-four hour period; and
- (d) that, because of the residential nature of the community near the signage, the LED sign board maintain a black background.
- (e) that the LED board portion of the sign have the ability to be programmed such that the intensity and color of the light may be modified.

Motion was seconded by Councilmember Jewett. Motion carried 4-0.

7. UNFINISHED BUSINESS

A. Approve Contract Extension with Waste Management

Administrator Young stated that in response to a request for a one-year contract extension for garbage, recycling and compost services through December 31, 2017, Waste Management stated that they would like to provide the Deephaven City Council with options on a one-year contract extension, a three-year contract extension, and a five-year contract extension. He stated that Waste Management prefers the three or five-year contract because it provides a reliable annual revenue stream and enables them to adequately address the need to replace their aging “mini-packer” truck.

He stated that one area of concern regarding the extension of a contract beyond one year is the belief that years of negotiated rates have resulted in higher garbage & recycling rates than would typically be the case under a more competitive bidding process. He noted that a very limited survey has shown that a typical rate for a 96-gallon cart for weekly garbage service and a 68-gallon cart for every other week recycling service currently costs \$20.50 per month. Waste Management currently charges \$24.97 per month for that same level of service. He stated that Waste Management has attempted to address some of this price disparity with the following contract proposals.

One-Year Contract Extension

All residential rates will remain at 2016 levels for 2017. Labor costs for City Cleanup Day events will be increased \$0.75 per hour from \$52.25 per hour to \$53.00 per hour.

Three-Year Contract Extension

All residential garbage rates will drop by \$1.50 per home with a 2.0% increase in 2018 and 2019. Other services would include a free organics drop off site and starter kit for interested residents and a free LampTracker fluorescent light bulb recycling boxes at City Hall.

Five-Year Contract Extension

All residential garbage rates will drop by \$1.50 per home in 2017 with rates frozen in 2018, and a 2.0% increase in 2019, 2020 and 2021. Other services would include a free organics drop off site and starter kit for interested residents and a free LampTracker fluorescent light bulb recycling boxes at City Hall.

Jon Beseman, Public Sector Representative with Waste Management, was present to answer any questions from the City Council. He stated that he had heard that the City Council was generally pleased with the service offered by Waste Management and suggested a fourth option for Council consideration. He stated that the current recycling rate of \$2.99 per month is very low and suggested taking another \$1.00 off of garbage rates and adding it to the recycling rate, which would still keep the recycling rate low while saving residents from the higher sales tax on garbage rates. He provided information on the potential cost savings for the 360 residents on the

32-gallon rate, the 665 residents on the 64-gallon rate, and the 295 residents on the 94-gallon rate.

Jon Beseman stated that the Waste Management would also offer free a drop-off site for organics. He stated that there could be a two-yard container for organics where the mini-packer currently is parked where residents could sign up for the service to dispose of their organics at this site. He stated that Waste Management would provide the residents with a counter top organics bin and felt that this was a very good way to build an organics program. He stated that after the program builds, Waste Management could then start a curbside program for organics. He noted that St. Paul has a drop-off site for organics and has had very few problems with the program.

Mayor Skrede noted that this site is near a wetland and the container should be enclosed. He asked when this program would start.

Jon Beseman stated that it would start in 2017. He stated that Waste Management would also provide a free Lamp Tracker fluorescent light bulb recycling program. He stated that boxes could be stationed at City Hall for different sized bulbs, which would then be shipped out by FedEx when the boxes were full.

Councilmember Erickson stated that he felt any long-term agreement had to include the purchase of a new mini-packer truck.

Jon Beseman agreed that the current mini-packer has aged and the District Manager could justify a new mini-packer with a 3-5 year agreement.

Mayor Skrede stated that we would have to have a guarantee that we would receive a new mini-packer truck with this agreement.

Councilmember Jewett stated that he was not adverse to a five-year agreement but felt that the rates for an extra can, recycling charge, and yard waste pickup should be frozen at 2016 rates through the life of the five-year contract.

Mayor Skrede agreed.

Jon Beseman stated that he does not have the authority to freeze these rates and will have to check with his District Manager.

Motion by Councilmember Jewett to approve a five-year contract extension with Waste Management for garbage & recycling services subject to the rate adjustments discussed this evening and the guarantee of a new mini-packer truck to service Deephaven. Seconded by Councilmember Erickson. Motion carried 4-0.

B. Adopt Resolution No. 67-16, Approving JPA with Resource Training and Solutions

Administrator Young stated that Resource Training & Solutions is a service cooperative that provides a Health Insurance Pool for cities, school districts, counties and government agencies. Along with their health insurance & wellness programs, Resource Training & Solutions also provides education programs, health & safety programs, training & development, and cooperative purchasing opportunities. He stated that while the City may take advantage of some of these other additional services, our interest in this cooperative is primarily due to the structure and low rates offered through their group health plan.

He stated that in order to participate in the group health plans and rates offered exclusively through this service cooperative, the City of Deephaven must adopt Resolution No. 67-16 approving the attached Joint Powers Agreement with Resource Training & Solutions.

Motion by Councilmember Erickson to adopt Resolution No. 67-16, Approving a Joint Powers Agreement with Resource Training and Solutions for the provision of group health insurance. Seconded by Councilmember Gustafson. Motion carried 4-0.

C. Approve 2017-2019 Police Union Contract

Administrator Young stated that negotiations with the Police Union over a proposed three-year contract have not been particularly easy this year but substantial progress has been made since the Council's last discussion on the proposed contract at the November 10th Council meeting

He stated that he and the union representatives have come up with a tentative agreement on the three-year contract, pending Council approval. He stated that the agreement includes the following items:

- 3 year contract: 2017, 2018 & 2019
- Wages: 2% in 2017, 2.5% in 2018, 2.5% in 2019
- Healthcare: Up to \$1,100.00 per month employer contribution towards health care in 2017, up to \$1,300.00 per month in 2018, and a healthcare reopener for 2019.

Motion by Councilmember Gustafson to approve the 2017-2019 Police Union Agreement with the following two amendments to the existing agreement:

1. Salary Appendix A: 2.0% in 2017, 2.5% in 2018, 2.5% in 2019.
2. Health Insurance Article XVII: Up to \$1,100.00 per month employer contribution towards the health premium cost in 2017, up to \$1,300.00 per month employee contribution towards the health premium cost in 2018, and a healthcare reopener for 2019.

Seconded by Councilmember Erickson. Motion carried 4-0.

D. Approve 2017-2019 Public Works Union Contract

Administrator Young stated that negotiations with representatives of the Public Works Union over a proposed three-year contract went very smoothly this year. He stated that he and the union representatives have come up with a tentative agreement on the three-year contract, pending Council approval. He stated that the agreement includes the following items:

- 3 year contract: 2017, 2018 & 2019
- Wages: 2.0% in 2017, 2.5% in 2018, 2.5% in 2019

Motion by Councilmember Jewett to approve the 2017-2019 Public Works Union Agreement with the following two amendments to the existing agreement:

3. Salary Appendix A: 2.0% in 2017, 2.5% in 2018, 2.5% in 2019.
4. Health Insurance Article XVI: Up to \$1,100.00 per month employer contribution towards the health premium cost in 2017, with a healthcare reopener for 2018 & 2019.

Seconded by Councilmember Erickson. Motion carried 4-0.

E. Other

There was no other Unfinished Business this evening.

8. NEW BUSINESS

A. Discuss Appeals from 90-Day Rule

Administrator Young stated that Section 900.07, Subd. 2 of the Deephaven City Code requires all permit holders to use their watercraft space for a minimum of 90 days. Failure to meet this requirement results in the non-renewal of their boating permit for the upcoming season unless they request an appeal in writing before the City Council on or before Thursday, December 1st.

He stated that one permit holder failed to comply with Section 900.07, Subd. 2 but did not submit the required letter of appeal so no action is required by the Council since there was no appeal to the revocation of the 2017 Boating Permit of Carl McElroy, 3265 Robinson's Bay Road, for Buoy #8 in St. Louis Bay.

B. Discuss Alternate Dates for 2017 Council Meetings

Administrator Young stated that there are four regularly scheduled Council meetings in 2017 that conflict with a major holiday. He stated that staff would recommend that these four dates be rescheduled as follows:

Date	Event	Alternate Date
Monday, January 2, 2017	New Year's Day	Tuesday, January 3, 2017

Monday, January 16, 2017	Martin Luther King Day	Cancel
Monday, February 20, 2017	President's Day	Cancel
Monday, September 4, 2017	Labor Day	Tuesday, September 5, 2017

Motion by Councilmember Gustafson to approve the alternate dates for the rescheduled 2017 Council meetings. Seconded by Councilmember Erickson. Motion carried 4-0.

C. Discuss Cancellation of December 19, 2016 Council Meeting

Administrator Young stated that he is recommending cancelling the December 19, 2016 Council meeting due to a lack of agenda items. He noted that there are no Committee meetings scheduled in December and few, if any, outstanding agenda items that need to be addressed before the end of the year. He stated that any agenda items that come up over the next week or so can easily be scheduled for the first Council meeting of the year on Tuesday, January 3, 2017.

Motion by Councilmember Jewett to cancel the December 19, 2016 Council meeting. Seconded by Councilmember Gustafson. Motion carried 4-0.

D. Other

There was no other New Business this evening.

9. DEPARTMENT REPORTS

A. Police Department

A summary of the November Police Incident Report was presented for Council review.

B. Excelsior Fire District

Councilmember Erickson stated that he will provide a year-end summary of the Excelsior Fire District at the January meeting.

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:

- Required reports and publications
- January Newsletter
- The annual Holiday party will be held on Thursday, December 15th
- There will be a \$575 increase in the cost of the 2016 audit

10. ADJOURNMENT

Motion to adjourn the Regular Council meeting by Councilmember Erickson, seconded by Councilmember Gustafson. Motion carried 4-0. The meeting adjourned at 9:22 p.m.

Respectfully submitted,
Dana H. Young, City Administrator