

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, FEBRUARY 2, 2015
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, Keith Kask, and Tony Jewett

ABSENT: Councilmember Steve Erickson

STAFF: Police Chief Cory Johnson, Zoning Coordinator Gus Karpas, and City Administrator Dana Young

2. **PLEDGE OF ALLEGIANCE**

The Council recited the Pledge of Allegiance.

3. **APPROVE CONSENT AGENDA**

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

- A. Approve January 5, 2015 Council Minutes and January 27, 2015 Joint Council Minutes
- B. Approve Verifieds
- C. Approve December 2014 Treasurer's Report

Seconded by Councilmember Gustafson. Motion carried 4-0.

4. **MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

5. **PUBLIC HEARING**

A. **Petition for the Partial Vacation of St. Louis Avenue**

Administrator Young stated that at the January 5th Council meeting, the Council adopted a resolution setting a public hearing for February 2, 2015 to act upon a petition submitted by a majority of abutting property owners requesting the vacation of a portion of St. Louis Avenue. He stated that the Council also asked staff to provide specific examples of other undeveloped streets in Deephaven similar to St. Louis Avenue. He stated that this report is included with the memo, which shows the majority of the other undeveloped streets located around Lake Louise.

He stated that according to the League of Minnesota Cities publication entitled Vacation of City Streets, Minnesota Statutes establish that a city council may vacate a street only upon a finding that the vacation is in the best interest of the public. This means the public must benefit, in some manner, from the vacation. The public includes persons other than those in the immediate vicinity of the vacation. A private benefit derived from the vacation does not bar the vacation, so long as a concurrent benefit to

the public can be substantiated. Mere long-term, non-use of a street ground does not necessarily equate with a finding that the vacation is in the interest of the public.”

He stated that included within the Council packet is information from the City Attorney and City Engineer. He stated that the City Engineer does not think that St. Louis Avenue will ever be developed as a city street and recommended that an easement be required should the vacation be granted for sewer or storm water utilities.

He concluded by stating that the Council must adopt a resolution either approving or denying the vacation and provide findings of fact in support of their position.

Mayor Skrede provided clarification of the City Attorney’s letter regarding the required number of votes needed by the City Council. He stated that a vacation by Council action requires a 4/5 vote and a vacation by petition, which is the case this evening, requires a simple majority decision. He stated that he had requested additional information from Bury’s attorney regarding the legal description, which has been passed out this evening and additional clarification on that portion of St. Louis Avenue that is proposed to be vacated.

Mayor Skrede stated that if the Council were to approve the vacation of this portion of St. Louis Avenue, it is his understanding that further land transactions would occur between the two property owners. He noted, however, that the City Council’s action tonight is to either approve or deny the vacation.

Councilmember Jewett asked if this information is for clarification purposes only.

Mayor Skrede stated that it was for clarification purposes and this additional information was helpful for him to determine what the adjoining property owners would gain from this vacation.

Jacob Steen with Larkin Hoffman, and attorney for the Bridget and Leah Bury, stated that this is a partial vacation request and they are not proposing to vacate all of St. Louis Avenue. The unimproved street was first platted 128 years ago and there are no plans to improve St. Louis Avenue. He noted that the properties are already served by city sewer and any utility could be addressed by an easement.

He stated the main reasons for approving the vacation are that the property is unmaintained. He stated that there are maintenance concerns and potential liability if someone is injured within the right-of-way. He added that it might be unlawful for abutting property owners to mow or trim trees within the right-of-way. He stated that without this vacation, it would preclude any improvement to the Bury’s property. He stated that the public benefit to vacating this street would be to eliminate uncertainty concerning the future improvement of the street, ensures the maintenance of the right-of-way, and eliminates unmonitored use of city property. He stated that this is a unique situation as staff was only able to indentify two other unimproved streets other than those surrounding Lake Louise. He noted that an unimproved portion of Park Avenue had also been vacated back in 1978. He stated that the intent of the adjoining property owners is to re-align the properties and allow the properties to be squared up with Virginia Avenue.

Mayor Skrede opened the hearing up to public comment at 7:21 p.m.

Jerry Laughlin, 3865 Monaltrie Avenue, stated that he has lived in close proximity to St. Louis Avenue for 38 years and recommended that the Council don’t make a decision on the vacation based on the

maintenance of the city property. He stated that there has never been an issue with mowing or tree maintenance or a big problem with people walking through St. Louis Avenue. He added that this really hasn't been much of an issue.

Councilmember Kask said the City Engineer states that the vacation is not in the interest of the City. He stated that the Council can allow or deny the vacation, provide a Right of Way Permit, or allow a variance. These are the four options under consideration. He stated that the easiest option is to deny the vacation and the applicant could come back to request a Right of Way Permit or variance.

He stated that there has to be a demonstrated public benefit. Maintenance is a pretty common issue that has typically been addressed by property owners abutting road sides or street ends. He stated that he doesn't believe maintenance issues on St. Louis Avenue are a legitimate concern. A benefit cannot be just a benefit to one person without having to allow the benefit to another.

Councilmember Gustafson stated that he agreed with Councilmember Kask. He stated that the focus has to be on the best interest of the public. The unmonitored use of property is a claim that could be made on almost any piece of public property. He stated that the earlier reference to the 1978 vacation of Park Avenue has already been used as precedence in this discussion. He stated that the focus is on the best interest of the public and he hasn't heard one yet.

Councilmember Jewett stated that one of the concerns of the applicants' was over the uncertainty of the property. He stated that if they were concerned with trespassing, it could be addressed by a fence or a border of trees. He stated that he would favor a Right of Way Agreement for the driveway. He stated that if true consideration were given for the vacation of St. Louis Avenue, the City would have to come up with a comprehensive plan for vacating other streets and the rest of St. Louis Avenue. He stated that if we allow one, we would have to allow others. He noted that there hasn't been a street vacation since 1978; He added that he was curious about the Gammacks and their thoughts on the vacation request.

Mayor Skrede stated that he can only assume that the Gammacks support the vacation because they signed the petition and also assumes that there have been discussions between the Gammacks and Bury's regarding the re-alignment of their properties.

Jacob Steen stated that the Gammacks have been consulted and agree with the boundary line discussions since they also have a constrained backyard. He added that vacated streets are split down the middle so all property owners would benefit and the City could initiate a larger vacation of St. Louis Avenue should it choose to do so. He stated that a License Agreement would allow the City to alleviate many of the Bury's concerns with conditions established by the City. The City could allow exclusive access to enable the construction of a garage up to or over the property line. He stated that it is difficult to determine the property line and any fence would have to be installed at an angle following the property line, which would make it look odd. He requested that if the Council does not grant a vacation, to direct the City Attorney to negotiate a License Agreement.

Mayor Skrede appreciated the willingness to consider a License Agreement. He stated that it has been difficult for the Council to determine a benefit to the public from the vacation of St. Louis Avenue. He stated that he has talked to the Bury's and know that they have an interest in maintaining their privacy and installing a fence for their dogs. He stated that he would look at that favorably. He added that he could also consider the extension of their driveway across the right-of-way to their property line to enable them to construct a permanent garage.

Councilmember Kask stated that we have a public hearing on a street vacation request before us and we can have a discussion on whether to have our City Attorney negotiate a License Agreement after we have had a further discussion on what we would allow in an agreement at a later time.

Motion by Councilmember Kask to adopt Resolution No. 09-15, a Resolution Denying the Request for Vacating a Portion of St. Louis Avenue upon a Petition of a majority of abutting landowners. Seconded by Councilmember Gustafson.

Councilmember Kask stated that the findings of fact in denying the vacation petition are as follows:

1. There has been no evidence that this vacation would provide a public benefit to anyone except the petitioners.
2. Lacking a demonstrated benefit, the vacation of St. Louis Avenue would set an unfortunate precedent.
3. The condition has existed for over 128 years.

Prior to a vote on the motion, further discussion was held.

Mayor Skrede stated that he would like to reserve the right to direct staff to work with the applicant on the drafting of a License Agreement.

Councilmember Kask stated that he was reluctant to have staff engage in this process until the Council is able to give direction to staff.

Mayor Skrede stated that the License Agreement would come back to the Council for review and approval.

Councilmember Kask stated that he doesn't want to pigeonhole himself on the support of an agreement.

The Council voted 4-0 on Resolution No. 09-15.

Mayor Skrede asked staff to initiate discussions with the Bury's attorney and the City Attorney for the drafting of a potential License Agreement.

Jacob Steen stated that he would like to discuss the parameters of the agreement with the City Attorney.

Councilmember Kask stated that he would like the cost of a License Agreement to be borne by the applicant as it could result in extensive legal costs.

Mayor Skrede stated that we could figure out the process for going forward after discussion with staff and the City Attorney. He stated that the City Attorney could comment solely on the legality of the document.

Jerry Laughlin asked if a License Agreement would straighten out the property lines.

Mayor Skrede stated that the agreement would include maintenance issues, driveway location, snow removal and fencing issues.

Jerry Laughlin stated that a variance usually deals with these issues.

Mayor Skrede stated that a variance deals with setback requirements and a License Agreement deals with driveway and other issues.

Councilmember Kask stated that he doesn't know how much effort we want to spend on this licensing effort. He added that he doesn't know if we have a basis for this discussion as of yet.

Councilmember Gustafson asked why a variance wasn't requested.

Jacob Steen stated that the street vacation process was recommended by staff. In addition, a variance wouldn't allow a fence on city property or to maintain public property. A variance doesn't address these issues and wouldn't allow what the Bury's are looking for.

Zoning Coordinator Gus Karpas stated that what was described to him was not a variance process.

Councilmember Gustafson stated that he thought this was an issue regarding the construction of a garage.

Gus Karpas stated that they could have applied for a variance for a garage or they could have applied for a License Agreement to resolve the driveway and fencing issues, which was why they didn't apply for a variance.

6. PLANNING & ZONING REQUESTS

- A. Conditional Use Request, Jerry's Auto Specialties, Ltd., 3644 South County Road 101, Request for a conditional use permit to install an illuminated canopy sign on the southwest face of their structure. Section 1115.04 of the Deephaven Sign Ordinance states that no sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a conditional use permit from the city in accordance with Section 1320 of the City's Ordinances. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.**

Zoning Coordinator Karpas summarized the request. He said the property currently has a 16 square foot free standing sign along County Road 101 to advertise the business. With the additional signage, the property would have a total 131 square feet of sign area. The sign ordinance limits the amount of signage based on area for each individual type of sign, i.e. monument sign and wall sign, but does not limit a property to just one type of sign. He stated that staff's interpretation of the ordinance would be that the area of the sign would be set by the conditional use process but could not exceed 200 square feet per property.

Karpas said he recommended conditional approval for the request based on the criteria that there would no negative impact on the development of the community, the character of the community or on the health, safety and general welfare of the occupants of surrounding lands. The proposal would not impact traffic conditions or impact property values. The recommendation is conditioned that the hours of illumination be as outlined in Section 1305.03 of the ordinance and that the canopy be lowered so it does not exceed the height of the roofline.

Karpas said he received a written comment from a resident on Leroy Street in favor of the proposed sign. He also noted an email received from a resident on Jericho Street opposed to the request, which was submitted after the public hearing. He said the Planning Commission unanimously accepted his recommendation.

Councilmember Kask was supportive of the request noting the structure was of a significant size and located in a commercially zoned district along County Road 101.

Commissioner Gustafson discussed the hours of operation.

Councilmember Jewett asked how the sign would be illuminated. Jerry Chapman, applicant, said it would be illuminated with fluorescent tubes which direct light down to also light the walkway.

Motion by Councilmember Kask to accept the recommendation and findings of the Planning Commission and staff for the conditioned approval of the conditional use application of Jerry's Auto Specialties, Ltd. to install a ninety-nine square foot illuminated canopy sign that will be attached to the southwest face of the structure, which would bring the total sign area on the property to 131 square feet, to advertise the business at 3644 South County Road 101, as presented. The applicant complies with the criteria for approval outlined in Section 1320.03 and there is a need to identify the business which is located within a commercially zoned district on a main transportation corridor. The motion is conditioned that a) the hours of illumination for the sign are limited to the business hours outlined in Section 1305.03; and b) the canopy sign must be lowered so the highest point of the sign is level with the height of the roofline.

Councilmember Gustafson seconded. The motion carried 4-0.

B. Variance requests, Minnetonka Schools – ISD #276, 4584 Vine Hill Road – Request for variances of the maximum permitted fence/wall height and maximum permitted grade alteration in conjunction with the construction of a new outdoor classroom. Section 1310.08(a) of the city ordinance permits a maximum retaining wall height of six feet. The maximum proposed retaining wall heights along both portions of the south and west borders of the project are eleven feet. A variance to exceed the maximum retaining wall height by five feet is being sought. Section 1312.04 of the city ordinance permits a maximum alteration of finished grade by up to three feet. The proposed grade alteration associated with the project would be up to eleven feet. A variance to exceed the maximum grade alteration by eight feet is being sought.

Zoning Coordinator Karpas summarized the request. He said in order to create an outdoor classroom, the school needs to level some additional land area, which requires an increase in the height of the existing southwest retaining wall and the construction of a new retaining wall along a portion of the west side of building .

The existing southwest retaining wall has a maximum height of eleven (11) feet and tapers to approximately one (1) foot over the span of fifty-seven (57) feet. The proposal would increase the height of the wall to eleven (11) feet across the whole span. The proposed west side wall would tie into the existing wall and reach a maximum height of eleven (11) feet over a span of seventy-one (71) feet as it extends to the north.

The proposed expanse of the new wall would be located four (4) feet on city owned property.

The proposal includes the construction of a 12' X 20' storage shed which complies with the required setback and height requirements.

Karpas said he recommended conditional approval of the application for the variance request of Section 1310.08(a) of the city ordinance to exceed the maximum permitted retaining wall height along both portions of the south and west borders of the project by five feet and the variance request of Section 1312.04 of the city ordinance to exceed the maximum finished grade alteration by eight feet for the construction of the new outdoor classroom. He outlined his approval criteria.

He said the condition was that the retaining walls remain entirely within the property owned by Minnetonka Schools.

He stated that the Planning Commission unanimously recommended conditional approval of the application of Minnetonka Schools – ISD #276 for the variance request of Section 1310.08(a) of the city ordinance to exceed the maximum permitted retaining wall height along both portions of the south and west borders of the project five feet and the variance request of Section 1312.04 of the city ordinance to exceed the maximum finished grade alteration by eight feet in conjunction with the construction of a new outdoor classroom at 4584 Vine Hill Road. The motion was conditioned on verification that a document exists for an easement for the encroachment of the existing retaining wall and parking area along Vine Hill Road onto city property. If such document does not exist, it should be created to include the existing encroachments and proposed improvements and require future maintenance of those areas to be the responsibility of Minnetonka Schools.

Councilmember Kask discussed the setback requirements for fences if this were a typical situation in a residential district. He felt strongly that a retaining wall of this size should not be placed on city property. The encroachment of the parking lot is a different issue and does not have the same type of impact.

It was asked if the proposal needed to be reviewed and issued a permit by the Minnehaha Creek Watershed District (MCWD). Cliff Buhman, Inspec, represented the request on behalf of Minnetonka Schools, said the application has been submitted and reviewed by the MCWD.

Councilmember Gustafson agreed that the wall needs to remain on the school's property. He said one of the justifications used at the Planning Commission for using city property is that four feet of city property is already being used for parking. He's concerned if this is approved it would just become a continuous cycle.

Councilmember Jewett also agreed the wall should stay on school district property.

Councilmember Kask discussed a previous retaining wall request that would have created additional parking for the school that would have had a similar height. He questioned the need for a wall that high on the property line let alone what compelling need is there to permit it on park property.

Mayor Skrede said he was under the impression, based on an earlier presentation by the school that the proposed outdoor classroom was going to be located entirely on their property.

Mr. Buhman said the issue is that the site is very confined. The outdoor classroom would provide Pre-K instruction. The proposal would reduce impervious surface and help control storm water runoff.

Councilmember Kask noted the irony in creating a large wall to establish an environmentally natural area that would be out of character with the outdoor environment. He felt the request is creating a two-sided monolithic wall. He stated there has to be other options available.

Mr. Buhman said no matter where the location of the wall is; the height needs to be relatively the same to maintain the positive drainage.

Councilmember Jewett asked if the intent was to create a walking path around the building. Mr. Buhman said it was.

Paul Bourgeois, ISD 276 - Executive Director of Finance and Operations, said the Council's preference to have the wall entirely on the school's property wouldn't kill the project, but he wanted to point out that other residents would also benefit from the proposal.

Councilmember Gustafson said he could give on the height if the wall remains entirely on the school's property.

Mayor Skrede discussed the design of the wall and asked if a rounded corner instead of a ninety degree angle was more palatable. Councilmember Kask stated that he would find it less objectionable but said it may not achieve the desired area for the school.

Councilmember Kask discussed the construction of the wall. Even if the wall is entirely on the school property, there will be a need to access city property for construction and maintenance. He's concerned about potential damage and restoration of vegetation. Mr. Buhman said the majority of the wall would be built by hand labor and the vegetation would be restored.

The Council agreed they would like to see an amended plan at its March 2nd meeting reflecting what was discussed this evening.

Motion by Councilmember Kask to direct staff to immediately draft written notice to Minnetonka Schools – ISD #276 stating the council needs to extend the 60-day time limit to April 14, 2015 to permit the applicants to redesign their plans for Council review at their March 2nd meeting to reflect the discussion.

Councilmember Gustafson seconded. Motion carried 4-0.

- C. **Variance requests, Streeter and Associates, 20670 Linwood Road – Request for variances of the required lake yard setback, to exceed the maximum permitted accessory structure area and to exceed the maximum permitted accessory structure height for the reconstruction of a boathouse and detached garage. The applicant also seeks Council approval to exceed the maximum permitted building coverage the R-2 zoning district. Section 1302.04(3) of the city ordinance requires a minimum lakeshore setback of one hundred (100) feet from the Ordinary High Water Level (OHWL) of Lake Minnetonka. The requested lakeshore setback for the proposed reconstructed boathouse is twenty-three feet, three inches. A variance to encroach seventy-seven feet, nine inches (77'-9") into the required lakeshore setback is being sought. Section 1302.04(4) of the city ordinance permits a maximum accessory structure height of fifteen (15) feet. The applicant proposed an accessory structure height of twenty-three feet, four inches (23'-4")**

for the proposed detached garage. A variance to exceed the maximum permitted accessory structure height by eight feet, four inches (8'-4") is being sought. Section 1310.10(1)(f) of the city ordinance permits a maximum detached accessory structure area of 1,000 square feet in the R-2 Zoning District. The proposed accessory structure area on the property is 1,214 square feet. A variance to exceed the maximum permitted accessory structure area by 214 square feet is being sought. Section 1310.03(a) of the city ordinance permits a maximum building coverage of 6,000 square feet in the R-2 Zoning District. The proposed building coverage on the property would be 7,782 square feet. Section 1310.03(b)(1) permits Council approval of a maximum building coverage of up to 8,000 square feet.

Zoning Coordinator Karpas summarized the requests. He said the applicant is proposing to demolish the existing boathouse and construct a new boathouse in its place which would be re-aligned to match the angle of the principal structure. This re-alignment maintains the existing encroachment but pulls a significant portion of the footprint out of the closet encroachment.

The applicant is also proposing to demolish the existing detached accessory garage located along the east property line and construct a new detached garage which is also re-aligned to match the angle of the principal structure. The footprint area and the overall height of the structure are slightly reduced.

He said, though the overall height is reduced from twenty five feet, eight inches (25'-8") to twenty-three feet, four inches (23'-4"), the previous existing structure was in compliance with the accessory structure height requirements, whereas the proposed accessory structure requires a variance.

The previous definition of height measured to the average of the height of the highest peak which kept the current structure within the accessory structure height requirement. The new definition does not give any type of averaging for accessory structures. Given the proposed structure would contain a flat roof; the entire structure is included in the calculation of height.

He said the final request is to exceed the maximum permit accessory structure area. The ordinance limits the maximum combined square footage of accessory structure area to 1,000 square feet in the R-2 Zoning District. The property currently contains 1,303 square feet of accessory structure area which was approved by the city in 2006. The proposal would reduce that area by approximately 89 square feet to 1,214 square feet.

Karpas said he recommended approval of the application for the variance request of Section 1302.04(3) of the zoning ordinance to encroach seventy-seven feet, nine inches into the minimum required one hundred foot lake yard setback and the variance request of Section 1310.10(1)(f) of the zoning ordinance to exceed the maximum permitted accessory structure area by 214 square feet for the demolition, relocation and reconstruction of the boathouse and detached garage as presented, but recommended denial of the application for the variance request of Section 1302.04(4) of the zoning ordinance to exceed the maximum permitted accessory structure height by eight feet, four inches for the proposed detached garage. Karpas outlined his findings.

He said that following the Planning Commission meeting he has changed his interpretation of the height for the accessory structure given the tuck under garage, which permits a five foot credit in height, and lessens the degree of variance to three feet, four inches.

The Planning Commission recommended that the Council accept the findings of staff on the proposed lake encroachment for the reconstruction of the boathouse and to exceed the maximum permitted accessory structure area. The Planning Commission also recommended, on a 3-1 vote, that the Council approved the request for variance to exceed the maximum permitted accessory structure height. They felt; (a) the proposed alteration reduces the overall size of the garage; (b) the request pulls the structure further from the adjacent property; (c) the proposal reduces the overall height of the structure; and (d) the grade of the property creates a unique circumstance in that it drops off severely in the location of the existing and proposed garage.

Karpas explained that outside of the variance requests, another approval is necessary for the total building coverage area on the lot. He said Section 1310.03(a) of the city ordinance permits a maximum building coverage of 6,000 square feet in the R-2 Zoning District. The proposed building coverage on the property would be 7,782 square feet. Section 1310.03(b)(2) permits Council approval of a maximum building coverage of up to 8,000 square feet, provided the lot in the R-2 District has a minimum lot area of 60,000 square feet. The ordinance requires council review only and does not require a public hearing or a Planning Commission recommendation.

The Council was supportive of permitting the total building coverage as presented given the applicant's lot area which far exceeded the minimum required for such an approval.

Motion by Councilmember Kask to approve the application exceed the maximum permitted structure area by 1,778 square feet as permitted by Section 1310.03(b)(2). The applicant complies with the conditions outlined in the ordinance for excess structure area.

Councilmember Gustafson seconded. Motion carried 4-0.

The Council discussed the height of the proposed detached accessory structure. It was noted the proposed height was measured to an architectural feature and not the actual roof structure. When this is taken into consideration, the height of the structure is reduced by approximately two feet. That and the five foot credit for the tuck under garage would bring the variance request to one foot, four inches.

Motion by Councilmember Kask to accept the recommendation of the Planning Commission to approve the application by Streeter and Associates for the variance request of Section 1302.04(3) of the zoning ordinance to encroach seventy-seven feet, nine inches into the minimum required one hundred foot lake yard setback and the variance request of Section 1310.10(1)(f) of the zoning ordinance to exceed the maximum permitted accessory structure area by 214 square feet the demolition, relocation and reconstruction of the boathouse and detached garage and the variance request of Section 1302.04(4) of the zoning ordinance to exceed the maximum permitted accessory structure height by one foot, four inches for the proposed detached garage as presented at 20670 Linwood Road. The findings are based on those recommended by the Planning Commission. It was noted the variance request for the height of the accessory structure was reduced based on the measurement standard of credit for the tuck under garage and removal of the measurement to the top of the architectural feature and limiting it to the top of the roof.

Councilmember Gustafson seconded. Motion carried 4-0.

D. Ordinance 13-68, Amending Section 1312 – Construction Regulations – Discuss an ordinance amending Deephaven ordinance code section 1312.05(1)(b), Amending Watershed District Permit Requirements.

Zoning Coordinator Karpas summarized the ordinance amendment, stating that Section 1312.05(1)(b) of the current zoning ordinance requires applicants for a building permit to indicate they have received the necessary permits for erosion control from the Minnehaha Creek Watershed District prior to the city issuing their permit. Recently, staff has become aware that the Riley-Purgatory-Bluff Creek Watershed District has adopted a set of rules that it will be enforcing in a small portion of the city which lies within its jurisdiction.

The proposed amendment would recognize the permit requirements from the appropriate watershed district based on the subject properties location. He said the Commission unanimously recommended approval of Ordinance No. 13-68.

Motion by Councilmember Gustafson to accept the recommendation of the Planning Commission and adopts Ordinance No. 13-68; An Ordinance of the City of Deephaven, Minnesota Amending Deephaven Zoning Code Section 1312.05(b) Amending Watershed District Permit Requirements, as written.

Councilmember Jewett seconded. The motion carried 4-0.

6. UNFINISHED BUSINESS

A. Review Proposed LMCD Rule Changes on Yacht Clubs

LMCD Liaison Chris Jewett was present to present the final changes to the rules and regulations of the Lake Minnetonka Conservation District pertaining to Yacht Clubs. He stated that the City had last reviewed some potential changes supported by the Minnetonka Yacht Club last fall in which the City sent a letter supporting these changes to the LMCD. He stated that he is here this evening to present the final rule and language changes that have been proposed for the three yacht clubs on Lake Minnetonka, which include the Minnetonka Yacht Club, the Wayzata Yacht Club, and the Upper Minnetonka Yacht Club.

The new rules and language on the proposed ordinance modifications were reviewed.

Mayor Skrede asked Chris Jewett is there was anything that he needed from the Council.

Chris Jewett stated that an Executive Session will be held Wednesday morning and he would like to have a letter of support for these proposed legislative changes from the Council at that meeting.

The Council directed staff to send a letter of support to Chris Jewett.

Chris Jewett further noted that municipal marinas are next in line for potential rule changes from the LMCD.

Mayor Skrede stated that he would love to have him involved in this discussion after initial discussions with the Boat Committee.

Chris Jewett added that he is also working on the strategic plan for the LMCD.

B. Other

Councilmember Gustafson asked what was going on with the construction at Chris Jandro's house at 3710 Hamilton Avenue. He stated that Chris Jandro had been granted a variance last month for a second story addition on a non-conforming structure and noted that the entire house has been torn down.

Mayor Skrede stated that he and Councilmember Erickson had reviewed this property yesterday and noted that the first floor walls consisted of 2 x 4 construction, which needed to be upgraded to at least 2 x 6. He stated that since it was a new house, Mr. Jandro wanted a new wall to be built to code. He stated that as long as there was no further encroachment, he didn't have a problem with the removal of the exterior walls. He also noted that he told Mr. Jandro to talk with city staff on Monday. He stated that Zoning Coordinator Gus Karpas later informed him that Mr. Jandro had no building plans for the first floor and would be considered in violation by the Minnetonka building inspection department.

Councilmember Gustafson stated that he feels this situation is out of control and would like applicants to do what they say their going to do. In several cases, they don't seem transparent to the Council.

Mayor Skrede stated that he doesn't disagree with his comments. He stated that he had no idea at the time of the variance request of the thickness of his walls. He asked how are we to ensure that the first floor is in compliance with the building code when someone is requesting the construction of a second floor.

Further discussion on this issue will be held with the Zoning Coordinator.

7. NEW BUSINESS

A. Other

Councilmember Jewett stated that he received a request from Mark Sigel for the City to adopt a resolution supporting the Lake Minnetonka Sailing School's application to the Hennepin County Youth Sports Grant for a \$10,000 equipment grant for a new pontoon boat, new motors for their coach boats, and new sails. He stated that the City of Deephaven had adopted a resolution of support for a similar grant request from the LMSS back in 2012 for the purchase of new sails, safety kits, boat motors, and VHF radios.

Administrator Young stated that Resolution No. 10-15 would provide the City's support of the grant application and would require the City of Deephaven to act as fiscal agent on any grant funds received.

Motion by Councilmember Kask to adopt Resolution No. 10-15, a Resolution of Endorsement of the Lake Minnetonka Sailing School's Grant Application to the Hennepin County Youth Sports Program Equipment Grant. Seconded by Councilmember Gustafson. Motion carried 4-0.

8. DEPARTMENT REPORTS

A. Police Department

Police Chief Johnson reviewed the January Incident Reports and noted that there had been decent traffic activity last month, a decrease in the number of assists to other agencies, and the school zone lights are operational.

B. Excelsior Fire District

Administrator Young provided a brief review of the Fire District Board meeting on January 28th:

- Greenwood representative Tom Fletcher was appointed 2015 Board Chair.
- Shorewood representative Deb Siakel was appointed 2015 Board Vice Chair.
- There were a total of 792 fire calls in 2014, an increase of 92 calls over the prior year.
- A public safety emergency management meeting will be held at Station 1 from 10:00 a.m. – 11:30 a.m. on February 25th.
- The current total of firefighters is 45.
- A special Board Work Session will be held on February 25th for a discussion on staffing needs and duty crews.
- The sealing of the apparatus bay floors in both stations is scheduled for the first week in May.
- Authorization was give to cost share with the purchase of a shared server with the Southlake Police Department at a cost of \$21,000 for the EFD. The cost will be taken from Operating Fund Reserves.
- The Fire Relief Fund exceeded \$5 million dollars for the first time in its history and was 120.7% funded at the end of 2014. According to the resolution adopted by the EFD Board last January, this level of funding would allow a 3% or \$200 increase in the per year of service benefit from \$6,700 to \$6,900. Final Board action on the pension increase will be taken at the March 11th Board 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:

- 2014 Financial Summary
- 2014 Building Permit Revenue
- Deer Management Program Update

Mayor Skrede provided a brief update on some research that he has been undertaking on the Northome Bridge.

9. ADJOURNMENT

Motion to adjourn by Councilmember Kask, seconded by Councilmember Gustafson. Motion carried 4-0. The meeting adjourned at 10:20 p.m.

Respectfully submitted,
Dana H. Young
City Administrator