

**DEEPHAVEN CITY COUNCIL MEETING  
MONDAY, JULY 17, 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 Tony Jewett, Steve Erickson, Kent Carlson and Darel Gustafson

STAFF: 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 July 6, 2017 Council Minutes
- B. Adopt Resolution No. 33-17, Approving 2018 Woodland Contract

Seconded by Councilmember Erickson. Motion carried 5-0.

4. **MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

5. **UNFINISHED BUSINESS**

- A. **Adopt Resolution No. 34-17, Approving Seal Coating Bids**

Administrator Young presented the following seal coating bids for Council review:

<b><u>Bidder</u></b>	<b><u>Total Bid Amount</u></b>
Allied Blacktop Company	\$ 14,139.50
Pearson Bros., Inc.	\$ 25,009.00

He stated that the scope of this project includes seal coating that portion of Azure, Northome Avenue, and Rutledge Road that was overlaid several years ago as part of the storm water project and fog sealing the driveway entrance behind City Hall. He stated that the bids came in higher than anticipated due to the relatively small size of the project and a portion of the cost includes

fog sealing the driveway entranceway for the Fire Department, Public Works Department, and Police Department. He stated that one-half of the fog sealing cost of \$3,055.00 will be reimbursed to the City from the Fire District.

City Engineer David Martini reiterated that the seal coat will include that area of Azure Road, Northome Avenue, and Rutledge Road that was resurfaced due to the storm water improvement project. He stated that purpose of the seal coat is to provide preventive maintenance and to enhance the life of the street.

Mayor Skrede asked how many contractors received a copy of the bid specifications.

David Martini stated that it was sent out to 3 or 4 contractors.

Councilmember Gustafson stated that a year or so ago, there was discussion about different road maintenance efforts and he recalls that the City had decided to no longer use seal coating.

Administrator Young stated that the City used to randomly seal coat 15-20 roads per year as part of an on-going seal coating plan. He stated that seal coating is now limited to doing just those roads that have been recently resurfaced.

Councilmember Jewett asked about fog sealing.

Mayor Skrede stated that it uses the same oil as seal coating without using pea gravel.

Motion by Councilmember Erickson to adopt Resolution No. 34-17, a Resolution approving the bid submitted by Allied Blacktop Company in the amount of \$14,139.50 for the 2017 Seal Coating Project. Seconded by Councilmember Gustafson. Motion carried 5-0.

**B. Adopt Resolution No. 35-17, Approving 2017 Manhole Repair Bids**

Administrator Young presenting the following manhole repair bids for Council review:

<b><u>Bidder</u></b>	<b><u>Total Bid Amount</u></b>
Pride Construction & Excavating, Inc.	\$47,500.00
Hydro Klean	\$52,890.00

He stated that the bids came in higher than anticipated due to the number of manholes and scope of work needed to repair the manholes. He stated that he was reluctant to reduce the number of manholes to be repaired as part of this year's project due to the fact that a number of the manholes have significant inflow & infiltration problems. He stated that with the conclusion of this project, the City of Deephaven will have completed its obligations under the I/I mandate from the Metropolitan Council by having completed a minimum of \$249,000 in I/I improvements through 2018. He added that the City will still have another couple of years to go to complete the repair of all the manholes.

Motion by Councilmember Gustafson to adopt Resolution No. 35-17, a Resolution approving the bid submitted by Pride Construction & Excavating, Inc. in the amount of \$47,500.00 for the 2017 Manhole Repair Project. Seconded by Councilmember Jewett. Motion carried 5-0.

**C. Authorize Partial Payment to Barber Construction for the Thorpe Hockey Rink Project**

Mayor Skrede stated that the asphalt looks great and appears very level. He stated that an administrative decision was made to establish an asphalt pathway for an eastern entranceway onto the hockey rink. He stated that the eastern entranceway to the rink would remain open. He added that we may still have a southern entrance for summer use as well. He stated that due to these additions, we may be somewhat over in quantities for the project. He noted that the contractor has completed two lifts of 1½” of asphalt.

David Martini noted that there were some areas where the contractor had to add some class 5 rock. He stated that the contractor is done with the project with the exception of site restoration.

David Martini added that the Park Avenue / Deephaven Avenue street project will start this week with the installation of curbing on Minnetonka Blvd and notifying the public about the project.

Motion by Councilmember Erickson to authorize partial payment to Barber Construction in the amount of \$56,261.38 for the Thorpe Park Hockey Rink Asphalt Project. Seconded by Councilmember Jewett. Motion carried 5-0.

**D. Authorize Final Payment to Upper Midwest Athletic for the Tennis Court Repair Project**

Administrator Young stated that on March 20, 2017, the Council adopted a resolution approving the bid & awarding a contract to Upper Midwest Athletic Construction in the amount of \$24,870.00 to repair, crack seal and repaint the two courts at Thorpe Park and the three courts at Village Hall. In addition, the contractor quoted a price of \$800.00 to paint two pickleball courts on court #3 at Village Hall. He stated that due to the overall condition of the courts, Upper Midwest was the only contractor to submit a realistic bid.

He stated that on May 15, 2017, it was reported to the Council that the tennis courts were in worse shape than originally thought as the contractor has uncovered layer after layer of loose paint surface, which had to be removed in order to get the new paint to adhere properly. Staff negotiated a price of \$1,000 per court, or \$5,000 total, with Upper Midwest Athletic Construction to scrape each court down to the asphalt. He stated that the Council authorized the \$5,000 change order at that time.

Administrator Young stated that although the courts generally turned out very well, this project took far too long to complete. He stated that the contractor informed him that the primary reason why this project took so long to complete was due to the significant amount of work needed to scrape all five courts down to the original asphalt. He stated that it should also be noted that there were a number of days when the contractor never showed up. He stated that in the future,

he recommends that any contract for park projects should consider the use of a penalty clause for work in excess of a reasonable number of construction days.

Councilmember Erickson noted that a resident showed him some water erosion around the footings and wondered why these washout areas weren't repaired when the court was stripped down to the asphalt. He added that the courts do look pretty good.

Mayor Skrede stated that we can set a timeframe within our specifications. He stated that it is very helpful, as with the Thorpe Park Hockey Rink Project, when the contractor is proactive in informing the City about the progress of the project. He stated that all of our contracts for projects should have a start date, completion date, and a penalty clause for not adhering to the completion date.

Motion by Councilmember Erickson to authorize Final Payment to Upper Midwest Athletic Construction in the amount \$30,670.00 for the 2017 Thorpe Park & Village Hall Park Tennis Court Improvements. Seconded by Councilmember Jewett. Motion carried 5-0.

#### **E. Discuss American Tower Request for Lease Extension**

Administrator Young stated that the City Council first reviewed a proposal from American Tower on April 17<sup>th</sup> to consider a 30-year lease extension amendment from 2039-2069 on the cell tower located in the Chowen's Corner parking lot. American Tower proposed to add six more five-year lease terms to the back-end of the current lease that is scheduled to expire on January 31, 2019. The rent would remain in effect and would continue to escalate at 3.0% per year and American Tower would pay the City a one-time payment of \$2,500.00 to cover the legal costs for the review and execution of this agreement. According to their cover letter, the purpose of this lease extension is to make this site more marketable to another carrier.

He stated that the Council countered American Tower's initial proposal by requesting a one-time payment of \$5,000.00 to cover legal costs for the review of the proposed lease extension and an increase in the annual rent escalator from 3% to 5%.

He stated that American Tower responded by stating that the negative margin at this cell tower "makes any increase in rent or additional payments infeasible for American Tower." American Tower also offered several additional options if the City would consider a perpetual easement agreement as an alternative to a 30-year lease extension. He further noted that these options are very similar to the buy-out agreements that the City has received from a number of cell tower investment groups.

Mayor Skrede stated that none of the proposals seem to make any sense for the City. He stated that we should just let our current lease extend and renew with American Tower.

Councilmember Carlson noted that the perpetual easement proposal would give American Tower control of the site for payment of only ten years. He stated that he didn't know why they think we would want to do this.

Administrator Young stated that the Council has looked at American Tower's lease extension proposal and they refused to pay the full cost of the legal services we need to review the lease documents. He stated that we have now looked at the perpetual easement proposal, which grants them full access to the site after only ten years. He stated that neither proposal makes sense for the City.

Mayor Skrede directed staff to inform American Tower that it is our preference to keep things the way they are.

#### **F. Other**

Councilmember Carlson provided an update on the cost estimates to construct the warming house / restroom at Thorpe Park. He stated that the cost has been tentatively estimated at \$432,273. He thanked Steven Streeter and his associates for their efforts in preparing the estimates and asked the Council to review the detailed estimate of costs. He noted that some of the costs may be unnecessary and some we could have our public works crew do. He stated that he would like authorization to continue to work with Streeter and Associates to get the price we want. He further noted that the costs for painting, air conditioning, overhead lights and tile could be further reduced.

Mayor Skrede asked if it were his intention to share these costs with any other committees.

Councilmember Carlson stated that he would share it with the Park Committee once he has had the opportunity to scrub the costs with Streeter and Associates.

Mayor Skrede stated that he was glad that all the costs for this project were included in the estimate. He added that the amount of volunteer help might be far less than we had originally thought. He added that volunteers might be available to help with something as basic as painting.

Councilmember Carlson noted that experts would be needed for many other elements of this project including footing & foundation work.

Councilmember Gustafson noted that hardie plank can come pre-painted from the manufacturer.

Tom Hoben (17751 Jericho Road) was present to state that he came to tonight's meeting to inform the Council that he was not in support of the comments made by many residents of the Pines at the July 6<sup>th</sup> Council meeting. He stated that he supports the existing zoning code and building within the zoning code. He stated that he doesn't support the idea of just single story homes in this area and noted that two-story homes are located throughout Deephaven. He stated that it doesn't matter if you disagree with the height or color of a certain home; these items are up to the individual homeowner. He stated that the revitalization of homes is not an evil thing.

Mayor Skrede stated that at the July 6<sup>th</sup> meeting, the group in attendance did note that they were only able to reach 55 out of 80 or so homeowners, so the Council was aware that they were not able to get in touch with every resident of the Pines. He stated that the residents were not sure

what was happening with the construction of the new home so they thought it was a significant enough issue to address it before the City Council. He stated that no official action has been taken as of yet on their request and they knew that the Council could not stop construction on the new home since it was in compliance with the zoning code. He stated that the City may consider some zoning modifications.

Administrator Young provided an update on Aquicide, which was a product discussed for use by the City Council at the last meeting to treat aquatic weeds at Deephaven Beach. He stated that a 50 lb. bag would treat ½ acre at a cost of \$327.00 but the optimum time to treat the beach would be in spring or the early summer. He stated that, although the chemical was completely safe, it was recommended that you treat only when there would be no swimming activity for two days. The Council decided to hold off on the use of Aquicide until next year.

**6. NEW BUSINESS**

**A. Other**

There was no other New Business this evening.

**7. REPORTS FROM STANDING COMMITTEES**

**A. Public Works Committee**

Administrator Young presented a brief review of the Public Works Committee meeting held on July 11, 2017, which included:

- Reviewed a request to install fence along the Chowen's Corner Parking Lot
- Discussed the results of the speed trailer on Linwood Road
- Discussed the Thorpe Park Project

Councilmember Gustafson stated that he thought that the basketball court at Thorpe Park could be relocated to the new hockey rink and pickleball courts could be installed on the basketball court.

Mayor Skrede stated that he is open to other seasonal recreational activities at the new hockey rink.

Further discussion was held regarding the speed trailer results on Linwood Road.

**8. ADJOURNMENT**

Motion to adjourn by Councilmember Erickson, seconded by Councilmember Gustafson. Motion carried 5-0. The meeting adjourned at 8:14 p.m.

Respectfully submitted,  
Dana H. Young, City Administrator