

**DEEPHAVEN CITY COUNCIL MEETING  
MONDAY, AUGUST 3, 2020  
MINUTES**

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

PRESENT: Mayor Paul Skrede, Councilmembers Melissa McNeill and Steve Erickson

ABSENT: Councilmembers Kent Carlson and Tony Jewett

STAFF: Police Chief Cory Johnson, Planning Director Pat Smith and City Administrator Dana Young

2. **PLEDGE OF ALLEGIANCE**

The Council recited the Pledge of Allegiance.

3. **APPROVE CONSENT AGENDA**

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

- A. Approve July 20, 2020 Regular Council Minutes
- B. Approve Verifieds
- C. Approve June 2020 Treasurer's Report

Seconded by Councilmember McNeill. Motion carried 3-0.

4. **MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

5. **PLANNING & ZONING REQUESTS**

- A. **Consider the Variance / Preliminary Plat / Final Plat Requests of Andrew Mahoney at 19390 Walden Trail**

Planning Director Pat Smith presented the staff report. Andrew Mahoney, property owner, is requesting two variances to replat three residential lots in order to bring Lots 2 and 3 into conformance with the minimum lot size and thereby creating lots that are compatible with the neighborhood. All three properties are zoned R-2, single-family residential. Lots 1 and 2 are developed while Lot 3 is vacant.

Mayor Skrede received several letters of support from neighbors. Councilmember McNeill stated that the only negative comment that she received was the elimination of fire truck access; however, Councilmember McNeill pointed out that the fire department no longer uses lake water for fighting fires.

Councilmember Erickson motioned to accept the recommendation and findings of staff and approve the Preliminary and Final Plat of Walden Mahoney Addition with a lake frontage variance of 109 feet and a road frontage variance of 15 feet subject to the conditions listed in the staff report. Councilmember McNeill seconded. Motioned carried 3/0.

**B. Consider the Front Yard Variance & Canopy Encroachment Variance Requests of Tim Alt at 5180 Hooper Lake Road**

Smith presented the staff report. Tim Alt, property owner, is requesting two variances to encroach into the front yard setback and exceed the overhead canopy encroachment in conjunction with the construction of an addition to the existing home at 5180 Hooper Lake Road. The house and detached garage were constructed in 1964, prior to the City adopting the zoning ordinance and setback requirements. The detached garage was built 29.7 feet from the front property line (please see attached survey from 1961 showing proposed building locations). In 2000, an entry was constructed that attached the house to the garage. The site plan depicted a 50-foot setback from Hooper Lake Road, which would have conformed to the front yard setback requirement. However, the current survey shows a small portion of the 2000 addition encroaching into the 50-foot front yard setback.

Mayor Skrede appreciated that the applicant brought the variance to the attention of the City instead of just building the addition and pleading ignorant. Both McNeill and Erickson supported the variance request.

Councilmember Erickson motioned to accept the recommendation and findings of staff and approve the variance requests of Tim Alt to encroach one foot into the minimum required front yard setback and exceed the permitted eave encroachment by two feet in conjunction with enlarging the entry to the house located at 5180 Hooper Lake Road, as proposed and subject to the conditions listed in the staff report. Councilmember McNeill seconded. Motion carried 3/0.

**C. Discuss Accessory Dwelling Units**

Mayor Skrede explained the history of mother-in-law apartments in Deephaven. It has been the City's understanding that internal rooms may be configured in any way and that different families may live under one roof as long as there is just one sewer connection.

Councilmember McNeill stated that she does not believe a Conditional Use Permit is needed if there is a contiguous roofline, one address and one sewer line.

Councilmember Erickson concurred. It is the Council's opinion that a variance is not needed based on the intended use of the projects (18100 Honeysuckle Lane and 18855 Ridgewood Road) as long as there is one sewer connection, one address and one roofline.

Motion by Councilmember Erickson that a variance is not needed as the two projects are consistent with the spirit of the ordinance. Seconded by Councilmember McNeill. Motion carried 3/0.

**D. Adopt Ordinance No. 13-80, Amending Construction Management**

**Smith presented the staff report.** A contractor working on a new house at 19000 Easton Road damaged the recently paved street. Currently, the City of Deephaven does not have a formal mechanism for requiring developers to repair damage to public property, specifically local streets. The City Council directed the Planning Commission to discuss and make a recommendation to the City Council on requiring an escrow for road repairs and general construction management items that may be needed.

On June 16, 2020, the Planning Commission discussed the proposed escrow and revised construction management agreement.

On July 6, 2020, the City Council discussed the proposed escrow and revised construction management agreement. Staff has amended the proposed ordinance based on the Council discussion. The City Council agreed to the following changes:

- The Construction Management Agreement and Road Escrow would be required for all new buildings and major remodels.
- The amount of the Road Escrow would be \$5,000.
- Construction dust must be managed at all times, not just by complaints.
- Construction hours will remain as is.

Mayor Skrede stated that he did not care for using the cost of the project as the determining factor for if a project needs neighborhood notification or not.

Councilmember McNeill stated that the City should have some provision that would allow the City to be reimbursed for consulting fees that go above and beyond normal review time. The Council liked that idea.

City Administrator Young suggested one escrow to cover any extra administrative cost and road repair. The Council directed staff to make those changes and bring the ordinance back to the City Council on August 17<sup>th</sup>.

**E. Discuss Fences around Swimming Pools**

Smith presented the staff report. A resident of Deephaven contacted staff about requiring fencing around pools. Currently, the City only requires screening of pools but not fencing. Fencing around pools is not required by the State or the International Building Code either. It is up to individual cities to require fencing around pools or not. Staff checked with an insurance company and their agent said not having a fence around a swimming pool does not affect a homeowner's policy nor does having a pool affect a homeowner's policy.

City Administrator Young stated that the City does not have a fence requirement because the Council thought that their insurance company would require residents to construct fences around swimming pools.

Mayor Skrede thought it would be a good idea for the Planning Commission to discuss the idea. Councilmember Erickson agreed that the Planning Commission should discuss the issue.

**6. UNFINISHED BUSINESS**

**A. Present Ordinance No. 04-71, Amending Watercraft Rates**

Administrator Young stated that the City Council reviewed the 2021 Marina Fund Budget on July 6<sup>th</sup>, which included proposed rate increases. The additional revenue generated by the rate increase would be used to supplement funding in the Capital Improvement Fund towards park & beach capital projects starting in 2021.

<u>Spaces</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Docks	\$875.00	\$1,000.00
Shore Space	\$64.00/ft.	\$71.00/ft.
B1 Slides	\$300.00	\$325.00
B2 Slides	\$200.00	\$225.00
Street Ends	\$200.00	\$225.00
Buoys	\$450.00	\$500.00

He stated that the new rates will generate an additional \$18,503 in revenue, \$16,000 of which will be transferred annually into the Capital Improvement Fund to support park & beach capital projects.

This ordinance is presented this evening for adoption on August 17<sup>th</sup> following the required 10 day posting period.

Mayor Skrede requested that staff provide the number of watercraft spaces to enable the Council to determine the additional revenue that is being generated off of the rate increase.

Councilmember McNeill stated that she would like the additional revenue generated to be used towards special beach and park improvements projects and not necessary for the Capital Improvement Fund, which only funds the existing fixed assets of our parks and beaches. She stated that she would also like a 5-Year Plan showing the purpose and impact of rate increases over a five-year period.

Mayor Skrede agreed and noted that we don't want to raise boat fees just to prove we can.

**B. Authorize Pay Request No. 1, Shuck Park Tennis Court Project**

Administrator Young stated that the City Engineer has recommended Pay Request No. 1 to Minnesota Roadways Company in the amount of \$61,712.67 for the work completed on the

Shuck Park Tennis Court Improvement Project. He stated that project was substantially completed on July 27<sup>th</sup>.

Motion by Councilmember Erickson to authorize Pay Request No. 1 to Minnesota Roadways Company in the amount of \$61,712.67 for the Shuck Park Tennis Court Improvement Project. Seconded by Councilmember McNeill. Motion carried 3-0.

**C. Adopt NFPA 96 Annex B, Mobile Cooking Operations**

Administrator Young stated that Annex B on Mobile and Temporary Cooking Operations was presented for Council review on July 20<sup>th</sup> at the request of EFD Fire Marshall Kellie Murphy-Ringate.

He stated that the Council voiced several concerns on how the inspections of food trucks would be implemented and whether the inspections would be conducted in a timely manner to prevent the cancellation of a proposed event.

He stated that he had a discussion with Chief Mackey and was told that inspections typically include a review of a food truck's electrical system, propane tank, whether the wheels are secured in the event of brake failure, whether fire extinguishers are filled, the size of the portable generator, whether the vent hood is cleaned, and whether extension cords are overloaded are the most common and important inspection items. If the electric and propane have an inspection sticker from another community, they are not re-inspected by the EFD. He stated that the EFD can be pretty flexible with inspections and there is a \$80 inspection fee paid by the vendor for the inspection. The inspection fee is good for an entire year. The EFD does not inspect any food trucks catering private parties, they only inspect if food is to be served to the general public.

Councilmember Erickson stated that this Annex is coming from a national safety organization and adoption of this provision will not change the fact that inspections of food trucks would still be required by the Fire District. He stated that if a food truck fails an inspection, we wouldn't want the food truck to continue to serve food.

Mayor Skrede stated that the Cottagewood Store would just have to ensure that their food truck vendor has been currently inspected by the Fire District.

Councilmember Erickson stated that food truck operators already know that they need to have an inspection.

Motion by Councilmember McNeill to adopt NFPA 96 Annex B on Mobile Cooking Operations. Seconded by Councilmember Erickson. Motion carried 3-0.

Mayor Skrede asked if the Fire District could develop a handout on inspections for Mobile Cooking Operations to be handed out at City Hall and placed on the website.

**D. Review Excelsior-Lake Minnetonka Funding Request**

Administrator Young stated that the Excelsior-Lake Minnetonka Chamber of Commerce sent a letter to the Deephaven City Council on July 20<sup>th</sup> requesting that the Council consider using some of the CARES Act Funds the City of Deephaven has received to help the Chamber remain open. He stated that letter states that with the significant reduction in membership dues and event revenue during the COVID-19 pandemic, the Chamber is looking to cease operations on July 31, 2020 unless additional support can be found. The City has received \$292,170.00 in CARES funding.

Christian Tietz, President of the Chamber, was present to present the Chamber's request for funding. He stated that the lack of events due to COVID-19 has resulted in the loss of 77% of their revenues. He stated that they are down to one staff member and are requesting a donation in the amount of \$8,297.98 from the City of Deephaven, which represents one month's operating costs, from the City's CARES Funding.

Mayor Skrede stated that he empathized with their dilemma and noted that others have asked for funding from the City's CARES funding as well. He stated that it is his understanding that the City of Deephaven has never been refunded by the Chamber for the \$2,000 donation that was made to support the 2020 fireworks display. He asked what the Chamber would do with the funding.

Christian Tietz stated that they would continue to support small business, provide business outreach, grant funding opportunities, and hold weekly phone calls on PPE loans. He stated that he hopes that the Chamber can start holding events again in 2021. He stated that it was his understanding that the \$2,000 contribution had already been returned to the City.

Mayor Skrede stated that if the \$8,297.98 would be used to keep their lights on for a month, what is the Chamber's plan for further funding.

Christian Tietz stated that they took out an idle loan, which will enable them to stay in operation until October. He stated that they are looking to do some fundraising and are asking for contributions from the South Lake Area cities. He stated that he is hoping to hear back from the City of Excelsior this evening.

Administrator Young asked how many businesses are members of the Chamber and how many of those businesses are from the City of Deephaven.

Christian Tietz stated that there are 308 businesses that are members of the Chamber and isn't sure how many of those businesses are from Deephaven.

Councilmember Erickson stated that he realizes that they are in a tough situation and doesn't really know what he thinks about their request.

Mayor Skrede stated that he would like to know if the earlier \$2,000 fireworks donation has been returned to the City and how many Deephaven businesses are members of the Chamber. He

stated that he doesn't know if he sees a light at the end of the tunnel regarding COVID-19 and would need to do some more work on this request.

Christian Tietz stated that Executive Director Jen Weiss can possibly provide more information to the City and perhaps it will be helpful when we all find out what the other area cities are doing regarding their request.

**E. Other**

There was no other Unfinished Business this evening.

**7. NEW BUSINESS**

Mayor Skrede stated that there was a mistake when the storm water line was brought over from Easton Road last year and the new pipe was connected to old water heater shells on Rutledge Road. He reviewed a site plan showing the installation of two new 48" sump manholes and a 21" storm water line on Rutledge Road that would connect to an existing line just east of Deephaven Avenue. He stated that Schneider Excavating has provided a bid in the amount of \$31,445.00 to install the manholes and pipe and Art Taylor of Bolton & Menk has provided a bid to resurface that portion of Rutledge Road in the amount of \$7,729.65.

Motion by Councilmember Erickson to approve the bid submitted by Schneider Excavating in the amount of \$31,445.00 to install a new storm water line and two manholes to connect the Easton Road storm water line to the Rutledge Road storm water system and approximately \$8,000.00 to resurface the street after the storm water work has been completed. Seconded by Councilmember Erickson. Motion carried 3-0.

**8. DEPARTMENT REPORTS**

**A. Police Department**

Police Chief Johnson presented the July Incident Report for Council review. He noted that the number of permit parking tickets this year was double the number issued in 2019.

**B. Excelsior Fire District**

EFD Liaison Erickson stated that there was nothing new to report on the Excelsior Fire District.

**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:

- 2020 Year to Date Financial Summary Summary
- Building Permit Update

**9. ADJOURNMENT**

Motion to adjourn by Councilmember Erickson, seconded by Councilmember McNeill. Motion carried 3-0. The meeting adjourned at 9:15 p.m.

Respectfully submitted,  
Dana H. Young  
City Administrator