

**DEEPHAVEN CITY COUNCIL MEETING  
MONDAY, APRIL 3, 2017  
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, Kent Carlson, Tony Jewett, and Steve Erickson

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 March 20, 2017 Council Minutes
- B. Approve Verifieds

Seconded by Councilmember Carlson. Motion carried 4-0.

**4. MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

**5. PUBLIC HEARING**

**A. Public Hearing to receive public comment regarding the City of Deephaven's Storm Water Pollution Prevention Program. Comments will be included in the City's annual report to the Minnesota Pollution Control Agency.**

Councilmember Erickson enters at 7:02 p.m.

Administrator Young stated that one of the main requirements of the Storm Water Pollution Prevention Plan (SWPPP) is to hold an annual hearing to solicit public comments on the plan. He stated that the City has been required since 2003 to develop a Storm Water Pollution Prevention Plan to reduce pollution entering into area water bodies by establishing best management practices. He noted that our SWPPP and related documents are available for public review on the City webpage.

Mayor Skrede opened the public hearing for public comments. Hearing no comments, Mayor Skrede closed the public hearing.

## 6. PLANNING & ZONING REQUESTS

### A. Variance Request of Ben Bergum to encroach into the lake yard setback in order to expand an existing deck at 4280 Chimo East.

Zoning Coordinator Cooney summarized the staff report. He said that Ben Bergum, the property owner, is requesting a variance to expand an existing lake yard deck. Cooney noted that the existing setback for the house and the deck were approved via a variance in May of 1975.

He said that Section 1302.04(3) of the zoning ordinance requires a lake yard setback of 100 feet. Cooney said that the applicant proposes a lake yard setback of 74 feet, 2 inches and is seeking a variance of 25 feet, 10 inches from the minimum required lake yard setback.

He said that because the new deck is slightly shallower than the existing deck, the lake yard encroachment would be reduced by 1 foot, 8 inches, but noted that the new deck is significantly wider. Cooney said that the proposed deck is 53 feet 4 inches wide, and 10 feet 4 inches deep, while the existing deck is 35 feet, 6 inches wide and 12 feet deep. Cooney noted that the encroaching area is expanding by 233 square feet. He said that the impervious area on the property is increasing from 17.3% to 20.8%, but is still well under the impervious surface limitations.

Cooney said that he recommends approval of the variance request based on the following findings:

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

Yes. The applicant is seeking to expand a legal, non-conforming deck that had been previously granted via a variance. The depth of the encroachment into the lake yard is being reduced from existing conditions.

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

The request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which encourage residents to maintain and/or improve older homes which will promote diversity of housing in Deephaven.

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

The expansion of the deck footprint is reasonable, and the additions remain within the scope and scale of surrounding properties.

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

Yes. The existing house was constructed in 1975 and was granted a variance for the existing non-conforming lake yard setback. Changing the configuration of the deck is not possible without a variance.

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

The proposal would not alter the essential character of the locality. The proposed project is a modest expansion of existing conditions.

Cooney said that the Planning Commission held a public hearing on this item at their March 21<sup>st</sup> meeting and on a 6-0 vote, the Planning Commission recommended approval of the request as proposed, based on the recommendation and findings of staff.

Cooney concluded his staff report.

Councilmember Jewett remarked that the measurements from 1975 were somewhat different than today's measurements. Cooney said that he noticed that as well when he checked the old surveys.

Councilmember Jewett said that he liked the survey submitted with the application since it showed the buildable area on the property along with the setback measurements.

Ben Bergum, applicant, said that work has begun on his home remodel and that he expects to be back in the house by Memorial Day.

Motion by Councilmember Gustafson to recommend approval of the variance request at 4280 Chimo East based on the recommendation and findings of the Planning Commission. Motion was seconded by Councilmember Erickson. Motion carried 5-0.

## **7. UNFINISHED BUSINESS**

### **A. Other**

There was no Other Unfinished Business this evening.

## **8. NEW BUSINESS**

### **A. Update Deephaven Beach Swimming Dock**

Councilmember Carlson stated that at the March meeting the Council was informed of damage to the new swimming dock at Deephaven Beach when 60 mph winds pushed ice into the dock. He stated that he and Mayor Skrede met with staff and the contractor to discuss what improvements could be made to the dock. He stated that one of the options was to water jet and straighten the pilings rather than removing and replacing the pilings. He stated that the pilings have been driven 6' to 10' into the ground and haven't had the chance to settle yet. He stated that another option was to replace the 36" deck with a 42" deck, which would provide a better opportunity to straighten the dock and to provide a wider walkway for the kids. He added that the final option was to replace several 8' stringers with 16' stringers to add more stability to the dock. He stated that we won't know the entire extent of the cost until the decking is removed.

Mayor Skrede stated that they will have Public Works Foreman John Menzel access the repair of the pilings but the attempt will be to straighten what we can and replace those pilings that are broken.

Councilmember Carlson stated that in regards to the winter access and deicing question, there is no reason we would need to bubble until March. He stated that we would just need staff to monitor the situation.

Councilmember Gustafson stated that this is the main beach in Deephaven and he doesn't want the City to be cheap on whatever repairs are needed. He stated that he wants to make sure that it's done right.

Mayor Skrede stated that this is what we are trying to do with these proposed repairs. He stated that water jetting is as reasonable a solution as taking out and replacing each piling. He stated that the

contractors went as far down as they could with the pilings until they met resistance. He stated that he felt confident that they were given correct information by the contractor. He stated that the 42” deck will help kids navigate the dock and will allow the dock to come within a couple of inches of being perfectly straight.

Councilmember Erickson stated that even with the 42” deck, the existing pilings are still within 36” of each other. He stated that he understands the rationale for the 16’ stringers but doesn’t understand where we would get more stability with the additional width of the deck. He wondered if we would want to add cross pieces to add lateral stability.

Councilmember Carlson agreed that the cross pieces would add support.

Mayor Skrede noted that Public Works Foreman John Menzel also recommended installing “L” brackets.

Councilmember Erickson stated that the cross pieces would add more lateral strength to the deck if we would get hit by ice again.

Councilmember Carlson stated that this was a good suggestion. He stated that the 60 mph winds really caused some problems. He added that bubbling and use of his ice breaking boat might really help prevent ice damage in the future.

Councilmember Erickson stated that he was prepared to write this damage off as fluke weather conditions and stated that we have to be prepared to deice when needed.

Councilmember Carlson stated that the 42” deck was not intended to add stability but to help straighten the dock.

Councilmember Erickson agreed that 42” deck would result in a better product.

Councilmember Jewett asked whether the starter pole is to be removed.

Mayor Skrede stated that the contractor was told to replace the existing dock in its exact footprint. He stated that any in-house project should require our own specifications and drawings, and we should also reach out to dock contractors for their advice.

Councilmember Jewett asked if we could break up the ice with our own pontoon boat.

Mayor Skrede stated that we could look into it.

Councilmember Carlson stated that the boat they use to break ice has a very heavy steel hull.

Mayor Skrede asked the Council to send any additional ideas to Councilmember Carlson and asked if there was a consensus on the proposed repair of the dock.

Motion by Councilmember Gustafson to approve the repair plan and proposed cost as presented with the further understanding that conditions may warrant additional expenses. Seconded by Councilmember Erickson. Motion carried 5-0.

**B. Other**

There was no other New Business this evening.

**9. DEPARTMENT REPORTS**

**A. Police Department**

Police Chief Johnson presented the March Incident Report for Council review. He provided an update on the hiring of a new officer and the Elected Official Emergency Management Training session held last week.

**B. Excelsior Fire District**

Councilmember Erickson provided a brief summary of the Excelsior Fire District Board meeting held on March 22<sup>nd</sup>. He stated that the Board reviewed the annual 2016 EFD audit and the 2016 Fire Relief audit, the 2016 Year in Review was provided, and the Board ratified a 3% increase in the per year of service benefit for the members of the Excelsior Fire Relief Association.

**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:

- April Mailings
- Upcoming dates of interest
- 2018 Budget
- 2017 Project Schedule
- 2017 Minnetonka Blvd Storm Water Project

Further discussion was held on the need to provide technology upgrades to address problems with the Police email service.

**10. ADJOURNMENT**

Motion to adjourn by Councilmember Erickson, seconded by Councilmember Carlson. Motion carried 5-0. The meeting adjourned at 7:45 p.m.

Respectfully submitted,  
Dana H. Young  
City Administrator